

NORTH CAROLINA REGISTER

VOLUME 36 • ISSUE 09 • Pages 634 – 854

November 1, 2021

I. EXECUTIVE ORDERS

Executive Orders No. 235-236..... 634 – 642

II. IN ADDITION

Building Code Council – Notice of Rulemaking Proceedings..... 643 – 648
Criminal Justice Training Standards and Commissions – Notice 649

III. PROPOSED RULES

Occupational Licensing Boards and Commissions

Cosmetic Art Examiners, Board of..... 650 – 658
Hearing Aid Dealers and Fitters Board 658 – 660

IV. APPROVED RULES..... 661 – 849

Elections, State Board of

Elections, State Board of

Health and Human Services, Department of

Child Care Commission

Medical Care Commission

Health Benefits, Division of

Public Health, Commission for

Social Services Commission

Insurance, Department of

Department

Environmental Quality, Department of

Wildlife Resources Commission

Public Health, Commission for

Transportation, Department of

Motor Vehicles, Division of

Occupational Licensing Boards and Commissions

Funeral Service, Board of

Social Work Certification and Licensure Board

V. RULES REVIEW COMMISSION 850 – 854

PUBLISHED BY

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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
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36:06	09/15/21	08/24/21	09/30/21	11/15/21	11/22/21	12/16/21	01/01/22	06/12/22
36:07	10/01/21	09/10/21	10/16/21	11/30/21	12/20/21	01/20/22	02/01/22	06/28/22
36:08	10/15/21	09/24/21	10/30/21	12/14/21	12/20/21	01/20/22	02/01/22	07/12/22
36:09	11/01/21	10/11/21	11/16/21	01/03/22	01/20/22	02/17/22	03/01/22	07/29/22
36:10	11/15/21	10/22/21	11/30/21	01/14/22	01/20/22	02/17/22	03/01/22	08/12/22
36:11	12/01/21	11/05/21	12/16/21	01/31/22	02/21/22	03/17/22	04/01/22	08/28/22
36:12	12/15/21	11/22/21	12/30/21	02/14/22	02/21/22	03/17/22	04/01/22	09/11/22

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

EXPLANATION OF THE PUBLICATION SCHEDULE

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

GENERAL

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

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

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

FILING DEADLINES

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

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

NOTICE OF TEXT

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

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

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



State of North Carolina

ROY COOPER
GOVERNOR

October 4, 2021

EXECUTIVE ORDER NO. 235

EXTENDING THE GOVERNOR'S ADVISORY COUNCIL ON HISPANIC/LATINO AFFAIRS

WHEREAS, the Hispanic/Latino community plays a vital role in the economy and diverse society of North Carolina; and

WHEREAS, the Hispanic/Latino population contributes to the economic development and progress of the state by working in different industries and by participating in civic affairs; and

WHEREAS, many unique challenges confront the Hispanic/Latino community as they attempt to access housing, education opportunities, health care, and employment services; and

WHEREAS, the state should promote collaboration and effective planning and delivery of services among state agencies that serve the Hispanic/Latino population; and

WHEREAS, partnership and communication with Hispanic/Latino individuals and organizations allows for greater contributions by the Hispanic/Latino community as part of the fabric of North Carolina; and

WHEREAS, Executive Order No. 23, 32 N.C. Reg. 791-792 (November 1, 2017), which was issued on October 5, 2017, reestablished the Governor's Advisory Council on Hispanic/Latino Affairs; and

WHEREAS, the undersigned has determined the need to extend Executive Order No. 23.

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

Section 1. Establishment

The Governor's Advisory Council on Hispanic/Latino Affairs (hereinafter the "Advisory Council") is hereby extended.

Section 2. Membership

The Advisory Council shall consist of a minimum of twelve (12) voting members. All members shall be appointed by the Governor for a term of two (2) years and serve at the pleasure of the Governor. A member may not be appointed for more than two consecutive terms of two (2) years. A vacancy occurring during a term of appointment shall be filled by the Governor for the balance of the unexpired term. The Governor shall appoint a Chair and Vice-Chair from among the membership of the Advisory Council.

In addition to a minimum of twelve (12) voting members, the following or their designees shall serve as ex-officio, non-voting members:

- a. The Secretary of the Department of Administration;
- b. The Secretary of the Department of Commerce;
- c. The Secretary of the Department of Cultural and Natural Resources;
- d. The Secretary of the Department of Environmental Quality;
- e. The Secretary of the Department of Health and Human Services;
- f. The Secretary of the Department of Information and Technology;
- g. The Secretary of the Department of Military and Veteran Affairs;
- h. The Secretary of the Department of Public Safety;
- i. The Secretary of the Department of Revenue;
- j. The Secretary of the Department of Transportation;
- k. One representative from the Office of the Governor selected by the Governor;
- l. The Director of the Office of State Human Resources.

The following individuals or their designees are invited to serve as ex-officio, non-voting members of the Advisory Council:

- a. The Commissioner of the Department of Agriculture and Consumer Services;
- b. The Attorney General;
- c. The Commissioner of Insurance;
- d. The Commissioner of Labor;
- e. The Superintendent of the Department of Public Instruction;
- f. The Secretary of State.

Section 3. Meetings

The Advisory Council shall meet quarterly or upon the call of the Governor or the chair. The chair shall set the agenda for the Advisory Council's meetings. The Advisory Council may establish such committees or other working groups as are necessary to assist in performing its duties.

Section 4. Duties

The Advisory Council shall advise the Governor on issues related to the Hispanic/Latino community in North Carolina and support State efforts to promote cooperation and understanding between the Hispanic/Latino community, the general public, the state, federal, and local governments.

The Advisory Council shall provide a forum for the discussion of issues concerning the Hispanic/Latino community in North Carolina and support efforts toward the improvement of race and ethnic relations.

The Advisory Council will submit a report annually that details its accomplishments, identifies barriers, and recommends short and long-term state-wide policy initiatives that are specific to the Hispanic/Latino community.

The Advisory Council shall perform other duties as directed by the Governor.

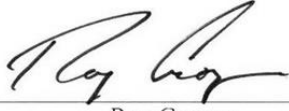
Section 5. Administration

The Office of the Governor shall provide all administrative and staff support services required by the Advisory Council. Members shall serve without compensation, but may receive reimbursement, contingent upon the availability of funds, for travel and subsistence in accordance with N.C. Gen. Stat. §§ 138-6, and 120-3.1.

Section 6. Duration

This Executive Order is effective immediately. This Executive Order shall remain in effect until October 4, 2025, pursuant to N.C. Gen. Stat. § 147-16.2(b), or until earlier 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 4th day of October, 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

October 4, 2021

EXECUTIVE ORDER NO. 236

EXTENDING CERTAIN HEALTH AND HUMAN SERVICES PROVISIONS IN PREVIOUS EXECUTIVE ORDERS AND DELEGATIONS OF AUTHORITY

WHEREAS, on March 10, 2020, the undersigned issued Executive Order No. 116, 34 N.C. Reg. 1744-1749 (April 1, 2020), which declared a State of Emergency to coordinate the state's response and protective actions to address the Coronavirus Disease 2019 ("COVID-19") public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina; and

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

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

WHEREAS, in responding to the COVID-19 pandemic, and for the purpose of protecting the health, safety, and welfare of the people of North Carolina, the undersigned has issued Executive Order Nos. 116-122, 124-125, 129-131, 133-136, 138-144, 146-153, 155-157, 161-165, 169-177, 180-181, 183-185, 195, 197-198, 200, 204-207, 209-212, 215-217, 219-221, 224-225, 228-232, and 234; and

WHEREAS, COVID-19 continues to infect thousands of North Carolinians every day, and a State of Emergency remains in place for the purpose of maintaining the state's ability to meet challenges presented by COVID-19; and

WHEREAS, more than one million four hundred thousand and ten thousand (1,410,000) people in North Carolina have been diagnosed with COVID-19, and more than sixteen thousand seven hundred (16,700) people in North Carolina have died from the disease; and

WHEREAS, all 100 North Carolina counties are classified as high transmission areas by the Centers for Disease Control and Prevention ("CDC"); and

WHEREAS, the Delta variant of COVID-19, which is more transmissible than the original virus that causes COVID-19, is continuing to spread through North Carolina, particularly across the state's unvaccinated population, generating increased concern from the state's medical professionals; and

WHEREAS, in Executive Order Nos. 130, 139 and 152, the undersigned, with the concurrence of the Council of State, determined that the Secretary of the North Carolina Department of Health and Human Services (the “Secretary”) required authority to modify or waive enforcement of certain legal constraints or regulations which restrict the immediate relief of human suffering; and

WHEREAS, certain provisions of Executive Order Nos. 130 and 139 were extended by Executive Order Nos. 144, 148, 152, 165, 177, 193, 211, and 225 but these provisions are set to expire unless the undersigned takes further action; and

WHEREAS, the undersigned, in consultation with the North Carolina Department of Health and Human Services (“NCDHHS”) has determined that, due to the progress the state has made in combating the pandemic, certain measures in Executive Orders Nos. 130, 139, and 193 can be rescinded; and

WHEREAS, for the reasons specified herein, it is anticipated that the need for the remaining measures will continue for at least a period of ninety (90) days; and

COVID-19 Vaccinations in North Carolina

WHEREAS, until enough North Carolinians are vaccinated, COVID-19 will continue to cause devastating illness and death; and

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

WHEREAS, safe and effective COVID-19 vaccines help protect people from severe illness, hospitalization and death and slow the spread of viral transmission and higher rates of COVID-19 vaccination in a community are associated with reduced hospitalizations and deaths; and

WHEREAS, the vaccine is free to all North Carolinians, regardless of insurance status; and

WHEREAS, as of the date of this Executive Order, no COVID-19 vaccine has been authorized or approved for children age eleven (11) and younger, and unvaccinated persons of any age are at greater risk that they will contract the virus if exposed, particularly if they are in settings where they cannot socially distance and if they do not wear face coverings; and

WHEREAS, children age eleven (11) and younger are relying on those who are eligible to get vaccinated to help protect those who cannot; and

Regulatory Flexibility to Address COVID-19

WHEREAS, North Carolina and its mental health, developmental disabilities, and substance abuse facilities and service providers need to take all reasonable actions to expand capacity to improve the ability to efficiently respond to the COVID-19 pandemic, thereby reducing the probability that the demand for care in North Carolina will outpace capacity; and

WHEREAS, in some cases, these actions have required and will continue to require temporarily waiving or modifying legal and regulatory constraints so that these mental health, developmental disability, and substance abuse facilities and service providers can maintain licensure and continue to provide necessary services; and

WHEREAS, decisions about adding and transferring resources continue to require real-time decision-making; and

WHEREAS, to continue to enable rapid decision-making, the undersigned has determined that it is in the best interest of the people of North Carolina to provide the Secretary with authority

to modify or waive enforcement of certain legal and regulatory constraints as necessary in order to expand capacity and save lives; and

WHEREAS, for example, health care providers are needed to administer the COVID-19 vaccine, however, many individuals with medical training are not authorized to administer vaccines due to licensing requirements; accordingly, the undersigned wishes to remove any such barriers which would prevent or impair the ability of these medical personnel from assisting with vaccine administration; and

WHEREAS, to prevent barriers to vaccine administration, it is also critically important that those administering the vaccine, and those providing their property and facilities for purposes of vaccine administration, are provided with insulation from liability to the maximum extent permitted by law; and

WHEREAS, the process of vaccinating North Carolinians to levels sufficient to protect the population requires comprehensive and aggressive statewide efforts together with robust community participation; and

WHEREAS, accordingly, state officials are directed to marshal all available state property, equipment, and personnel towards facilitating the statewide vaccination effort; and

WHEREAS, the State Health Director has been assigned authority by the Secretary, pursuant to N.C. Gen. Stat. § 130A-3, to exercise authorities under N.C. Gen. Stat. § 130A-5, including to investigate the causes of communicable disease affecting the public health in order to control and prevent those diseases, to provide, under the rules of the North Carolina Commission for Public Health, for the prevention, detection, reporting, and control of communicable diseases, and to develop and carry out health programs necessary for the protection and promotion of the public health and the control of diseases; and

WHEREAS, the undersigned directed the State Health Director, in addition to and according to her authority in N.C. Gen. Stat. 130A, to issue any statewide standing order needed in her medical judgement to facilitate COVID-19 testing and vaccination, under Executive Order No. 224, as extended by Executive Order No. 229, and for the administration of monoclonal antibody treatment, under Executive Order No. 232; and

WHEREAS, the undersigned desires that the statewide standing orders for COVID-19 testing, vaccination, and monoclonal antibody treatment continue through the effective date of this Executive Order; and

Statutory Authority and Determinations

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2) the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

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

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b)(4) gives the undersigned the authority to “cooperate and coordinate” with the President of the United States; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(7) the undersigned is authorized and empowered to utilize the services, equipment, supplies, and facilities of departments, offices, and agencies of the state in response to the emergency; and

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

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

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

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

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

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

WHEREAS, all the authority granted by this Executive Order is intended to be temporary, and the waivers and modifications of enforcement set out in this Executive Order are intended to extend only through the period where they are needed to address the COVID-19 pandemic.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, and for the reasons and pursuant to the authority in Executive Orders Nos. 130, 139, 144, 148, 152, 165, 177, 193, 211, and 225, **IT IS ORDERED**:

Section I. Amendments to Executive Orders Nos 130, 139, and 193.

- A. Sections 4(A)(1) and 6(C) of Executive Order No. 130 are rescinded as of the effective date of this Executive Order.
- B. Section 1(B)(3) of Executive Order No. 139 is rescinded as of the effective date of this Executive Order.
- C. Section 1(B)(2) of Executive Order No. 139 and Section 3(C)(1) of Executive Order No. 193 are rescinded as of the effective date of this Executive Order. For the avoidance of doubt, any waiver or modifications issued pursuant to the authority delegated under these Executive Orders, as they have been subsequently extended, shall remain in effect for the duration of the waiver or modification, unless rescinded or superseded by another Executive Order, regardless of whether this Executive Order remains in effect or the State of Emergency ends.

Section II. Extension of Executive Order No. 152.

To meet the goal of providing health care, public health, and human services during the COVID-19 pandemic, which includes the administration of FDA-authorized COVID-19 vaccines, and to protect and save lives during the COVID-19 pandemic, the undersigned orders as follows:

Executive Order No. 152, as amended by Executive Order No. 165 and as extended by Executive Order No. 177, and as further modified and extended by Executive Order No. 193 and Executive Order No. 211, as further modified and extended by

Executive Order No. 225, is extended by this Executive Order except where otherwise rescinded herein, and is to be in effect until January 5, 2022.

For avoidance of doubt, the preceding sentence also extends through the listed date the provisions of Executive Orders Nos. 130 and 139 that were previously extended by Executive Orders Nos. 193, 211, and 225 and have not been rescinded by this Executive Order.

References to "September 22, 2020," "November 20, 2020," "February 11, 2021," "February 18, 2021," "May 10, 2021," "August 8, 2021," or "October 5, 2021" in Executive Orders Nos. 152, 165, 177, 193, 211 and 225 shall be replaced with "January 5, 2022."

Section II. Statewide Standing Orders for COVID-19 Testing, Vaccination, and Monoclonal Antibodies.

- A. Statewide Standing Order for COVID-19 Testing. In order to further protect the public health by providing greater access to COVID-19 testing, the undersigned orders the State Health Director, in addition to and in accordance with her powers set out in N.C. Gen. Stat. Chapter 130A, to issue any statewide standing order needed in her medical judgment that would allow individuals who meet NCDHHS criteria for testing to access and undergo testing for COVID-19, subject to the terms of the standing order.
- B. Statewide Standing Order for COVID-19 Vaccination. In order to further protect public health by providing greater access to COVID-19 vaccines, the undersigned orders the State Health Director, consistent with her powers set out in N.C. Gen. Stat. Chapter 130A, to issue such statewide standing orders as needed in her medical judgment that would allow individuals eligible for vaccinations to access and receive a COVID-19 vaccination, subject to the terms of the standing order.
- C. Statewide Standing Order for Monoclonal Antibodies. In order to further protect the public health by providing greater access to COVID-19 treatment, the undersigned orders the State Health Director, in addition to and in accordance with her powers set out in N.C. Gen. Stat. Chapter 130A, to issue any statewide standing order needed in her medical judgment that would allow individuals who meet the criteria in the Food and Drug Administration Emergency Use Authorization to access and receive monoclonal antibodies, subject to the terms of the standing order.
- D. Amendment. Subsections 3(C)(1)-(2) of Executive Order No. 130 and Subsections 2(B)(1)-(2) of Executive Order No. 193 are each amended to read as follows:
 1. All persons who are licensed or otherwise authorized under an Executive Order to perform vaccinations, COVID-19 testing, or administer monoclonal antibody treatment; issue medical standing orders for vaccinations, testing, or the administration of monoclonal antibody treatment; or perform professional skills in the field of health care are hereby requested to provide emergency services to respond to the COVID-19 pandemic and, to the extent they are providing emergency services, therefore constitute "emergency management workers" to the extent allowed under N.C. Gen. Stat. § 166A-19.60(e).
 2. Therefore, the undersigned intends that all such emergency management workers should be insulated from civil liability to the maximum extent authorized by N.C. Gen. Stat. § 166A-19.60, except in cases of willful misconduct, gross negligence, or bad faith.
- B. Replacement of Sections 2.1 and 2.2 of Executive Order No. 224 and Sections 1 and 2 of Executive Order No. 232. Section II(A) and II(B) of this Executive Order rescind and replace Section 2.1 and Section 2.2 of Executive Order No. 224, respectively. Sections II(C) and II(D) of this Executive Order rescind and replace Sections 1 and 2 of Executive Order No. 232, respectively. The expiration of Executive Order No. 224, as was subsequently extended by

Executive Order No. 229. Neither the expiration of Executive Order No. 229 nor the expiration of Executive Order No. 232 will affect the continuing validity of Section II of this Executive Order.

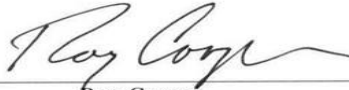
Section III. Distribution.

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

Section IV. Effective Date.

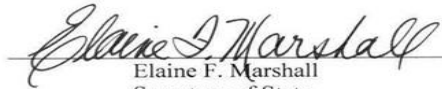
This Executive Order is effective immediately. Except as set forth expressly above, this Executive Order shall remain in effect until January 5, 2022, unless rescinded or replaced with a superseding Executive Order. An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 4th day of October in the year of our Lord two thousand and twenty-one.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State



1 NOTICE OF RULE MAKING PROCEEDINGS AND PUBLIC HEARING

2
3 NORTH CAROLINA BUILDING CODE COUNCIL

4
5 **Notice of Rule-making Proceedings** is hereby given by NC Building Code Council in accordance with
6 G.S. 150B-21.5(d).

7
8 **Citation to Existing Rule Affected by this Rule-Making:** *North Carolina, Administrative, and*
9 *Residential, Code amendments.*

10
11 **Authority for Rule-making:** *G.S. 143-136; 143-138.*

12
13 **Reason for Proposed Action:** *To incorporate changes in the NC State Building Codes as a result of*
14 *rulemaking petitions filed with the NC Building Code Council and to incorporate changes proposed by the*
15 *Council.*

16
17 **Public Hearing:** *Tuesday, December 14, 2021, 9:00AM, Albemarle Building, 325 North Salisbury Street,*
18 *Raleigh, NC 27603, 2nd Floor Training Room 240. Comments on both the proposed rule and any fiscal*
19 *impact will be accepted.*

20
21 **Comment Procedures:** *Written comments may be sent to Carl Martin, Secretary, NC Building Code*
22 *Council, NC Department of Insurance, 1202 Mail Service Center, Raleigh, NC 27699-1202 (email*
23 *carl.martin@ncdoi.gov). Comments on both the proposed rule and any fiscal impact will be accepted.*
24 *Comment period expires on January 14, 2022.*

25
26 **Link to Agency Notice:**
27 <https://www.ncosfm.gov/codes/building-code-council-bcc/bcc-hearing-notice>

28
29 **Statement of Subject Matter:**

30
31 **1. David Smith representing the NC BCC Residential Ad Hoc Committee to amend the 2018 NC**
32 **Residential Building Code, Section R404.4.**

33
34 **R404.4 Retaining Walls.** *Retaining walls that meets the following shall be designed by a registered design*
35 *professional.*

36 1. Any retaining wall ~~systems~~ on a residential site that cross over adjacent property lines regardless of
37 vertical height, or

- 1 2. Retaining walls that support buildings and their accessory structures, undercutting footings 10' or less
2 per R403.1.9 and Figure 403.1.9, or
3 3. Individual Retaining walls supporting unbalanced backfill exceeding 4 feet (1219 mm) 5 feet (1524 mm)
4 of unbalanced backfill in height within a horizontal distance of 15 feet (4572 mm) or less, or
5 4. Multiple Retaining walls systems providing a cumulative vertical relief of unbalanced backfill heights
6 greater than 5 Feet (1524 mm) in height within a horizontal separation distance of 50 feet (1524) 15 feet
7 (4572 mm) or less.

8
9 Retaining walls shall be designed for a safety factor of 1.5 against lateral sliding and overturning.

10
11 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is March 1,
12 2022 (earliest through RRC), unless the BCC assigns a delayed effective date (January 1, 2023).

13 **Reason Given** – The intent of this modification is to align the residential code with the commercial code
14 for retaining walls on a site not supporting a structure.

15 **Fiscal Statement** – This rule is anticipated to provide a net decrease in cost. This rule is not expected to
16 either have a substantial economic impact or increase local and state funds. A fiscal note has not been
17 prepared.

18
19
20 **2. Request from Carl Martin representing the Department of Insurance to amend the 2018 NC**
21 **Building Code, Section 116.**

22
23 **SECTION 116 UNSAFE STRUCTURES AND EQUIPMENT**

24
25 ~~Deleted. See the North Carolina Administrative Code and Policies~~

26
27 **116.1 General.** Unsafe structures and equipment must comply with the NC Administrative Code and
28 Policies, Section 204.2.8.

29
30 **116.2 Public access.** The structure owner or his representative shall secure the unsafe structure by a
31 method approved by the local building official to prevent public access. The approved method shall be in
32 place within the time limit specified in writing by the building official in the notice of unsafe building.

33
34 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is March 1,
35 2022 (earliest through RRC), unless the BCC assigns a delayed effective date (January 1, 2023).

1 **Reason Given** – The purpose of this amendment is to provide a direct means to protect the public from
2 unsafe buildings. The NCFC directs the fire official to notify the building official of an unsafe building,
3 but the NCBC currently provides no direction on how to address securing an unsafe building.

4 **Fiscal Statement** – This rule is anticipated to provide equivalent compliance with no net decrease/increase
5 in cost. This rule is not expected to either have a substantial economic impact or increase local and state
6 funds. A fiscal note has not been prepared.

7
8
9 **3. Request from Carl Martin representing the Department of Insurance to amend the 2018 Building**
10 **Code, Section 3006.2.**

11
12 **3006.2 Hoistway opening protection required.** Elevator hoistway door openings for occupied and
13 unoccupied stories shall be protected in accordance with Section 3006.3 where an elevator hoistway
14 connects more than three *stories*, is required to be enclosed within a *shaft enclosure* in accordance with
15 Section 712.1.1 and any of the following conditions apply:

- 16 1. The building is not protected throughout with an *automatic sprinkler system* in accordance with Section
17 903.3.1.1 or 903.3.1.2.
- 18 2. The building contains a Group I-1, Condition 2 occupancy.
- 19 3. The building contains a Group I-2 occupancy.
- 20 4. The building contains a Group I-3 occupancy.
- 21 5. The building is a high rise and the elevator hoistway is more than 75 feet (22 860 mm) in height. The
22 height of the hoistway shall be measured from the *lowest floor* to the highest floor of the floors served by
23 the hoistway.

24
25 **Exceptions:**

- 26 1. Protection of elevator hoistway door openings is not required where the elevator serves only *open*
27 *parking garages* in accordance with Section 406.5.
- 28 2. Protection of elevator hoistway door openings is not required at the level(s) of exit discharge, provided
29 that the level(s) of exit discharge is equipped with an *automatic sprinkler system* in accordance with
30 Section 903.3.1.1.
- 31 3. Enclosed elevator lobbies and protection of elevator hoistway door openings are not required on levels
32 where the elevator hoistway opens to the exterior.

33
34 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is March 1,
35 2022 (earliest through RRC), unless the BCC assigns a delayed effective date (January 1, 2023).

Reason Given – The purpose of this amendment is to clarify the need for unoccupied stories to be protected the same as occupied stories to restrict the possible entrance of smoke and hot gases from those vacant stories into an elevator shaft.

Fiscal Statement – This rule is anticipated to provide equivalent compliance with no net decrease/increase in cost. This rule is not expected to either have a substantial economic impact or increase local and state funds. A fiscal note has not been prepared.

4. Request from Carl Martin representing the Department of Insurance to amend the 2018 NC Building Code, Section 3006.3.

3006.3 Hoistway opening protection. Where Section 3006.2 requires protection of the elevator hoistway door opening, the protection shall be provided by one of the following:

1. An enclosed elevator lobby shall be provided at each floor to separate the elevator hoistway *shaft enclosure* doors from each floor by fire partitions in accordance with Section 708. In addition, doors protecting openings in the elevator lobby enclosure walls shall comply with Section 716.5.3 as required for *corridor* walls. Penetrations of the enclosed elevator lobby by ducts and air transfer openings shall be protected as required for *corridors* in accordance with Section 717.5.4.1.
2. An enclosed elevator lobby shall be provided at each floor to separate the elevator hoistway *shaft enclosure* doors from each floor by smoke partitions in accordance with Section 710 where the building is equipped throughout with an *automatic sprinkler system* installed in accordance with Section 903.3.1.1 or 903.3.1.2. In addition, doors protecting openings in the *smoke partitions* shall comply with Sections 710.5.2.2, 710.5.2.3 and 716.5.9. Penetrations of the enclosed elevator lobby by ducts and air transfer openings shall be protected as required for *corridors* in accordance with Section 717.5.4.1.
3. Additional doors shall be provided at each elevator hoistway door opening in accordance with Section 3002.6. Such door shall comply with the smoke and draft control door assembly requirements in Section 716.5.3.1 when tested in accordance with UL 1784 without an artificial bottom seal and contain a vision panel as allowed by Table 716.5. The door shall not be installed in a way that affects the fire-resistance-rating or operation of the normal elevator shaft doors.
4. The elevator hoistway shall be pressurized in accordance with Section 909.21.

Motion/Second/Approved – The request was granted. The proposed effective date of this rule is March 1, 2022 (earliest through RRC), unless the BCC assigns a delayed effective date (January 1, 2023).

Reason Given – The purpose of this amendment is to add vision panels as required by the Elevator Division of NC DoL to provide emergency responders the opportunity to see what is happening on a floor

1 before opening the smoke and draft control door and exposing the elevator shaft to possible smoke and hot
2 gases.

3 **Fiscal Statement** – This rule is anticipated to provide equivalent compliance with no net decrease/increase
4 in cost. This rule is not expected to either have a substantial economic impact or increase local and state
5 funds. A fiscal note has not been prepared.

6
7
8 **5. Request from Colin Trimming representing the NC Fire Code Revision Committee to**
9 **amend the 2018 NC Fire Code, Section 304.4.2.3.**

10
11 304.4.2.3. Containers used for valet trash collection shall not exceed a capacity of 2.0 cubic feet (15 gallons,
12 0.06 cubic meters) and shall be provided with tight-fitting or self-closing lids. Containers and lids shall
13 ~~comply with either:~~

14
15 ~~1. Containers and lids located in an area that is protected by fire sprinklers shall be constructed entirely of~~
16 ~~noncombustible materials or materials that meet a peak rate of heat release not exceeding 300 kW/m² when~~
17 ~~tested in accordance with ASTM E 1354 at an incident heat flux of 50 kW/m² in the horizontal orientation.~~
18 ~~Containers and lids shall be listed or bear the label of an approved agency that validates compliance with~~
19 ~~this requirement; or,~~

20 ~~2. Containers and lids located in an area that is not protected by fire sprinklers shall be constructed entirely~~
21 ~~of noncombustible materials or materials that meet a peak rate of heat release not exceeding 150 kW/m²~~
22 ~~when tested in accordance with ASTM E 1354 at an incident heat flux of 50 kW/m² in the horizontal~~
23 ~~orientation. Containers and lids shall be listed or bear the label of an approved agency that validates~~
24 ~~compliance with this requirement~~

25
26 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is March 1,
27 2022 (earliest through RRC), unless the BCC assigns a delayed effective date (January 1, 2023).

28 **Reason Given** – The purpose of this amendment is to allow the use of the same valet trash collection
29 containers in sprinklered and non-sprinklered buildings equally.

30 **Fiscal Statement** – This rule is anticipated to provide equivalent compliance with no net decrease/increase
31 in cost. This rule is not expected to either have a substantial economic impact or increase local and state
32 funds. A fiscal note has not been prepared.

33
34
35 **NOTICE:**

36 **Appeals and Interpretations** of the North Carolina State Building Codes are published online at the
37 following link.

1 <https://www.ncosfm.gov/codes/codes-current-and-past>

2

3

4 **NOTICE:**

5 **Objections and Legislative Review** *requests may be made to the NC Office of Administrative Hearings in*
6 *accordance with G.S. 150B-21.3(b2) after Rules are adopted by the Building Code Council.*

7 <http://www.ncoah.com/rules/>

8

9

Notice of Change to Public Hearing

The North Carolina Criminal Justice Education and Training Standards Commission is providing notice of public hearing date change regarding rules published in the NC Register Vol. 36 Issue 6 pgs. 372-375. The public hearing scheduled for Wednesday, November 17, 2021, at Wake Technical Community College Public Safety Training Center is rescheduled for Thursday, November 18, 2021, at 10 am at Wake Technical Community College Public Safety Training Center 321 Chapanoke Rd. Raleigh, NC 27603.

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 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 14 – BOARD OF COSMETIC ART EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Cosmetic Art Examiners intends to amend the rules cited as 21 NCAC 14A .0101; 14T .0102, .0201, .0301, .0612, .0617, .0701, .0706 and repeal the rules cited as 21 NCAC 14G .0114, .0115; 14J .0106, .0207, .0208, .0302, .0303, .0306, .0307, .0501; 14L .0106; and 14N .0113.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.nccosmeticarts.com/uploads/Board/Rules10-21.pdf>

Proposed Effective Date: March 1, 2022

Public Hearing:

Date: November 16, 2021

Time: 9:00 a.m.

Location: Teleconference 1-866-365-4406 code 7334117

Reason for Proposed Action: *The rule changes are proposed to help provide clarification for cosmetic art school owners and potential owners.*

Comments may be submitted to: Stefanie Kuzdrall, 121 Edinburgh South Drive, Cary, NC 27511; phone (919) 736-6123; email skuzdrall@nccosmeticarts.com

Comment period ends: January 3, 2022

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

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

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

SUBCHAPTER 14A – DEPARTMENTAL RULES

SECTION .0100 – ORGANIZATION RULES

21 NCAC 14A .0101 DEFINITIONS

In addition to the definition set forth in G.S. 88B-2, the following definitions apply in this Chapter:

- (1) "Beauty Establishment" refers to both cosmetic art schools and cosmetic art shops.
- (2) "Clean" is the removal of visible and surface debris, washing with soap and water, detergent or chemical cleaner that prepares non-porous items for disinfection and reduces the number and slows the growth of pathogens on both porous and non-porous surfaces. Cleaning does not make multi-use items safe for use.
- (3) "Contact time" is the amount of moist contact time required for a disinfectant to be effective against the pathogens on the manufacturers label. Clean items or surfaces must remain immersed, or visibly wet if using sprays or wipes, for full contact time to be effective.
- (4) "Cosmetology School" is any cosmetic art school that teaches cosmetic art as defined by G.S. 88B-2(5), but is not solely a manicurist or an esthetics school.
- (5) "Cosmetology Student" is a student in any cosmetic art school whose study is the full curriculum.
- (6) "Disinfect" is the process of making a non-porous item safe for use that includes the use of a chemical intended to kill or denature a bacteria, virus or fungus. Items to be disinfected must be cleaned prior to disinfection. UV light is not acceptable for disinfection.
- (7) "Disinfectant" is an EPA registered bactericidal, virucidal and fungicidal disinfectant that is approved for use in beauty salon or salon settings, following instruction label for dilution ratio and contact time, or an EPA registered Sodium Hypochlorite 5.25 percent or higher (household bleach) with instructions for disinfection, diluted as instructed on the label and observing the contact time listed on the manufacturers label. Bleach must be active (not expired) with a

- manufacture date of less than 6 months prior to use.
- (8) "Esthetician School" is any cosmetic art school that teaches only the cosmetic art of skin care.
- (9) "Esthetician Student" is a student in any cosmetic art school whose study is limited to the esthetician curriculum set forth in 21 NCAC 14T .0604.
- (10) "Licensing cycle" shall be as follows:
- (a) for cosmetologists, the licensing cycle is a three-year period beginning on the first day of October and ending on the third following first day of October and continuing thereafter in three year intervals;
 - (b) for estheticians, natural hair care specialists and manicurists, the licensing cycle is one year in length beginning on the first day of October and ending on the next first day of October;
 - (c) for teachers, the licensing cycle is a two-year period beginning on the first day of October of an even-numbered year and ending on the next first day of October of the next even-numbered year.
- (11) "Manicurist School" is a cosmetic art school that teaches only the cosmetic art of manicuring.
- (12) "Manicurist Student" is a student in any cosmetic art school whose study is limited to the manicurist curriculum set forth in 21 NCAC 14T .0605.
- (13) "Non-porous" is a material that has no pores and does not allow for liquids to be absorbed or pass through. Common non-porous materials include glass, metal, and plastic.
- (14) "Porous" is a material that has minute spaces or holes through which liquid or air may pass such as paper, foam, and wood. Porous may also be called permeable, penetrable, or cellular.
- (15) "Renewal period" for individual licensees is a three-month period beginning on the first day of July and ending on the first day of October of a renewal year. The "renewal period" for salon licensees is a two-month period beginning on the first day of December and ending on the first day of February of a renewal year.
- (16) "Sterilize" is the eradication of all microbial life through the use of heat, steam, or chemical sterilants. Autoclaves and or dry heat sterilizers used to sterilize must be spore tested through an independent lab every 30 days. Autoclaves or dry heat sterilizers used to sterilize must be FDA approved and used only as instructed by the manufacturer. Spore testing results and maintenance records must be kept onsite for 12 months.

- (17) "Successful Completion" is the completion of an approved cosmetic art curriculum with a minimum grade of "C" or 70 percent, whichever is deemed as passing by the cosmetic art school.
- (18) "Rasp" is a coarse file or metal tool with a roughened surface. A tool with a blade designed to cut or slice is not a rasp.

Authority G.S. 88B-2; 88B-4.

SUBCHAPTER 14G - REQUIREMENTS FOR THE ESTABLISHMENT OF COSMETIC ART SCHOOLS

SECTION .0100 - PERMANENT FILES

21 NCAC 14G .0114 SCHOOL AFFILIATION WITH COSMETIC ART SHOPS AND OTHER BUSINESS

~~(a) No cosmetic art shop or any other business shall be operated as a cosmetic art school.~~

~~(b) When a school and a shop are under the same ownership or otherwise associated, separate operation of the shop and school shall be maintained:~~

- ~~(1) If the school and shop are located in the same building, separate entrances and visitor reception areas shall be maintained; and~~
- ~~(2) The school and shop shall have separate public information releases, advertisements, names and advertising signs.~~

Authority G.S. 88B-4(7a)(9).

21 NCAC 14G .0115 FAILURE TO COMPLY WITH RULES

~~Failure of a cosmetic art school to comply with the rules adopted by the Board is cause to revoke or suspend the school's letter of approval.~~

Authority G.S. 88-23; 88-30.

SUBCHAPTER 14J - COSMETOLOGY CURRICULUM

SECTION .0100 - BEGINNERS' DEPARTMENT

21 NCAC 14J .0106 EQUIPMENT FOR BEGINNER DEPARTMENT

~~The beginner department shall be equipped with the following minimum equipment for every 20 students in the department:~~

- ~~(1) one manicure table and stool;~~
- ~~(2) two shampoo bowls and chairs, each bowl must be at least 40 inches apart center of bowl to center of bowl;~~
- ~~(3) one mannequin with hair per student;~~
- ~~(4) thermal styling equipment for the purpose of curling or straightening the hair;~~
- ~~(5) visual aids;~~
- ~~(6) one mannequin practice table to accommodate at least ten students; and~~

- (7) ~~five dozen cold wave rods for each student in the department.~~ Authority G.S. 88B-4.

21 NCAC 14J .0207 LIVE MODEL/MANNEQUIN PERFORMANCE REQUIREMENTS

(a) ~~The following live model/mannequin performance completions shall be done by each student in the advanced department before the student is eligible to take the cosmetologist's examination. Sharing of performance completions is not allowed. Credit for a performance shall be given to only one student.~~

	1200 Hours		1500 Hours	
	Live Model	Maniq.	Live Model	Maniq.
(1) scalp and hair treatments with massage	8		10	
(2) fullhead fingerwave and style	3	OR 3	5	OR 5
(3) fullhead pincurl and style	3	OR 3	5	OR 5
(4) Hair Styling sets, blowdrying Thermal press/flat iron, artificial hair	80	56	100	70
(5) hairecuts	60	8	75	10
(6) chemical reformation or permanent waving and relaxers	16	12	20	15
(7) temporary color	3		5	
(8) Color Application semi, demi, Permanent color, and hair lightening	24	8	30	10
(9) Multidimensional Color low/high Lighting, cap, bleach	3	8	5	10
(10) lash and brow tinting	2		4	
(11) Nail Care manicures and pedicures	12		15	
(12) artificial nails	4	OR 4	4	OR 4
(13) facials with massage/makeup	3		10	
(14) hair removal	3		5	

- (b) ~~Certification of live model or mannequin performance completions is required along with the application for the examination.~~
 (c) ~~A live model may be substituted for a mannequin for any mannequin service.~~
 (d) ~~All mannequin services may be performed using a simulated product.~~
 (e) ~~Simulated product is not allowed for credit for live model performance.~~

Authority G.S. 88B-4.

21 NCAC 14J .0208 INTERNSHIPS

~~Schools and cosmetic art shops desiring to implement an internship program shall follow these requirements:~~

- (1) ~~Schools wishing to participate in an internship program must notify the Board of intent to implement a program before credit for an internship may be granted. Cosmetic art shops and student selection criteria must be submitted along with the notification.~~
 (2) ~~Schools shall report to the Board all cosmetic art shops contracted and students selected to participate in the program.~~
 (3) ~~Internships may be arranged in various time frames but shall never exceed 10 percent of a student's training period.~~
 (4) ~~Credit for an internship shall be granted upon submission of student hours verification based on a daily attendance record. Hours must be recorded on a form approved by the school.~~
 (5) ~~Students may be assigned a variety of duties, but client services are restricted. Cosmetology~~

~~and natural hair care students may only provide shampoo services, manicurist students may only remove nail polish and esthetician students may only drape and prep clients. Cosmetic art shop violation of restrictions or school requirements may result in the termination of the internship contract and the loss of student training hours.~~

- (6) ~~Students must follow all cosmetic art shop employee rules and regulations. Violations of cosmetic art shop rules or any misconduct may result in dismissal of the intern or loss of training hours.~~
 (7) ~~A licensed teacher need not be in attendance during this internship.~~
 (8) ~~Students participating in the program shall not receive compensation for duties performed in the cosmetic art shop.~~

Authority G.S. 88B-4.

SECTION .0300 - COMBINED STUDIES

21 NCAC 14J .0302 EQUIPMENT

~~Each cosmetology school shall provide training in the decontamination methods used to prevent the growth of germs and bacteria. Each cosmetology school shall provide the following equipment or supplies for use in the training and teaching of all students:~~

- ~~(1) containers of sufficient size for the purpose of disinfecting implements by the immersion of implements in an EPA recommended, hospital grade disinfectant solution;~~
- ~~(2) covered containers for storage of disinfected implements until they are needed to prevent contamination.~~

Authority G.S. 88B-4; 88B-14.

21 NCAC 14J .0303 STUDENTS' PERSONAL SUPPLIES

~~Each student shall have the following minimum supplies:~~

- ~~(1) manicure supplies and implements for a complete manicure;~~
- ~~(2) six combs;~~
- ~~(3) six brushes;~~
- ~~(4) sufficient pin-curl clips;~~
- ~~(5) sufficient smooth rollers;~~
- ~~(6) hard rubber or nonflammable comb for heat protection used in thermal styling;~~
- ~~(7) one electric curling iron, mareel;~~
- ~~(8) one razor;~~
- ~~(9) two scissors, one tapered and one straight;~~
- ~~(10) one eyebrow tweezer;~~
- ~~(11) one tint comb;~~
- ~~(12) one blow dryer; and~~
- ~~(13) one copy of "An Act to Regulate the Practice of Cosmetic Art in the State of North Carolina" and a copy of the course curriculum requirements, both of which shall be at no charge to the student for the first copy.~~

Authority G.S. 88B-4.

21 NCAC 14J .0306 COURSE WORK REQUIREMENTS FOR BEGINNERS AND ADVANCED

~~The course work done by beginners and advanced students shall be as follows:~~

- ~~(1) orientation,~~
- ~~(2) your professional image,~~
- ~~(3) sanitation and bacteriology,~~
- ~~(4) properties of the scalp and hair,~~
- ~~(5) draping, shampooing, rinses,~~
- ~~(6) hair shaping,~~
- ~~(7) hair and hairstyling,~~
- ~~(8) thermal pressing and styling,~~
- ~~(9) permanent waving and chemical relaxing,~~
- ~~(10) hair coloring,~~
- ~~(11) artificial hair,~~
- ~~(12) nails and manicuring,~~
- ~~(13) facials, makeup, and skin care,~~
- ~~(14) anatomy,~~

- ~~(15) electricity,~~
- ~~(16) chemistry,~~
- ~~(17) salon business.~~

Authority G.S. 88-23.

21 NCAC 14J .0307 TESTS

~~Written tests and examinations shall be given in all subjects.~~

Authority G.S. 88-23.

SECTION .0500 – CREDIT FOR COSMETOLOGY STUDY OUTSIDE OF NORTH CAROLINA

21 NCAC 14J .0501 APPROVAL OF CREDIT FOR COSMETOLOGY INSTRUCTION/ANOTHER STATE

- ~~(a) An applicant shall receive credit for instruction taken in another state if the conditions set forth in this Rule are met.~~
- ~~(b) The applicant's record shall be certified by the state agency or department that issues licenses to practice in the cosmetic arts. If this agency or department does not maintain any student records or if the state does not give license to practice in the cosmetic arts, then the records may be certified by any state department or state agency that does maintain such records and is willing to certify their accuracy. If no state department or board will certify the accuracy of the student's records, then the Board shall review the student's records on a case by case basis.~~

Authority G.S. 88B-16.

SUBCHAPTER 14L – COSMETIC ART TEACHERS

SECTION .0100 – TEACHER QUALIFICATIONS AND EXAMINATIONS

21 NCAC 14L .0106 APPLICATION TO TAKE EXAMINATION

- ~~(a) To apply to be a cosmetic art teacher, an applicant must apply to the Board on a form provided by the Board.~~
- ~~(b) The Board shall not consider an application until the applicant submits all the information required by the application rules.~~
- ~~(c) An applicant cannot take the cosmetic art teacher examination until the Board approves the applicant's application.~~

Authority G.S. 88B-7; 88B-8; 88B-9; 88B-10; 88B-16; 88B-18.

SUBCHAPTER 14N - EXAMINATIONS

SECTION .0100 – GENERAL PROVISIONS

21 NCAC 14N .0113 RE-EXAMINATION

- ~~(a) Notwithstanding any other provision of the rules in this Subchapter, pursuant to G.S. 88B-18(d) a cosmetologist, esthetician, manicurist, natural hair care specialist or teacher candidate who has failed either section of the examination three times, shall complete the following amounts of study at an approved cosmetic art school before retaking the examination:~~
 - ~~(1) Cosmetologist 200 hours,~~
 - ~~(2) Esthetician 80 hours,~~

- ~~(3) Manicurist 40 hours,~~
- ~~(4) Natural Hair Care Specialist 40 hours, and~~
- ~~(5) Teacher:~~
 - ~~(A) cosmetology 100 hours,~~
 - ~~(B) esthetician 80 hours, and~~
 - ~~(C) manicurist 40 hours.~~

~~(b) Teacher candidates with no prior cosmetic art teacher training program experience shall provide a written affidavit documenting a minimum of required work experience as outlined in 21 NCAC 14N .0115 or complete a minimum of the hours required for the teacher curriculum in the discipline in which they hold a license. The required minimums for teacher curriculums are 800 hours of a cosmetology teacher curriculum, 650 hours of an esthetician teacher curriculum, 320 hours of a natural hair care teacher curriculum or 320 hours of a manicurist teacher curriculum.~~

~~(c) The school in which the student has enrolled pursuant to G.S. 88B-18(d) shall design a course of study for that student in order to correct the student's deficiencies.~~

Authority G.S. 88B-4; 88B-18.

SUBCHAPTER 14T – COSMETIC ART SCHOOLS

SECTION .0100 - SCOPE AND SCHOOL APPLICATIONS

21 NCAC 14T .0102 NEW SCHOOL APPLICATIONS

(a) Persons desiring to operate a cosmetic art school in the state of North Carolina shall make application for licensure by submitting to the Board the Board's School Application. The Board's School Application shall include:

- (1) School name;
- (2) Cosmetic Art discipline(s) to be taught;
- (3) Physical address and mailing address;
- (4) Phone number;
- (5) Email address;
- (6) Ownership type;
- (7) Reason for application;
- (8) Owner name;
- (9) School contact person with phone number and email address; and
- (10) List of teachers with cosmetic art license number.

(b) School application forms must be submitted along with supporting documents as follows:

- (1) Proof of bond as required by G.S. 88B-17;
- (2) Diagram with location of equipment placement and marking square footage of all areas including classrooms, dispensary, water supplies, stations, locker room/dressing room, office areas, reception areas and restroom facilities;
- (3) Course curriculum for each cosmetic art discipline and teacher trainee program to be taught in the school;
- (4) Plans for record keeping of student hours, minimum course requirement qualifications, and student performances;

- (5) The qualifications for passing a performance requirement and techniques for grading of performances;
- (6) Handbook for students containing student policies on attendance, leave of absence policy, performance assignment, and a plan to assist students to achieve the required minimum hours and performances per 21 NCAC 14T .0602-.0610;
- (7) A raised seal identifying the school name and physical location to be used on all Board forms, reports, and other official papers;
- (8) Documentation of local municipality fire, mechanical code approval, occupancy, electrical and plumbing approval;
- (9) School operation schedule including days, hours and observed holidays; and
- (10) Signed and notarized statement that the school owner has read and understands the Board's rules in this Subchapter.

(c) The Board shall not approve an application for a license until all plans, furniture, supplies and equipment as prescribed by the rules in this Subchapter have been installed.

(d) The Board shall issue a license to any cosmetic art school that meets the requirements of this Subchapter.

Authority G.S. 88B-4; 88B-16; 88B-17.

SECTION .0200 - PHYSICAL REQUIREMENTS FOR COSMETIC ART SCHOOLS

21 NCAC 14T .0201 ALL COSMETIC ART SCHOOLS

(a) Cosmetology schools must have the following physical departments:

- (1) Practice Department – a minimum of 200 square feet with a table or tables and or stands to accommodate at least 10 students and have at least 40 inches between each mannequin. Cosmetic art schools must provide an additional 5 square feet in the practice department for each student over the maximum of 10. This area shall have at least one mirror of a minimum of two square feet.
- (2) Clinic Department – the clinic floor for performance of all cosmetic art services. Within the clinic area each school shall have:
 - (A) 48 inches of space from the center to the center of each styling chair, esthetics table or manicuring table;
 - (B) 24 inches from the center of the chair forward;
 - (C) 48 inches from the backrest behind the chair to any other styling chair, esthetics table or manicuring table; and
 - (D) at least 30 inches of space from the back of each styling chair, esthetics table to the wall of the school.

- (3) Dispensary – a room or area to organize and maintain supplies, equipment for disinfection of all implements and a sink with hot and cold running water. All cosmetic art schools must have the required equipment to carry out disinfection procedures per 21 NCAC 14H .0403 and .0404;
 - (4) Theory classroom – classroom with a minimum of 300 square feet to accommodate a maximum of 25 students. Cosmetic art schools must provide an additional 8 square feet in the theory classroom for each student over the maximum of 25;
 - (5) Office – administrative office with a locking door for the secure and locked facilitation of student records and files. This office shall be outfitted with a minimum of one desk and one chair;
 - (6) Reception area – a reception area for clients to wait prior to receiving services;
 - (7) Break room for student use;
 - (8) Restrooms for student and public use;
 - (9) Locker or dressing room – a locker or room for students to secure and lock personal belongings throughout the day; and
 - (10) All stations as defined in Rule .0302 of this Subchapter must be numbered numerically.
- (b) Manicuring, esthetics and natural hair care schools must have the following physical departments:
- (1) Clinic Department – the clinic floor for performance of all cosmetic art services. Within the clinic area each school shall have:
 - (A) 48 inches of space from the center to the center of each styling chair, esthetics table or manicuring table;
 - (B) 24 inches from the center of the chair forward;
 - (C) 48 inches from the backrest behind the chair to any other styling chair, esthetics table or manicuring table; and
 - (D) at least 30 inches of space from the back of each styling chair or esthetics table to the wall of the school.
 - (2) Dispensary – a room or area to organize and maintain supplies, equipment for disinfection of all implements and a sink with hot and cold running water. All cosmetic art schools shall have the required equipment to carry out disinfection procedures per 21 NCAC 14H .0403 and .0404;
 - (3) Theory classroom – a room or area with equipment for theory training appropriate to both practical and theory learning including desks and ~~chairs~~, chairs and a table or tables and have at least 40 inches between each mannequin.
 - (4) Office – administrative office with a locking door for the secure and locked facilitation of student records and files. This office shall be outfitted with a minimum of one desk and one chair;
 - (5) Reception area – a reception area for clients to wait prior to receiving services;
 - (6) Break room for student use;
 - (7) Restrooms for student and public use;
 - (8) Locker or dressing room – a locker or room for students to secure and lock personal belongings throughout the day; and
 - (9) All stations as defined in Rule .0304 of this Subchapter must be numbered numerically.
- (c) Each cosmetic art school must display a sign in the reception area. The sign cannot be smaller than 12 inches by 18 inches, with lettering at least one and one half inches in size and must read as follows: "Cosmetic Art School Work Done Exclusively by Students."
- (d) Each of the requirements listed within this Rule must be located within the same building with the exception of the theory classroom which may be located in an adjacent building or another building within 500 feet of the main cosmetic art building and a proctored examination center, which may be located on the school campus. Theory classrooms located in an adjacent building or another building within 500 feet of the main cosmetic art building shall not be used for student practice.
- (e) All Cosmetic Art schools must post hours of operation per cosmetic art discipline and submit this information to the Board. Any changes to the hours of operation must be posted and submitted to the Board. A school shall be considered open by the Board when cosmetic art instruction, services or performances are provided.
- (f) Cosmetic art schools may not offer student hours or performances unless they are in compliance with Paragraph (a) or (b) of this Rule.
- (g) All cosmetic art schools must adhere to any federal, state and local government regulation or ordinance regarding fire safety codes, mechanical codes, plumbing and electrical work.
- (h) All cosmetic art schools must maintain a ventilation system with temperature control. During school operating hours the temperature must be maintained between 60 and 85 degrees Fahrenheit.
- (i) All equipment in cosmetic art schools shall be in working order; kept in repair; and installed in such a manner as to facilitate usage.
- (j) All cosmetic art school buildings shall be maintained. Maintenance includes the safe and working condition of the physical building, furniture, equipment and supplies.
- (k) All cosmetic art schools must maintain a bulletin board in sight of the clinic floor. The bulletin board shall be used to display at all times the Board Infection Control rules in 21 NCAC 14H .0200, .0300, .0400, and .0500 and the sanitation grade card issued to the school.
- (l) All cosmetic art schools must post together the school letter of approval, the school license and all cosmetic art licenses issued to the teachers on staff.
- (m) Each room in a cosmetic art school must be labeled according to its assigned purpose.

(n) Each theory classroom shall be equipped with desks or chairs suitable for classroom work and one chair suitable for demonstrating cosmetic art practices.

(o) When a school and a shop are under the same ownership:

- (1) separate operation of the shop and school shall be maintained;
- (2) if the school and shop are located in the same building, they must be separated by a solid wall of at least seven feet in height; separate entrances and visitor reception areas shall be maintained; and
- (3) the school and shop shall have separate public information releases, advertisements, names and advertising signs.

(p) A cosmetic art school must maintain space and equipment appropriate to both practical and theory learning including desks and chairs, and station requirements so that each student in attendance has a location within which to complete assigned tasks. Each station or desk space shall be designated for only one student at a time.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

SECTION .0300 - SCHOOL EQUIPMENT AND SUPPLIES

21 NCAC 14T .0301 EQUIPMENT FOR ALL COSMETIC ART SCHOOLS

All cosmetic art schools shall maintain for student use, in a dispensary, supplies for all cosmetic art services offered in the school. Simulated products may be used for demonstrations and practice, simulated products may not be used for evaluation plan assessments.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

SECTION .0600 - CURRICULA

21 NCAC 14T .0612 INSTRUCTION GUIDELINES

- (a) The hours earned in the clinic department must be devoted to study and performance completions.
- (b) Work in the clinic department may be done on the public.
- (c) All work done by students on the public shall be checked by the cosmetic art teacher as the work is being performed and after the service has been completed so that the teacher may point out errors to the student in order that the errors may be corrected.
- (d) Cosmetic art students shall receive training on theory of any cosmetic art service prior to performing that service.
- (e) Theory work shall include lectures on theory subjects as well as demonstrations, questions and answers on textbooks, written examinations, and in-class practice of procedures and methods.
- (f) Cosmetic art teacher trainees must be enrolled in school to earn hours.
- (g) Cosmetic art schools shall supply each student with a copy of the North Carolina Cosmetic Art Act, Board rules, and the student handbook.
- (h) All of the work outlined in the practice department and the clinic department shall be given to the students through practical demonstrations and lectures, questions and answers on textbooks, and written exam.

(i) A minimum of 10 percent of scheduled attendance time each week shall be spent on theory work as defined in Paragraph (e) of this Rule.

(j) All papers shall be graded and returned to the students.

(k) Cosmetic art students shall receive training and practice only in the discipline in which they are enrolled.

(l) All live model performances on the public shall be done in the clinic department. Mannequin performances and live model performances on other students may be performed in the clinic department or in a room within the school with a station.

(m) Textbooks shall not be used more than five years if a newer version is available.

(n) Schools shall provide textbooks and supplementary educational materials and equipment to students.

(o) A cosmetic art teacher shall not perform clinical services on a client at the cosmetic art school.

(p) Exams administered in a proctored exam site need not be attended by a cosmetic art teacher.

(q) Cosmetic art teachers shall use the respective evaluation plan to verify student competency prior to assigning a live model service.

Authority G.S. 88B-4; 88B-16.

21 NCAC 14T .0617 TEACHER TRAINEES

(a) A cosmetic art teacher trainee may not perform clinical services on a client at the cosmetic art school.

(b) A cosmetic art teacher trainee shall be supervised by a cosmetic art teacher at all times when the trainee is at a cosmetic art school except as set out in Paragraph (c) of this Rule.

(c) A manicurist, natural hair care or esthetician teacher may supervise a cosmetic art teacher trainee with regard to manicuring, natural hair care, or esthetics.

(d) A cosmetic art teacher trainee program may be a full time program or a part time program. A cosmetic art teacher trainee, however, may not receive credit for more than 10 hours per day.

(e) Teacher trainees may present lessons they have prepared under the direct supervision of a licensed cosmetic art teacher as long as the supervising teacher is present in the classroom.

(f) Persons receiving teacher training in a cosmetic art school shall be furnished a teacher's manual and shall spend all of their training time under the direct supervision of a licensed cosmetic art teacher and shall not be left in charge of students or the school at any time.

(g) Teacher trainees must be taught how to assess cosmetic art performances using evaluation plans.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

SECTION .0700 - SCHOOL LICENSURE, OPERATIONS, CLOSING AND RELOCATING SCHOOLS

21 NCAC 14T .0701 SCHOOL OPERATIONS/LICENSURE MAINTENANCE

(a) No individual shall be given credit for any hours earned in a cosmetic art school before the date the school is granted a license, before the student is enrolled, or after graduation or withdrawal of the student without a new enrollment.

(b) All Cosmetic Art schools shall submit hours of operation per cosmetic art discipline to the Board. Any changes to the hours of operation shall be submitted to the Board. A school shall be considered open by the Board when cosmetic art instruction, services, or performances are provided.

(c) Students may be required to clean and disinfect work areas, reception areas, implements, and the dispensary. Students shall not be required to perform maintenance.

(d) All cosmetic art schools shall adhere to all Board Infection Control Rules located in 21 NCAC 14H Infection Control.

(e) Cosmetic art schools may permit students to leave the cosmetic art school during instructional time to visit on campus libraries and other educational resource rooms such as computer labs for research and study under the supervision of a cosmetic art instructor.

(f) Cosmetic art schools shall use the following grading scale as a for passing grades:

Grade A	100-90
Grade B	80-89
Grade C	70-79
Grade F (Fail)	0-69

(g) In order to graduate, all students shall meet the minimum school and Board requirements as set forth in Rules .0602-.0610 of this Subchapter.

(h) Examinations shall be administered in all subjects of the cosmetic art curriculum.

(i) Students present at school earning cosmetic art school hours shall be supervised by a cosmetic art teacher at all times. If a guest lecturer is leading a class, at least one cosmetic art teacher must be present in the lecture.

(j) All cosmetic art schools shall provide:

- (1) One teacher for every 25 students enrolled in the practice department;
- (2) One teacher for every 20 students during practical work on live models in the clinic department; and
- (3) Each Cosmetic art teacher may have up to five teacher trainees, in addition to the ratios set forth in Subparagraph (j)(1) and (2).

(k) In theory classes, the teacher student ratio may exceed the ratios established in this Rule.

(l) A teacher may administer instruction to up to 10 students enrolled in practice and clinic departments at the same time. A teacher shall not administer instruction to more than 10 students enrolled in practice and clinic departments at the same time.

(m) At no time can any one teacher be simultaneously responsible for students in a theory class and students in practice on the clinic floor.

(n) In cases of change in teaching staff, the school shall notify the Board of the change in writing prior to beginning instruction. A change in teaching staff includes any substitution for the regularly scheduled teacher and any change, scheduled or otherwise, in the list of teachers last given to the Board.

- (1) All courses in a cosmetic art school shall be taught by a licensed cosmetology teacher, except as follows:

(A) manicuring courses shall be taught by either a licensed cosmetology teacher or a licensed manicurist teacher;

(B) natural hair care courses shall be taught by either a licensed cosmetology teacher or a licensed natural hair care teacher;

(C) esthetics courses shall be taught by either a licensed cosmetology teacher or a licensed esthetician teacher.

(2) A licensed cosmetologist not licensed as a cosmetology teacher may substitute for a cosmetology, esthetician, natural hair care or manicurist teacher; a licensed manicurist not licensed as a manicurist teacher may substitute for a manicurist teacher; a licensed natural hair care specialist not licensed as a natural hair care teacher may substitute for a natural hair care teacher; and a licensed esthetician not licensed as an esthetician teacher may substitute for an esthetician teacher.

(o) In no event may any cosmetic art licensee substitution last for more than 15 consecutive working days per year per teacher. If any teacher substitution is 16 consecutive days or longer, the school shall provide a new cosmetic art teacher.

(p) Enrolled students may earn a maximum of 10 hours per day per discipline of cosmetic art and a maximum of 48 hours per week per discipline. Online education can be earned in addition to the maximum daily and weekly hours. A student enrolled in more than one cosmetic art discipline may not earn hours or complete performances concurrently.

(q) The Board shall certify student hours for any North Carolina cosmetic art school that is closed. The Board shall not certify student hours between any North Carolina open cosmetic art schools. The Board shall certify student hours earned at North Carolina cosmetic art schools to other state boards and schools open outside of the state of North Carolina as set forth in Rule .0502 of this Subchapter.

Authority G.S. 88B-2; 88B-4; 88B-16.

21 NCAC 14T .0706 SCHOOL APPROVAL CHANGES AND SCHOOL CLOSING

(a) If the location of a cosmetic art school changes or if there is a transfer of majority ownership of a cosmetic art school, whether by sale, lease, or otherwise, the school owner shall submit a new application for approval in accordance with Rule .0102 of this Subchapter.

(b) License and letters of approval issued to cosmetic art schools are not transferrable, and are valid only for the location, square footage, and enrollment capacity for which issued, and to the owner to whom issued. The letter of approval shall contain the school name, school owner name, school location, date of approval, ~~the signature of the Board members~~, the amount of approved square footage, and the maximum number of enrollments for which the school has been approved.

(c) Schools intending to close must notify the Board not less than 30 days in advance.

- (d) Schools must make provisions for the long term storage of school documents as set forth in Rule .0502 of this Subchapter, and facilitate the retrieval of any school documents upon the request of a student or the Board. Schools shall notify the Board of the contact information for retrieval of any school information.
- (e) Schools must facilitate and cooperate in the final inspection and processing of student hours.
- (f) If the square footage or instructional layout of a cosmetic art school changes, the school shall notify the Board of the change and submit a diagram of the new instructional layout. Following receipt of the notification of the change in the instructional layout or square footage, a Board inspector shall verify the change.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

CHAPTER 22 - HEARING AID DEALERS AND FITTERS BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the Hearing Aid Dealers and Fitters Board intends to amend the rules cited as 21 NCAC 22A .0401; and 22F .0302.

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

Proposed Effective Date: *March 1, 2022*

Instructions on How to Demand a Public Hearing: *(Must be requested in writing within 15 days of notice). Any person/party requesting a public hearing can direct the request to the Board Administrator, Caitlin Schwab-Falzone at info@nchalb.org or by calling (919) 834-3661. Any public hearing requested will be scheduled on or after 11/16/2021.*

Reason for Proposed Action: *The North Carolina Hearing Aid Dealers and Fitters Board has observed that registered sponsors who are the teachers of the new generation of Hearing Aid Dealers and Fitters obtain their registered sponsor status within weeks of becoming fully licensed themselves. Although, individuals that are fully licensed are considered to be competent to work as Hearing Aid Dealers and Fitters, many do not have the desired hands-on experience and knowledge that would be beneficial to new apprentices that are working to obtain their full licensure as Hearing Aid Dealers and Fitters in North Carolina. The Board would like to see 2 years of experience as a fully licensed Hearing Aid Dealer and Fitter before individual licensees become registered sponsors.*

Further, the Board has seen an uptake in the number of apprentices that an individual registered sponsor will take on. The Board has had as many as 6 apprentices registered to 1 sponsor. The registered sponsor has to provide 27 hours of personal and/or general supervision per week for each apprentice under their supervision. The Board does not think a single registered sponsor can adequately supervise more than 2 apprentices at any given time. The change in the rules relating to

the registered sponsors and apprentices are necessary to keep the public safe in North Carolina.

Comments may be submitted to: *Caitlin Schwab-Falzone, 701 Exposition Place, Suite 206, Raleigh, NC 27615; email info@nchalb.org*

Comment period ends: *January 3, 2022*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

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

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

SUBCHAPTER 22A - BOARD RULES

SECTION .0400 – DEFINITIONS

21 NCAC 22A .0401 DEFINITIONS AND INTERPRETATIONS

(a) The rules of statutory construction concerning number and gender as contained in G.S. 12-3(1) shall be applied in the construction of these Rules.

(b) The definitions contained in the Food and Drug Administration Standards concerning Hearing Aid Devices, Title 21 of the Code of Federal Regulations Part 801.420, as published in the 42nd Volume of the Federal Register (February 15, 1977) page 9294 are incorporated herein by reference, not including subsequent amendments or editions of the referenced materials, with the following additions and amendments:

- (1) "Reconditioned" shall mean that the condition of the hearing aid is the same as a used hearing aid.
- (2) "Audiologist" shall mean any individual holding a valid non-temporary license as an audiologist issued by the North Carolina Board of Examiners for Speech and Language Pathologists and Audiologists.

(c) The definitions cited in this Section shall serve as interpretations for terms appearing in Chapter 93D of the General Statutes of North Carolina and in these Rules.

- (1) "Advertising" means a written or oral communication that is published, disseminated, circulated, or placed before the public for the purpose of attracting public attention to a product, business, or service.
- (2) "Apprentice" means an individual who holds a valid Board-issued apprentice registration certificate to fit and sell hearing aids under the supervision of a Registered Sponsor.
- (3) "Audiometer" means an electronic device used for air conduction testing, bone conduction testing and obtaining speech audiometry results that contains a masking circuit, at least one VU meter, and capability of sound field output.
- (4) "Direct supervision" means the Registered Sponsor shall be present in the office suite and immediately available to furnish assistance and direction to the Apprentice. It does not mean that the Registered Sponsor must be present in the room with the Apprentice when the Apprentice is fitting and selling hearing aids or completing associated contracts or other paperwork.
- (5) "Duly made application" means a completed application received in the office of the Board, including all required documents, photographs, fees, and supplemental information requested in the application.
- (6) "General supervision" means the Apprentice is under the Registered Sponsor's overall direction and control, but the Registered Sponsor's presence is not required when the Apprentice is fitting and selling hearing aids or completing associated contracts or other paperwork. Under general supervision, the training of the Apprentice, including instruction, consultation and on-site inspection and evaluation of the Apprentice's work, and the maintenance of the necessary equipment and supplies are the continuing responsibility of the Registered Sponsor.
- (7) "One full year of apprenticeship" means that an apprentice satisfies each of the following requirements within 24 consecutive months from the date of issuance of the initial apprentice registration certificate:
 - (A) works under the supervision of a Registered Sponsor for a minimum of 27 clock hours per week for a period of 50 weeks; and
 - (B) holds a valid apprentice registration certificate for a period of 365 calendar days.
- (8) "Personal supervision" means the Apprentice is under the Registered Sponsor's specific direction and control for training and

instruction, and the Registered Sponsor ~~Sponsor, or a North Carolina licensed Hearing Aid Specialist approved by the Registered Sponsor,~~ shall be in attendance in the room with the Apprentice during:

- (A) the evaluation or measurement of the powers or range of human hearing by means of an audiometer or by other means;
 - (B) the consequent selection or adaptation or sale or rental of hearing aids intended to compensate for hearing loss;
 - (C) the making of an impression of the ear; and
 - (D) the completion of any associated contracts and other paperwork.
- (9) "Registered Applicant" means any individual, including an apprentice, approved and registered to sit for the next scheduled licensing exam.
- (10) "Registered Sponsor" means a person with a permanent license as an audiologist under Article 22 of Chapter 90 of the General Statutes who has held a permanent license for a minimum of two years prior to becoming a registered sponsor, who does not have more than one apprentice under general supervision and one apprentice under personal supervision at any time, and who is registered in accordance with G.S. 93D-3(c)(16), or a licensee of the Board who has been approved as a sponsor of an apprentice.

Authority G.S. 93D-3(c); 93D-9; 150B-14.

SUBCHAPTER 22F - LICENSING PROVISIONS

SECTION .0300 – APPRENTICESHIPS

21 NCAC 22F .0302 SPONSOR'S DUTIES

- (a) The registered sponsor shall assist the apprentice in submitting all required applications and reports of the apprenticeship experience and shall act as a liaison between the Board and the apprentice.
- (b) In accepting an apprentice, the registered sponsor shall be responsible for the conduct of the apprentice in his or her performance of his or her duties as an apprentice. The Board shall issue an initial Registered Sponsor Certificate that requires the registered sponsor to perform all the duties within the scope of the role of registered sponsor outlined in this Subchapter. The Certificate will be issued electronically and held by the Board only.
- (c) The registered sponsor shall provide an apprentice personal supervision until receiving an Official Notice of Examination Results as in Rule .0107 of this Subchapter confirming that the apprentice ~~successfully~~ passed Part A, Part B, and Part C of the licensing exam, and then the registered sponsor shall provide an apprentice general supervision for the remainder of the

apprenticeship. A registered sponsor providing general supervision may incorporate direct or personal supervision at the discretion of the registered sponsor. General, direct, and personal supervision are ~~specifically~~ defined in 21 NCAC 22A .0401.

(d) The registered sponsor shall provide apprentice training and supervision in the following areas:

- (1) anatomy, physiology, and pathology of the auditory mechanism;
- (2) measurement techniques and test interpretation for assessment of hearing impairment and hearing handicap;
- (3) hearing aid technology including instrument circuitry and acoustic performance data;
- (4) design, selection, and modification of ear mold or shell coupling systems;
- (5) hearing aid selection procedures and fitting, verification, and adjustment techniques;
- (6) post-delivery care including hearing aid orientation and counseling techniques and hearing aid servicing;

- (7) ethical conduct as set forth in 21 NCAC 22J and regulatory issues concerning the fitting and selling of hearing aids; and
- (8) all areas within the scope of practice as defined in G.S. 93D-1.1.

(e) A registered sponsor may only supervise one apprentice under personal supervision and one apprentice under general supervision at any given time. Failure by a registered sponsor to properly train or supervise an apprentice shall be grounds for disciplinary action and revocation of the Registered Sponsor Certificate after ~~proper~~ notice and hearing as set forth in Subchapter 22L. If the Sponsorship Certificate is revoked by the Board, the licensee shall be no longer eligible to act as a registered sponsor until or unless the Board reinstates the Sponsorship Certificate.

Authority G.S. 93D-1.1; 93D-3(c); 93D-9; 93D-13.

*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 September 16, 2021 Meeting.

**REGISTER CITATION TO THE
NOTICE OF TEXT**

ELECTIONS, STATE BOARD OF

Arrangement of Official Ballots 08 NCAC 06B .0103* 35:24 NCR

CHILD CARE COMMISSION

NC Pre-K Teacher Assistant Education and Credentials 10A NCAC 09 .3013* 35:14 NCR

Scope 10A NCAC 09 .3101* 35:23 NCR

Definitions 10A NCAC 09 .3102* 35:23 NCR

Public Schools 10A NCAC 09 .3103* 35:23 NCR

Adding Space at Licensed Centers for Care of School-Age C... 10A NCAC 09 .3104* 35:23 NCR

MEDICAL CARE COMMISSION

Definitions 10A NCAC 13D .2001 35:18 NCR

Resident Care Areas 10A NCAC 13K .1109* 35:18 NCR

Design and Construction 10A NCAC 13K .1112* 35:18 NCR

Plans and Specifications 10A NCAC 13K .1113 35:18 NCR

Plumbing 10A NCAC 13K .1114 35:18 NCR

Waste Disposal 10A NCAC 13K .1115 35:18 NCR

Application of Physical Plant Requirements 10A NCAC 13K .1116* 35:18 NCR

Requirements for Hospice Inpatient Units 10A NCAC 13K .1201* 35:18 NCR

Additional Patient Care Area Requirements for Hospice Inp... 10A NCAC 13K .1204* 35:18 NCR

Furnishings for Hospice Inpatient Care 10A NCAC 13K .1205* 35:18 NCR

Hospice Inpatient Fire and Safety Requirements 10A NCAC 13K .1206 35:18 NCR

Hospice Inpatient Requirements for Heating/Air Conditioning 10A NCAC 13K .1207 35:18 NCR

Hospice Inpatient Requirements for Emergency Electrical S... 10A NCAC 13K .1208* 35:18 NCR

Hospice Inpatient Requirements for General Electrical 10A NCAC 13K .1209* 35:18 NCR

Other Hospice Inpatient Requirements 10A NCAC 13K .1210* 35:18 NCR

Additional Plumbing Requirements for Hospice Inpatient Units 10A NCAC 13K .1211 35:18 NCR

Application of Physical Plant Requirements 10A NCAC 13K .1212* 35:18 NCR

HHS - HEALTH BENEFITS, DIVISION OF

Issuance 10A NCAC 23B .0102* 35:23 NCR

PUBLIC HEALTH, COMMISSION FOR

Reporting of COVID-19 Diagnostic Test Results 10A NCAC 41A .0107* 35:23 NCR

Handling and Transportation of Bodies 10A NCAC 41A .0212* 35:23 NCR

SOCIAL SERVICES COMMISSION

Administration and Supervision 10A NCAC 71U .0101* 35:20 NCR

Intentional Program Violation Disqualification 10A NCAC 71U .0201* 35:20 NCR

Fair Hearings 10A NCAC 71U .0203 35:20 NCR

Denial of Zero Benefit Households 10A NCAC 71U .0204* 35:20 NCR

<u>Immediate Termination or Reduction of Assistance</u>	10A NCAC 71U .0205*	35:20 NCR
<u>Standard Utility Allowances</u>	10A NCAC 71U .0206*	35:20 NCR
<u>Social Security Numbers</u>	10A NCAC 71U .0207*	35:20 NCR
<u>Second Party Review</u>	10A NCAC 71U .0209*	35:20 NCR
<u>Income Exclusions</u>	10A NCAC 71U .0210*	35:20 NCR
<u>Vehicle Determinations</u>	10A NCAC 71U .0211	35:20 NCR
<u>Transitional FNS Benefits</u>	10A NCAC 71U .0212*	35:20 NCR
<u>Simplified Reporting</u>	10A NCAC 71U .0213*	35:20 NCR
<u>Deductions</u>	10A NCAC 71U .0214	35:20 NCR
<u>Resource Exclusions</u>	10A NCAC 71U .0215*	35:20 NCR
<u>Medical Deductions for Medicare Prescription Drug Card Be...</u>	10A NCAC 71U .0216	35:20 NCR
<u>Household Application</u>	10A NCAC 71U .0302*	35:20 NCR
<u>Authorized Representative Form</u>	10A NCAC 71U .0303*	35:20 NCR
<u>Electronic Benefit Transfer (EBT) Card Replacement Fee</u>	10A NCAC 71U .0401*	35:20 NCR
<u>Fair Hearings</u>	10A NCAC 71U .0402	35:20 NCR
<u>Groups Covered</u>	10A NCAC 71V .0102*	35:20 NCR
<u>Eligibility Requirements</u>	10A NCAC 71V .0103*	35:20 NCR
<u>Benefit Levels</u>	10A NCAC 71V .0104	35:20 NCR
<u>Method of Payment</u>	10A NCAC 71V .0105*	35:20 NCR
<u>Duplicate Payments and Overpayments</u>	10A NCAC 71V .0106*	35:20 NCR
<u>Suspected Fraud</u>	10A NCAC 71V .0107*	35:20 NCR
<u>Appeals</u>	10A NCAC 71V .0108	35:20 NCR
<u>Eligibility Requirements</u>	10A NCAC 71V .0201*	35:20 NCR
<u>Benefit Levels</u>	10A NCAC 71V .0202*	35:20 NCR
<u>Method of Payment</u>	10A NCAC 71V .0203*	35:20 NCR
<u>Overpayments and Suspected Fraud</u>	10A NCAC 71V .0204*	35:20 NCR
<u>Appeals</u>	10A NCAC 71V .0205	35:20 NCR
<u>Definitions</u>	10A NCAC 71W .0101*	35:20 NCR
<u>Initial Interview</u>	10A NCAC 71W .0302*	35:20 NCR
<u>Eligibility Determination Process</u>	10A NCAC 71W .0303*	35:20 NCR
<u>Effective Date</u>	10A NCAC 71W .0304*	35:20 NCR
<u>United States Citizenship</u>	10A NCAC 71W .0403*	35:20 NCR
<u>Kinship and Living with a Specified Relative</u>	10A NCAC 71W .0404*	35:20 NCR
<u>Residence</u>	10A NCAC 71W .0405*	35:20 NCR
<u>Dreams</u>	10A NCAC 71W .0407*	35:20 NCR
<u>Income</u>	10A NCAC 71W .0408*	35:20 NCR
<u>Prospective Budgeting and Quarterly Reporting</u>	10A NCAC 71W .0410*	35:20 NCR
<u>Jobs Program (JOBS)</u>	10A NCAC 71W .0412	35:20 NCR
<u>Two-Parent Families</u>	10A NCAC 71W .0413	35:20 NCR
<u>Interview</u>	10A NCAC 71W .0502	35:20 NCR
<u>Home Visits</u>	10A NCAC 71W .0503*	35:20 NCR
<u>Check Issuance</u>	10A NCAC 71W .0601*	35:20 NCR
<u>Receipt and Use of Checks</u>	10A NCAC 71W .0602	35:20 NCR
<u>Lost, Stolen and Forged Checks</u>	10A NCAC 71W .0603	35:20 NCR
<u>Correction of Overpayments</u>	10A NCAC 71W .0604*	35:20 NCR
<u>Corrections of Underpayments</u>	10A NCAC 71W .0605*	35:20 NCR
<u>Client Fraud and Intentional Violations</u>	10A NCAC 71W .0606*	35:20 NCR

<u>Determination of Payment Amount</u>	10A NCAC 71W .0607	35:20 NCR
<u>Benefit Levels</u>	10A NCAC 71W .0704*	35:20 NCR
INSURANCE, DEPARTMENT OF		
<u>Inquiries and Information</u>	11 NCAC 04 .0116	35:14 NCR
<u>Premium Payment Receipts</u>	11 NCAC 04 .0121	35:14 NCR
<u>Power-of-Attorney</u>	11 NCAC 04 .0122	35:14 NCR
<u>Drive-In Claim Service Facilities</u>	11 NCAC 04 .0417	35:14 NCR
<u>Proof of Mailing; Automobile Insurance</u>	11 NCAC 04 .0430	35:14 NCR
WILDLIFE RESOURCES COMMISSION		
<u>Manner of Taking Inland Game Fishes</u>	15A NCAC 10C .0302*	35:22 NCR
<u>Flounder, Sea Trout, and Red Drum</u>	15A NCAC 10C .0307*	35:22 NCR
<u>Muskellunge</u>	15A NCAC 10C .0309	35:22 NCR
<u>Pickereel</u>	15A NCAC 10C .0310	35:22 NCR
<u>Roanoke and rock bass</u>	15A NCAC 10C .0311*	35:22 NCR
<u>Sauger</u>	15A NCAC 10C .0312	35:22 NCR
<u>Sunfish</u>	15A NCAC 10C .0315*	35:22 NCR
<u>Walleye</u>	15A NCAC 10C .0317	35:22 NCR
<u>White Perch</u>	15A NCAC 10C .0319	35:22 NCR
<u>Yellow Perch</u>	15A NCAC 10C .0320	35:22 NCR
<u>Scope and Purpose</u>	15A NCAC 10C .0501*	35:22 NCR
<u>Primary Nursery Areas Defined</u>	15A NCAC 10C .0502*	35:22 NCR
<u>Descriptive Boundaries</u>	15A NCAC 10C .0503*	35:22 NCR
<u>Scope and Purpose</u>	15A NCAC 10C .0601*	35:22 NCR
<u>Anadromous Fish Spawning Areas Defined</u>	15A NCAC 10C .0602	35:22 NCR
<u>Descriptive Boundaries</u>	15A NCAC 10C .0603	35:22 NCR
<u>Stanly County</u>	15A NCAC 10F .0317*	35:22 NCR
<u>Montgomery County</u>	15A NCAC 10F .0327*	35:22 NCR
<u>Rowan County</u>	15A NCAC 10F .0329	35:22 NCR
<u>Endangered Species Listed</u>	15A NCAC 10I .0103*	35:22 NCR
<u>Threatened Species Listed</u>	15A NCAC 10I .0104*	35:22 NCR
<u>Special Concern Species Listed</u>	15A NCAC 10I .0105*	35:22 NCR
PUBLIC HEALTH, COMMISSION FOR		
<u>Scope</u>	15A NCAC 18A .1934	35:17 NCR
<u>Definitions</u>	15A NCAC 18A .1935	35:17 NCR
<u>Permits</u>	15A NCAC 18A .1937	35:17 NCR
<u>Responsibilities</u>	15A NCAC 18A .1938	35:17 NCR
<u>Site Evaluation</u>	15A NCAC 18A .1939	35:17 NCR
<u>Topography and Landscape Position</u>	15A NCAC 18A .1940	35:17 NCR
<u>Soil Characteristics (Morphology)</u>	15A NCAC 18A .1941	35:17 NCR
<u>Soil Wetness Conditions</u>	15A NCAC 18A .1942	35:17 NCR
<u>Soil Depth</u>	15A NCAC 18A .1943	35:17 NCR
<u>Restrictive Horizons</u>	15A NCAC 18A .1944	35:17 NCR
<u>Available Space</u>	15A NCAC 18A .1945	35:17 NCR
<u>Other Applicable Factors</u>	15A NCAC 18A .1946	35:17 NCR
<u>Determination of Overall Site Suitability</u>	15A NCAC 18A .1947	35:17 NCR

<u>Site Classification</u>	15A NCAC 18A .1948	35:17 NCR
<u>Sewage Flow Rates for Design Units</u>	15A NCAC 18A .1949	35:17 NCR
<u>Location of Sanitary Sewage Systems</u>	15A NCAC 18A .1950	35:17 NCR
<u>Applicability of Rules</u>	15A NCAC 18A .1951	35:17 NCR
<u>Septic Tank, Effluent Filter, Dosing Tank and Lift Statio...</u>	15A NCAC 18A .1952	35:17 NCR
<u>Prefabricated Septic Tanks and Pump Tanks</u>	15A NCAC 18A .1953	35:17 NCR
<u>Minimum Standards for Precast Reinforced Concrete Tanks</u>	15A NCAC 18A .1954	35:17 NCR
<u>Design Installation Criteria for Conventional Sewage Systems</u>	15A NCAC 18A .1955	35:17 NCR
<u>Modifications to Septic Tank Systems</u>	15A NCAC 18A .1956	35:17 NCR
<u>Criteria for Design of Alternative Sewage</u>	15A NCAC 18A .1957	35:17 NCR
<u>Non-Ground Absorption Sewage Treatment Systems</u>	15A NCAC 18A .1958	35:17 NCR
<u>Privy Construction</u>	15A NCAC 18A .1959	35:17 NCR
<u>Maintenance of Privies</u>	15A NCAC 18A .1960	35:17 NCR
<u>Maintenance of Sewage Systems</u>	15A NCAC 18A .1961	35:17 NCR
<u>Applicability</u>	15A NCAC 18A .1962	35:17 NCR
<u>Interpretation and Technical Assistance</u>	15A NCAC 18A .1964	35:17 NCR
<u>Appeals Procedure</u>	15A NCAC 18A .1965	35:17 NCR
<u>Severability</u>	15A NCAC 18A .1966	35:17 NCR
<u>Injunctions</u>	15A NCAC 18A .1967	35:17 NCR
<u>Penalties</u>	15A NCAC 18A .1968	35:17 NCR
<u>Approval and Permitting of On-Site Subsurface Wastewater ...</u>	15A NCAC 18A .1969	35:17 NCR
<u>Advanced Wastewater Pretreatment System</u>	15A NCAC 18A .1970	35:17 NCR
<u>Engineered Option Permit</u>	15A NCAC 18A .1971	35:17 NCR
<u>General - Adoption by Reference</u>	15A NCAC 18A .2650	35:23 NCR
<u>Definitions</u>	15A NCAC 18A .2651*	35:23 NCR
<u>Management and Personnel</u>	15A NCAC 18A .2652	35:23 NCR
<u>Food</u>	15A NCAC 18A .2653	35:23 NCR
<u>Equipment, Utensils, and Linens</u>	15A NCAC 18A .2654	35:23 NCR
<u>Water, Plumbing, and Waste</u>	15A NCAC 18A .2655	35:23 NCR
<u>Inspections and Reinspections</u>	15A NCAC 18A .2661*	35:23 NCR
<u>General Requirements for Pushcarts and Mobile Food Units</u>	15A NCAC 18A .2670*	35:23 NCR
<u>Limited Food Service Establishments</u>	15A NCAC 18A .2674*	35:23 NCR
<u>Scope</u>	15A NCAC 18E .0101	35:17 NCR
<u>Applicability</u>	15A NCAC 18E .0102*	35:17 NCR
<u>Incorporation by Reference</u>	15A NCAC 18E .0103*	35:17 NCR
<u>Abbreviations</u>	15A NCAC 18E .0104	35:17 NCR
<u>Definitions</u>	15A NCAC 18E .0105*	35:17 NCR
<u>General</u>	15A NCAC 18E .0201*	35:17 NCR
<u>Application</u>	15A NCAC 18E .0202*	35:17 NCR
<u>Improvement Permit</u>	15A NCAC 18E .0203*	35:17 NCR
<u>Construction Authorization</u>	15A NCAC 18E .0204*	35:17 NCR
<u>Operation Permit</u>	15A NCAC 18E .0205*	35:17 NCR
<u>Existing System Approvals for Reconnections and Property ...</u>	15A NCAC 18E .0206*	35:17 NCR
<u>Alternative Wastewater System Permitting Options</u>	15A NCAC 18E .0207*	35:17 NCR
<u>Owners</u>	15A NCAC 18E .0301*	35:17 NCR
<u>Local Health Department and Department</u>	15A NCAC 18E .0302*	35:17 NCR
<u>Licensed or Certified Professionals</u>	15A NCAC 18E .0303*	35:17 NCR

<u>Submittal Requirements for Plans, Specifications, and Rep...</u>	15A NCAC 18E .0304	35:17 NCR
<u>Submittal Requirements for Plans, Specifications, and Rep...</u>	15A NCAC 18E .0305	35:17 NCR
<u>Site Evaluation</u>	15A NCAC 18E .0501	35:17 NCR
<u>Topography and Landscape Position</u>	15A NCAC 18E .0502	35:17 NCR
<u>Soil Morphology</u>	15A NCAC 18E .0503	35:17 NCR
<u>Soil Wetness Conditions</u>	15A NCAC 18E .0504*	35:17 NCR
<u>Soil Depth</u>	15A NCAC 18E .0505	35:17 NCR
<u>Saprolite</u>	15A NCAC 18E .0506	35:17 NCR
<u>Restrictive Horizons</u>	15A NCAC 18E .0507	35:17 NCR
<u>Collection Sewers</u>	15A NCAC 18E .0701	35:17 NCR
<u>Raw Sewage Lift Stations</u>	15A NCAC 18E .0702*	35:17 NCR
<u>Pipe Materials</u>	15A NCAC 18E .0703	35:17 NCR
<u>Septic Tank Capacity Requirements</u>	15A NCAC 18E .0801	35:17 NCR
<u>Siphon Tank Capacity Requirements</u>	15A NCAC 18E .0804	35:17 NCR
<u>General Design and Installation Criteria for Subsurface D...</u>	15A NCAC 18E .0901*	35:17 NCR
<u>Conventional Wastewater Systems</u>	15A NCAC 18E .0902	35:17 NCR
<u>Bed Systems</u>	15A NCAC 18E .0903	35:17 NCR
<u>Large Diameter Pipe Systems</u>	15A NCAC 18E .0904	35:17 NCR
<u>Sand Lined Trench Systems</u>	15A NCAC 18E .0906	35:17 NCR
<u>Low Pressure Pipe Systems</u>	15A NCAC 18E .0907*	35:17 NCR
<u>Fill Systems</u>	15A NCAC 18E .0909*	35:17 NCR
<u>Artificial Drainage Systems</u>	15A NCAC 18E .0910	35:17 NCR
<u>Privies</u>	15A NCAC 18E .0911*	35:17 NCR
<u>Alternative Toilets</u>	15A NCAC 18E .1001*	35:17 NCR
<u>Control Panels</u>	15A NCAC 18E .1103*	35:17 NCR
<u>Siphon Dosing</u>	15A NCAC 18E .1104	35:17 NCR
<u>Timed Dosing</u>	15A NCAC 18E .1105	35:17 NCR
<u>Pressure Dosed Gravity Distribution Devices</u>	15A NCAC 18E .1106	35:17 NCR
<u>Operation and Maintenance of Advanced Pretreatment Systems</u>	15A NCAC 18E .1302	35:17 NCR
<u>Owner Responsibilities for Wastewater System Operation an...</u>	15A NCAC 18E .1303*	35:17 NCR
<u>Wastewater Systems Abandonment</u>	15A NCAC 18E .1307	35:17 NCR
<u>Plans for Prefabricated Tanks</u>	15A NCAC 18E .1401*	35:17 NCR
<u>Tank Design and Construction</u>	15A NCAC 18E .1402*	35:17 NCR
<u>Tank Material Requirements</u>	15A NCAC 18E .1403	35:17 NCR
<u>Plans and Specifications for Risers, Effluent Filters, an...</u>	15A NCAC 18E .1404	35:17 NCR
<u>Risers, Effluent Filters, Pipe Penetration Boots Approval...</u>	15A NCAC 18E .1405	35:17 NCR
<u>Modification, Suspension, and Revocation of Approvals</u>	15A NCAC 18E .1406	35:17 NCR
<u>Design and Construction Standards</u>	15A NCAC 18E .1503	35:17 NCR
<u>General</u>	15A NCAC 18E .1601	35:17 NCR
<u>Drip Dispersal System Testing</u>	15A NCAC 18E .1603*	35:17 NCR

TRANSPORTATION - MOTOR VEHICLES, DIVISION OF

<u>Operation of Safety or Emissions Inspection Stations</u>	19A NCAC 03D .0523*	35:17 NCR
<u>Pre-Inspection Requirements</u>	19A NCAC 03D .0525*	35:17 NCR
<u>Safety Equipment Grading Items</u>	19A NCAC 03D .0526*	35:17 NCR
<u>Emission Controls Tampering Check</u>	19A NCAC 03D .0527*	35:17 NCR
<u>Safety Equipment Emission Inspections</u>	19A NCAC 03D .0528*	35:17 NCR
<u>Certification</u>	19A NCAC 03D .0529*	35:17 NCR

<u>Disapproval</u>	19A NCAC 03D .0530*	35:17 NCR
<u>Reinspection</u>	19A NCAC 03D .0531*	35:17 NCR
<u>Brakes</u>	19A NCAC 03D .0532*	35:17 NCR
<u>Lights</u>	19A NCAC 03D .0533*	35:17 NCR
<u>Horn</u>	19A NCAC 03D .0534*	35:17 NCR
<u>Steering Mechanism</u>	19A NCAC 03D .0535*	35:17 NCR
<u>Windshield Wiper</u>	19A NCAC 03D .0536*	35:17 NCR
<u>Directional Signals</u>	19A NCAC 03D .0537*	35:17 NCR
<u>Tires</u>	19A NCAC 03D .0538*	35:17 NCR
<u>Tires - Definitions</u>	19A NCAC 03D .0539*	35:17 NCR
<u>Rear View Mirrors</u>	19A NCAC 03D .0540*	35:17 NCR
<u>Exhaust Emission Controls</u>	19A NCAC 03D .0541*	35:17 NCR
<u>Emissions Control Device</u>	19A NCAC 03D .0542*	35:17 NCR
<u>Inspection Procedure for Emissions Equipment</u>	19A NCAC 03D .0543*	35:17 NCR
<u>Safety Inspection of Motorcycles</u>	19A NCAC 03D .0544*	35:17 NCR
<u>Investigation/Audits/Safety or Emissions Inspection Stations</u>	19A NCAC 03D .0545*	35:17 NCR
<u>Waivers from Emissions Test Requirements</u>	19A NCAC 03D .0550*	35:17 NCR
<u>Window Tinting</u>	19A NCAC 03D .0551*	35:17 NCR
<u>Photometer Design and Performance Requirements</u>	19A NCAC 03D .0552*	35:17 NCR

FUNERAL SERVICE, BOARD OF

<u>License Renewal Form</u>	21 NCAC 34A .0119*	35:18 NCR
<u>Refrigeration</u>	21 NCAC 34B .0707*	35:23 NCR
<u>Refrigeration</u>	21 NCAC 34C .0202*	35:23 NCR
<u>Annual Report</u>	21 NCAC 34D .0302*	35:18 NCR

SOCIAL WORK CERTIFICATION AND LICENSURE BOARD

<u>Application Process</u>	21 NCAC 63 .0202*	35:20 NCR
<u>Transcripts</u>	21 NCAC 63 .0203	35:20 NCR
<u>References</u>	21 NCAC 63 .0204*	35:20 NCR
<u>Substantial Equivalency</u>	21 NCAC 63 .0207	35:20 NCR
<u>Application Fee</u>	21 NCAC 63 .0208*	35:20 NCR
<u>Exam Eligibility</u>	21 NCAC 63 .0209*	35:20 NCR
<u>Associate Licenses</u>	21 NCAC 63 .0210*	35:20 NCR
<u>Temporary Licenses</u>	21 NCAC 63 .0213*	35:20 NCR
<u>Certification and Licensure for Military Personnel and Mi...</u>	21 NCAC 63 .0214	35:20 NCR
<u>Qualifying Examinations</u>	21 NCAC 63 .0301	35:20 NCR
<u>Cancellation</u>	21 NCAC 63 .0304	35:20 NCR
<u>Examination Fees</u>	21 NCAC 63 .0306	35:20 NCR
<u>Continuing Education Requirements</u>	21 NCAC 63 .0401*	35:20 NCR
<u>Renewal Application and Fees</u>	21 NCAC 63 .0403*	35:20 NCR
<u>Reinstatement</u>	21 NCAC 63 .0404*	35:20 NCR
<u>Required Reporting by Licensee or Certificate Holder of C...</u>	21 NCAC 63 .0405*	35:20 NCR
<u>Military Waiver or Extension of Time for Renewal of Certi...</u>	21 NCAC 63 .0406*	35:20 NCR
<u>General Professional Responsibilities</u>	21 NCAC 63 .0503*	35:20 NCR
<u>Responsibilities in Professional Relationships</u>	21 NCAC 63 .0504*	35:20 NCR
<u>Relationships with Colleagues</u>	21 NCAC 63 .0505	35:20 NCR
<u>Pursuit of Research and Scholarly Activities</u>	21 NCAC 63 .0508	35:20 NCR

APPROVED RULES

<u>Public Statements</u>	21 NCAC 63 .0509*	35:20 NCR
<u>Grounds for Disciplinary Procedures</u>	21 NCAC 63 .0601*	35:20 NCR
<u>Investigation</u>	21 NCAC 63 .0602*	35:20 NCR
<u>Notice of Charges and Hearing</u>	21 NCAC 63 .0603*	35:20 NCR
<u>Conduct of Hearing</u>	21 NCAC 63 .0607*	35:20 NCR
<u>Decision of Board</u>	21 NCAC 63 .0608*	35:20 NCR
<u>Reporting of Disciplinary Actions</u>	21 NCAC 63 .0609*	35:20 NCR
<u>Continuances</u>	21 NCAC 63 .0610*	35:20 NCR
<u>Petitions for Adoption of Rules</u>	21 NCAC 63 .0701	35:20 NCR
<u>Temporary Rules</u>	21 NCAC 63 .0703	35:20 NCR
<u>Declaratory Rulings</u>	21 NCAC 63 .0704*	35:20 NCR
<u>Insufficient Fees</u>	21 NCAC 63 .0705*	35:20 NCR
<u>Application for a Certificate of Registration</u>	21 NCAC 63 .0901	35:20 NCR
<u>Renewal of Certificate of Registration</u>	21 NCAC 63 .0902	35:20 NCR

The following rules are subject to Legislative Review.

<u>Design Daily Flow</u>	15A NCAC 18E .0401*	35:17 NCR
<u>Septic Tank Effluent Characteristics</u>	15A NCAC 18E .0402	35:17 NCR
<u>Adjustments to Design Daily Flow</u>	15A NCAC 18E .0403	35:17 NCR
<u>Site Suitability and Classification</u>	15A NCAC 18E .0509	35:17 NCR
<u>Special Site Evaluations</u>	15A NCAC 18E .0510	35:17 NCR
<u>Location of Wastewater Systems</u>	15A NCAC 18E .0601*	35:17 NCR
<u>Applicability of Setbacks</u>	15A NCAC 18E .0602	35:17 NCR
<u>Pump Tank Capacity Requirements</u>	15A NCAC 18E .0802	35:17 NCR
<u>Grease Tank Capacity Requirements</u>	15A NCAC 18E .0803	35:17 NCR
<u>Tank Leak Testing and Installation Requirements</u>	15A NCAC 18E .0805*	35:17 NCR
<u>Prefabricated Permeable Block Panel Systems</u>	15A NCAC 18E .0905*	35:17 NCR
<u>Drip Dispersal Systems</u>	15A NCAC 18E .0908*	35:17 NCR
<u>Reclaimed Water Systems</u>	15A NCAC 18E .1002*	35:17 NCR
<u>General Dosing System Requirements</u>	15A NCAC 18E .1101*	35:17 NCR
<u>Pump Dosing</u>	15A NCAC 18E .1102	35:17 NCR
<u>Advanced Pretreatment System Standards</u>	15A NCAC 18E .1201*	35:17 NCR
<u>Siting and Sizing Criteria for Advanced Pretreatment Syst...</u>	15A NCAC 18E .1202*	35:17 NCR
<u>Siting and Sizing Criteria for Advanced Pretreatment Syst...</u>	15A NCAC 18E .1203*	35:17 NCR
<u>Advanced Pretreatment Drip Dispersal Systems</u>	15A NCAC 18E .1204*	35:17 NCR
<u>Advanced Pretreatment Sand Lined Trench Systems</u>	15A NCAC 18E .1205	35:17 NCR
<u>Advanced Pretreatment Bed Systems</u>	15A NCAC 18E .1206*	35:17 NCR
<u>Management Entity Responsibilities for Wastewater System ...</u>	15A NCAC 18E .1304*	35:17 NCR
<u>Local Health Department Responsibilities for Wastewater S...</u>	15A NCAC 18E .1305*	35:17 NCR
<u>System Malfunction and Repair</u>	15A NCAC 18E .1306*	35:17 NCR
<u>General</u>	15A NCAC 18E .1501*	35:17 NCR
<u>Application</u>	15A NCAC 18E .1502*	35:17 NCR
<u>Sampling Requirements for Residential Wastewater Treatment</u>	15A NCAC 18E .1504*	35:17 NCR
<u>Residential Wastewater Treatment System Approval Renewal</u>	15A NCAC 18E .1505*	35:17 NCR
<u>Design and Construction Standards</u>	15A NCAC 18E .1602*	35:17 NCR
<u>General</u>	15A NCAC 18E .1701	35:17 NCR
<u>Application</u>	15A NCAC 18E .1702	35:17 NCR

<u>Department and Commission Application Review</u>	15A NCAC 18E .1703*	35:17 NCR
<u>Approval Criteria for Provisional Systems</u>	15A NCAC 18E .1704	35:17 NCR
<u>Approval Criteria for Innovative Systems</u>	15A NCAC 18E .1705	35:17 NCR
<u>Approval Criteria for Accepted Systems</u>	15A NCAC 18E .1706*	35:17 NCR
<u>Design and Installation Criteria for Provisional, Innovat...</u>	15A NCAC 18E .1707	35:17 NCR
<u>Wastewater Sampling Requirements for Advanced Pretreatmen...</u>	15A NCAC 18E .1709	35:17 NCR
<u>Compliance Criteria for Advanced Pretreatment Systems</u>	15A NCAC 18E .1710	35:17 NCR
<u>Provisional and Innovative Approval Renewal</u>	15A NCAC 18E .1711*	35:17 NCR
<u>Authorized Designers, Installers, and Management Entities</u>	15A NCAC 18E .1712	35:17 NCR
<u>Local Health Department Responsibilities</u>	15A NCAC 18E .1713	35:17 NCR

TITLE 08 – STATE BOARD OF ELECTIONS

08 NCAC 06B .0103 ARRANGEMENT OF OFFICIAL BALLOTS

(a) After the close of the filing period, the State Board of Elections shall certify to the county boards of elections the order of the offices and candidate names to be voted on the official ballot. The State Board of Elections shall provide the text and arrangement of referenda to be voted on the official ballot.

(b) The order of precedence for ballot items shall be as follows:

- (1) Federal Offices:
 - (A) President and Vice President of the United States
 - (B) US Senate
 - (C) US House of Representatives
- (2) State Offices:
 - (A) NC Governor
 - (B) NC Lieutenant Governor
 - (C) NC Attorney General
 - (D) NC Auditor
 - (E) NC Commissioner of Agriculture
 - (F) NC Commissioner of Insurance
 - (G) NC Commissioner of Labor
 - (H) NC Secretary of State
 - (I) NC Superintendent of Public Instruction
 - (J) NC Treasurer
 - (K) NC Supreme Court Chief Justice
 - (L) NC Supreme Court Associate Justice, in numerical order by seat number
 - (M) NC Court of Appeals Judge, in numerical order by seat number
- (3) District offices:
 - (A) NC Senate
 - (B) NC House of Representatives
 - (C) NC Superior Court Judge
 - (D) NC District Court Judge
 - (E) NC District Attorney
- (4) Partisan county offices
- (5) Partisan municipal offices
- (6) Nonpartisan county offices
- (7) Nonpartisan municipal offices
- (8) Referenda in the order of precedence established in G.S. 163-165.6(h), unless the

voting system design requires referenda to be before candidate ballot items.

Ballot items for offices in the same class shall be listed in alphabetical order by office name or in numerical or alphabetical order by district name. Ballot items for full terms of an office shall be listed before ballot items for partial terms of the same office. The term of the unexpired office only shall be listed as part of the title of the office.

(c) Names of candidates shall be printed in the exact form either certified by the State Board of Elections for those candidates who are required to file the Notice of Candidacy with the State Board of Elections, by convention or by petition. Candidates for all offices shall provide their name as it is to appear on the ballot. Candidates may request in writing a change in the manner that their name is to appear on the ballot during the time the filing period is open.

History Note: Authority G.S. 163-22; 163-165.6; Temporary Adoption Eff. April 15, 2002; Eff. August 1, 2004; Readopted Eff. June 1, 2019; Amended Eff. January 1, 2022.

TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES

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

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

- (1) hold a Child Development Associate (CDA) credential; or
- (2) hold or be working toward an Associate Degree or higher in birth-through-kindergarten, child development, early childhood education, or an early childhood education related field. Teacher assistants working toward the Associate Degree shall make progress by completing a minimum of six semester hours per year.

(b) All teacher assistants shall complete a minimum of 15 hours of annual in-service professional development. A combination of college coursework, Continuing Education Units (CEUs), or

clock hours may be used to complete the requirements of this Rule.

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

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

Eff. November 1, 2012;

Readopted Eff. October 1, 2017;

Amended Eff. April 1, 2022.

10A NCAC 09 .3101 SCOPE

The rules in this Section apply to care for school-age children, as defined by 10A NCAC 09 .0102(42), during the declared State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 (COVID-19) public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency") and any subsequent declared State of Emergency arising out of or related to the COVID-19 public health emergency. All rules in Section .2500 of this Chapter shall apply, except as provided in this Section.

History Note: Authority G.S. 110-85; 110-88; 110-91;

Emergency Adoption Eff. August 13, 2020;

Temporary Adoption Eff. October 23, 2020;

Eff. October 1, 2021.

10A NCAC 09 .3102 DEFINITIONS

The terms and phrases used in this Section are defined as follows:

- (1) "Public schools" means:
 - (a) any building that is approved for school occupancy and that houses school-age children as part of the public school system during the school year; or
 - (b) a remote learning facility.
- (2) "Remote learning facility" means any building that is used by a public school system, pursuant to a contractual arrangement, to house school-age children enrolled in that public school system during the school year for the purpose of facilitating online or remote learning programs, and that follows any and all guidance or considerations offered by the Centers for Disease Control and Prevention related to mitigation strategies, the protection of students, teachers, and staff, or slowing the spread of COVID-19 in K-12 schools. The guidance and considerations are hereby incorporated by reference, including subsequent amendments and editions, and may be accessed at <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/schools.html> at no cost.

- (3) "Contractual arrangement" means a written agreement wherein the public school unit, as defined in G.S. 115C-5(7a), agrees as follows:

- (a) to be responsible for the enrollment and attendance of school-age children at a remote learning facility; and
- (b) that it shall be liable for any incidents or occurrences at the remote learning facility in the same way it would be liable if the school-age child(ren) were in a building that is approved for school occupancy and that houses any part of the public school system. This provision shall not prohibit the public school unit from obtaining liability insurance or from contracting with the remote learning facility regarding indemnification or other terms regarding the apportionment of liability between themselves for incidents or occurrences.

History Note: Authority G.S. 110-85; 110-86; 110-88; 110-91;

Emergency Adoption Eff. August 13, 2020;

Temporary Adoption Eff. October 23, 2020;

Eff. October 1, 2021.

10A NCAC 09 .3103 PUBLIC SCHOOLS

Pursuant to G.S. 110-86(2)(e), public schools are not child care and are, therefore, exempt from licensure. Notwithstanding any other provision of this Section, all NC Pre-K programs, as defined in Section .3000 of this Chapter, and Developmental Day Services, as defined in Section .2900 of this Chapter, and any program or arrangement housed in a public school that is not operated by the public school unit and provides care to three or more infants, toddlers, or preschoolers on a regular basis of at least once per week for more than four hours from persons other than their guardians or full-time custodians or from persons not related to them by birth, marriage, or adoption are child care as defined in G.S. 110-86(2) and requires a child care license.

History Note: Authority G.S. 110-85; 110-86; 110-88; 110-91;

Emergency Adoption Eff. August 13, 2020;

Temporary Adoption Eff. October 23, 2020;

Eff. October 1, 2021.

10A NCAC 09 .3104 ADDING SPACE AT LICENSED CENTERS FOR CARE OF SCHOOL-AGE CHILDREN

If an operator of a licensed child care center wishes to use additional space not previously approved for child care, regardless of location, to care for school-age children during the Declaration of a State of Emergency, the operator shall notify the Division of the desired change pursuant to 10A NCAC 09 .0204, but shall have six months to obtain any required inspections of the additional space by the local health, building, and fire inspections in accordance with G.S. 110-91(1), (4), and (5). If all other standards set forth in G.S. 110-91 and this Chapter are met, the

operator may provide care to school-age children in the additional space and the Division shall document the same in a manner that will notify parents and the public of the change. Once the operator provides documentation that the additional space conforms to all applicable sanitation, building, and fire standards, and if all applicable requirements of G.S. 110, Article 7 and this Chapter are met, the Division shall issue a new license pursuant to 10A NCAC 09 .0204. If a health, building, or fire inspection reveals that the additional space does not conform to the required standards, the Division may issue a provisional license as set forth in 10A NCAC 09 .2204. Any space that the operator desires to use as additional space for care of school-age children that is not located within the currently licensed facility shall not be required to meet the outdoor space and fencing requirements of G.S. 110-91(6). If there is no outdoor space at the additional space to be used for care of school-age children that is not located within the currently licensed facility, operators shall not be required to meet the requirements of 10A NCAC 09 .0508(c). Notwithstanding any other provision in this Section, operators shall provide indoor space for daily gross motor activities when outdoor space is not available.

*History Note: Authority G.S. 110-85; 110-88; 110-91;
Emergency Adoption Eff. August 13, 2020;
Temporary Adoption Eff. October 23, 2020;
Eff. October 1, 2021.*

10A NCAC 13D .2001 DEFINITIONS

In addition to the definitions set forth in G.S. 131E-101, the following definitions shall apply throughout this Subchapter:

- (1) "Abuse" means the willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain, or mental anguish.
- (2) "Accident" means an unplanned event resulting in the injury or wounding of a patient or other individual.
- (3) "Addition" means an extension or increase in floor area or height of a building.
- (4) "Administrator" as defined in G.S. 90-276(4).
- (5) "Alteration" means any construction or renovation to an existing structure other than repair, maintenance, or addition.
- (6) "Brain injury long term care" means an interdisciplinary, intensive maintenance program for patients who have incurred brain damage caused by external physical trauma and who have completed a primary course of rehabilitative treatment and have reached a point of no gain or progress for more than three consecutive months. Brain injury long term care is provided through a medically supervised interdisciplinary process and is directed toward maintaining the individual at the optimal level of physical, cognitive, and behavioral functions.

- (7) "Capacity" means the maximum number of patient or resident beds for which the facility is licensed to maintain at any given time.
- (8) "Combination facility" means a combination home as defined in G.S. 131E-101.
- (9) "Comprehensive, inpatient rehabilitation program" means a program for the treatment of persons with functional limitations or chronic disabling conditions who have the potential to achieve a significant improvement in activities of daily living, including bathing, dressing, grooming, transferring, eating, and using speech, language, or other communication systems. A comprehensive, inpatient rehabilitation program utilizes a coordinated and integrated, interdisciplinary approach, directed by a physician, to assess patient needs and to provide treatment and evaluation of physical, psychosocial, and cognitive deficits.
- (10) "Department" means the North Carolina Department of Health and Human Services.
- (11) "Director of nursing" means a registered nurse who has authority and responsibility for all nursing services and nursing care.
- (12) "Discharge" means a physical relocation of a patient to another health care setting; the discharge of a patient to his or her home; or the relocation of a patient from a nursing bed to an adult care home bed, or from an adult care home bed to a nursing bed.
- (13) "Existing facility" means a facility currently licensed and built prior to the effective date of this Rule.
- (14) "Facility" means a nursing facility or combination facility as defined in this Rule.
- (15) "Incident" means any accident, event, or occurrence that is unplanned, or unusual, and has caused harm to a patient, or has the potential for harm.
- (16) "Inpatient rehabilitation facility or unit" means a free-standing facility or a unit (unit pertains to contiguous dedicated beds and spaces) within an existing licensed health service facility approved in accordance with G.S. 131E, Article 9 to establish inpatient, rehabilitation beds and to provide a comprehensive, inpatient rehabilitation program.
- (17) "Interdisciplinary" means an integrated process involving representatives from disciplines of the health care team.
- (18) "Licensee" means the person, firm, partnership, association, corporation, or organization to whom a license to operate the facility has been issued. The licensee is the legal entity that is responsible for the operation of the business.
- (19) "Medication error rate" means the measure of discrepancies between medication that was ordered for a patient by the health care provider and medication that is administered to the

- patient. The medication error rate is calculated by dividing the number of errors observed by the surveyor by the opportunities for error, multiplied times 100.
- (20) "Misappropriation of property" means the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a patient's belongings or money without the patient's consent.
- (21) "Neglect" means a failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness.
- (22) "New facility" means a facility for which an initial license is sought, a proposed addition to an existing facility, or a proposed remodeled portion of an existing facility that will be built according to construction documents and specifications approved by the Department for compliance with the standards established in Sections .3100, .3200, and .3400 of this Subchapter.
- (23) "Nurse Aide" means a person who is listed on the N.C. Nurse Aide Registry and provides nursing or nursing-related services to patients in a nursing home. A nurse aide is not a licensed health professional. Nursing homes that participate in Medicare or Medicaid shall comply with 42 CFR 483.35, which is incorporated by reference, including subsequent amendments. The Code of Federal Regulations may be accessed at <https://www.ecfr.gov>.
- (24) "Nursing facility" means a nursing home as defined in G.S. 131E-101.
- (25) "Patient" means any person admitted for nursing care.
- (26) "Remodeling" means alterations, renovations, rehabilitation work, repairs to structural systems, and replacement of building systems at a nursing or combination facility.
- (27) "Repair" means reconstruction or renewal of any part of an existing building for the purpose of its maintenance.
- (28) "Resident" means any person admitted for care to an adult care home part of a combination facility.
- (29) "Respite care" means services provided for a patient on a temporary basis, not to exceed 30 days.
- (30) "Surveyor" means a representative of the Department who inspects nursing facilities and combination facilities to determine compliance with rules, laws, and regulations as set forth in G.S. 131E-117; Subchapters 13D and 13F of this Chapter; and 42 CFR Part 483, Requirements for States and Long Term Care Facilities.
- (31) "Violation" means a failure to comply with rules, laws, and regulations as set forth in G.S.

131E-117 and 131D-21; Subchapters 13D and 13F of this Chapter; or 42 CFR Part 483, Requirements for States and Long Term Care Facilities, that relates to a patient's or resident's health, safety, or welfare, or that creates a risk that death, or physical harm may occur.

History Note: Authority G.S. 131E-104; RRC objection due to lack of statutory authority Eff. July 13, 1995; Eff. January 1, 1996; Readopted Eff. July 1, 2016; Amended Eff. October 1, 2021; January 1, 2021.

10A NCAC 13K .1109 RESIDENT CARE AREAS

(a) A facility shall meet the following requirements for resident bedrooms:

- (1) private bedroom with not less than 100 square feet of floor area or semi-private bedroom with not less than 80 square feet of floor area per bed shall be provided;
- (2) infants and small children shall not share a bedroom with an adult resident unless requested by the resident and families;
- (3) each bedroom shall be furnished with a bed, a mattress protected by waterproof material, a mattress pad, a pillow, and one chair per resident;
- (4) each bedroom shall be provided with one closet or wardrobe per bed. Each closet or wardrobe shall have clothing storage space of not less than 48 cubic feet per bed with one-half of this space for hanging clothes;
- (5) each bedroom shall:
 - (A) be located at or above grade level;
 - (B) have provisions to ensure visual privacy for treatment or visiting; and
 - (C) be equipped with a towel rack for each resident;
- (6) each bedroom shall provide lighting for treatment and non-treatment needs, 50 foot-candles for treatment needs, and 35 foot-candles for non-treatment needs; and
- (7) no resident bedroom shall be accessed through a bathroom, kitchen, or another bedroom.

(b) A facility shall meet the following requirements for bathrooms:

- (1) bathrooms shall be directly accessible to each resident bedroom without going through the general corridors. One bathroom may serve up to four residents. The bathroom doorway shall be a minimum 32-inch clear opening;
- (2) each bathroom shall be furnished with the following:
 - (A) a toilet with grab bars;
 - (B) a sink trimmed with valves that can be operated without hands. If the sink is equipped with blade handles, the blade handles shall not be less than four

- inches in length. If the sink faucet depends on the building electrical service for operation, the faucet must have an emergency power source or battery backup capability. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets;
- (C) a mirror;
 - (D) soap, paper towel dispensers, and waste paper receptacle with a removable impervious liner; and
 - (E) a tub or shower.
- (c) Each facility shall provide:
- (1) an area for charting;
 - (2) storage provisions for personal effects of staff;
 - (3) storage areas for supplies and resident care equipment;
 - (4) storage area(s) for housekeeping equipment and cleaning supplies;
 - (5) a medication preparation area with a counter, a sink trimmed with valves that can be operated without hands, locked medication storage, and a double locked narcotic storage area under visual control of staff. If the sink is equipped with blade handles, the blade handles shall not be less than four inches in length. If the sink faucet depends on the building electrical service for operation, the faucet must have an emergency power source or battery backup capability. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets;
 - (6) a lockable refrigerator for drug storage only or a separate locked box in a facility refrigerator. The refrigerator must be capable of maintaining a temperature range of 36 degrees F (2 degrees C) to 46 degrees F (8 degrees C);
 - (7) a kitchen with:
 - (A) a refrigerator;
 - (B) a cooking appliance ventilated to the outside;
 - (C) a 42-inch minimum double-compartment sink and domestic dishwashing machine capable of sanitizing dishes with 160 degrees F water; and
 - (D) storage space for non-perishables;
 - (8) a separate dining area measuring not less than 20 square feet per resident bed;
 - (9) a recreational and social activities area with not less than 150 square feet of floor area exclusive of corridor traffic;
 - (10) a nurses' calling system shall be provided:
 - (A) in each resident bedroom for each resident bed. The call system activator shall be such that they can be activated with a single action and remain on until deactivated by staff at the point of origin. The call system activator shall be within reach of a resident lying on the bed. In rooms containing two or more call system activators, indicating lights shall be provided at each calling station;
 - (B) nurses' calling systems that provide two-way voice communication shall be equipped with an indicating light at each calling station that lights and remains lighted as long as the voice circuit is operating;
 - (C) a nurses' call emergency activator shall be provided at each residents' use toilet fixture, bath, and shower. The call system activator shall be accessible to a resident lying on the floor; and
 - (D) calls shall register with the floor staff and shall activate a visible signal in the corridor at the resident's door. In multi-corridor units, additional visible signals shall be installed at corridor intersections; and
 - (11) heating and air conditioning equipment that can maintain a temperature range between 68 degrees and 80 degrees Fahrenheit, even upon loss of utility power.

*History Note: Authority G.S. 131E-202;
 Eff. June 1, 1991;
 Amended Eff. February 1, 1995;
 Readopted Eff. October 1, 2021.*

10A NCAC 13K .1112 DESIGN AND CONSTRUCTION

- (a) A new facility or remodeling of an existing facility shall meet the requirements of the North Carolina State Building Codes, which are incorporated by reference, including all subsequent amendments and editions, in effect at the time of licensure, construction, additions, alterations, or repairs. Copies of these codes may be purchased from the International Code Council online at <https://shop.iccsafe.org/> at a cost of eight hundred fifty-eight dollars (\$858.00) or accessed electronically free of charge at <https://codes.iccsafe.org/codes/north-carolina>. Existing licensed facilities shall meet the requirements of the North Carolina State Building Codes in effect at the time of licensure, construction, or remodeling.
- (b) Each facility shall be planned, constructed, and equipped to support the services to be offered in the facility.
- (c) Any existing building converted to a hospice facility shall meet all requirements of a new facility.
- (d) The sanitation, water supply, sewage disposal, and dietary facilities shall meet the requirements of 15A NCAC 18A .1300,

which is incorporated by reference including subsequent amendments.

History Note: Authority G.S. 131E-202;
Eff. June 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018;
Amended Eff. October 1, 2021.

10A NCAC 13K .1113 PLANS AND SPECIFICATIONS

- (a) When construction or remodeling of a facility is planned, one copy of construction documents and specifications shall be submitted by the owner or the owner's appointed representative to the Department for review and approval. Schematic design drawings and design development drawings may be submitted for approval prior to the required submission of construction documents.
- (b) Approval of construction documents and specifications shall be obtained from the Department prior to licensure. Approval of construction documents and specifications shall expire one year after the date of approval unless a building permit for the construction has been obtained prior to the expiration date of the approval of construction documents and specifications.
- (c) If an approval expires, renewed approval shall be issued by the Department, provided revised construction documents and specifications meeting the standards established in Sections .1100 and .1200 of this Subchapter are submitted by the owner or owner's appointed representative and reviewed by the Department.
- (d) Any changes made during construction shall require the approval of the Department to ensure compliance with the standards established in Sections .1100 and .1200 of this Subchapter.
- (e) Completed construction or remodeling shall conform to the standards established in Sections .1100 and .1200 of this Subchapter. Construction documents and building construction, including the operation of all building systems, shall be approved in writing by the Department prior to licensure or patient and resident occupancy.
- (f) The owner or owner's appointed representative shall notify the Department in writing either by U.S. Mail or e-mail when the construction or remodeling is complete.

History Note: Authority G.S. 131E-202;
Eff. June 1, 1991;
Amended Eff. February 1, 1996;
Readopted Eff. October 1, 2021.

10A NCAC 13K .1114 PLUMBING

For hospice residential facilities with five or more residents, a 50-gallon quick recovery water heater is required. For hospice residential facilities with fewer than five residents, a 40-gallon quick recovery water heater is required.

History Note: Authority G.S. 131E-202;
Eff. June 1, 1991;
Readopted Eff. October 1, 2021.

10A NCAC 13K .1115 WASTE DISPOSAL

- (a) Sewage shall be discharged into a public sewer system, or in the absence of a public sewer system, sewage shall be disposed of in a manner approved by the North Carolina Department of Health and Human Services, Division of Public Health, Environmental Health Section.
- (b) Garbage and rubbish shall be stored in impervious containers in a manner as to prevent insect breeding and public health nuisances. Impervious containers with tight-fitting lids shall be provided and kept clean and in good repair. Garbage shall be removed from the outside storage at least once a week to a disposal site approved by the local health department having jurisdiction.
- (c) The facility or unit shall take measures to keep insects, rodents, and other vermin out of the residential care facility. All openings to the outer air shall be protected against the entrance of flying insects by screens, closed doors, closed windows, or other means.

History Note: Authority G.S. 131E-202;
Eff. June 1, 1991;
Readopted Eff. October 1, 2021.

10A NCAC 13K .1116 APPLICATION OF PHYSICAL PLANT REQUIREMENTS

The physical plant requirements for each hospice residential facility or unit shall be applied as follows:

- (1) New construction shall comply with all the requirements of this Section.
- (2) Except where otherwise specified, existing buildings shall meet the licensure and code requirements in effect at the time of licensure, construction, alteration, or modification.
- (3) Rules contained in this Section are minimum requirements and are not intended to prohibit buildings, systems, or operational conditions that exceed minimum requirements.
- (4) The Division may grant an equivalency to allow alternate methods, procedures, design criteria, or functional variation from the requirements of this Rule and the rules contained in this Section. The equivalency may be granted by the Division when a governing body submits a written equivalency request to the Division that states the following:
 - (a) the rule citation and the rule requirement that will not be met because strict conformance with current requirements would be:
 - (i) impractical;
 - (ii) unable to be met due to extraordinary circumstances;
 - (iii) unable to be met due to new programs; or
 - (iv) unable to be met due to unusual conditions;
 - (b) the justification for the equivalency; and

- (c) how the proposed equivalency meets the intent of the corresponding rule requirement.
- (5) In determining whether to grant an equivalency request, the Division shall consider whether the request will reduce the safety and operational effectiveness of the facility. The governing body shall maintain a copy of the approved equivalence issued by the Division.
- (6) Where rules, codes, or standards have any conflict, the more stringent requirement shall apply.

*History Note: Authority G.S. 131E-202;
Eff. February 1, 1996;
Readopted Eff. October 1, 2021.*

10A NCAC 13K .1201 REQUIREMENTS FOR HOSPICE INPATIENT UNITS

- (a) Hospice inpatient facilities or units shall conform to the rules outlined in Sections .0100 through .1100 of this Subchapter and the rules of this Section.
- (b) Hospice inpatient units located in a licensed hospital shall meet the requirements of 10A NCAC 13B, which is incorporated by reference with subsequent amendments except for rules: 10A NCAC 13B .1912, .1919, .1922, and .1923.
- (c) Hospice inpatient units located in a licensed nursing facility shall meet the requirements of 10A NCAC 13D, which is incorporated by reference with subsequent amendments.

*History Note: Authority G.S. 131E-202;
Eff. June 1, 1991;
Readopted Eff. October 1, 2021.*

10A NCAC 13K .1204 ADDITIONAL PATIENT CARE AREA REQUIREMENTS FOR HOSPICE INPATIENT UNITS

- (a) A facility shall meet the following requirements for patient bedrooms:
 - (1) private bedrooms shall be provided with not less than 100 square feet of floor area;
 - (2) semi-private bedrooms with not less than 80 square feet of floor area per bed; and
 - (3) floor space for closets, toilet rooms, vestibules, or wardrobes shall not be included in the floor areas required by this Paragraph.
- (b) A facility shall meet the following requirements for dining, recreation, and common use areas:
 - (1) floor space for dining, recreation, and common use shall not be less than 30 square feet per bed;
 - (2) the dining, recreation, and common use areas required by this Paragraph may be combined; and
 - (3) floor space for physical and occupational therapy shall not be included in the areas required by this Paragraph.
- (c) A facility shall meet the following requirements for toilet rooms, tubs, showers, and central bathing areas:

- (1) a toilet room shall contain a toilet fixture and a sink trimmed with valves that can be operated without hands. If the sink is equipped with blade handles, the blade handles shall not be less than four inches in length. If the sink faucet depends on the building electrical service for operation, the faucet shall be connected to the essential electrical system. For the purposes of the rules of this Section, the "essential electrical system" means a system comprised of alternate sources of power and all connected distribution systems and ancillary equipment, designed to ensure continuity of electrical power to designated areas and functions of a facility during disruption of normal power sources, and also to minimize disruption within the internal wiring system as defined by the North Carolina State Building Codes: Electrical Code. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets;
- (2) if a sink is provided in each bedroom, the toilet room is not required to have a sink;
- (3) a toilet room shall be accessible from each bedroom without going through the general corridors;
- (4) one toilet room may serve two bedrooms, but not more than four beds; and
- (5) a minimum of one central bathing area. In multi-level facilities, each patient floor shall contain a minimum of one central bathing area. Central bathing area(s) shall be provided with the following:
 - (A) wheelchair and stretcher accessible for staff to bathe a patient who cannot perform this activity independently;
 - (B) a bathtub, a manufactured walk-in bathtub, a similar manufactured bathtub designed for easy transfer of patients and residents into the tub, or a shower designed and equipped for unobstructed ease of stretcher entry and bathing on three sides. Bathtubs shall be accessible on three sides. Manufactured walk-in bathtubs or a similar manufactured bathtub shall be accessible on two sides;
 - (C) a roll-in shower designed and equipped for unobstructed ease of shower chair entry and use. If a bathroom with a roll-in shower designed and equipped for unobstructed ease of shower chair entry adjoins each bedroom in the facility, the central bathing area is not required to have a roll-in shower;
 - (D) toilet fixture and lavatory; and

- (E) an individual cubicle curtain enclosing each toilet, tub, and shower. A closed cubicle curtain at one of these plumbing fixtures shall not restrict access to the other plumbing fixtures.
- (d) For each nursing unit on each floor, the following shall be provided:
- (1) a medication preparation area with:
 - (A) a counter;
 - (B) a double locked narcotic storage area under the visual control of nursing staff;
 - (C) a medication refrigerator;
 - (D) medication storage visible by staff standing on the floor;
 - (E) cabinet storage; and
 - (F) a sink trimmed with valves that can be operated without hands. If the sink is equipped with blade handles, the blade handles shall not be less than four inches in length. If the sink faucet depends on the building electrical service for operation, the faucet shall be connected to the essential electrical system. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets;
 - (2) a clean utility room with:
 - (A) a counter;
 - (B) storage; and
 - (C) a sink trimmed with valves that can be operated without hands. If the sink is equipped with blade handles, the blade handles shall not be less than four inches in length. If the sink faucet depends on the building electrical service for operation, the faucet shall be connected to the essential electrical system. If the sink has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets;
 - (3) a soiled utility room with:
 - (A) a counter;
 - (B) storage; and
 - (C) a sink trimmed with valves that can be operated without hands. If the sink is equipped with blade handles, the blade handles shall not be less than four inches in length. If the sink faucet depends on the building electrical service for operation, the faucet shall be connected to the essential electrical system. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets;
 - (4) a nurses' toilet and locker space for personal belongings;
 - (5) an audiovisual nurse-patient call system arranged to ensure that a patient's call in the facility notifies and directs staff to the location where the call was activated;
 - (6) a soiled linen storage room with a hand sanitizing dispenser. If the soiled linen storage room is combined with the soiled utility room, a separate soiled linen storage room is not required;
 - (7) a clean linen storage room provided in one or more of the following:
 - (A) a separate linen storage room;
 - (B) cabinets in the clean utility room; or
 - (C) a linen closet; and
 - (8) a janitor's closet.
- (e) Dietary services and laundry each shall have a separate janitor's closet.
- (f) Stretcher and wheelchair storage shall be provided.
- (g) The facility shall provide storage at the rate of not less than five square feet of floor area per licensed bed. This storage space shall:
- (1) be used by patients to store personal belongings and suitcases;
 - (2) be either in the facility or within 500 feet of the facility on the same site; and
 - (3) be in addition to the other storage space required by this Rule.
- (h) Office space shall be provided for business transactions. Office space shall be provided for persons holding the following positions if these positions are provided:
- (1) administrator;
 - (2) director of nursing;
 - (3) social services director;
 - (4) activities director; and
 - (5) physical therapist.

History Note: Authority G.S. 131E-202;

Eff. June 1, 1991;

Amended Eff. February 1, 1996;

Readopted Eff. October 1, 2021.

10A NCAC 13K .1205 FURNISHINGS FOR HOSPICE INPATIENT CARE

- (a) A facility shall provide handgrips at all toilet and bath facilities used by patients. Handrails shall be provided on both sides of all corridors where corridors are defined by walls and used by patients.

(b) For each nursing unit on each floor, the following shall be provided:

- (1) a nourishment station separated from the nurses' station with:
 - (A) work space;
 - (B) cabinets;
 - (C) refrigerated storage;
 - (D) a sink trimmed with valves that can be operated without hands. If the sink is equipped with blade handles, the blade handles shall not be less than four inches in length. If the sink faucet depends on the building electrical service for operation, the faucet shall be connected to the essential electrical system. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets; and
 - (E) a small stove, microwave, or hot plate; and
- (2) a nurses' station with:
 - (A) desk space for writing;
 - (B) storage space for office supplies; and
 - (C) storage space for patients' records.

(c) A facility shall provide flame resistant cubicle curtains in multi-bedded rooms.

*History Note: Authority G.S. 131E-202;
Eff. June 1, 1991;
Readopted Eff. October 1, 2021.*

10A NCAC 13K .1206 HOSPICE INPATIENT FIRE AND SAFETY REQUIREMENTS

- (a) The hospice shall establish written policies and procedures governing disaster preparedness and fire protection.
- (b) The hospice shall have detailed written plans and procedures to meet potential emergencies and disasters, including fire and severe weather.
- (c) The plans and procedures shall be made available upon request to local or regional emergency management offices.
- (d) The facility shall provide training for all employees in emergency procedures upon employment and annually.
- (e) The facility shall conduct unannounced drills using the emergency procedures.
- (f) The facility shall ensure that:
 - (1) the patients' environment remains as free of accident hazards as possible; and
 - (2) each patient receives adequate supervision and assistance to prevent accidents.
- (g) The fire protection plan shall include:
 - (1) instruction for all personnel in use of alarms, firefighting equipment, methods of fire containment, evacuation routes, procedures for calling the fire department, and the assignment of specific tasks to all personnel in response to an alarm; and

- (2) fire drills for each shift of personnel at least quarterly.

*History Note: Authority G.S. 131E-202;
Eff. June 1, 1991;
Readopted Eff. October 1, 2021.*

10A NCAC 13K .1207 HOSPICE INPATIENT REQUIREMENTS FOR HEATING/AIR CONDITIONING

A facility shall provide heating and cooling systems complying with the following:

- (1) The American National Standards Institute and American Society of Heating, Refrigerating, and Air Conditioning Engineers Standard 170: Ventilation of Health Care Facilities, which is incorporated by reference, including all subsequent amendments and editions, and may be purchased for a cost of ninety-four dollars (\$94.00) online at <https://www.techstreet.com/ashrae/index.html>. This incorporation does not apply to Section 9.1, Table 9-1 Design Temperature for Skilled Nursing Facility. The environmental temperature control systems shall be capable of maintaining temperatures in the facility at 71 degrees F. minimum in the heating season and a maximum of 81 degrees F. during non-heating season, even upon loss of utility power; and
- (2) The National Fire Protection Association 90A: Standard for the Installation of Air-Conditioning and Ventilating Systems, which is incorporated by reference, including all subsequent amendments and editions, and may be purchased at a cost of fifty dollars and fifty cents (\$50.50) from the National Fire Protection Association online at <http://www.nfpa.org/catalog/> or accessed electronically free of charge at <http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=90A>.

*History Note: Authority G.S. 131E-202;
Eff. June 1, 1991;
Readopted Eff. October 1, 2021.*

10A NCAC 13K .1208 HOSPICE INPATIENT REQUIREMENTS FOR EMERGENCY ELECTRICAL SERVICE

A facility shall provide an emergency electrical service for use in the event of failure of the normal electrical service. This emergency electrical service shall consist of the following:

- (1) In any existing facility:
 - (a) type 1 or 2 emergency lights as required by the North Carolina State Building Codes: Electrical Code;
 - (b) additional emergency lights for all nurses' stations required by Rule .1205(b)(2) of this Section, medication preparation areas required

- by Rule .1204(d)(1) of this Section, storage areas, and for the telephone switchboard, if applicable;
- (c) one or more portable battery-powered lamps at each nurses' station; and
 - (d) a source of emergency power for life-sustaining equipment, if the facility admits or cares for occupants needing such equipment, to ensure continuous operation with on-site fuel storage for a minimum of 72 hours.
- (2) An emergency power generating set, including the prime mover and generator, shall be located on the premises and shall be reserved exclusively for supplying the essential electrical system.
 - (3) Emergency electrical services shall be provided as required by the North Carolina State Building Codes: Electric Code with the following modification: Section 517.10(B)(2) of the North Carolina State Building Codes: Electrical Code shall not apply to new facilities.
 - (4) The following equipment, devices, and systems that are essential to life safety and the protection of important equipment or vital materials shall be connected to the equipment branch of the essential electrical system as follows:
 - (a) nurses' calling system;
 - (b) fire pump, if installed;
 - (c) sewerage or sump lift pump, if installed;
 - (d) one elevator, where elevators are used for vertical transportation of patients;
 - (e) equipment such as burners and pumps necessary for operation of one or more boilers and their necessary auxiliaries and controls, required for heating and sterilization, if installed; and
 - (f) task illumination of boiler rooms, if applicable.
 - (5) The following equipment, devices, and systems that are essential to life safety and the protection of important equipment or vital materials shall be connected to the life safety branch of the essential electrical system as follows:
 - (a) alarm system, including fire alarm actuated at manual stations, water flow alarm devices of sprinkler systems if electrically operated, fire detecting and smoke detecting systems, paging or speaker systems if intended for issuing instructions during emergency conditions, and alarms required for nonflammable medical gas systems, if installed; and
 - (b) equipment necessary for maintaining telephone service.
 - (6) Where electricity is the only source of power normally used for the heating of space, an essential electrical system shall be provided for heating of patient rooms. Emergency heating of patient rooms shall not be required in areas where the facility is supplied by at least two separate generating sources or a network distribution system with the facility feeders so routed, connected, and protected that a fault any place between the generating sources and the facility will not likely cause an interruption of more than one of the facility service feeders.
 - (7) An essential electrical system shall be so controlled that after interruption of the normal electric power supply, the generator is brought to full voltage and frequency and connected within 10 seconds through one or more primary automatic transfer switches to all emergency lighting, alarms, and equipment necessary for maintaining telephone service. All other lighting and equipment required to be connected to the essential electrical system shall either be connected through the 10 second primary automatic transfer switching or shall be connected through delayed automatic or manual transfer switching. If manual transfer switching is provided, staff of the facility shall operate the manual transfer switch. Electrical outlets connected to the essential electrical system shall be marked for identification.
 - (8) Fuel shall be stored for the operation of the emergency power generator for a period not less than 72 hours, on a 24-hour per day operational basis with on-site fuel storage. The generator system shall be tested and maintained per National Fire Protection Association Health Care Facilities Code, NFPA 99, 2012 edition, which is incorporated by reference, including all subsequent amendments and editions. Copies of this code may be purchased at a cost of seventy-nine dollars and fifty cents (\$79.50) from the National Fire Protection Association - online at <http://www.nfpa.org/catalog/> or accessed electronically free of charge at <http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=99>. The facility shall maintain records of the generator system tests and shall make these records available to the Division for inspection upon request.
 - (9) The electrical emergency service at existing facilities shall comply with the requirements established in this Rule in effect at the time a license is first issued. Any remodeling of an existing facility that results in changes to the emergency electrical service shall comply with the requirements established in this Rule in effect at the time of remodeling.

History Note: Authority G.S. 131E-202; Eff. June 1, 1991; Readopted Eff. October 1, 2021.

10A NCAC 13K .1209 HOSPICE INPATIENT REQUIREMENTS FOR GENERAL ELECTRICAL

- (a) All main water supply shut off valves in the sprinkler system shall be electronically supervised so that if any valve is closed an alarm will sound at a continuously manned central station.
- (b) No two adjacent emergency life safety branch lighting fixtures shall be on the same circuit.
- (c) Receptacles in bathrooms shall have ground fault protection.
- (d) Each patient bed location shall be provided with a minimum of eight single or four duplex receptacles.
- (e) Each patient bed location shall be supplied by at least two branch circuits, one from the equipment branch and one from the normal system.
- (f) The fire alarm system shall be installed to transmit an alarm automatically to the fire department that is legally committed to serve the area where the facility is located, by the direct and reliable method approved by local ordinances.
- (g) In patient areas, fire alarms shall be gongs or chimes rather than horns or bells.

History Note: Authority G.S. 131E-202;

Eff. June 1, 1991;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018;

Amended Eff. October 1, 2021.

10A NCAC 13K .1210 OTHER HOSPICE INPATIENT REQUIREMENTS

- (a) A nurses' calling system shall be provided:
 - (1) in each patient bedroom for each patient bed. The call system activator shall be such that it can be activated with a single action and remain on until deactivated by staff at the point of origin. The call system activator shall be within reach of a patient lying on the bed. In rooms containing two or more call system activators, indicating lights shall be provided at each calling station;
 - (2) nurses' calling systems that provide two-way voice communication shall be equipped with an indicating light at each calling station that lights and remains lighted as long as the voice circuit is operating;
 - (3) a nurses' call emergency activator shall be provided at each patients' use toilet fixture, bath, and shower. The call system activator shall be accessible to a patient lying on the floor; and
 - (4) calls shall register with the floor staff and shall activate a visible signal in the corridor at the patient's door. In multi-corridor units, additional visible signals shall be installed at corridor intersections.
- (b) At least one telephone shall be available in each area where patients are admitted and additional telephones or extensions as are necessary to ensure availability in case of need.
- (c) General outdoor lighting shall be provided to illuminate walkways and drive.

History Note: Authority G.S. 131E-202;

Eff. June 1, 1991;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018;

Amended Eff. October 1, 2021.

10A NCAC 13K .1211 ADDITIONAL PLUMBING REQUIREMENTS/HOSPICE INPATIENT UNITS

Hospice inpatient facilities or units shall provide a flow of hot water within safety ranges specified as follows:

- (1) Patient Areas – 6 ½ gallons per hour per bed and at a temperature of 100 to 116 degrees F;
- (2) Dietary Services – 4 gallons per hour per bed and at a minimum temperature of 140 degrees F; and
- (3) Laundry Area – 4 ½ gallons per hour per bed and at a minimum temperature of 140 degrees F.

History Note: Authority G.S. 131E-202;

Eff. June 1, 1991;

Readopted Eff. October 1, 2021.

10A NCAC 13K .1212 APPLICATION OF PHYSICAL PLANT REQUIREMENTS

The physical plant requirements for each hospice inpatient facility or unit shall be applied as follows:

- (1) New construction shall comply with all the requirements of this Section.
- (2) Except where otherwise specified, existing buildings shall meet the licensure and code requirements in effect at the time of licensure, construction, alteration, or modification.
- (3) Rules contained in this Section are minimum requirements and are not intended to prohibit buildings, systems, or operational conditions that exceed minimum requirements.
- (4) The Division may grant an equivalency to allow alternate methods, procedures, design criteria, or functional variation from the requirements of this Rule and the rules contained in this Section. The equivalency may be granted by the Division when a governing body submits a written equivalency request to the Division that states the following:
 - (a) the rule citation and the rule requirement that will not be met because strict conformance with current requirements would be:
 - (i) impractical;
 - (ii) unable to be met due to extraordinary circumstances;
 - (iii) unable to be met due to new programs; or
 - (iv) unable to be met due to unusual conditions;
 - (b) the justification for the equivalency; and

- (c) how the proposed equivalency meets the intent of the corresponding rule requirement.
- (5) In determining whether to grant an equivalency request, the Division shall consider whether the request will reduce the safety and operational effectiveness of the facility. The governing body shall maintain a copy of the approved equivalence issued by the Division.
- (6) Where rules, codes, or standards have any conflict, the more stringent requirement shall apply.

*History Note: Authority G.S. 131E-202;
Eff. February 1, 1996;
Readopted Eff. October 1, 2021.*

10A NCAC 23B .0102 ISSUANCE

- (a) Cards shall be issued by the State at any time of the month for:
 - (1) Approved applications;
 - (2) Cases authorized after meeting a deductible;
 - (3) Change in primary care provider; or
 - (4) Change in LME/MCO catchment area.
- (b) Cards shall be requested by the county agency for issuance by the State for:
 - (1) A legal name change;
 - (2) Replacement of lost, stolen, burned, destroyed, or incorrect cards;
 - (3) Non-receipt of a State-issued card; or
 - (4) Requests by a second county during a county transfer.
- (c) Cards shall be issued by the State 12 months from the last issuance date if the client remains eligible.

*History Note: Authority G.S. 108A-54; S.L. 2020-78, s. 4D.2;
Eff. September 1, 1984;
Amended Eff. August 1, 1990;
Transferred from 10A NCAC 21C .0102 Eff. May 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. July 23, 2016;
Amended Eff. October 1, 2021.*

**10A NCAC 41A .0107 REPORTING OF COVID-19
DIAGNOSTIC TEST RESULTS**

- (a) For purposes of this Rule, the following definitions shall apply:
 - (1) "COVID-19 diagnostic test" means any nucleic acid or antigen test that identifies SARS-CoV-2, the virus that causes COVID-19.
 - (2) "Electronic laboratory reporting" means the automated messaging of laboratory reports sent to the Division of Public Health using a machine-readable electronic communication protocol.

- (3) "Healthcare provider" means a healthcare provider as defined in G.S. 130A-476(g)(1).
- (4) "Laboratory" means a facility that performs testing on specimens obtained from humans for the purpose of providing information for health assessment and for the diagnosis, prevention, or treatment of disease and is certified by the United States Department of Health and Human Services under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) at P.L. 100-578 and implementing regulations at 42 C.F.R. 493, which are hereby incorporated by reference, including any subsequent amendments or editions, and available free of charge at <https://www.congress.gov/public-laws/> and <http://ecfr.gov/>, respectively. This definition includes a healthcare provider who performs testing in an on-site facility that meets these requirements.

- (b) Each person in charge of a laboratory providing diagnostic service in this State shall report the results of all COVID-19 diagnostic tests to the Division of Public Health using electronic laboratory reporting. For purposes of COVID-19, a novel coronavirus under Rule .0101(c)(1) of this Section, the required method of reporting set out in Rules .0101(c) and .0102(d)(3) of this Section shall not apply. The report shall include all of the elements required to be reported under the United States Department of Health and Human Services, laboratory data reporting guidance, which is hereby incorporated by reference, including any subsequent amendments and editions, and available free of charge at <https://www.hhs.gov/sites/default/files/covid-19-laboratory-data-reporting-guidance.pdf>.
- (c) The requirements set forth in Paragraph (b) of this Rule shall be considered met if a laboratory:
 - (1) submits a COVID-19 Laboratory Data Automation Registration form to the Division of Public Health and acts to onboard to electronic laboratory reporting. This form shall be submitted within seven calendar days of the date the laboratory starts performing COVID-19 diagnostic testing and shall contain the following elements:
 - (A) the name, address, phone number, and CLIA number of the laboratory;
 - (B) the name, address, and phone number of the person in charge of the laboratory or that person's designee;
 - (C) the type of test performed, testing capacity, and whether the laboratory will use a third-party laboratory to perform part or all of the testing; and
 - (D) if the laboratory will use a third-party laboratory to perform part or all of the testing, the information in Parts (A)-(B) of this Subparagraph for the third-party laboratory; and
 - (2) until onboarding to electronic laboratory reporting is complete:

- (A) reports the results of positive COVID-19 diagnostic tests to the Division of Public Health, including all elements required in Paragraph (b) of this Rule, by telefacsimile; and
- (B) reports the aggregate number of positive and negative nucleic acid COVID-19 diagnostic tests and the aggregate number of positive and negative antigen COVID-19 diagnostic tests per day to the Division of Public Health through an online survey available at: <https://covid19.ncdhhs.gov/media/2889/open>.

(d) The requirements set forth in Paragraph (b) of this Rule shall be considered met if a laboratory that completes fewer than 50 total COVID-19 diagnostic tests per week submits results as set out in Subparagraph (c)(2) of this Rule.

(e) Healthcare providers who order COVID-19 diagnostic testing in this State shall:

- (1) report the results of positive COVID-19 diagnostic tests by telefacsimile to the local health director in the county or district where the patient resides. The report shall contain:
 - (A) patient first and last name, date of birth, address, county of residence, phone number, sex, race, and ethnicity;
 - (B) provider name, address, phone number, and NPI;
 - (C) the specimen collection date, the test order date, and the test result date;
 - (D) the test result; and
 - (E) all other available elements required in Paragraph (b) of this Rule; and
- (2) report the aggregate number of positive and negative nucleic acid COVID-19 diagnostic tests and the aggregate number of positive and negative antigen COVID-19 diagnostic tests per day to the Division of Public Health through an online survey available at: <https://covid19.ncdhhs.gov/media/2889/open>.

(f) The requirements set forth in Paragraph (e) of this Rule shall be considered met if a healthcare provider:

- (1) verifies that the laboratory that receives the specimen for testing will report the test result in accordance with Paragraph (b) of this Rule; and
- (2) includes patient first and last name, date of birth, address, county of residence, phone number, sex, race, ethnicity, and specimen collection date on the lab order.

(g) The requirement for healthcare providers to report COVID-19 diagnostic test results, as set out in Paragraph (e) of this Rule, is separate from the requirement for physicians to report suspected infections of COVID-19, a novel coronavirus, including positive COVID-19 diagnostic test results, in accordance with G.S. 130A-135 and Rules .0101(a) and .0102(a) of this Section.

(h) Laboratories and healthcare providers who are required to report under this Rule shall report positive COVID-19 diagnostic test results immediately upon receiving the result and negative COVID-19 diagnostic test results within 24 hours of receiving the result. Results reported to a local health department under this Rule shall be forwarded to the Division of Public Health within 24 hours of receipt by the local health department.

History Note: Authority G.S. 130A-134; 130A-135; 130A-139; 130A-141; 130A-141.1; S.L. 2020-4, s. 4.10(a)(1); Emergency Adoption Eff. September 25, 2020; Temporary Adoption Eff. December 1, 2020; Eff. October 1, 2021.

10A NCAC 41A .0212 HANDLING AND TRANSPORTATION OF BODIES

(a) Persons handling the body of any person who has died shall comply with the standard precautions for all patient care published by the United States Centers for Disease Control and Prevention, which are hereby incorporated by reference, including any subsequent amendments and editions, and available free of charge at: <https://www.cdc.gov/infectioncontrol/basics/standard-precautions.html>.

(b) It shall be the duty of the physician, physician assistant, or nurse practitioner attending to any person who dies and is known to be infected with HIV, plague, hepatitis B, or COVID-19 or any person who dies and is known or reasonably suspected to be infected with smallpox, rabies, severe acute respiratory syndrome (SARS), or Jakob-Creutzfeldt to provide written, verbal, or electronic notification to individuals handling the body of the proper precautions to prevent infection, as set forth in Paragraphs (d), (e), and (f) of this Rule. This written, verbal, or electronic notification shall be provided to the funeral service director, funeral service worker, or body transporter at the time the body is removed from any hospital, nursing home, or other health care facility. When the patient dies in a location other than a health care facility, the physician, physician assistant, or nurse practitioner shall notify the funeral service director, funeral service worker, or body transporter of the precautions required as soon as the physician, physician assistant, or nurse practitioner becomes aware of the death. These precautions are set forth in Paragraphs (d), (e), and (f) of this Rule. The duty to notify shall be considered met if performed by one of the following individuals:

- (1) the physician, physician assistant, or nurse practitioner attending to the person who died; or
- (2) a designated representative of the physician, physician assistant, or nurse practitioner.

(c) It shall also be the duty of a medical examiner with jurisdiction pursuant to G.S. 130A-383 over the body of any person who dies and is known to be infected with COVID-19 to provide written, verbal, or electronic notification to the funeral service director, funeral service worker, or body transporter at the time the body is removed from medical examiner custody of the proper precautions to prevent infection, as set forth in Paragraph (f) of this Rule. The duty to notify shall be considered met if performed by a designated representative of the medical examiner.

(d) The body of any person who died and is known or reasonably suspected to be infected with smallpox or severe acute respiratory syndrome (SARS) or any person who died and is known to be infected with plague shall not be embalmed. The body shall be enclosed in a tightly sealed outer case that will prevent leakage or escape of odors as soon as possible after death and before the body is removed from the hospital room, home, building, or other premises where the death occurred. This case shall not be reopened except with the consent of the local health director. Nothing in this Paragraph shall prohibit cremation.

(e) Persons handling the body of any person who died and is known to be infected with HIV or hepatitis B or any person who died and is known or reasonably suspected to be infected with Jakob-Creutzfeldt or rabies shall be provided written, verbal, or electronic notification to observe blood and body fluid precautions.

(f) Persons handling the body of any person who died and is known to be infected with COVID-19 shall be provided written, verbal, or electronic notification to observe the COVID-19 guidance for funeral home workers published by the United States Centers for Disease Control and Prevention, which is hereby incorporated by reference, including any subsequent amendments or editions, and available free of charge at: <https://www.cdc.gov/coronavirus/2019-ncov/community/funeral-faqs.html>.

History Note: Authority G.S. 130A-144; 130A-146;
Temporary Rule Eff. February 1, 1988, for a period of 180 days to expire on July 29, 1988;
Eff. March 1, 1988;
Recodified from 15A NCAC 19A .0204 Eff. June 11, 1991;
Temporary Amendment Eff. November 1, 2003;
Amended Eff. April 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Emergency Amendment Eff. September 25, 2020;
Temporary Amendment Eff. December 1, 2020;
Amended Eff. October 1, 2021.

10A NCAC 71U .0101 ADMINISTRATION AND SUPERVISION

History Note: Authority G.S. 143B-137.1; 143B-138.1(a)(5); 108A-51; 7 U.S.C. 2011 to 2026;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Repealed Eff. October 1, 2021.

10A NCAC 71U .0201 INTENTIONAL PROGRAM VIOLATION DISQUALIFICATION

(a) An administrative disqualification hearing (ADH) or referral for prosecution shall be initiated by the public agency whenever there is clear and convincing evidence to substantiate that a currently participating household member has committed one or more acts of an intentional program violation as set forth in 7 CFR 273.16(c), which is hereby incorporated by reference, not including subsequent amendments and editions, and may be

accessed at www.congress.gov at no charge. If a referral for prosecution is made, an ADH shall not be initiated unless the referral is declined or 180 days have passed and the public agency withdraws the referral.

(b) The Hearing Officer for public ADH hearings is the public Agency Director. The Director may delegate this function to a designated impartial employee of the public agency. An impartial employee is one who is not a fraud Investigator, is not connected with the case, does not supervise an employee connected with the case, and has not discussed the facts of the case with any public agency staff outside of the hearing.

(c) The public agency must provide the Food and Nutrition Services (FNS) unit with an Advance Notice of Your Disqualification Hearing Form DSS-8556 at least 30 days prior to the hearing date. The public agency must also provide the FNS unit with a notice of their right to waive the ADH. The public agency shall ensure that all letters and notices are in the primary language of the individual charged with an intentional program violation (IPV), and ensure that a qualified translator is present for an ADH when requested by an individual with limited English proficiency as defined in 7 CFR 273.16(c).

(d) The public hearing officer shall render a decision within five business days of the hearing.

(e) The FNS unit may appeal the public hearing officer's decision within 15 calendar days to a State Disqualification Hearing. The hearing shall be held before a state hearing officer on behalf of the Director of the Division of Social Services. The state hearing officer shall provide notice to the FNS unit and the public agency at least 10 calendar days before the hearing. The state hearing officer shall render a decision within 60 days of the State Disqualification Hearing.

History Note: Authority G.S. 108A-25; 108A-51; 108A-53; 143B-153; 7 CFR 273.16;
Eff. March 1, 1979;
Amended Eff. February 1, 1986;
Readopted Eff. October 1, 2021.

10A NCAC 71U .0203 FAIR HEARINGS

History Note: Authority G.S. 108A-51; 143B-153; 7 CFR 273.15; 7 U.S.C. 2011-2027;
Eff. March 1, 1979;
Repealed Eff. October 1, 2021.

10A NCAC 71U .0204 DENIAL OF ZERO BENEFIT HOUSEHOLDS

Households of three or more persons that do not have a member age 60 or over or disabled, thus subject to the 130 percent of poverty as an eligibility level, shall have their applications denied if the household's net FNS income results in a zero benefit level.

History Note: Authority G.S. 108A-25; 108A-51; 143B-153; 7 C.F.R. 273.10(e)(2)(iii);
Eff. October 1, 1981;
Readopted Eff. October 1, 2021.

10A NCAC 71U .0205 IMMEDIATE TERMINATION OR REDUCTION OF ASSISTANCE

(a) Pursuant to 7 CFR 273.13(a), households subject to immediate termination or reduction of benefits shall be notified in accordance with the timelines set forth in 7 CFR 273.13(4)(e)(1), which is incorporated by reference, including subsequent amendments and editions, and may be accessed at www.congress.gov at no charge.

(b) For mass changes, such notice shall be provided a minimum of 10 working days in advance when federal implementing time standards permit.

(c) If a hearing is requested, benefits shall be continued at the present level pending the hearing decision only if the termination or reduction is due to a mass change and the issue being contested is that FNS eligibility or benefits were improperly computed or that federal law is being misapplied or misinterpreted, as set forth in 7 CFR 273.15(k)(l), which is incorporated by reference, not including any subsequent amendments and editions, and may be assessed at www.congress.gov at no charge.

History Note: Authority G.S. 108A-25; 108A-51; 108A-79; 143B-153; 7 C.F.R. 273.13(a); 7 C.F.R. 273.15(k);

Eff. March 1, 1982;

Readopted Eff. October 1, 2021.

10A NCAC 71U .0206 STANDARD UTILITY ALLOWANCES

(a) The State Division of Social Services shall establish standard utility allowances for use in calculating shelter costs of those households which incur utility costs separate and apart from their rent or mortgage payments. The standard utility allowances shall be developed in conjunction with data gathered through quality control sampling and surveys of utility company rates. Once the Division gathers the sampling information and the average costs information from utilities companies, the Division shall calculate the average amounts to determine a statewide average for each type of utility cost for standard, basic, and telephone utility allowances. The standard and basic utility allowances are increased by household size. The amount of increase or decrease is calculated from the average statewide increase in utility costs per household size from the previous year.

(b) Types of utility allowances:

- (1) Standard utility allowance includes the cost of heating and cooling (air conditioning), cooking fuel, electricity, and the basic service fee for one telephone, water, sewerage, and garbage collection.
- (2) Basic utility allowance includes at least two non-heating or non-cooling utility expenses, such as cooking fuel, electricity, and the basic service fee for one telephone, water, sewerage, and garbage collection.
- (3) Telephone utility allowance includes the basic telephone services, fees, and applicable taxes.

(c) Standard utility allowances are binding upon the household for a period of 12 months following certification (initial or recertification). If the household moves before the expiration of the 12 month period and becomes ineligible for the standard,

basic, or telephone allowance, the agency shall make the appropriate change.

(d) The Division shall review the standard utility allowances annually and adjust the allowance as necessary to reflect changes in the cost of the utilities. The annual update shall be effective on October 1 of each calendar year to coincide with annual, federal adjustments of the combined dependent care and shelter deduction. The annual update shall be based on information published by the North Carolina Department of Administration, Office of State Energy. The amount of the utility allowances shall not vary seasonally.

(e) The Division shall vary its standard and basic utility allowances by household size.

(f) The basic utility allowance shall be used by a household living in a public housing unit that charges the household only for excess utility costs provided the household is responsible for at least two non-heating or non-cooling utility expenses.

(g) The standard utility allowance shall be used when a household is billed for a heating or cooling component not totally paid by a vendor payment.

(h) Multiple households living in the same residence and sharing utility costs are allowed the standard or basic utility allowance for their household size.

History Note: Authority G.S. 108A-25; 108A-51; 143B-153; 7 C.F.R. 273.9(d)(6); 7 USC Section 2014(e)(6)(C); P.L. 107-171; Eff. April 1, 1982;

Amended Eff. March 1, 1990; July 1, 1984;

Temporary Amendment Eff. February 1, 2003;

Amended Eff. August 1, 2004;

Readopted Eff. October 1, 2021.

10A NCAC 71U .0207 UNITED STATES CITIZENSHIP

As a condition of eligibility, United States citizenship for FNS shall be governed by the procedures set forth in 10A NCAC 71W .0403.

History Note: Authority G.S. 108A-25; 108A-51; 143B-153; 7 C.F.R. 273.6; 45 C.F.R. 233.50;

Eff. July 1, 1982;

Amended Eff. April 1, 1984; October 1, 1983;

Readopted Eff. October 1, 2021.

10A NCAC 71U .0209 SECOND PARTY REVIEW

A second party desk review shall be conducted to review actions taken on all households with five or more members applying for initial certification or recertification for the FNS Program. Actions taken on households with four or fewer members shall be subject to second party review as determined by the division director, based on future error prone profiles.

History Note: Authority G.S. 108A-25; 108A-51; 143B-153; Eff. July 1, 1982;

Readopted Eff. October 1, 2021.

10A NCAC 71U .0210 INCOME EXCLUSIONS

Income exclusions set forth in 7 CFR 273.9(c) are hereby incorporated by reference, not including subsequent amendments and editions, and may be accessed at www.gpo.gov at no charge.

In addition to the income exclusions set forth in 7 CFR 273.9(c), earned income for census employment or educational assistance, except scholarships offered by civic groups or institutions, or athletic scholarships shall be excluded from determining eligibility.

History Note: Authority G.S. 108A-25; 108A-51; 108A-53; 143B-153; 7 C.F.R. 273.9(c); 7 U.S.C. 2014;
Temporary Rule Eff. March 28, 1990, for a Period of 180 Days to Expire on August 31, 1990;
Eff. September 1, 1990;
Temporary Amendment Eff. March 1, 2003;
Amended Eff. August 1, 2004;
Readopted Eff. October 1, 2021.

10A NCAC 71U .0211 VEHICLE DETERMINATIONS

History Note: Authority G.S. 108A-51; 143B-153; H.R.4461; CFR 273.8;
Temporary Adoption Eff. July 1, 2001;
Eff. July 18, 2002;
Repealed Eff. October 1, 2021.

10A NCAC 71U .0212 TRANSITIONAL FNS BENEFITS

Households shall receive transitional FNS benefits for a period of five months when they lose their Work First benefits. FNS benefits shall be no less than the amount received by the household prior to the termination of Work First benefits. The only adjustments to income shall be the deletion of the Work First benefits. Other sources of income shall not be re-calculated. A household is not eligible for transitional FNS benefits if it loses Work First benefits for any of the following reasons:

- (1) Work First case closes due to a sanction in accordance with 10A NCAC 71W .0606;
- (2) Household member is disqualified from Food and Nutrition Services in accordance with 10A NCAC 71U .0201;
- (3) Household moves out of North Carolina; or
- (4) Household received more than one Work First payment and a Work First payment is still being received.

A household may reapply for FNS benefits during the transitional period with benefits determined according to current circumstances.

History Note: Authority G.S. 108A-25; 108A-51; 143B-153;
Temporary Adoption Eff. February 1, 2003;
Eff. August 1, 2004;
Readopted Eff. October 1, 2021.

10A NCAC 71U .0213 SIMPLIFIED REPORTING

(a) The simplified reporting category shall apply to all FNS units except the following:

- (1) A Simplified Nutrition Assistance Program (SNAP) unit; or
- (2) A Transitional FNS Unit.

(b) Certification periods are determined based upon the following household situations:

- (1) FNS units that contain only specified individuals who are without earned income are certified for a period of 12 months. A specified individual is an individual 60 years of age or older, or one of the following:
 - (A) A person who receives supplemental security income benefits under Title XVI of the Social Security Act or disability or blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act;
 - (B) A person who receives federally or State administered supplemental benefits under Section 1616(a) of the Social Security Act provided that the eligibility to receive the benefits is based upon the disability or blindness criteria used under Title XVI of the Social Security Act;
 - (C) Receives disability benefits from a governmental agency based on permanent Social Security disability requirements.
 - (D) Is a Veteran who receives 100 percent Veterans Administration (VA) disability payments (service or non-service connected) or is rated as 100 percent disabled but receives less than 100 percent disability payment;
 - (E) Is a Veteran considered by the VA to be in need of regular aid and attendance or permanently housebound under Title 38 of the U. S. Code;
 - (F) Is a disabled surviving spouse or disabled surviving child of a veteran and in need of regular aid and attendance or permanently housebound or considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a nonservice-connected death under Title 38 of the U. S. Code;
 - (G) Receiving Railroad Retirement and determined to be eligible for Medicare;
 - (H) Receiving Interim Assistance Payments (DSS General Assistance to applicants for SSI that is repaid by SSA upon approval of the SSI application);
 - (I) Receiving Medicaid based on disability; and
 - (J) Benefits under the Federal Employees Compensation Act (FECA) based on Social Security disability requirements.
- (2) FNS units that contain an Able-Bodied Adult Without Dependents (ABAWD) are certified

for a period of six months. These FNS units will be issued a Notice of Adverse Action DSS-8553 during the second month of the certification period notifying the FNS unit that the local agency will terminate benefits after the third month unless the ABAWD satisfies the work requirements or meets an exception as set forth in 7 C.F.R. 274.24. The certification may be for a period of 6 months if the county is currently under an ABAWD waiver.

- (3) All other units are certified for a period up to six months.

(c) FNS units subject to Simplified Reporting are required to report to the public agency any of the following changes that occur during the certification period:

- (1) FNS units that include an ABAWD shall report when the ABAWD stops working an average of 80 hours per month;
- (2) FNS units whose income is at or below the 130 percent maximum allowable gross income limit are required to report an increase in unit income that causes it to exceed the 130 percent maximum allowable gross income limit for its unit size at certification. Ineligible or disqualified persons are not considered in determining the FNS unit size; and
- (3) If any member of the FNS unit receives substantial lottery and gambling winnings as defined in 7 CFR 212.17 and 7 CFR 273.8(b), the receipt of lottery and gambling winnings shall result in loss of eligibility for the entire FNS unit. The unit remains ineligible until they reapply for benefits and meet all non-categorical eligibility financial resource and income eligibility requirements.

(d) FNS units are required to report changes by the 10th of the month following the month in which the change occurs. FNS units completing an application or recertification that experience changes prior to disposition of the application or recertification are required to report such changes by the 10th of the month following the month in which the Notice of Eligibility is received.

(e) Changes are considered reported at the earliest of the following times:

- (1) The date the Change Report is received;
- (2) The date the change is reported by the FNS unit by telephone, email or fax. If received during non-business hours the date reported will be the next business day;
- (3) The date the FNS unit made an in-person office visit to report the change;
- (4) The date the change is reported to Work First;
- (5) The date the changed information is entered into NC FAST; or
- (6) The date the change is reported by a third party.

(f) A public agency shall evaluate, verify, and act upon a change within 10 calendar days, except for the following changes:

- (1) Changes in medical expenses of units eligible for the medical deduction when the source of

the change in information is from a third party and requires household contact for verification;

- (2) A decrease in the unit's gross monthly income of less than fifty dollars (\$50.00); or
- (3) A change in income that is not expected to continue for longer than one month beyond the month in which the change is reported.

(g) If a change is reported and the public agency fails to act on the change within the 10 calendar days, the public agency shall determine if an over issuance has occurred. If it is determined that an over issuance occurred, the public agency shall establish an Administrative Error (AE) claim.

(h) If a reported change terminates eligibility or decreases a unit's benefit amount, a Notice of Adverse Action shall be issued to the FNS unit within 10 calendar days.

(i) If a reported change does not affect eligibility or benefit amount, an Effect of Change Notice shall be issued to the FNS unit.

(j) If a reported change will increase benefit amount, the public agency shall verify the reported change.

(k) If an FNS unit fails to report a required change, the public agency shall establish a claim against the FNS unit and issue a Notice of Adverse Action if the change would result in a reduction or termination of benefits.

History Note: Authority G.S. 108A-25; 108A-51; 143B-153; P.L. 107-171;
Temporary Adoption Eff. February 1, 2003;
Eff. August 1, 2004;
Readopted Eff. October 1, 2021.

10A NCAC 71U .0214 DEDUCTIONS

History Note: Authority G.S. 108A-51; 143B-153; P.L. 107-171;
Temporary Adoption Eff. February 1, 2003;
Eff. August 1, 2004;
Repealed Eff. October 1, 2021.

10A NCAC 71U .0215 RESOURCE EXCLUSIONS

Resource exclusions as set forth in 7 CFR 273.8(e), which is incorporated by reference, not including subsequent amendments and editions, and may be accessed at www.congress.gov at no charge. In addition to the resource exclusions found in federal regulations, the following resources shall be excluded in determining eligibility and benefit level:

- (1) funds from property conveyed to an individual at death of the property owner, also referred to as heir property;
- (2) burial plots;
- (3) lifetime interest in real or personal property limited to an individual's lifetime but the individual does not actually own the property;
- (4) remainder interest in property when one individual owns property and another individual has the lifetime right; and
- (5) land or buildings not excluded as a homesite, income producing property, or for the sale by good faith effort.

History Note: Authority G.S. 108A-25; 108A-51; 143B-153; 7 CRF 273.8(e);
Temporary Adoption Eff. March 1, 2003;
Eff. August 1, 2004;
Readopted Eff. October 1, 2021.

**10A NCAC 71U .0216 MEDICAL DEDUCTIONS FOR
 MEDICARE PRESCRIPTION DRUG CARD BENEFITS**

History Note: Authority 143B-153; P.L 108-173;
Eff. April 1, 2005;
Repealed Eff. October 1, 2021.

10A NCAC 71U .0302 HOUSEHOLD APPLICATION

An application form shall be completed for each household. The application form is available at the public agencies or an application may be made on the ePass Public Portal of NC FAST. The application shall include the required information needed to determine eligibility as set forth in 7 CFR 273.26, which is incorporated by reference, not including subsequent amendments and editions, and may be accessed at www.congress.gov at no charge. The application shall also include the applicant's commitment to provide information necessary to verify statements given on the form, to cooperate in state and federal quality control checks, and to notify the FNS office of changes of status. Until this application is completed and submitted, the applicant shall not participate in Food and Nutrition Services.

History Note: Authority G.S. 108A-25; 108A-51; 108A-52; 143B-153; 7 U.S.C. 2020; 7 CFR 273.26;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. February 1, 1986;
Readopted Eff. October 1, 2021.

**10A NCAC 71U .0303 AUTHORIZED
 REPRESENTATIVE**

(a) The head of household, spouse, or any other member of the household may designate an authorized representative to act on behalf of the household in applying for FNS. The representative shall be ineligible to represent the household until the authorized representative form is completed with the following information:

- (1) Authorized representative's name;
- (2) Address;
- (3) Social security number;
- (4) Date of birth; and
- (5) Signature.

(b) Individuals who participate in a drug or alcoholic treatment program on a resident basis may elect to participate in FNS. The treatment center must be a private, nonprofit organization, or institution or a publicly operated community mental health center, under Section 300x-21 et. seq. of U.S. Code Title 42, Part VII.C.2.

- (1) Residents shall apply through an authorized representative who shall be an employee of and designated by the treatment center.
- (2) Residents may assist in completing the application and may sign the application along with the authorized representative, prior to certification.

(c) Residents of public or private nonprofit settings for blind or disabled individuals may elect to participate in FNS.

- (1) A public agency of the state or locality shall certify group living arrangements under Section 1616(e) of the Social Security Act.
- (2) Residents of group living arrangements may apply and be certified as follows:
 - (A) Through the use of an authorized representative employed and designated by the facility;
 - (B) Through the use of an authorized representative selected by the resident; or
 - (C) On their own behalf.

History Note: Authority G.S. 108A-25; 108A-51; 7 CFR 273.2(n); 7 CFR 273.11(e);
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Readopted Eff. October 1, 2021.

10A NCAC 71U .0401 ISSUANCE OF FUNDS

(a) The State Division of Social Services shall issue FNS payments through Electronic Funds Transfer (EBT).

(b) The applicant or recipient shall be informed of the payment option in this Rule at application and reapplication and provided the following information:

- (1) A household that elects to receive FNS payments through an EBT card shall receive an initial EBT card at no cost.
- (2) A household that requests a replacement EBT card shall be assessed a two dollar fifty cent (\$2.50) fee unless the household can establish that their original EBT card:
 - (A) was lost in the mail or damaged by the card vendor prior to receipt by the FNS household;
 - (B) is being replaced due to a name change on card;
 - (C) was lost due to a natural disaster such as a fire, flood, tornado, earthquake, or hurricane; or
 - (D) was damaged by a retailer or vendor.
- (3) The fee shall be deducted from the account of the FNS unit.

(c) Recipients of FNS shall be informed at application and reapplication they may not access or use EBT cards in the following establishments: liquor stores; casinos or gaming establishments; or any establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state.

- (1) These restrictions apply to all FNS households.
- (2) Applicants and recipients shall be advised of the restrictions at initial application, reapplication, and redetermination of eligibility.
- (3) Recipients who use or access FNS in an EBT transaction in any liquor store; any casino or gaming establishment; or any retail

establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state may be subject to penalties as defined by the State Division of Social Services.

History Note: Authority G.S. 108A-25; 108A-51; 143B-153; 7 CFR 274.6(b);
Temporary Adoption Eff. August 1, 2000;
Eff. April 1, 2001;
Readopted Eff. October 1, 2021.

10A NCAC 71U .0402 FAIR HEARINGS

History Note: Authority G.S. 108A-25; 143B-153; 7 U.S.C. 2016 (i)(8); 7 C.F.R. 274.12 (f)(5)(v);
Temporary Adoption Eff. August 1, 2000;
Eff. April 1, 2001;
Repealed Eff. October 1, 2021.

10A NCAC 71V .0102 GROUPS COVERED

History Note: Authority G.S. 143B-153;
Eff. November 19, 1980;
Amended Eff. October 19, 1981;
Repealed Eff. October 1, 2021.

10A NCAC 71V .0103 ELIGIBILITY REQUIREMENTS

A household must meet the following requirements to be eligible for the Low Income Energy Assistance Program:

- (1) The North Carolina Department of Health and Human Services (DHHS) determines the maximum eligibility requirements in accordance with this Rule on an annual basis, not to exceed 130 percent of the federal poverty level. DHHS shall consider the economic status of the state of North Carolina and availability of funding in determining the annual income eligibility criteria. The income eligibility criteria shall be included in each annual block grant application that is submitted for public review and approved by the Governor prior to submission to the United States Department of Health and Human Services (HHS) for approval. The income eligibility criteria shall be posted on the DHHS website within 10 business days of application approval by federal HHS. Income shall be defined as gross income less:

- (a) the standard medical deduction of eighty five dollars (\$85.00) for each specified person. A specified person is an individual 60 years of age or older, or one of the following:
 - (i) A person who receives SSI or disability or blindness payments under Titles I, II, XIV or XVI of the Social Security Act; these

individuals may have been approved but may have not received their initial payment;

- (ii) A person who receives VA disability benefits for a 100 percent service or non-service connected disability;
 - (iii) A person who is a disabled surviving spouse or disabled surviving child of a Veteran;
 - (iv) A person who receives disability retirement benefits from a State, county, or local government agency due to a disability considered permanent under Section 221 of the Social Security Act;
 - (v) A person who is receiving a pension from the Railroad Retirement Act of 1974 and is determined to be eligible to receive Medicare;
 - (vi) A person who receives Federal Employees Compensation Act payments due to a disability considered permanent under the Social Security Act;
 - (vii) A person who receives Medicaid due to a qualifying disability; or
 - (viii) A person who receives SSI based on presumptive eligibility.
- (b) a deduction of the actual out of pocket child or dependent care costs paid by the household; and
 - (c) a standard deduction for work related expense as set forth in the below table:

Gross Income Level	Standard Deduction
\$1-50	\$10
\$51-100	\$20
\$101-150	\$30
\$151-200	\$40
\$201-300	\$60
\$310-400	\$80
\$401-UP	20%

Earned and unearned income shall be counted or excluded as mandated by federal laws and administrative rules in Subchapter 10A NCAC 71U that govern the Food and Nutrition Services Program.

- (2) Assets: A household shall not have assets exceeding two thousand, two hundred and fifty

dollars (\$2,250). All assets shall be counted except:

- (a) Household or personal belongings (including essential and non-essential personal property);
 - (b) Vehicles;
 - (c) Primary residence (including mobile home) and all contiguous property;
 - (d) Income producing real property;
 - (e) Insurance (including burial, term and whole life cash values);
 - (f) Value of prepaid burial contracts;
 - (g) Value of burial plots;
 - (h) Savings of a student under age 18 who is saving their money for school expenses;
 - (i) Relocation assistance payments;
 - (j) That portion of monthly income deposited in a checking or savings account to meet monthly needs;
 - (k) Non-salable life estate or remainder interests;
 - (l) Heir property;
 - (m) HUD community development block grants; and
 - (n) Any of a lump sum payment for the month received or the following month.
- (3) A household shall be vulnerable to rising costs of energy. A household that is vulnerable to rising costs of energy is one that is not protected against such increases under any other program of assistance.
- (4) As a condition of eligibility, United States citizenship for Low Income Energy Assistance Program shall be governed by the procedures set forth in 10A NCAC 71W .0403.

History Note: Authority G.S. 108A-25; 108A-25.4; 143B-153; 42 U.S.C. 8621(a); 8624(b); 7 CFR 233.50;
Eff. November 19, 1980;
Amended Eff. September 1, 1991; October 1, 1990; March 1, 1990; August 1, 1985;
Readopted Eff. October 1, 2021.

10A NCAC 71V .0104 BENEFIT LEVELS
10A NCAC 71V .0105 METHOD OF PAYMENT
10A NCAC 71V .0106 DUPLICATE PAYMENTS AND OVERPAYMENTS

History Note: Authority G.S. 108A-25; 108A-25.4; 143B-153; 42 U.S.C. 8624(b)(7);
Eff. November 19, 1980;
Amended Eff. September 1, 1982; October 19, 1981;
Repealed Eff. October 1, 2021.

10A NCAC 71V .0107 OVERPAYMENTS AND SUSPECTED FRAUD

Instances of overpayments and suspected fraud for households participating in the Low Income Energy Assistance Program shall be governed by the procedures set forth for Correction of Overpayments in 10A NCAC 71W .0604 and Client Fraud and Intentional Program Violations in 10A NCAC 71W .0606.

History Note: Authority G.S. 108A-25; 180A-25.4; 143B-153;
Eff. November 19, 1980;
Amended Eff. August 1, 1985;
Readopted Eff. October 1, 2021.

10A NCAC 71V .0108 APPEALS

History Note: Authority G.S. 108A-25; 143B-153;
Eff. November 19, 1980;
Amended Eff. October 1, 1983; October 19, 1981;
Repealed Eff. October 1, 2021.

10A NCAC 71V .0201 ELIGIBILITY REQUIREMENTS
 A household must meet the following requirements to be eligible for the Crisis Intervention Program:

- (1) A household shall have income at or below 130 percent of the federal poverty income guidelines calculated in accordance with 10A NCAC 71V .0103.
- (2) A household shall be in a heating or cooling related crisis to be eligible for assistance. A household is in a crisis if it is experiencing or is in danger of experiencing a life threatening or health-related emergency and assistance is not available from any other source. An energy crisis means that a household is in danger of experiencing a disconnection with their primary heating or cooling source, or a household is presently without a heating or cooling source due to disconnection, inoperable equipment, or insufficient fuel.
- (3) As a condition of eligibility, United States citizenship for Crisis Intervention Program shall be governed by the procedures set forth in 10A NCAC 71W .0403.

History Note: Authority G.S. 108A-25; 143B-153; 42 USC 8621(a); 8624(b); 7 CFR 233.50;
Temporary Regulation Eff. November 24, 1981, for a period of 38 Days to Expire on January 1, 1982;
Eff. January 1, 1982;
Amended Eff. October 1, 1990; August 1, 1985;
Temporary Amendment Eff. March 13, 2000;
Amended Eff. April 1, 2001;
Readopted Eff. October 1, 2021.

10A NCAC 71V .0202 BENEFIT LEVELS
10A NCAC 71V .0203 METHOD OF PAYMENT

History Note: Authority G.S. 108A-25; 143B-153; 150B-13;

Temporary Regulation Eff. November 24, 1981, for a period of 38 Days to Expire on January 1, 1982;
Eff. January 1, 1982;
Amended Eff. March 1, 1992; August 1, 1985;
Temporary Amendment Eff. March 13, 2000; August 24, 1998;
Amended Eff. November 1, 2007; April 1, 2001; July 1, 2000;
Repealed Eff. October 1, 2021.

10A NCAC 71V .0204 OVERPAYMENTS AND SUSPECTED FRAUD

Instances of overpayments or suspected fraud for households participating in the Crisis Intervention Program shall be governed by the procedures set forth for Correction of Overpayments in 10A NCAC 71W .0604 and Client Fraud and Intentional Program Violations in 10A NCAC 71W .0606.

History Note: Authority G.S. 108A-25; 108A-25.4; 143B-153;
Temporary Regulation Eff. November 24, 1981, for a period of 38 Days to Expire on January 1, 1982;
Eff. January 1, 1982;
Amended Eff. August 1, 1985;
Readopted Eff. October 1, 2021.

10A NCAC 71V .0205 APPEALS

History Note: Authority G.S. 143B-153; 150B-13;
Temporary Regulation Eff. November 24, 1981, for a period of 38 Days to Expire on January 1, 1982;
Eff. January 1, 1982;
Repealed Eff. October 1, 2021.

10A NCAC 71W .0101 DEFINITIONS

The following definitions apply to this Chapter:

- (1) "Adjusted Payment" means a payment to the recipient to correct a county-responsible underpayment.
- (2) "Appeal" means an oral or written request from an applicant, recipient, or former recipient for a hearing to review the action of a county Department of Social Services when the applicant, recipient, or former recipient is dissatisfied with the decision in his case.
- (3) "Applicant" means a person or assistance unit who has applied for Work First.
- (4) "Application Process" means a series of actions beginning with a signed application (written or electronic) and ending the date a payment is authorized or a denial notice is mailed.
- (5) "Assistance Unit" means the total number of persons whose needs are considered in determining the payment amount.
- (6) "Budget Unit" means all those persons for whom application has been made plus anyone in the home who is liable for the support of a member of the assistance unit or whose income is counted as available to the assistance unit.
- (7) "Client" means member of the assistance unit. It may be used interchangeably with participant, payee, recipient, and applicant.

- (8) "Collateral" means a person or organization that can substantiate or verify information necessary to establish eligibility.
- (9) "Determination" means the process of verifying eligibility factors for persons applying for Work First.
- (10) "Disaster" means periods of natural disaster or other emergencies as declared by state or federal authorities.
- (11) "Disregard of Earned Income" means the procedure for exempting certain portions of earned income when determining the amount of payment.
- (12) "Effective Date" means the date for which the benefit is authorized or activated.
- (13) "Electronic Funds Transfer" or "EFT" means the method by which Work First payment is issued. It may be used interchangeably with direct deposit or Electronic Benefit Transfer (EBT) Card.
- (14) "Eligibility, Initial" means the state of eligibility at time of application.
- (15) "ePass" means the North Carolina Electronic Pre-Assessment Screening Service portal through which applications for benefits may be made.
- (16) "Excluded Income" means money received by a member of the budget unit which is not counted in determining eligibility for assistance.
- (17) "Father, Alleged" means the man who is said without proof to be the father of a child. This includes a father who has admitted paternity when paternity has not been established in a court of law.
- (18) "Father, Legal" means:
 - (a) The man who is married to the mother of child at the time of birth of the child, regardless of whether they are living together. The legal father is not necessarily the natural father, but is legally responsible for support; or
 - (b) A man who has been determined by the court to be the father of the child through a paternity suit or by act of legitimation; or
 - (c) A man who has legally adopted the child.
- (19) "Father, Natural" means the biological father of the child. He may be the alleged or legal father.
- (20) "Full-Time Student" means a student so designated by the school in which the student is enrolled.
- (21) "Kinship" means relationship to a child by blood, marriage, or adoption.
- (22) "Minor Mother" means a mother who is under the age of 18.
- (23) "Payee" means the person in whose name the Work First payment is made.

- (24) "Payment Month" means the month for which the payment is made.
- (25) "Prospective Budgeting" means the best estimate of income in the payment month.
- (26) "Reapplication" means a subsequent application when a case has been terminated.
- (27) "Remainder Interest" means property that will be inherited in full at a life estate interest holder's death.
- (28) "Revocable Trust" means funds held in trust that are available for the client's use.
- (29) "Verification" means the confirmation of facts and information used in determining eligibility.
- (30) "Work First Benefits" or "WFB" means the assistance payments made to adults who are required to work or participate in work-related activities.

*History Note: Authority G.S. 108A-25; 108A-27; 143B-153; Eff. February 1, 1984;
Amended Eff. June 1, 1990; August 1, 1988; February 1, 1986;
Temporary Amendment Eff. July 1, 1996;
Recodified from 10 NCAC 49A .0002 Eff. January 1, 1997;
Amended Eff. April 1, 1997;
Readopted Eff. October 1, 2021.*

10A NCAC 71W .0302 INITIAL INTERVIEW

The applicant shall be allowed to have any person(s) of his or her choice participate in the interview. The applicant shall submit an application on a form provided by the Department ("Work First Cash Assistance Application and Review Documentation Workbook" Form DSS-8228, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>).

- (1) The applicant shall provide:
 - (a) the names of collaterals, such as landlords, employers, and others with knowledge of the applicant's situation;
 - (b) information about the applicant's resources;
 - (c) verification of the applicant's earned income and any operational expenses;
 - (d) medical documentation on a form provided by the Department ("Report of Medical Examination Requested by County Social Human Service Agency" Form DSS-8655, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) for applicants unable to participate in employment activities;
 - (e) evidence of good cause claim for non-cooperation with the child support enforcement agency;
 - (f) signed statement from a doctor or medical facility substantiating a pregnancy and the expected due date;
 - (g) a signed consent or declination to complete drug testing requirements; and

- (h) the necessary sources from which the county department of social services can locate and obtain information needed to determine eligibility.
- (2) The client shall report to the county department of social services as follows:
 - (a) report any change in situation that may affect eligibility for a payment within 10 calendar days after the client learns of the change. The meaning of fraud shall be explained. The client shall be informed that they may be suspected of fraud if they fail to report a change in situation and that in such situations, they may have to repay assistance received in error and that they may also be tried by the courts for fraud; and
 - (b) immediately report the receipt of a payment which the client knows to be erroneous, such as two payments for the same month, or a payment in the incorrect amount. If the client does not report such erroneous payments, the client may be required to repay any overpayment.
- (3) The County shall use collateral sources to substantiate or verify information necessary to establish eligibility. Collateral sources of information include knowledgeable individuals, business organizations, public records, and other documentary evidence. If the applicant does not wish necessary collateral contacts to be made, the applicant may withdraw the application. If the applicant denies permission to contact necessary collaterals, the application shall be rejected due to failure to cooperate in establishing eligibility.
- (4) A worker may visit the applicant's home at the county's option.
- (5) The applicant has the right to:
 - (a) be protected against discrimination on the grounds of race, color, national origin, age, disability, or sex;
 - (b) spend assistance payments as desired; however, use of assistance payments must be made in the best interest of the applicant and the applicant's family. A substitute payee may be appointed for those individuals who cannot manage the payments;
 - (c) receive assistance payments until assistance payments are terminated;
 - (d) have any information given to the agency kept in confidence;
 - (e) appeal denials, changes, or terminations of assistance payments; appeal assistance payments which the applicant believes were incorrectly

calculated; or, if the applicant requests a change in the amount of assistance payments, appeal the rejection of the requested change or the agency's failure to act upon the requested change within 30 calendar days of the requested change;

- (f) reapply at any time, if found ineligible;
- (g) withdraw from the assistance program at any time; and
- (h) refuse to comply with drug testing requirements.

History Note: Authority G.S. 108A-27; 108A-29.1; 143B-153; 45 C.F.R. 206.10;
Eff. February 1, 1984;
Amended Eff. June 1, 1990; February 1, 1986;
Temporary Amendment Eff. July 1, 1996;
Amended Eff. April 1, 1997;
Readopted Eff. October 1, 2021.

10A NCAC 71W .0303 ELIGIBILITY DETERMINATION PROCESS

10A NCAC 71W .0304 EFFECTIVE DATE

History Note: Authority G.S. 143B-153; 45 C.F.R. 206.10;
Eff. February 1, 1984;
Repealed Eff. October 1, 2021.

10A NCAC 71W .0403 UNITED STATES CITIZENSHIP

(a) United States Citizenship requirements as set forth in 45 CFR 233.50 is incorporated by reference, including any subsequent amendments and editions, and may be accessed at www.congress.gov at no charge.

(b) Applicants shall declare under penalty of law whether they are a national of the United States. Without this declaration, the individual shall verify his or her qualified immigrant status.

(c) Eligibility requirement pertaining to a social security number requirements as set forth in 7 CFR 273.6 is incorporated by reference, including any subsequent amendments and editions, and may be accessed at www.congress.gov at no charge. Applicants who do not have a social security number shall apply for one and the State may not delay, deny, or discontinue assistance pending the issuance of their social security number. Public agencies shall assist an applicant in applying for a social security number.

History Note: Authority G.S. 108A-27; 143B-153; 45 C.F.R. 233.50; 45 C.F.R. 273.6;
Eff. February 1, 1984;
Amended Eff. August 1, 1988; February 1, 1986;
Readopted Eff. October 1, 2021.

10A NCAC 71W .0404 KINSHIP AND LIVING WITH A SPECIFIED RELATIVE

(a) For eligibility determinations based on kinship and living with a specified relative, children under the age of 21 must have one of the following relationships within the household:

- (1) A parent, including a biological mother or father, a legal father, or adoptive parent(s) after issuance of a final adoptive order;
- (2) An alleged father or other relative of the alleged father;
- (3) A blood or adoptive relative limited to a brother, half-brother, sister, half-sister, grandparent, great-grandparent, great-great-grandparent, uncle, aunt, great uncle or aunt, great-great uncle or aunt, nephew, niece, or first cousin. Spouses or former spouses of these individuals must have legal custody or legal guardianship of the child to meet the kinship requirement if the marriage has been terminated by death or divorce; or
- (4) A step-relative limited to a stepparent or stepsibling. Spouses or former spouses of these individuals must have legal custody or legal guardianship to meet the kinship requirement if the marriage has been terminated by death or divorce.

(b) Verification of kinship shall be made only at application unless previous documentation appears to be incorrect.

- (1) Kinship of a child to a specified relative except for an alleged father shall be verified by examining:
 - (A) birth certificates;
 - (B) hospital records established at birth;
 - (C) marriage record;
 - (D) Social Security Administration records;
 - (E) two of the following:
 - (i) school records;
 - (ii) Buddhist, Christian, Hindu, Islamic or Jewish Sacred Text records;
 - (iii) hospital or physician's records;
 - (iv) court records including adoption records;
 - (v) immigration records;
 - (vi) naturalization records;
 - (vii) church, mosque, temple or synagogue records;
 - (viii) passport;
 - (ix) military records;
 - (x) U.S. census records;
 - (xi) signed statement from an individual having knowledge about the kinship of the child to the specified relative. The statement shall include:
 - (I) name of child;
 - (II) date of birth;
 - (III) place of birth;
 - (IV) individual's relationship; and
 - (V) basis of individual's knowledge.

- (2) Kinship of a child to the alleged father or other alleged paternal relative shall be verified by verifying the child's relationship to the alleged father and if necessary the alleged father's relationship to the alleged paternal relative. Relation to the alleged father shall be verified by examining:

- (A) court records;
- (B) county department of social services records;
- (C) statement signed and dated by the father that acknowledges his paternity;
- (D) two of the following:
 - (i) school records;
 - (ii) Buddhist, Christian, Hindu, Islamic or Jewish Sacred Text records;
 - (iii) hospital or physician records;
 - (iv) court records;
 - (v) immigration records;
 - (vi) naturalization records;
 - (vii) church, mosque, temple or synagogue records;
 - (viii) passport;
 - (ix) military records;
 - (x) U.S. census records;
 - (xi) signed statement from an individual having knowledge about the kinship of the child to the alleged father. The statement shall include:
 - (I) name of child;
 - (II) date of birth;
 - (III) place of birth;
 - (IV) individual's relationship; and
 - (V) basis of individual's knowledge.

(c) Verification that a child is living within the home of a specified relative shall be made during each determination of eligibility by:

- (1) a home visit when there is evidence of the child living in the home;
- (2) use of school records;
- (3) use of child care center records;
- (4) statement of a social worker employed by the county department of social services when, following a home visit, the social worker is able to substantiate that the child is living in the home;
- (5) statement from a non-relative having personal knowledge of the child's living with the specified relative;
- (6) two of the following:
 - (A) medical records, including health department records;
 - (B) Social Security Administration or other benefit records;
 - (C) rental records;

- (D) church, mosque, temple or synagogue records.

History Note: Authority G.S. 108A-24; 108A-25; 108A-27; 143B-153; 45 C.F.R. 233.10; Eff. February 1, 1984; Amended Eff. January 1, 1989; August 1, 1988; February 1, 1986; Readopted Eff. October 1, 2021.

10A NCAC 71W .0405 RESIDENCE

- (a) Clients shall be residents of North Carolina to be eligible to receive assistance.
- (b) Documentation shall be required to verify the applicant's physical address at the time of initial application and at any change in the recipient or applicant's residence on a form created by the Department ("Verification of Household Composition" Form DSS-696, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>).

History Note: Authority G.S. 108A-27; 108A-31; 143B-153; 153A-257; 45 C.F.R. 233.40; Eff. February 1, 1984; Amended Eff. August 1, 1988; February 1, 1986; Readopted Eff. October 1, 2021.

10A NCAC 71W .0407 RESERVE

- (a) A Work First assistance unit shall be allowed to reserve resources at a maximum of three thousand dollars (\$3,000). The assistance unit is ineligible if the reserve level exceeds this maximum.
- (b) Resources owned by the following budget unit members shall be counted for purposes of eligibility of Work First assistance:
 - (1) Parent, adoptive parent, or stepparent unless the individual receives SSI;
 - (2) If the child is included in the payment, the child's resources shall be counted; and
 - (3) Jointly owned resources shall be counted for purposes of eligibility of Work First assistance as follows:
 - (A) If a budget unit member owns resources jointly with another public assistance recipient, the budget unit member's share shall be counted as an available resource. The resource shall be divided equally among the owners unless the owners have a signed agreement specifying division;
 - (B) If a budget unit member owns resources jointly with a non-assistance recipient, and the budget unit member can dispose of the resource without the consent of the other owner, the budget unit member's share shall be counted as an available resource. The resource shall be divided equally among the owners unless they have a signed agreement specifying division; and

(C) If a budget unit member owns resources jointly with a non-assistance recipient, and the budget unit member cannot dispose of the resource without the consent of the other owners, it shall be determined whether the non-assistance recipient consents to the disposal of the resource and counted as follows:

- (i) If the non-assistance recipient consents, the budget unit member's share of the resource shall be counted. Resources shall be divided equally among the owners unless they have a signed agreement specifying division; or
- (ii) If the non-assistance recipient refuses, the budget unit member's share shall not be counted.

(d) Reserve items shall be counted for purposes of eligibility of Work First assistance as follows:

- (1) cash on hand;
- (2) the current balance of savings accounts;
- (3) that portion of a checking account other than the monthly income deposited to meet the family's needs; and
- (4) stocks, bonds, mutual fund shares.

(e) Reserve items shall be excluded for purposes of eligibility of Work First assistance as follows:

- (1) personal effects and household goods;
- (2) a mobile home;
- (3) life insurance;
- (4) burial insurance;
- (5) that portion of a checking account that is the monthly income deposited to meet the family's needs;
- (6) life estate or remainder interest;
- (7) heir property from an estate which has not been settled;
- (8) motor vehicles;
- (9) real property including income-producing property;
- (10) income received from a reverse mortgage;
- (11) retirement funds;
- (12) trust funds;
- (13) remaining balances of lump-sum payments; and
- (14) a Uniform Transfer to Minors Account if the owner of the account is included in the budget unit.

(f) The applicant or recipient's statement of the value of reserve property shall be accepted without further verification unless the statement of value is incomplete, inconsistent, unclear, or the values stated by the applicant or recipient would cause the budget unit's reserve to exceed the reserve maximum.

*History Note: Authority G.S. 108A-27; 143B-153; 45 C.F.R. 233.20;
Eff. February 1, 1984;
Amended Eff. June 1, 1990; February 1, 1986;
Readopted Eff. October 1, 2021.*

10A NCAC 71W .0408 INCOME

(a) The public agency shall consider available earned and unearned income to determine eligibility for and amount of Work First assistance as follows:

- (1) Parents' incomes, including the incomes of adoptive parents and stepparents, shall be counted unless the parent, adoptive parent, or stepparent receives SSI, provided that cash contributions from the parent to the assistance unit shall be counted; and
- (2) Countable net unearned income of a child who is included in the assistance unit shall be counted.

(b) The following items of earned income shall be included in determining eligibility:

- (1) income from wages, salaries, and commissions;
- (2) farm income;
- (3) business income including self-employment;
- (4) rental income; and
- (5) income from roomers and boarders.

(c) The public agency shall consider circumstances that constitute "good cause" for an applicant failing to report a change that may affect payment are limited to:

- (1) a family crisis or change including, but not limited to, the death of a spouse, parent, or child;
- (2) the hospitalization or illness a caretaker, or a dependent child for whom the individual provides care, including participation in substance use treatment or attendance at a medical appointment;
- (3) civil leave, including jury duty or a required court appearance;
- (4) lack of child care for parent or minor parent in school, training, or other work activity; or
- (5) any other reason determined by the Director of the county department of social services, or his or her designee, based on evidence provided by the recipient, applicant, or caretaker.

(d) The following items of unearned income shall be included in determining eligibility for or the amount of assistance:

- (1) OASDHI benefits;
- (2) Veterans Administration benefits;
- (3) Railroad Retirement benefits;
- (4) pensions or retirement benefits;
- (5) workmen's compensation;
- (6) unemployment compensation;
- (7) support payments and contributions;
- (8) work release payments;
- (9) dividends and income from trust funds, stocks, bonds, and other investments;
- (10) private disability or unemployment benefits, including benefits from insurance plans;

- (11) trade readjustment benefits;
- (12) military allotments;
- (13) brown lung benefits;
- (14) black lung benefits;
- (15) lump sum payments;
- (16) cash contributions; and
- (17) any other income unless excluded by federal law of Paragraph (e) of this Rule.

(e) In addition to the unearned income exclusions contained in 45 CFR 233.20, which is incorporated by reference, including subsequent amendments and editions, and may be accessed at www.congress.gov at no charge, the following items of unearned income shall be excluded in determining eligibility for assistance:

- (1) food given to or grown by a member of the household;
- (2) the value of the allotment received under the Food and Nutrition Services Program;
- (3) child support being routed to IV-D Accounting;
- (4) assistance from other agencies and organizations, including financial assistance and in-kind goods or services received from a governmental, civic, or charitable organization so long as such aid is for rehabilitation purposes, special training or educational opportunities and provided no duplication exists;
- (5) HUD Section 8 payments;
- (6) loans (if there is any agreed upon repayment plan);
- (7) assistance received through the Low Income Home Energy Assistance Program including the Crisis Intervention Program;
- (8) home energy assistance as defined in 45 CFR 233.53;
- (9) income paid to a child recipient through the Workforce Innovation and Opportunity Act (WIOA), P.L. 113-128, as need-based payments, payments for supportive services, compensation in lieu of wages and payments to Job Corps participants;
- (10) gifts, including but not limited to birthday, Christmas and graduation. If the payee states in writing the gift was intended for the entire assistance unit, the gift shall be divided among assistance unit members. The gift shall be divided in the manner that is most advantageous to the assistance unit; and
- (11) earned income from temporary census employment.

(f) The applicant or recipient shall provide verification of income including operational expenses for farm or self-employment income. For gifts, the recipient shall be responsible for obtaining a written statement from the provider of the gift indicating the amount, date given and purpose.

History Note: Authority G.S. 108A-25; 108A-27; 108A-33; 143B-153; 45 C.F.R. 233; Eff. February 1, 1984; Temporary Rule Eff. March 5, 1990, for a Period of 180 Days to Expire on August 31, 1990;

Amended Eff. September 1, 1990; June 1, 1990; August 1, 1988; February 1, 1986; Readopted Eff. October 1, 2021.

10A NCAC 71W .0410 PROSPECTIVE BUDGETING AND QUARTERLY REPORTING

The public agency shall estimate the amount of monthly income an applicant shall have in the payment month in accordance with this Rule.

- (1) Income shall be budgeted prospectively for determining eligibility for and the amount of Work First payments. To determine the Work First payment, the following processes shall be followed:
 - (a) For income that is paid on less than a monthly basis, the pay received from each period during a month shall be averaged and converted to a monthly amount as follows. Averaged pay shall be determined by:
 - (i) multiplying pay received by 2 if pay is received twice per month;
 - (ii) multiplying pay received by 2.15 if pay is received every two weeks;
 - (iii) multiplying pay received by 4.3 if pay is received weekly; or
 - (iv) dividing pay received by 3 if pay is received quarterly.
 - (b) For child support, regular self-employment, or income that is received once per month, the amount received from two previous successive months shall be averaged to arrive at one monthly amount.
 - (c) Annualized self-employment income shall be averaged over the lesser of the following period: the number of months the business has been in operation or 12 months.
- (2) The monthly income calculated in Paragraph (a) of this Rule shall be used to determine the Work First payment.
- (3) Quarterly reporting shall be required for error-prone classes of recipients as defined by the State based on quality control and other management data. The quarterly reporting process shall follow the processing requirements pursuant to 45 CFR 233.37 which is hereby incorporated by reference including subsequent amendments and editions. This document may be accessed at www.congress.gov at no charge.
- (4) Work First recipients shall be required to report all changes in income within 10 calendar days after they become aware a change has occurred.

History Note: Authority G.S. 143B-153; 45 C.F.R. 233.28; 45 C.F.R. 233.36; 45 C.F.R. 233.37;
Eff. February 1, 1984;
Amended Eff. August 1, 1988; February 1, 1986;
Temporary Amendment Eff. July 1, 1996;
Amended Eff. April 1, 1997;
Readopted Eff. October 1, 2021.

10A NCAC 71W .0412 JOBS PROGRAM (JOBS)

History Note: Authority G.S. 143B-153; 45 C.F.R. 250.30;
Eff. October 1, 1990;
Repealed Eff. October 1, 2021.

10A NCAC 71W .0413 TWO-PARENT FAMILIES

History Note: Authority G.S. 108A-25; S.L. 1997-443; P.L. 104-193;
Temporary Adoption Eff. March 1, 1998;
Eff. April 1, 1999;
Repealed Eff. October 1, 2021.

**10A NCAC 71W .0502 INTERVIEW
 10A NCAC 71W .0503 HOME VISITS**

History Note: Authority G.S. 143B-153; 45 C.F.R. 206.10;
Eff. February 1, 1984;
Repealed Eff. October 1, 2021.

10A NCAC 71W .0601 ISSUANCE OF FUNDS

(a) Work First payments shall be prorated from the date of application, with the date of the application being day one. Otherwise, payments are made for the full month. Payments, including prorated payments for the month of application or termination, shall not be made for less than twenty five dollars (\$25.00). The State Division of Social Services shall issue Work First payments through Electronic Funds Transfer (EFT). The recipient may select one of the following deposit options:

- (1) By direct deposit to a recipient's checking or savings account at the recipient's financial institution; or
- (2) By Electronic Benefits Transfer (EBT) card.

(b) The applicant, recipient or payee shall be informed of the two payment options in this Rule at application and reapplication and provided the following information:

- (1) A household that elects to receive Work First payments through an EBT card shall receive an initial EBT card at no cost.
- (2) A Work First household that requests a replacement EBT card shall be assessed a two dollar fifty cent (\$2.50) fee unless the household can establish that their original EBT card:
 - (A) was lost in the mail or damaged by the card vendor prior to receipt by the Work First household;
 - (B) is being replaced due to a name change on card;

- (C) was lost due to a natural disaster such as a fire, flood, tornado, earthquake, or hurricane; or
 - (D) was damaged by a retailer or vendor.
- (3) The fee shall be deducted from the account of the Work First household.

(c) Recipients and payees of Work First cash assistance shall be informed at application and reapplication they may not access or use EBT cards in the following establishments: liquor stores; casinos or gaming establishments; or any establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state.

- (1) These restrictions apply to all Work First households including households where the adult caretaker is not included in the case but serves as the case payee.
- (2) Applicants and recipients shall be advised of the restrictions at initial application, reapplication, and redetermination of eligibility.
- (3) Recipients or payees who use or access Work First cash assistance in an EBT transaction in any liquor store; any casino or gaming establishment; or any retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state may be subject to penalties as defined by the State Division of Social Services.

History Note: Authority G.S. 108A-27; 143B-153; 7 CFR 274.6(b);
Eff. February 1, 1984;
Readopted Eff. October 1, 2021.

**10A NCAC 71W .0602 RECEIPT AND USE OF CHECKS
 10A NCAC 71W .0603 LOST, STOLEN AND FORGED CHECKS**

History Note: Authority G.S. 143B-153; 45 C.F.R. 233.20; 45 C.F.R. 234.60;
Eff. February 1, 1984;
Amended Eff. June 1, 1990; May 1, 1988;
Repealed Eff. October 1, 2021.

10A NCAC 71W .0604 CORRECTION OF OVERPAYMENTS

(a) If the recipient is not entitled to all or part of a payment which has been issued and fraud is not suspected, the county shall take all steps to recover any overpayment.

(b) A county may recoup a Work First overpayment from a recipient's Work First payment, on account of an overpayment made to the recipient's spouse, parent, child, sibling, or other person, only if the recipient, at the time the overpayment occurred, was:

- (1) 18 years of age or older;
- (2) living with the person; and
- (3) part of the assistance unit.

(c) Overpayments shall be collected by the State as follows:

- (1) voluntary repayment by grant reduction or recipient refund;
- (2) involuntary repayment by grant reduction;
- (3) if an overpayment occurs due to a county error in complying with federal or State law, the overpayment shall be recouped by the State;
- (4) if an overpayment occurs due to a state or county processing error, the overpayment shall be recouped from the recipient if the recipient was provided notification of the amount of Work First they were eligible to receive; or
- (5) if an overpayment occurs due to a state error in federal or State law, the overpayment shall be charged to the State.

History Note: Authority G.S. 108A-27; 143B-153; 45 C.F.R. 233.20;

Eff. February 1, 1984;

Amended Eff. September 1, 1991; January 1, 1985;

Readopted Eff. October 1, 2021.

10A NCAC 71W .0605 CORRECTION OF UNDERPAYMENTS

When a Work First household has been underpaid due to an error by the State, county, participant, or due to any other reason, the underpayment shall be corrected by issuing a supplemental payment in the amount by which the Work First household was underpaid.

History Note: Authority G.S. 108A-27; 143B-153; 45 C.F.R. 233.20;

Eff. February 1, 1984;

Readopted Eff. October 1, 2021.

10A NCAC 71W .0606 CLIENT FRAUD AND INTENTIONAL PROGRAM VIOLATIONS

(a) In order to prevent fraud, county department of social services shall be responsible for fraud prevention as follows:

- (1) Develop an operational program for fraud prevention, detection, and investigation. Requirements shall be based on the following:
 - (A) the number of recipients;
 - (B) the effectiveness of the fraud prevention program;
 - (C) the frequency of suspected fraud cases, and cases; and
 - (D) the resources available to the agency.
- (2) Designate staff to be responsible for fraud prevention, detection, and investigation.
- (3) The recipient shall be notified of the county's intent to recover the payment no less frequently than at each eligibility review of his or her obligation to report within 10 days, all changes in income, resources, or other changes which may affect the amount of payment. Failure to do so within that time may constitute a willful withholding of such information, and permit the county department of social services to recover the overpayment.

(b) In order to detect and investigate fraud, county department of social services shall be responsible for detection and investigation as follows:

- (1) Investigate any information which indicates that a recipient may be receiving Work First to which the recipient is not entitled.
- (2) In the investigation the staff designated for fraud shall:
 - (A) verify that all responsibilities have been fulfilled as set forth in the rules governing the Work First program;
 - (B) determine whether further investigation should be undertaken to support the belief that fraud is suspected;
 - (C) evaluate the evidence to substantiate fraud and the intent to defraud; and
 - (D) determine the amount of the erroneous payment.
- (3) When there is reason to suspect fraud, the county department of social services director must ensure that the agency has explained to the recipient responsibilities for reporting any change in their circumstances to the agency. The director shall determine whether the agency should investigate further and shall present the case and fraud summary to the county board of social services for action unless the board has delegated this responsibility to the Director.
- (4) The fraud summary shall include:
 - (A) identifying information;
 - (B) a description of the fraudulent act;
 - (C) evidence to substantiate fraud and the intent to defraud;
 - (D) evidence to substantiate the amount of ineligible assistance received; and
 - (E) information concerning the recipient's competency, educational background, ability to know right from wrong, any statement volunteered by the recipient in response to the accusation and any other information which may help explain the recipient's current situation.
- (c) In order to determine if fraud is suspected, county board of social services shall be responsible for the following:
 - (1) The county board of social services, or its designee, shall determine whether there is a basis for the belief that misrepresentation may have been committed by a person.
 - (2) The county board, or its designee, shall determine if the person:
 - (A) willfully and knowingly misstated, provided incorrect or misleading information in response to either oral or written questions;

- (B) willfully and knowingly failed to report changes which might have affected the amount of payment; or
- (C) willfully and knowingly failed to report the receipt of benefits which the person knew they were not entitled to receive.
- (3) There must be physical evidence to substantiate a determination that fraud was the reason for the overpayment.
- (4) If the board, or its designee, determines fraud is suspected, it shall instruct the agency to pursue one or more, of the following actions:
 - (A) Seek administrative recoupment which is defined as:
 - (i) involuntary reduction of Work First grant may be collected from all income and assets of the assistance unit. The assistance unit shall retain an amount not less than 90 percent of the assistance payment received by a family of similar composition with no other income;
 - (ii) a voluntary grant reduction. There is no limitation on the amount of the reduction;
 - (iii) voluntary recipient refund. There is no limitation on the amount of the refund;
 - (iv) NC Debt Setoff Collection. NC Debt Set-off (Tax Intercept) is the process by which the North Carolina Department of Health and Human Services (DHHS) intercepts income tax refunds through the North Carolina Department of Revenue (DOR) to repay Intentional Program Violation (IPV) and Inadvertent Household Error (IHE) Claims of current/former Work First recipients.
 - (B) An administrative disqualification hearing or referral for prosecution shall be initiated by the county department of social services.
 - (i) The county department of social services shall initiate a hearing as follows:
 - (I) Evidence indicates that an individual has intentionally violated a program rule in order to receive cash

assistance for which the individual is not eligible. The hearing shall be held and any administrative action initiated within 90 days of the date the individual is notified in writing that the hearing has been scheduled. No hearing shall be held when the amount of the overpayment is less than one hundred dollars (\$100.00).

(II) The county board of social services shall designate the county director or their impartial county employee to act as the hearings officer. Duties are to: provide written notification of the hearing date, time, and location to the individual at least 30 days in advance of the date of the hearing. Written notification of the hearing shall include the individual's right to have legal representation, a witness or witnesses, or waive the hearing; conduct the hearing to collect all evidence and testimony; render a written decision to the individual and DSS within 15 days as to whether an intentional program violation has occurred. Written notification that the hearing decision will be mailed by Certified Mail

Return Receipt Requested. The notice shall inform the individual of the right to further appeal to the State (or higher local authority) and the procedures for such appeal. When an intentional program violation is found, the notification will inform the individual of the length of the sanction and that individual remains a part of the Work First case and subject to program requirements. When no intentional program violation is found, the notification shall inform the individual that the overpayment shall be collected pursuant to this Subchapter.

(ii) The county department of social services shall sanction.

(I) Apply disqualification sanctions as follows: 12 months of ineligibility for the first offense; 24 months for the second offense; and permanently disqualified for the third offense.

(II) The sanction shall be applied by reducing Work First cash assistance payment by the disqualified person's share of the payment for the period of sanction. The disqualified person remains a part of the Work First case.

(iii) The county department of social services will follow procedures pursuant to Part (c)(4)(A) of this Rule in the collection of overpayments.

(C) civil court action; or

(D) criminal court action.

(d) The county board of social services shall follow up with the State Division of Social Services as follows:

(1) If the board, or its designee, suspects fraud, the department's findings and actions shall be reported to the State Division of Social Services. The county department of social services director shall keep the county board of social services and State Division of Social Services informed on all cases referred for court and repayment action.

(2) The county department of social services shall support the local prosecutor by accomplishing interviews in accordance with the prosecutor's requirements, recommending possible witnesses, providing investigative reports, and taking other action deemed necessary by legal authorities.

(3) Regardless of what action is taken by the board or the court, the county shall continue to work with the individual and shall notify the individual of the action taken in their case.

(4) The county shall maintain records on the number of cases referred for investigation, the number of suspected fraud referrals, action taken to recover the overpayment and amounts recovered.

(e) In fraud cases, if a county fails to act promptly on indications of ineligibility, federal and state financial participation shall not be available.

History Note: Authority G.S. 108A-27; 108A-39; 108A-79; 143B-153; 45 C.F.R. 235.110;

Eff. February 1, 1984;

Amended Eff. June 1, 1990; February 1, 1986;

Temporary Amendment Eff. June 17, 1998;

Amended Eff. April 1, 1999;

Readopted Eff. October 1, 2021.

10A NCAC 71W .0607 DETERMINATION OF PAYMENT AMOUNT

History Note: Authority G.S. 143B-153; c. 738, 1987 Session Laws;

Temporary Adoption Eff. January 1, 1988 For a Period of 180 Days to Expire on June 28, 1988;

Eff. May 1, 1988;

Repealed Eff. October 1, 2021.

10A NCAC 71W .0704 EMERGENCY ASSISTANCE

(a) Counties shall use their Work First block grant funds to provide emergency assistance to families. This assistance is designed to assist with families' sporadic emergency needs, such

as a utility cut-off or an eviction notice. Emergency assistance is not designed specifically to help families move to self-sufficiency, although, use of this assistance may help a family's progress.

(b) Emergency assistance shall be provided to or on behalf of a child under the age of 21, the specified relative of the child, and any other member of the household in which he or she is living. The child under the age of 21 who is within the specified degree of relationship shall be living with the specified relative or have lived with the specified relative within six months prior to the month in which emergency assistance is requested.

(c) The public agency shall determine if the household is eligible for emergency assistance as follows:

- (1) The households countable reserve is at or below two thousand two hundred dollars (\$2200).
- (2) The maximum emergency assistance benefit per household is three hundred dollars (\$300.00) during 30 consecutive days. Assistance cannot be received again within a 12 consecutive month period.
- (3) When the public agency purchases in-kind goods or contracts for the purchase of services to alleviate or to prevent destitution of the family, the value of the in-kind goods or contracted services purchased with the emergency assistance shall be established and considered when authorizing the benefit level.
 - (A) For in-kind goods, the value shall be the actual purchase price of the goods; and
 - (B) For contracted services, the provider shall submit to the agency a written statement of the value of the service purchased with the emergency assistance.

History Note: Authority G.S. 108A-27; 143B-153; 45 C.F.R. 233.120;

Temporary Rule Eff. November 1, 1986 for a period of 62 days to expire on January 1, 1987;

Eff. January 1, 1987;

Amended Eff. June 1, 1990; August 1, 1988;

Temporary Amendment Eff. November 7, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Temporary Amendment Eff. January 1, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Amended Eff. March 1, 1995;

Readopted Eff. October 1, 2021.

TITLE 11 - DEPARTMENT OF INSURANCE

11 NCAC 04 .0116 INQUIRIES AND INFORMATION

The toll free telephone number for the Consumer Services Division is 1-855-408-1212. The mailing address of the Consumer Services Division is: North Carolina Department of

Insurance, 1201 Mail Service Center, Raleigh, North Carolina 27699-1201; (Attention: Consumer Services Division). The street address of the Consumer Services Division is North Carolina Department of Insurance Consumer Services Division, Albemarle Building, 325 North Salisbury Street, Raleigh, North Carolina.

History Note: Authority G.S. 58-2-25; 58-2-40;

Eff. December 15, 1979;

Amended Eff. January 1, 2018; July 1, 2012; April 1, 1989; July 1, 1986;

Readopted Eff. October 1, 2021.

11 NCAC 04 .0121 PREMIUM PAYMENT RECEIPTS

All premium payment receipts and copies issued by an agent, broker, or limited representative, shall be dated and contain the printed or stamped name and address of the agency or agent, broker, or limited representative, and the name of the insurer. Receipts shall be signed by the person accepting the payment.

History Note: Authority G.S. 58-2-40; 58-2-185; 58-2-195;

Eff. February 1, 1993;

Amended Eff. February 1, 1996;

Readopted Eff. October 1, 2021.

11 NCAC 04 .0122 POWER-OF-ATTORNEY

Except for authorizations given in accordance with G.S. 58-45-35(a) or G.S. 58-46-15, no agent, broker, or limited representative shall solicit a power-of-attorney from a consumer that authorizes the agent, broker, or limited representative to sign insurance-related forms.

History Note: Authority G.S. 58-2-40; 58-2-195;

Eff. February 1, 1993;

Readopted Eff. October 1, 2021.

11 NCAC 04 .0417 DRIVE-IN CLAIM SERVICE FACILITIES

No insurer shall require any claimant to use a drive-in claim service operated by the insurer. The claimant's voluntary utilization of a drive-in claim service or preferred repair shop shall not prejudice the right of either party to obtain independent appraisals and negotiate settlement on the basis of such appraisals.

History Note: Authority G.S. 58-2-40; 58-63-65;

Eff. December 15, 1979;

Amended Eff. July 1, 2012;

Readopted Eff. October 1, 2021.

11 NCAC 04 .0430 PROOF OF MAILING; AUTOMOBILE INSURANCE

As used in G.S. 58-36-85, "proof of mailing" means a certificate issued by and bearing the date stamp of the United States Postal Service or an official United States Postal Service tracking number or similar proof of mailing.

History Note: Authority G.S. 58-2-40; 58-36-85;

Eff. February 1, 1993;

Amended Eff. July 1, 2012; February 1, 1996;

Readopted Eff. October 1, 2021.

**TITLE 15A - DEPARTMENT OF ENVIRONMENTAL
QUALITY**

**15A NCAC 10C .0302 MANNER OF TAKING INLAND
GAME FISHES**

(a) Inland game fishes may only be taken with hook and line unless otherwise provided.
(b) Landing nets may be used to land fishes caught on hook and line.

(c) Game fishes taken incidental to:

- (1) commercial fishing operations in joint fishing waters or coastal fishing waters shall be immediately returned to the water unharmed.
- (2) the use of special devices for taking nongame fishes from inland fishing waters as authorized in Rule .0402 of this Subchapter or as authorized by 15A NCAC 10C .0407 by anglers licensed under G.S. 113-272.2(c) shall be immediately returned to the water unharmed except:
 - (A) that a daily creel limit of American and hickory shad may be taken with dip nets and bow nets from March 1 through April 30 in those waters where such gear may be lawfully used; and
 - (B) white perch may be taken when captured in a cast net being used to collect nongame fishes in all impounded waters west of Interstate 95 and in the Tar River Reservoir (Nash County).

(d) In the inland waters of the Roanoke River upstream of U.S. 258 bridge, only a single barbless hook or a lure with a single barbless hook may be used from 1 April to 30 June. "Barbless" as used in this Rule requires that the hook does not have a barb or the barb is bent down.

*History Note: Authority G.S. 113-134; 113-272.3; 113-292; Eff. February 1, 1976;
Amended Eff. July 1, 1996; October 1, 1994; July 1, 1993; May 1, 1992; January 1, 1982;
Temporary Amendment Eff. November 1, 1998;
Amended Eff. August 1, 2014; August 1, 2002; April 1, 1999;
Readopted Eff. October 1, 2021.*

**15A NCAC 10C .0307 FLOUNDER, SEA TROUT, AND
RED DRUM**

In inland fishing waters, Sea Trout (Spotted or Speckled), Flounder, and Red Drum (also known as Channel Bass, Red Fish or Puppy Drum) recreational seasons, size limits, and creel limits are the same as those established in the Rules of the Marine Fisheries Commission or proclamations issued by the Fisheries Director in adjacent joint or coastal fishing waters.

History Note: Authority G.S. 113-134; 113-292; 113-304; 113-305;

*Eff. November 1, 2013;
Readopted Eff. October 1, 2021.*

15A NCAC 10C .0309 MUSKELLUNGE

- (a) The daily creel limit for Muskellunge is one fish.
- (b) The minimum size limit is 42 inches.
- (c) There is no closed season.

*History Note: Authority G.S. 113-134; 113-292;
Eff. November 1, 2013;
Readopted Eff. October 1, 2021.*

15A NCAC 10C .0310 PICKEREL

- (a) There is no daily creel limit for Pickerel (Chain and Redfin).
- (b) There is no minimum size limit.
- (c) There is no closed season.

*History Note: Authority G.S. 113-134; 113-292;
Eff. November 1, 2013;
Readopted Eff. October 1, 2021.*

15A NCAC 10C .0311 ROANOKE AND ROCK BASS

- (a) There is no daily creel limit for Roanoke and Rock Bass, except for waters identified in Paragraph (d) of this Rule.
- (b) There is no minimum size limit, except for waters identified in Paragraph (d) of this Rule.
- (c) There is no closed season.
- (d) In all public fishing waters east of Interstate 77, the daily creel limit for Roanoke and Rock Bass is two fish in the aggregate and the minimum size for these fish is eight inches.

*History Note: Authority G.S. 113-134; 113-292;
Eff. November 1, 2013;
Readopted Eff. October 1, 2021.*

15A NCAC 10C .0312 SAUGER

- (a) The daily creel limit for Sauger is eight fish.
- (b) The minimum size limit is 15 inches.
- (c) There is no closed season.

*History Note: Authority G.S. 113-134; 113-292;
Eff. November 1, 2013;
Readopted Eff. October 1, 2021.*

15A NCAC 10C .0315 SUNFISH

- (a) For purposes of this Rule, Sunfish include bluegill, redbreast, redear, pumpkinseed, warmouth, flier, and all other species of the sunfish family (Centrarchidae) not specified in 15A NCAC 10C .0305, .0306, .0311, .0321, .0322, or .0323.
- (b) There is no daily creel limit for Sunfish, except for waters identified in Paragraph (e) of this Rule.
- (c) There is no minimum size limit.
- (d) There is no closed season.
- (e) In the following waters and all their tributaries, the daily creel limit for Sunfish is 30 in the aggregate, no more than 12 of which may be Redbreast Sunfish:
 - (1) Roanoke River downstream of Roanoke Rapids Dam;

- (2) Tar River downstream of Tar River Reservoir Dam;
- (3) Neuse River downstream of Falls Lake Dam;
- (4) Haw River downstream of Jordan Lake Dam;
- (5) Deep River downstream of Lockville Dam;
- (6) Cape Fear River;
- (7) Waccamaw River downstream of Lake Waccamaw Dam;
- (8) Lumber River including Drowning Creek; and
- (9) all other public fishing waters east of Interstate 95, except Tar River Reservoir in Nash County.

*History Note: Authority G.S. 113-134; 113-292;
Eff. November 1, 2013;
Readopted Eff. October 1, 2021.*

15A NCAC 10C .0317 WALLEYE

- (a) The daily creel limit for Walleye is eight fish except for waters identified in Paragraphs (d) and (f) of this Rule.
- (b) There is no minimum size limit except for waters identified in Paragraphs (e) and (f) of this Rule.
- (c) There is no closed season.
- (d) In Linville River upstream upstream from the NC 126 bridge, the daily creel limit for Walleye is four fish.
- (e) In Lake James and its tributaries, except the Linville River upstream from the N.C. 126 bridge, the minimum size limit for walleye is 15 inches.
- (f) In John H. Kerr Reservoir, Lake Gaston, and Roanoke Rapids Lake, the daily creel limit is five fish and the minimum size limit for Walleye is 18 inches.

*History Note: Authority G.S. 113-134; 113-292;
Eff. November 1, 2013;
Readopted Eff. October 1, 2021.*

15A NCAC 10C .0319 WHITE PERCH

- (a) There is no daily creel limit for White Perch.
- (b) There is no minimum size limit.
- (c) There is no closed season.
- (d) In and west of Haywood, Buncombe, and Rutherford counties, it is unlawful to transport, possess, or release live White Perch.

*History Note: Authority G.S. 113-134; 113-292; 113-304;
113-305;
Eff. November 1, 2013;
Amended Eff. August 1, 2016;
Readopted Eff. October 1, 2021.*

15A NCAC 10C .0320 YELLOW PERCH

- (a) There is no daily creel limit for Yellow Perch.
- (b) There is no minimum size limit.
- (c) There is no closed season.

*History Note: Authority G.S. 113-134; 113-292; 113-304;
113-305;
Eff. November 1, 2013;
Readopted Eff. October 1, 2021.*

15A NCAC 10C .0501 SCOPE AND PURPOSE

*History Note: Authority G.S. 113-132; 113-134;
Eff. September 1, 1990;
Amended Eff. July 1, 2000;
Repealed Eff. October 1, 2021.*

15A NCAC 10C .0502 PRIMARY NURSERY AREAS DEFINED

Primary nursery areas are defined as those areas inhabited by the embryonic, larval, or juvenile life stages of marine or estuarine fish or crustacean species due to favorable physical, chemical, or biological factors.

*History Note: Authority G.S. 113-132; 113-134;
Eff. August 1, 1990;
Amended Eff. July 1, 2000;
Readopted Eff. October 1, 2021.*

15A NCAC 10C .0503 DESCRIPTIVE BOUNDARIES

The following waters have been designated as primary nursery areas:

- (1) North River:
 - (a) Broad Creek - Camden County - Entire stream;
 - (b) Deep Creek - Currituck County - Entire stream; and
 - (c) Lutz Creek - Currituck County - Entire stream.
- (2) Alligator River:
 - (a) East Lake - Dare County - Inland waters portion; and
 - (b) Little Alligator River - Tyrrell County - Entire stream.
- (3) Currituck Sound:
 - (a) Martin Point Creek - Dare County - Entire stream (Jean Guite Creek); and
 - (b) Tull Creek and Bay - Currituck County - Tull Bay to mouth of Northwest River; Tull Creek from mouth upstream to SR 1222 bridge.
- (4) Pamlico River:
 - (a) Duck Creek - Beaufort County - Entire stream;
 - (b) Bath Creek - Beaufort County - Entire stream;
 - (c) Mixons Creek - Beaufort County - Entire stream;
 - (d) Porter Creek - Beaufort County - Entire stream;
 - (e) Tooleys Creek - Beaufort County - Entire stream;
 - (f) Jacobs Creek - Beaufort County - Entire stream;
 - (g) Jacks Creek - Beaufort County - Entire stream;
 - (h) Bond Creek - Beaufort County - Entire stream;

- (i) Muddy Creek - Beaufort County - Entire stream;
- (j) Strawhorn Creek - Beaufort County - Entire stream;
- (k) South Prong Wright Creek - Beaufort County - Entire stream; and
- (l) Jordan Creek - Beaufort County - Entire stream.
- (5) Neuse River:
 - (a) Slocum Creek - Craven County - Entire stream; and
 - (b) Hancock Creek - Craven County - Entire stream.
- (6) New River:
 - (a) French Creek - Onslow County - Entire stream; and
 - (b) New River - Onslow County - US Highway 17 bridge to NC 24/US 258 bridge.
- (7) Roanoke River: Halifax and Northampton counties - US 258 bridge to Roanoke Rapids dam.
- (8) Tar-Pamlico River: Nash, Edgecombe, Pitt and Beaufort counties - N&S railroad at Washington upstream to Rocky Mount Mills Dam.
- (9) Neuse River: Wake, Johnston, Wayne, Lenoir, Pitt and Craven counties - Pitchkettle Creek upstream to Milburnie Dam.
- (10) Cape Fear River: Chatham, Lee, Harnett, Cumberland and Bladen counties - Lock and Dam No. 1 upstream to Buckhorn Dam.
- (11) Albemarle Sound: Peter Mashoes Creek – Dare County – Entire Stream.
- (12) Croatan Sound: Spencer Creek – Dare County – Entire Stream.
- (13) White Oak River: Onslow and Jones counties – Grants Creek upstream to Gibson Bridge Road (SR 1118).
- (14) Northeast Cape Fear River: Pender County – NC 210 bridge upstream to NC 53 bridge.

observation of spawning, capture of running ripe females, or capture of eggs or early larvae.

History Note: Authority G.S. 113-132; 113-134; Eff. May 1, 2008; Readopted Eff. October 1, 2021.

15A NCAC 10C .0603 DESCRIPTIVE BOUNDARIES

The following waters have been designated as anadromous spawning areas:

- (1) Currituck Sound Area:
 - (a) Northwest River including designated tributaries - main stem waters west of a line beginning on the north shore at a point 36° 30.8374' N – 76° 04.8770' W; running southerly to the south shore to a point 36° 30.7061' N – 76° 04.8916' W; and south of a line beginning on the west shore at a point 36° 33.0259' N – 76° 09.1609' W; running easterly to the east shore to a point 36° 33.0292' N – 76° 08.9488' W; including the following tributary from the confluence with Northwest River in the direction indicated to the specified boundary: Moyock Run (Shingle Landing Creek) - upstream (southwest) to a line beginning on the west shore at a point 36° 31.5252' N – 76° 10.7385' W; running easterly along US 168 (Caratoke Highway) to the east shore to a point 36° 31.5140' N – 76° 10.7239' W.
 - (b) Tull Creek - southwest of a line beginning on the north shore at a point 36° 30.0991' N – 76° 04.8587' W; running southeasterly to the south shore to a point 36° 29.9599' N – 76° 04.7126' W; including the following tributaries from their confluence with Tull Creek to the specified boundary:
 - (i) Roland Creek - upstream (northwest) to a line beginning on the north shore at a point 36° 29.8274' N – 76° 08.1294' W; running southerly to the south shore to a point 36° 29.8120' N – 76° 08.1308' W; and east of a line beginning on the northwest shore of Guinea Mill Run Canal at a point 36° 28.9227' N – 76° 07.9126' W; running southerly along US 168 bridge (Caratoke Highway) to the southeast shore at a point 36° 28.9045' N – 76° 07.8956' W.

History Note: Authority G.S. 113-132; 113-134; Eff. August 1, 1990; Amended Eff. May 1, 2008; November 1, 2007; August 1, 2004; July 1, 2000; July 1, 1993; Readopted Eff. October 1, 2021.

15A NCAC 10C .0601 SCOPE AND PURPOSE

History Note: Authority G.S. 113-132; 113-134; Eff. May 1, 2008; Repealed Eff. October 1, 2021.

15A NCAC 10C .0602 ANADROMOUS FISH SPAWNING AREAS DEFINED

Anadromous fish spawning areas are those areas where evidence of spawning of anadromous fishes has been documented by direct

- (ii) New Bridge Creek - upstream (south) to a line beginning on the northwest shore at a point 36° 28.0046' N – 76° 06.3312' W; running southeasterly along US 168 bridge (Caratoke Highway) to the southeast shore to a point 36° 27.9970' N – 76° 06.3243' W.
 - (iii) Cowells Creek - upstream (south) to a line beginning on the west shore at a point 36° 27.1571' N – 76° 04.5391' W; running easterly along US 168 bridge (Caratoke Highway) to the east shore to a point 36° 27.1542' N – 76° 04.5128' W.
 - (iv) Buckskin Creek - upstream (southeast) to a line beginning on the west shore at a point 36° 27.1925' N – 76° 04.1671' W; running easterly along US 168 bridge (Caratoke Highway) to the east shore to a point 36° 27.1989' N – 76° 04.1400' W.
- (c) West Landing - north of a line beginning on the west shore at a point 36° 30.9867' N – 76° 02.5868' W; running easterly to the east shore to a point 36° 31.0045' N – 76° 02.3780' W; and west of a line beginning on the north shore at a point 36° 31.5828' N – 76° 02.2977' W; running southerly to the south shore to a point 36° 31.5618' N – 76° 02.2870' W.
- (2) Albemarle Sound Area:
 - (a) Big Flatty Creek - west of a line beginning on the north shore at a point 36° 09.3267' N – 76° 08.2562' W; running southerly to the south shore to a point 36° 08.9730' N – 76° 08.3175' W; including the following tributaries from the confluence with Big Flatty Creek in the direction indicated to the specified boundary:
 - (i) Chapel Creek - upstream (northwest) to a line beginning on the north shore at a point 36° 09.6689' N – 76° 09.9595' W; running southerly along SSR 1103 (Esclip Road) to the south shore to a point 36° 09.6522' N – 76° 09.9612' W.
 - (ii) Mill Dam Creek - upstream (southwest) to a line beginning on the north shore at a point 36° 09.0094' N – 76° 10.1667' W; running southerly along SSR 1103 (Esclip Road) to the south shore to a point 36° 08.9931' N – 76° 10.1611' W.
 - (b) Salmon Creek - southwest of a line beginning on the north shore at a point 36° 00.4648' N – 76° 42.3513' W; running southeasterly to the south shore to a point 36° 00.3373' N – 76° 42.1499' W; and south of a line beginning on the west shore at a point 36° 02.4783' N – 76° 45.8164' W; running easterly to the east shore to a point 36° 02.4807' N – 76° 45.7906' W.
 - (c) Mackeys (Kendrick) Creek - southeast of a line beginning on the north shore at a point 35° 56.3806' N – 76° 36.4356' W; running southwesterly to the south shore to a point 35° 56.3122' N – 76° 36.4613' W; and northwest of a line beginning on the southwest shore at a point 35° 52.5564' N – 76° 37.0968' W; running northeasterly along SSR 1122 bridge (Buncombe Avenue) to the northeast shore to a point 35° 52.5470' N – 76° 37.1113' W; including the following tributary from its confluence with Mackeys Creek in the direction indicated to the specified boundary: Main Canal - upstream (southeast) to a line beginning on the southwest shore at a point 35° 52.8229' N – 76° 36.6916' W; running northeasterly along SSR 1122 (Buncombe Avenue) to the northeast shore to a point 35° 52.8390' N – 76° 36.6708' W.
 - (d) Deep Creek (Washington County) - west of a line beginning on the north shore at a point 35° 56.1291' N – 76° 23.1179' W; running southerly to the south shore to a point 35° 56.0744' N – 76° 23.1230' W; and east of a line beginning on the north shore at a point 35° 55.4610' N – 76° 25.3996' W; running southerly along SSR 1302 bridge (Pea Ridge Road) to the south shore to a point 35° 55.4323' N – 76° 25.3974' W; and east of line beginning on the north shore at a point 35° 55.7173' N – 76° 25.3848' W; running southerly along SSR 1302 bridge (Pea Ridge Road) to the south shore to a point 35° 55.6863' N – 76° 25.3957' W.

- (e) Banton (Bunton or Maybell) Creek - south of a line beginning on the west shore at a point 35° 56.0552' N – 76° 22.0664' W; running northeasterly to the east shore to a point 35° 56.1151' N – 76° 21.8760' W; and northeast of a line beginning on the west shore at a point 35° 55.6117' N – 76° 22.2463' W; running easterly to the east shore to a point 35° 55.6128' N – 76° 22.2126' W.
- (f) Tom Mann Creek - south of a line beginning on the west shore at a point 35° 58.5296' N – 75° 52.8982' W; running easterly to the east shore to a point 35° 58.5175' N – 75° 53.6851' W.
- (g) Peter Mashoes Creek - west of a line beginning on the north shore at a point 35° 57.2344' N – 75° 48.3087' W; running southerly to the south shore to a point 35° 56.7805' N – 75° 48.3563' W.
- (3) North River, including Indiantown Creek and other designated tributaries - main stem waters west of a line beginning on the north shore at a point 36° 18.7703' N – 75° 58.7384' W; running southerly to the south shore to a point 36° 18.4130' N – 75° 58.7228' W; and south of a line beginning on the west shore at a point 36° 21.7982' N – 76° 07.0726' W; running easterly along US 158 bridge to the east shore to a point 36° 21.8030' N – 76° 07.0612' W; including the following tributary from the confluence with North River in the direction indicated to the specified boundary: Crooked Creek - upstream (west) to a line beginning on the north shore at a point 36° 18.7171' N – 76° 01.4361' W; running southerly to the south shore to a point 36° 18.7002' N – 76° 01.4296' W.
- (4) North River Area: Bump Landing Creek - east of a line beginning on the north shore at a point 36° 19.3757' N – 75° 57.9057' W; running southerly to the south shore to a point 36° 19.2496' N – 75° 57.9107' W; and west of a line beginning on the north shore at a point 36° 19.4049' N – 75° 57.4963' W; running southeasterly to the south shore to a point 36° 19.3830' N – 75° 57.5098' W.
 - (a) Narrow Ridges Creek - east of a line beginning on the north shore at a point 36° 18.3249' N – 75° 57.8910' W; running southerly to the south shore to a point 36° 18.1388' N – 75° 57.9029' W; and west of a line beginning on the north shore at a point 36° 18.1566' N – 75° 57.4879' W; running southeasterly to the south shore to a point 36° 18.1221' N – 75° 57.5095' W.
- (b) Great Creek - west of a line beginning on the north shore at a point 36° 18.1045' N – 75° 58.4289' W; running southerly to the south shore to a point 36° 17.9882' N – 75° 58.4458' W; and northeast of a line beginning on the north shore at a point 36° 17.1310' N – 76° 00.3414' W; running southeasterly to the south shore to a point 36° 17.1163' N – 76° 00.3310' W. On the north shore of Great Creek within the fourth tributary: south of a line beginning on the west shore at a point 36° 18.1729' N – 75° 58.9137' W; running southeasterly to the south shore to a point 36° 18.1640' N – 75° 58.9022' W.
- (c) Deep Creek - east of a line beginning on the north shore at a point 36° 17.1576' N – 75° 56.7594' W; running southerly to the south shore to a point 36° 16.9846' N – 75° 56.6802' W; and south of a line beginning on the west shore at a point 36° 17.9515' N – 75° 56.5174' W; running easterly to the east shore to a point 36° 17.9523' N – 75° 56.5042' W.
- (d) Public Creek - west of a line beginning on the north shore at a point 36° 17.2462' N – 75° 58.2774' W; running southerly to the south shore to a point 36° 17.2121' N – 75° 58.2788' W; and northeast of a line beginning on the north shore at a point 36° 17.1661' N – 75° 58.6059' W; running southeasterly to the south shore to a point 36° 17.1574' N – 75° 58.6003' W.
- (5) Pasquotank River including designated tributaries - main stem waters north of a line beginning on the west shore at a point 36° 18.0769' N – 76° 13.0979' W; running easterly along the south side of the US 158 bridge to the east shore to a point 36° 18.0594' N – 76° 12.9620' W and south of a line at South Mills beginning on the west shore at a point 36° 26.7432' N – 76° 19.6666' W; running easterly along US 17 business (Main Street) to the east shore to a point 36° 26.7642' N – 76° 19.5932' W; and southeast of a line beginning on the northeast shore at a point 36° 26.1777' N – 76° 22.1079' W; running southwesterly to the southwest shore to a point 36° 26.1693' N – 76° 22.1257' W; including the following tributaries from their confluence with the Pasquotank River in the direction indicated to the specified boundary:
 - (a) Joyce Creek - upstream (northeast) to a line beginning on the north shore at a point 36° 26.8329' N – 76° 17.6174' W.

- W; running southwesterly along SSR 1224 bridge (Old Swamp Road) to the south shore to a point 36° 26.8103' N – 76° 17.6193' W.
- (b) Sawyers Creek - upstream (northeast) to a line beginning on the northeast shore at a point 36° 21.7237' N – 76° 10.2841' W; running southwesterly along SSR 1203 bridge (Scotland Road) to the southwestern shore to a point 36° 21.7115' N – 76° 10.3041' W.
- (c) Knobbs Creek - upstream (northwest) to a line beginning on the northwest shore at a point 36° 18.5172' N – 76° 14.5920' W; running southeasterly along SSR 1309 bridge (Main Street Extended) to the southeast shore to a point 36° 18.4973' N – 76° 14.5729' W.
- (6) Pasquotank River Area:
- (a) Charles Creek - south of a line beginning on the west shore at a point 36° 17.8090' N – 76° 13.0732' W; running easterly to the east shore to a point 36° 17.8024' N – 76° 13.0407' W; and northeast of a line beginning on the northwest shore at a point 36° 17.4713' N – 76° 13.2227' W; running southeasterly along NC 34 (Road Street) to the southeast shore to a point 36° 17.4565' N – 76° 13.2140' W.
- (b) Areneuse Creek and Mill Dam Creek - north of a line beginning on the west shore at a point 36° 17.3133' N – 76° 08.1655' W; running southeasterly along NC 343 bridge to the east shore to a point 36° 17.1328' N – 76° 07.6269' W; and southwest of a line beginning on the west shore of Mill Dam Creek at a point 36° 18.5994' N – 76° 07.8672' W; running southeasterly to the east shore to a point 36° 18.5991' N – 76° 07.8379' W; and southwest of a line beginning on the northwest shore of Areneuse Creek at a point 36° 18.0342' N – 76° 06.9433' W, running southeasterly along NC 343 bridge to the southeast shore to a point 36° 18.0196' N – 76° 06.9245' W.
- (c) Portohonk Creek - northeast of a line beginning on the west shore at a point 36° 15.0519' N – 76° 05.2793' W; running southeasterly to the east shore to a point 36° 15.0391' N – 76° 05.2532' W; and south of a line beginning on the west shore at a point 36° 16.2809' N – 76° 04.8223' W; running easterly along NC 343 bridge to the east shore to a point 36° 16.2794' N – 76° 04.8051' W.
- (d) New Begun Creek - west of a line beginning on the north shore at a point 36° 13.3298' N – 76° 08.2878' W; running southerly to the south shore to a point 36° 13.0286' N – 76° 08.1820' W; and southeast of a line beginning on the northeast shore at a point 36° 12.5577' N – 76° 10.3998' W; running southwesterly along NC 34 bridge (Weeksville Road) to the southwest shore to a point 36° 12.5467' N – 76° 10.4186' W; and northeast of a line beginning on the northeast shore at a point 36° 12.3280' N – 76° 10.4934' W; running northwesterly to the northwest shore to a point 36° 12.3067' N – 76° 10.5438' W.
- (7) Little River including designated tributaries - main stem wasters northwest of a line beginning on the west shore at a point 36° 12.2950' N – 76° 17.1405' W; running southeasterly to the east shore to a point 36° 12.5237' N – 76° 16.9418' W; and south of a line beginning on the west shore at a point 36° 16.9826' N – 76° 23.1763' W; running easterly along SSR 1223 (Five Bridges Road, Perquimans County) and SSR 1303 (Cherry Glade Road, Pasquotank County) bridge to the east shore to a point 36° 16.9840' N – 76° 23.1570' W; including the following tributary from the confluence with Little River in the direction indicated to the specified boundary: Halls Creek - upstream (northeast) to a line beginning on the northwest shore at a point 36° 13.2067' N – 76° 16.5769' W; running southeasterly along SSR 1140 (Halls Creek Road) to the southeast shore to a point 36° 13.1944' N – 76° 16.5523' W.
- (8) Little River Area:
- (a) Deep Creek - southwest of a line beginning on the north shore at a point 36° 11.0945' N – 76° 16.6717' W; running southeasterly to the south shore to a point 36° 10.7510' N – 76° 16.2258' W; and south of a line beginning on the west shore at a point 36° 10.2553' N – 76° 18.7639' W; running easterly to the east shore to a point 36° 10.2633' N – 76° 18.7267' W.
- (b) Symonds Creek - northeast of a line beginning on the north shore at a point 36° 10.2898' N – 76° 14.1801' W; running southeasterly to the south shore to a point 36° 10.2042' N – 76° 14.0368' W; and south of a line

- beginning on the west shore at a point 36° 11.4843' N – 76° 13.7218' W; running easterly along SSR 1100 bridge (Nixonton Road) to the east shore to a point 36° 11.4839' N – 76° 13.7028' W.
- (9) Perquimans River including designated tributaries - main stem waters southwest of a line beginning on the west shore at a point 36° 11.6569' N – 76° 28.0055' W; running southeasterly along the US 17 business bridge (Church Street) to the east shore to a point 36° 11.6123' N – 76° 27.9382' W; and west of a line beginning on the north shore at a point 36° 18.8942' N – 76° 31.1905' W; running southeasterly to the south shore to a point 36° 18.8723' N – 76° 31.1734' W; and south of a line beginning on the west shore at a point 36° 18.9514' N – 76° 32.6510' W; running easterly along SSR 1202 bridge (Perry Bridge Road) to the east shore to a point 36° 18.9361' N – 76° 32.6584' W; including the following tributary from the confluence with the Perquimans River in the direction indicated to the specified boundary: Goodwin Creek - upstream (west) to a line beginning on the northwest shore at a point 36° 11.2807' N – 76° 33.6243' W; running southerly along SSR 1110 bridge (Center Hill Highway) to the southeast shore to a point 36° 11.2585' N – 76° 33.5755' W; and north to a line beginning on the west shore at a point 36° 11.0494' N – 76° 32.3409' W; running easterly along SSR 1110 bridge (Center Hill Highway) to the east shore to a point 36° 11.0383' N – 76° 32.2780' W.
- (10) Perquimans River Area:
- (a) Mill Creek - north of a line beginning on the west shore at a point 36° 11.9757' N – 76° 27.5752' W; running easterly to the east shore to a point 36° 11.9766' N – 76° 27.2511' W; and southwest of a line beginning on the northwest shore at a point 36° 13.2910' N – 76° 26.6778' W; running southeasterly along SSR 1214 bridge (Lake Road) to the southeast shore to a point 36° 13.2762' N – 76° 26.6580' W.
- (b) Walter's Creek - southwest of a line beginning on the north shore at a point 36° 11.1305' N – 76° 27.9185' W; running southeasterly to the south shore to a point 36° 11.0224' N – 76° 27.6626' W; and northeast of a line beginning on the northeast shore at a point 36° 10.0498' N – 76° 28.4208' W; running southwesterly along US 17 to the southwest shore to a point 36° 10.0408' N – 76° 28.4354' W.
- (c) Suttons Creek - north of a line beginning on the west shore at a point 36° 10.0394' N – 76° 23.7945' W; running southeasterly to the east shore to a point 36° 09.9325' N – 76° 23.5263' W; and south of a line beginning on the west shore at a point 36° 11.5101' N – 76° 23.6253' W; running easterly along SSR 1300 bridge (New Hope Road) to the east shore to a point 36° 11.5081' N – 76° 23.6060' W.
- (d) Jackson (Cove) Creek - northeast of a line beginning on the north shore at a point 36° 08.4642' N – 76° 20.3324' W; running southeasterly to the east shore to a point 36° 08.4159' N – 76° 20.2890' W; and southwest of a line beginning on the northwest shore at a point 36° 08.6083' N – 76° 20.1512' W; running southeasterly to the southeast shore to a point 36° 08.6007' N – 76° 20.1312' W.
- (e) Muddy Creek - northwest of a line beginning on the north shore at a point 36° 07.0381' N – 76° 17.1350' W; running southeasterly to the east shore to a point 36° 07.0218' N – 76° 17.1226' W; and south of a line beginning on the west shore at a point 36° 07.5922' N – 76° 16.8153' W; running easterly to the east shore to a point 36° 07.5933' N – 76° 16.7757' W.
- (11) Yeopim River including designated tributaries - main stem waters west of a line beginning on the north shore at a point 36° 05.4526' N – 76° 27.7651' W; running southerly to the south shore to Norcum Point 36° 05.1029' N – 76° 27.7120' W; and southeast of a line beginning on the north shore at a point 36° 05.1202' N – 76° 29.5050' W; running southwesterly to a point 36° 05.0644' N – 76° 29.5586' W; and running easterly to the east shore to a point 36° 05.0571' N – 76° 29.4657' W; including the following tributaries from the confluence with Yeopim River in the direction indicated to the specified boundary:
- (a) Yeopim Creek - upstream (north) to a line beginning on the west shore at a point 36° 07.4416' N – 76° 26.4833' W; running easterly along SSR 1347 (Holiday Island Road) to the east shore to a point 36° 07.4409' N – 76° 26.4667' W.
- (b) Bethel Creek - upstream (north) to a line beginning on the southwest shore at a point 36° 07.1208' N – 76° 29.3581' W; running northeasterly to

- the northeast shore to a point 36° 07.1724' N – 76° 29.2818' W.
- (c) Burnt Mill Creek - upstream (northwest) to a line beginning on the northeast shore at a point 36° 05.7727' N – 76° 32.6234' W; running southwesterly along US 17 to the southwest shore to a point 36° 05.7663' N – 76° 32.6374' W.
- (d) Middleton Creek - upstream (southeast) to a line beginning on the northwest shore at a point 36° 04.2913' N – 76° 30.2613' W; running southeasterly along SSR 1100 bridge (Drummond Point Road) to the southeast shore to a point 36° 04.2813' N – 76° 30.2460' W; and northeast of a line beginning on the northwest shore at a point 36° 04.0714' N – 76° 29.5779' W; running southeasterly along SSR 1100 (Drummond Point Road) to the southeast shore to a point 36° 04.0639' N – 76° 29.5583' W.
- (12) Edenton Bay Area:
- (a) Pembroke Creek (Pollock Swamp) - northwest of a line beginning on the west shore at a point 36° 03.2819' N – 76° 37.0138' W; running northeasterly to the east shore to a point 36° 03.4185' N – 76° 36.6783' W; and west of a line beginning on the north shore at a point 36° 08.1216' N – 76° 37.7846' W; running southerly along SSR 1316 bridge (Greenhall Road) to the south shore to a point 36° 08.1035' N – 76° 37.7818' W.
- (b) Queen Anne Creek - east of a line beginning on the north shore at a point 36° 03.3757' N – 76° 36.3629' W; running southerly to the south shore to a point 36° 03.3551' N – 76° 36.3574' W; and southwest of a line beginning on the northwest shore at a point 36° 03.5719' N – 76° 35.0968' W; running southeasterly along NC 32 bridge (Yeopim Road) to the southeast shore to a point 36° 03.5659' N – 76° 35.0796' W.
- (13) Chowan River Area:
- (a) Buckhorn Creek (Hertford County) - north of a line beginning on the west shore at a point 36° 31.9519' N – 76° 55.2580' W; running easterly to the east shore to a point 36° 31.9628' N – 76° 55.2429' W; and east of a line beginning on the north shore at a point 36° 31.9443' N – 76° 55.8902' W; running southerly to the south shore to a point 36° 31.9099' N – 76° 55.8904' W.
- (b) Somerton Creek - north of a line beginning on the west shore at a point 36° 31.7177' N – 76° 54.8327' W; running easterly to the east shore to a point 36° 31.7143' N – 76° 54.7810' W; and south of the NC/VA state line.
- (c) Meherrin River Area:
- (i) Vaughan's Creek (Kirby's Creek) - west of a line beginning on the north shore at a point 36° 28.3541' N – 77° 05.6259' W; running southerly to the south shore to a point 36° 28.3307' N – 77° 05.6369' W; and east of a line beginning on the north shore at a point 36° 28.7019' N – 77° 08.7566' W; running southerly along SSR 1362 bridge (Watson Mill Road) to the south shore to a point 36° 28.6834' N – 77° 08.7593' W; and northeast of a line beginning on the northwest shore at a point 36° 28.0921' N – 77° 08.5719' W; running southeasterly along SSR 1362 bridge (Watson Mill Road) to the southeast shore to a point 36° 28.0787' N – 77° 08.5557' W. Turkey Creek - from the confluence with Vaughan's Creek upstream; and northeast of a line beginning on the northwest shore at a point 36° 27.8047' N – 77° 07.7316' W; running southeasterly along SSR 1363 (Turkey Branch Road, Northampton County) and SSR 1300 bridge (Wise Store Road, Hertford County) to the southeast shore to a point 36° 27.7957' N – 77° 07.7170' W.
- (ii) Potecasi Creek - southwest of a line beginning on the west shore at a point 36° 26.1234' N – 76° 57.5262' W; running southeasterly to the east shore to a point 36° 26.1005' N – 76° 57.4960' W; and east of a line beginning on the north shore at a point 36° 22.1250' N – 77° 05.3109' W; running southerly along SSR 1160 bridge (Spring Avenue)

- to the south shore to a point
36° 22.1035' N – 77°
05.3220' W.
- (A) Old Tree Swamp -
from the confluence
with Potecasi Creek
upstream to a line
beginning on the
west shore at a point
36° 22.5909' N –
77° 04.0382' W;
running easterly
along SSR 1167
bridge (Beaver Dam
Road) to the east
shore to a point 36°
22.5895' N – 77°
04.0192' W.
- (B) Cutawhiskie Creek -
from the confluence
with Potecasi Creek
upstream to a line
beginning on the
northwest shore at a
point 36° 21.2751'
N – 77° 04.3761' W;
running
southeasterly along
SSR 1137 bridge
(Liverman Mill
Road) to the
southeast shore to a
point 36° 21.2583'
N – 77° 04.3461' W.
- (d) Mud Creek - north of a line beginning
on the west shore at a point 36°
23.5134' N – 76° 53.9131' W; running
easterly to the east shore to a point 36°
23.5132' N – 76° 53.8815' W; and east
of a line beginning on the north shore
at a point 36° 23.6287' N – 76°
53.8782' W; running southerly to the
south shore to a point 36° 23.5943' N
– 76° 53.8784' W.
- (e) Catherine Creek (Hertford County) -
south of a line beginning on the west
shore at a point 36° 22.9579' N – 76°
53.1994' W; running southeasterly to
the east shore to a point 36° 22.9456'
N – 76° 53.1742' W; and north of a line
beginning on the west shore at a point
36° 22.7142' N – 76° 53.1872' W;
running easterly to the east shore to a
point 36° 22.7209' N – 76° 53.1631'
W.
- (f) Buckhorn Creek (Run Off
Swamp)(Gates County) - north of a
line beginning on the west shore at a
point 36° 22.9682' N – 76° 51.9172'
W; running easterly to the east shore
to a point 36° 22.9614' N – 76°
51.8870' W; and east of a line
beginning on the north shore at a point
36° 23.3321' N – 76° 52.0233' W;
running southerly to the south shore to
a point 36° 23.3101' N – 76° 52.0244'
W.
- (g) Spikes Creek - northwest of a line
beginning on the west shore at a point
36° 22.6515' N – 76° 50.8882' W;
running northeasterly to the east shore
to a point 36° 22.6684' N – 76°
50.8493' W; and east of a line
beginning on the north shore at a point
36° 22.9574' N – 76° 51.4953' W;
running southerly to the south shore to
a point 36° 22.9419' N – 76° 51.4959'
W.
- (h) Barnes Creek - north of a line
beginning on the west shore at a point
36° 21.8820' N – 76° 48.6419' W;
running easterly to the east shore to a
point 36° 21.8978' N – 76° 48.5902'
W; and east of a line beginning on the
north shore at a point 36° 22.8208' N –
76° 50.0931' W; running southerly to
the south shore to a point 36° 22.7839'
N – 76° 50.0941' W.
- (i) Shingle (Island) Creek - north of a line
beginning on the north shore of the
western most entrance into Chowan
River at a point 36° 21.8449' N – 76°
48.0940' W; running southeasterly to
the south shore to a point 36° 21.7831'
N – 76° 48.0427' W. At the eastern
most entrance to the creek: north of a
line beginning of the west shore at a
point 36° 21.8469' N – 76° 47.2668'
W; running northeasterly to the east
shore to a point 36° 21.9062' N – 76°
47.1862' W.
- (j) Sarem Creek - east of a line beginning
on the north shore at a point 36°
21.7259' N – 76° 46.4085' W; running
southerly to the south shore to a point
36° 21.6748' N – 76° 46.4392' W; and
southeast of a line beginning on the
southwest shore at a point 36°
25.0514' N – 76° 49.4791' W; running
northeasterly along SSR 1118 bridge
(Taylors Road) to the northeast shore
to a point 36° 25.0710' N – 76°
49.4657' W; including the following
tributary from the confluence with
Sarem Creek in the direction indicated
to the specified boundary: Cole Creek
- upstream (northeast) to a line
beginning on the west shore at a point

- 36° 24.5075' N – 76° 47.0641' W; running easterly along NC 37 bridge to the east shore to a point 36° 24.5048' N – 76° 47.0397' W.
- (k) Hodges Creek - west of a line beginning on the north shore at a point 36° 21.2459' N – 76° 46.3421' W; running southerly to the south shore to a point 36° 21.1823' N – 76° 46.3243' W; and east of a line beginning on the north shore at a point 36° 21.1597' N – 76° 46.6073' W; running southerly to the south shore to a point 36° 21.1309' N – 76° 46.6084' W.
- (l) Wiccacon River including designated tributaries - west of a line beginning on the north shore at a point 36° 20.5439' N – 76° 45.4550' W; running southeasterly to the south shore to a point 36° 20.4684' N – 76° 45.3392' W; and east of a line beginning on the northeast shore at a point 36° 19.0196' N – 76° 53.5596' W; running southwesterly to the southwest shore to a point 36° 18.9936' N – 76° 53.5751' W; including the following tributaries from their confluence with Wiccacon River in the direction indicated to the specified boundary:
- (i) Ahoskie Creek - upstream (south) to a line beginning on the west shore at a point 36° 16.4860' N – 76° 54.1172' W; running easterly along NC 561 to the east shore to a point 36° 16.4796' N – 76° 54.0933' W.
- (ii) Chinkapin Creek - upstream (southwest) to a line beginning on the northwest shore at a point 36° 15.1763' N – 76° 50.9758' W; running southeasterly along SSR 1432 bridge (Big Mill Road) to the southeast shore to a point 36° 15.1671' N – 76° 50.9567' W.
- (m) Beef Creek - north of a line beginning on the west shore at a point 36° 20.3235' N – 76° 44.6401' W; running easterly to the east shore to a point 36° 20.3070' N – 76° 44.5797' W; and east of a line beginning on the north shore at a point 36° 20.9720' N – 76° 44.7930' W; running southerly to the south shore to a point 36° 21.0058' N – 76° 44.7931' W.
- (n) Goose Creek - west of a line beginning on the north shore at a point 36° 19.5838' N – 76° 44.5971' W; running southerly to the south shore to a point 36° 19.5375' N – 76° 44.5925' W; and northeast of a line beginning on the west shore at a point 36° 19.9806' N – 76° 45.2656' W; running easterly to the east shore to a point 36° 19.9799' N – 76° 45.2356' W.
- (o) Swain Mill (Taylor Pond) Creek - west of a line beginning on the north shore at a point 36° 18.5808' N – 76° 43.4729' W; running southerly to the south shore to a point 36° 18.5616' N – 76° 43.4706' W; and northeast of a line beginning on the northwest shore at a point 36° 18.5029' N – 76° 43.5882' W; running southeasterly along SSR 1441 bridge (Swain Mill Road) to the southeast shore to a point 36° 18.4906' N – 76° 43.5694' W.
- (p) Bennetts Creek - north of a line beginning on the west shore at a point 36° 18.3499' N – 76° 42.0286' W; running northeasterly to the east shore to a point 36° 18.4057' N – 76° 41.6986' W; and southwest of a line beginning on the northwest shore at a point 36° 25.9349' N – 76° 41.9859' W; running southeasterly along the Merchants Mill Pond Dam to the southeast shore to a point 36° 25.9154' N – 76° 41.9530' W.
- (q) Catherine Creek including designated tributaries -main stem waters northeast of a line beginning on the west shore at a point 36° 18.1011' N – 76° 41.1286' W; running southeasterly to the east shore to a point 36° 17.9413' N – 76° 40.8627' W; including the following tributaries from the confluence with Catherine Creek in the direction indicated to the specified boundary:
- (i) Trotman Creek - upstream (northwest) to a line beginning on the north shore at a point 36° 20.8213' N – 76° 38.1714' W; running southerly along NC 32 bridge to the south shore to a point 36° 20.7989' N – 76° 38.1646' W.
- (ii) Warwick Creek - upstream (northeast) to a line beginning on the north shore at a point 36° 19.8212' N – 76° 38.0409' W; running southerly along NC 32 bridge to the south shore to a point

- 36° 19.7833' N – 76° 38.0235' W.
- (r) Stumpy Creek - east of a line beginning on the north shore at a point 36° 16.6440' N – 76° 40.4251' W; running southerly to the south shore to a point 36° 16.6255' N – 76° 40.4196' W; and west of a line beginning on the north shore at a point 36° 16.7331' N – 76° 39.9154' W; running southerly along SSR 1232 bridge (Cannon Ferry Road) to the south shore to a point 36° 16.7220' N – 76° 39.9220' W.
 - (s) Dillard (Indian) Creek - east of a line beginning on the north shore at a point 36° 14.2234' N – 76° 41.5901' W; running southerly to the south shore to a point 36° 14.2023' N – 76° 41.5855' W; and west of a line beginning on the north shore at a point 36° 13.7727' N – 76° 40.3878' W; running southerly along SSR 1226 (Dillards Mill Road) to the south shore to a point 36° 13.7592' N – 76° 40.3875' W.
 - (t) Keel (Currituck) Creek - north of a line beginning on the west shore at a point 36° 14.1245' N – 76° 44.1961' W; running easterly to the east shore to a point 36° 14.0899' N – 76° 43.8533' W; and south of a line beginning on the west shore at a point 36° 15.2755' N – 76° 43.5077' W; running easterly to the east shore to a point 36° 15.2746' N – 76° 43.4750' W.
 - (u) Rocky Hock Creek - east of a line beginning on the west shore at a point 36° 06.5662' N – 76° 41.3108' W; running southeasterly to the east shore to a point 36° 06.6406' N – 76° 41.4512' W; and southwest of a line beginning on the northwest shore at a point 36° 08.3485' N – 76° 39.9790' W; running southeasterly along the face of Bennett Mill Pond Dam to the southeast shore to a point 36° 08.3353' N – 76° 39.9603' W.
- (14) Cashie River including designated tributaries - main stem waters west of a line beginning on the north shore at a point 35° 54.7865' N – 76° 49.0521' W; running southerly to the south shore to a point 35° 54.6691' N – 76° 49.0553' W; and east of a line beginning on the north shore at a point 36° 05.7521' N – 77° 04.0494' W; running southerly along SSR 1260 bridge (Republican Road) to the south shore to a point 36° 05.7171' N – 77° 04.0344' W; including the following tributaries from their confluence with Cashie River in the direction indicated to the specified boundary:
- (a) Connarista Swamp - upstream (north) to a line beginning on the west shore at a point 36° 06.4489' N – 77° 02.4658' W; running easterly along SSR 1221 bridge (Charles Taylor Road) to the east shore to a point 36° 06.4501' N – 77° 02.4236' W.
 - (b) Whiteoak Swamp - upstream (northeast) to a line beginning on the northwest shore at a point 36° 04.6654' N – 76° 58.5841' W; running southeasterly along US 13 to the southeast shore to a point 36° 04.6480' N – 76° 58.5676' W.
 - (c) Chiska Creek - upstream (west) to a line beginning on the north shore at a point 36° 02.5659' N – 77° 02.3636' W; running southerly along SSR 1112 bridge (Roquist Pocosin Road) to the south shore to a point 36° 02.5463' N – 77° 02.3730' W.
 - (d) Hoggard Mill Creek - upstream (north) to a line beginning on the northwest shore at a point 36° 01.5828' N – 76° 56.9799' W; running southeasterly along the Hoggard Mill Pond Dam to the southeast shore to a point 36° 01.5479' N – 76° 56.9556' W.
 - (e) Roquist Creek - upstream (west) to a line beginning on the northeast shore at a point 36° 00.6453' N – 77° 02.8441' W; running southwesterly along SSR 1112 bridge (Roquist Pocosin Road) to the southwest shore to a point 36° 00.6119' N – 77° 02.8719' W.
 - (f) Wading Place Creek - upstream (east) to a line beginning on the west shore at a point 35° 58.1755' N – 76° 53.0010' W; running easterly along NC 308 bridge (Cooper Hill Road) to the east shore to a point 35° 58.1631' N – 76° 52.9542' W.
- (15) Cashie River Area:
- (a) Broad Creek - south of a line beginning on the west shore at a point 35° 55.0568' N – 76° 45.2632' W; running easterly to the east shore to a point 35° 55.0543' N – 76° 45.1309' W.
 - (b) Grennel Creek - east of a line beginning on the north shore at a point 35° 55.3147' N – 76° 44.5010' W; running southerly to the south shore to a point 35° 55.2262' N – 76° 44.5495' W.

- (c) Cashoke Creek - west of a line beginning on the north shore at a point 35° 56.2934' N – 76° 44.1769' W; running southwesterly to the south shore to a point 35° 56.2623' N – 76° 44.1993' W; and east of a line beginning on the north shore at a point 35° 56.3383' N – 76° 44.5958' W; running southerly along NC 45 bridge to the south shore to a point 35° 56.2839' N – 76° 44.5836' W.
- (16) Roanoke River including designated tributaries - main stem waters northwest of a line beginning on the west shore at a point 36° 12.5264' N – 77° 23.0223' W; running northeasterly along the south side of the US 258 bridge to the east shore to a point 36° 12.5674' N – 77° 22.9724' W; to the base of the Roanoke Rapids Dam; including the following tributary from the confluence with Roanoke River in the direction indicated to the specified boundary: Bridgers Creek - upstream (northeast) to a line beginning on the west shore at a point 36° 15.0786' N – 77° 22.3766' W; running easterly to the east shore to a point 36° 15.0846' N – 77° 22.3083' W.
- (17) Roanoke River Area:
 - (a) Kehukee Swamp - west of a line beginning on the north shore at a point 36° 05.1942' N – 77° 18.9596' W; running southwesterly to the south shore to a point 36° 05.1670' N – 77° 18.9761' W; and south of a line beginning on the northeast shore at a point 36° 05.7019' N – 77° 19.3686' W; running southwesterly to the southwest shore to a point 36° 05.6909' N – 77° 19.3902' W.
 - (b) Wire Gut - north of a line beginning on the west shore at a point 36° 00.9580' N – 77° 13.0755' W; running easterly to the east shore to a point 36° 00.9542' N – 77° 13.0320' W; and east of a line beginning on the north shore at a point 36° 01.4294' N – 77° 13.6239' W; running southerly to the south shore to a point 36° 01.3873' N – 77° 13.6270' W.
 - (c) Apple Tree Creek - east of a line beginning on the north shore at a point 36° 00.4174' N – 77° 12.3252' W; running southeasterly to the south shore to a point 36° 00.3987' N – 77° 12.3088' W; and south of a line beginning on the west shore at a point 36° 02.3508' N – 77° 13.6900' W; running easterly to the east shore to a point 36° 02.3497' N – 77° 13.6055' W; and east of a line beginning on the north shore at a point 36° 01.9425' N – 77° 12.4225' W; running southerly to the south shore to a point 36° 01.9066' N – 77° 12.4222' W.
 - (d) Indian Creek - east of a line beginning on the north shore at a point 35° 59.0794' N – 77° 11.4926' W; running southerly to the south shore to a point 35° 59.0597' N – 77° 11.4967' W; and southwest of a line beginning on the northwest shore at a point 36° 03.5103' N – 77° 10.6537' W; running southeasterly along SSR 1108 bridge (Indian Woods Road) to the southeast shore to a point 36° 03.4917' N – 77° 10.6402' W; and west of a line beginning on the north shore at a point 36° 02.3940' N – 77° 09.3722' W; running southerly along SSR 1108 bridge (Indian Woods Road) to the south shore to a point 36° 02.3787' N – 77° 09.3711' W.
 - (e) Prices Gut - west of a line beginning on the north shore at a point 35° 57.3701' N – 77° 11.9815' W; running southerly to the south shore to a point 35° 57.3552' N – 77° 11.9796' W; and east of a line beginning on the north shore at a point 35° 57.4077' N – 77° 12.0401' W; running southerly to the south shore to a point 35° 57.3763' N – 77° 12.0135' W.
 - (f) Rainbow Gut - south of a line beginning on the west shore at a point 35° 55.9334' N – 77° 11.3246' W; running easterly to the east shore to a point 35° 55.9275' N – 77° 11.3136' W.
 - (g) Coniott Creek including designated tributaries - main stem waters west of a line beginning on the north shore at a point 35° 56.6562' N – 77° 04.2860' W; running southwesterly to the south shore to a point 35° 56.6397' N – 77° 04.3066' W; and southeast of a line beginning on the northeast shore at a point 35° 59.4139' N – 77° 08.2158' W; running southwesterly along SSR 1122 bridge (Broad Neck Road) to the southwest shore to a point 35° 59.3976' N – 77° 08.2491' W; including the following tributary from the confluence with Coniott Creek in the direction indicated to the specified boundary: Frog Level Swamp - upstream to a line beginning on the north shore at a point 35° 58.0087' N – 77° 06.3447' W; running southerly to

- the south shore to a point 35° 57.9223' N – 77° 06.3483' W.
- (h) Conoho Creek - north of a line beginning on the west shore at a point 35° 52.5439' N – 77° 02.6673' W; running easterly to the east shore to a point 35° 52.5407' N – 77° 02.6280' W; and southeast of a line beginning on the northeast shore at a point 35° 58.3271' N – 77° 17.6825' W; running southwesterly along NC 11 bridge to the southwest shore to a point 35° 58.3096' N – 77° 17.7006' W.
- (i) Sweetwater Creek including designated tributaries - main stem east of a line beginning on the west shore at a point 35° 51.6464' N – 77° 00.5090' W; running southeasterly to the east shore to a point 35° 51.6252' N – 77° 00.4879' W; and northwest of a line beginning on the northeast shore at a point 35° 48.6186' N – 77° 02.0173' W; running southwesterly along SSR 1501 bridge (Big Mill Road) to the southwest shore to a point 35° 48.5968' N – 77° 02.0311' W; including the following tributary from the confluence with Sweetwater Creek in the direction indicated to the specified boundary: Peter Swamp - upstream (southeast) to a line beginning on the west shore at a point 35° 49.0798' N – 77° 00.2510' W; running easterly to the east shore to a point 35° 49.0705' N – 77° 00.2118' W.
- (j) Unnamed Tributary (upstream of Old Mill Creek) - northwest of a line beginning on the northeast shore at a point 35° 53.9775' N – 76° 56.6431' W; running southwesterly to the southwest shore to a point 35° 53.9913' N – 76° 56.6238' W; and southeast of a line beginning on the northeast shore at a point 35° 54.1143' N – 76° 56.8761' W; running southwesterly along SSR 1542 bridge (Bertie County) to the southwest shore to a point 35° 54.0927' N – 76° 56.8956' W.
- (k) Old Mill Creek - north of a line beginning on the west shore at a point 35° 53.9483' N – 76° 55.3921' W; running southeasterly to the east shore to a point 35° 53.9378' N – 76° 55.3710' W; and south of a line beginning on the west shore at a point 35° 54.3010' N – 76° 55.0492' W; running easterly along SSR 1518 bridge (Bertie County) to the east shore to a point 35° 54.3085' N – 76° 55.0164' W.
- (l) Gardner Creek - south of a line beginning on the west shore at a point 35° 50.1599' N – 76° 56.0211' W; running easterly to the east shore to a point 35° 50.1633' N – 76° 55.9899' W; and north of a line beginning on the west shore at a point 35° 48.4791' N – 76° 55.9768' W; running easterly to the east shore to a point 35° 48.4834' N – 76° 55.9378' W.
- (m) Cut Cypress Creek - northeast of a line beginning on the north shore at a point 35° 51.9465' N – 76° 53.5762' W; running southeasterly to the south shore to a point 35° 51.9229' N – 76° 53.5556' W.
- (n) Roses Creek - southeast of a line beginning on the north shore at a point 35° 50.1683' N – 76° 50.9664' W; running southwesterly to the south shore to a point 35° 50.1363' N – 76° 56.9907' W; and north of a line beginning on the west shore at a point 35° 49.5501' N – 76° 50.7358' W; running easterly to the east shore to a point 35° 49.5649' N – 76° 50.6674' W.
- (o) Broad Creek - west of a line beginning on the north shore at a point 35° 52.5191' N – 76° 50.4235' W; running southerly to the south shore to a point 35° 52.4262' N – 76° 50.3791' W.
- (p) Welch Creek - south of a line beginning on the west shore at a point 35° 51.8458' N – 76° 45.8381' W; running easterly along the shoreline and across the mouths of the three creek entrances to the east shore to a point 35° 51.8840' N – 76° 45.6207' W; and north of a line beginning on the west shore at a point 35° 49.7473' N – 76° 47.1058' W; running easterly to the east shore to a point 35° 49.7506' N – 76° 47.0778' W.
- (q) Conaby Creek - south of a line beginning on the west shore at a point 35° 55.3779' N – 76° 42.4401' W; and running easterly to the east shore to a point 35° 55.3752' N – 76° 42.3408' W; north of a line beginning on the southwest shore at a point 35° 51.6443' N – 76° 44.5188' W; running northeasterly to the northeast shore to a point 35° 51.6538' N – 76° 44.4926' W.

- (18) Scuppernong River including designated tributaries - main stem waters south of a line beginning on the west shore at a point 35° 54.0158' N – 76° 15.4605' W; running easterly to the east shore to a point 35° 54.0406' N – 76° 15.3007' W; and east of a line beginning on the north shore at a point 35° 51.6231' N – 76° 26.1210' W; running southerly to the south shore to a point 35° 51.5952' N – 76° 26.1178' W; including the following tributaries from their confluence with Scuppernong River in the direction indicated to the specified boundary:
- (a) First Creek (Rider's Creek) - upstream (south) to a line beginning on the north shore at a point 35° 53.5116' N – 76° 14.0222' W; running southerly along NC 94 bridge to the south shore to a point 35° 53.4948' N – 76° 14.0125' W.
 - (b) Second Creek - upstream (south) to a line beginning on the north shore at a point 35° 53.0541' N – 76° 15.1132' W; running southerly along SSR 1105 (Bodwell Road) to the south shore to a point 35° 53.0286' N – 76° 15.1211' W.
 - (c) Lake Phelps - all waters of Lake Phelps and the following main canals connecting to Scuppernong River:
 - (i) Moccasin Canal;
 - (ii) Western (Enoch) Canal;
 - (iii) Mountain Canal;
 - (iv) Thirty-foot Canal;
 - (v) Somerset (Old) Canal;
 - (vi) Batava (Minerva, Magnolia, Bonarva) Canal; and
 - (vii) Bee Tree Canal.
- (19) Alligator River Area:
- (a) Little Alligator River - west of a line beginning on the north shore at a point 35° 56.7640' N – 76° 01.0299' W; running southerly to the south shore to a point 35° 55.9362' N – 76° 01.2492' W; and north of a line beginning on the west shore at a point 35° 56.4784' N – 76° 07.5433' W; running easterly to the east shore to a point 35° 56.4771' N – 76° 07.5076' W.
 - (b) East Lake - east of a line beginning on the north shore at a point 35° 56.1676' N – 75° 55.2603' W; running southerly to the south shore to a point 35° 55.4727' N – 75° 55.5043' W; and south of a line beginning on the west shore at a point 35° 58.6402' N – 75° 52.1855' W; running easterly to the east shore to a point 35° 58.5887' N – 75° 51.7080' W.
- (c) Second Creek - west of a line beginning on the north shore at a point 35° 51.7616' N – 76° 03.5105' W; running southerly to the south shore to a point 35° 51.1317' N – 76° 03.8003' W.
- (d) Milltail Creek - east of a line beginning on the north shore at a point 35° 50.5192' N – 75° 58.6134' W; running southerly to the south shore to a point 35° 50.4956' N – 75° 58.6158' W; and northwest of a line beginning on the northeast shore at a point 35° 47.7377' N – 75° 53.1295' W; running southwesterly to the southwest shore to a point 35° 47.7180' N – 75° 53.1295' W.
- (e) Whipping Creek and Lake - east of a line beginning on the north shore at a point 35° 41.3930' N – 76° 00.2481' W; running southerly to the south shore to a point 35° 41.3717' N – 76° 00.2554' W; and west of a line beginning on the north shore at a point 35° 42.1737' N – 75° 57.6728' W; running southerly to the south shore to a point 35° 42.1570' N – 75° 57.6732' W.
- (f) Swan Creek and Lake - east of a line beginning on the north shore at a point 35° 40.2674' N – 76° 00.7360' W; running southerly to the south shore to a point 35° 40.2420' N – 76° 00.7548' W.
- (20) Alligator River including designated tributary - main stem waters west of a line beginning on the north shore at Cherry Ridge Landing at a point 35° 42.2172' N – 76° 08.4686' W; running southerly to the south shore to a point 35° 42.1327' N – 76° 08.5002' W; and east of a line beginning on the north shore at a point 35° 36.0502' N – 76° 13.9734' W; running southerly along NC 94 to the south shore to a point 35° 36.0300' N – 76° 13.9779' W; including the following tributary from the confluence with Alligator River in the direction indicated to the specified boundary: Northwest Fork - upstream (north) to a line beginning on the north shore at a point 35° 43.6826' N – 76° 11.9538' W; running southerly to the south shore to a point 35° 43.6495' N – 76° 11.9692' W.
- (21) Croatan Sound Area:
- (a) Spencer Creek - west of a line beginning on the north shore at a point 35° 51.4205' N – 75° 45.0645' W; running southerly to the south shore to a point 35° 51.3876' N – 75° 45.0640' W; and west of a line beginning on the north shore 35° 51.5597' N – 75°

- 45.0141' W; running southerly to the south shore to a point 35° 51.4624' N – 75° 45.0498' W; and west of a line beginning on the north shore at a point 35° 51.6783' N – 75° 44.9125' W; running southerly to the south shore to a point 35° 51.5693' N – 75° 45.0109' W; and east of a line beginning on the north shore at a point 35° 52.5133' N – 75° 46.3070' W; running southerly to the south shore to a point 35° 52.4635' N – 75° 46.3110' W.
- (b) Callaghan Creek - west of a line beginning on the north shore at a point 35° 51.1312' N – 75° 45.1327' W; running southwesterly to the south shore to a point 35° 51.0953' N – 75° 45.1629' W; and east of a line beginning on the north shore at a point 35° 50.0643' N – 75° 46.6041' W; running southerly to the south shore to a point 35° 50.0306' N – 75° 46.6034' W.
- (22) Pamlico River Area:
- (a) Chocowinity Creek - south of a line beginning on the west shore at a point 35° 30.4778' N – 77° 04.4049' W; running southerly to the east shore at a point 35° 30.4692' N – 77° 04.3862' W; and north of a line beginning on the west shore at a point 35° 28.3423' N – 77° 05.0615' W; running easterly to the east shore at a point 35° 28.3413' N – 77° 05.0334' W.
- (b) Blounts Creek - south of a line beginning on the west shore at a point 35° 23.9524' N – 76° 58.0357' W; running easterly to the east shore at a point 35° 23.9565' N – 76° 57.9576' W; and north of a line beginning on the west shore at a point 35° 22.3210' N – 76° 57.7210' W; running easterly along NC 33 to the east shore at a point 35° 22.3080' N – 76° 57.6706' W; on Nancy Run, north of a line beginning on the west shore at a point 35° 22.7132' N – 76° 59.0317' W; running easterly along NC 33 to the east shore at a point 35° 22.7064' N – 76° 59.0191' W; on Herring Run, north and west of a line beginning on the north shore at a point 35° 22.5435' N – 76° 56.9969' W; running southerly along SSR 1100 (Core Point Road) to the south shore at a point 35° 22.5168' N – 76° 57.0063' W.
- (c) Durham Creek - south of a line beginning on the west shore at a point 35° 21.5669' N – 76° 51.9166' W; running easterly along the SSR 1955 bridge (Durham Creek Lane) to the east shore at a point 35° 21.5721' N – 76° 51.8621' W and north of a line beginning on the west shore at a point 35° 19.1959' N – 76° 52.3278' W; running southeasterly along NC 33 to the east shore at a point 35° 19.1802' N – 76° 52.2947' W.
- (d) Little Goose Creek - north and east of a line beginning on the north shore at a point 35° 28.7258' N – 76° 55.8667' W; running southeasterly to the south shore at a point 35° 28.5986' N – 76° 55.7922' W and west of a line beginning on the north shore at a point 35° 29.0329' N – 76° 54.2344' W; running southeasterly along SSR 1334 (Camp Leach Road) to the south shore at a point 35° 29.0283' N – 76° 54.2228' W; and the unnamed northwest branch, south of a line beginning on the north shore at a point 35° 29.4589' N – 76° 55.0263' W; running southwesterly to the south shore at a point 35° 29.4492' N – 76° 55.0322' W.
- (e) Broad Creek - north of a line beginning on the west shore at a point 35° 30.0451' N – 76° 57.6152' W; running easterly to the east shore at a point 35° 30.0459' N – 76° 57.5318' W and south of a line beginning on the west shore at a point 35° 32.1646' N – 76° 58.5193' W; running easterly along US 264 to the east shore at a point 35° 32.1588' N – 76° 58.5048' W.
- (f) Runyon Creek - north of a line beginning on the west shore at a point 35° 32.1615' N – 77° 02.3606' W; running easterly along the NC 32 bridge (Park Drive) to the east shore at a point 35° 32.1340' N – 77° 02.3438' W and south of a line beginning on the north shore at a point 35° 33.0407' N – 77° 01.1497' W; running southeasterly to the south shore at a point 35° 33.0260' N – 77° 01.1449' W.
- (23) Tar River including designated tributaries - main stem waters west of a line beginning on the north shore at a point 35° 33.1993' N – 77° 05.3977' W; running southerly to the south shore at a point 35° 32.9978' N – 77° 05.1529' W and east of a line beginning on the north shore at a point 35° 57.6505' N – 77° 48.2537' W; running southeasterly along the Rocky Mount Mill Pond Dam to the south shore at a

point 35° 57.5997' N – 77° 48.1412' W; including the following tributaries from their confluence with Tar River in the direction indicated to the specified boundary:

- (a) Swift Creek - upstream (northwest) to a line beginning on the north shore at a point 36° 00.5829' N – 77° 39.9482' W; running southerly to the south shore at a point 36° 00.5413' N – 77° 39.9616' W.
- (b) Fishing Creek - upstream (northwest) to a line beginning on the north shore at a point 36° 08.0430' N – 77° 43.2829' W; running southerly to the south shore at a point 36° 08.0173' N – 77° 43.2921' W; on Deep Creek, upstream (northeast) to a line beginning on the north shore at a point 35° 57.8688' N – 77° 27.2298' W; running southeasterly to the south shore at a point 35° 57.8403' N – 77° 27.1890' W.
- (c) Town Creek - upstream (west) to a line beginning on the north shore at a point 35° 48.4135' N – 77° 36.7687' W; running southwesterly to the south shore at a point 35° 48.3728' N – 77° 36.7686' W.
- (d) Otter Creek - upstream (west) to a line beginning on the west shore at a point 35° 43.2448' N – 77° 31.9013' W; running easterly to the east shore at a point 35° 43.2385' N – 77° 31.8735' W.
- (e) Tyson Creek - upstream (southwest) to a line beginning on the west shore at a point 35° 40.4470' N – 77° 30.7015' W; running easterly to the east shore at a point 35° 40.4107' N – 77° 30.6075' W.
- (f) Conetoe Creek - upstream (north and east) to a line beginning on the north shore at a point 35° 44.5315' N – 77° 29.1676' W; running southerly to the south shore at a point 35° 44.5071' N – 77° 29.1894' W.
- (g) Hardee Creek - upstream (southwest) to a line beginning on the west shore at a point 35° 35.6842' N – 77° 19.3857' W; running easterly to the east shore at a point 35° 35.6781' N – 77° 19.3680' W.
- (h) Chicod Creek - upstream (west) to a line beginning on the west shore at a point 35° 34.6186' N – 77° 14.0233' W; running southerly to the east shore at a point 35° 34.5985' N – 77° 14.0169' W.

- (i) Old Grindle Creek - upstream (north) to a line beginning on the north shore at a point 35° 35.3098' N – 77° 09.9461' W; running southerly along SSR 1565 (Grimesland Bridge Road) to the south shore at a point 35° 35.2891' N – 77° 09.9511' W.

- (j) Bear Creek - upstream (southwest) to a line beginning on the west shore at a point 35° 32.4699' N – 77° 07.4185' W; running easterly to the east shore at a point 35° 32.4697' N – 77° 07.3758' W.

- (24) Tranters Creek including designated tributaries - main stem waters north and west of a line beginning on the west shore at a point 35° 33.1993' N – 77° 05.3978' W; running easterly to the east shore at a point 35° 33.2408' N – 77° 05.0872' W and south of a line beginning on the west shore at a point 35° 45.7848' N – 77° 15.2294' W; running easterly to the east shore at a point 35° 45.7905' N – 77° 15.1931' W; including the following tributaries from their confluence with Tranters Creek in the direction indicated to the specified boundary:

- (a) Aggie Run - upstream (east) to a line beginning on the north shore at a point 35° 38.3433' N – 77° 05.5003' W; running southeasterly to the south shore at a point 35° 38.2633' N – 77° 05.4097' W.

- (b) Cherry Run - upstream (northeast) to a line beginning on the north shore at a point 35° 35.1560' N – 77° 04.0436' W; running southerly along US 17 to the south shore at a point 35° 35.1404' N – 77° 04.0437' W.

- (25) Lake Mattamuskeet - all waters and all inland manmade tributaries of Lake Mattamuskeet.

- (26) Bay River Area: Trent Creek - south of a line beginning on the west shore at a point 35° 06.2738' N – 76° 43.1071' W; running easterly along the NC 55 bridge (Pamlico County) to the east shore to a point 35° 06.2603' N – 76° 43.0741' W; and north of a line beginning on the southwest shore at a point 35° 04.3545' N – 76° 42.8282' W; running northeasterly to the northeast shore to a point 35° 04.3686' N – 76° 42.8117' W.

- (27) Neuse River including designated tributaries - main stem waters south of a line beginning on the east shore at a point 35° 47.9955' N – 78° 32.2902' W; running westerly along Milburnie Dam (Bridges Lake Dam) to the west shore to a point 35° 48.0280' N – 78° 32.3989' W; and northwest of a line near Pitch Kettle Creek beginning on the north shore at a point 35° 16.9793' N – 77° 15.5529' W; running south to

the south shore to a point 35° 16.9237' N – 77° 15.5461' W; including the following tributaries from their confluence with Neuse River in the direction indicated to the specified boundary:

- (a) Middle Creek - upstream (west) to a line beginning on the southwest shore at a point 35° 30.4489' N – 78° 24.1072' W; running northeasterly along the NC 210 bridge (Johnston County) to the northeast shore to a point 35° 30.4767' N – 78° 24.0676' W.
- (b) Mill Creek - upstream (west) to a line beginning on the north shore at a point 35° 20.7619' N – 78° 20.0813' W; running southerly along the SSR 1185 bridge (Joyner Bridge Road) to the south shore to a point 35° 20.7262' N – 78° 20.0938' W.
- (c) Little River - upstream (northwest) to a line beginning on the southwest shore at a point 35° 40.0035' N – 78° 15.5262' W; running northeasterly along the NC 42 bridge (Johnston County) to the northeast shore to a point 35° 40.0142' N – 78° 15.5060' W.
- (d) Walnut Creek - upstream (north) to a line beginning on the west shore at a point 35° 15.5439' N – 77° 52.5703' W; running easterly to the east shore to a point 35° 15.5407' N – 77° 52.5574' W.
- (e) Bear Creek - upstream (north) to a line beginning on the northeast shore at a point 35° 21.1265' N – 77° 49.1500' W; running southwesterly to the southwest shore to a point 35° 21.1125' N – 77° 49.1605' W.
- (f) Falling Creek - upstream (northwest) to a line beginning on the west shore at a point 35° 15.6635' N – 77° 41.5862' W; running easterly along the US 70 bridge (Banks School Road) to the east shore to a point 35° 15.6687' N – 77° 41.5540' W.
- (g) Contentnea Creek - upstream (northwest) to a line beginning on the west shore at a point 35° 34.1707' N – 77° 47.5396' W; running easterly to the east shore to a point 35° 34.1704' N – 77° 47.4966' W.
- (h) Halfmoon Creek - upstream (southwest) to a line beginning on the north shore at a point 35° 19.1578' N – 77° 20.2050' W; running southerly to

the south shore to a point 35° 19.1335' N – 77° 20.2036' W.

- (i) Village Creek - upstream (southwest) to a line beginning on the northeast shore at a point 35° 18.4795' N – 77° 18.1037' W; running southwesterly to the southwest shore to a point 35° 18.4603' N – 77° 18.1121' W.
 - (j) Kitten Creek - upstream (northwest) to include all waters.
 - (k) Core Creek - upstream (west) to a line beginning on the north shore at a point 35° 10.7941' N – 77° 18.9102' W; running southerly to the south shore to a point 35° 10.7715' N – 77° 18.9012' W.
 - (l) Pitchkettle Creek - upstream (northwest) to include all waters.
- (28) Neuse River Area:
- (a) Turkey Quarter and Greens creeks - southeast of a line beginning on the west shore of Turkey Quarter Creek at a point 35° 15.6738' N – 77° 14.6823' W; running southeasterly to the southeast shore of Turkey Quarter Creek to a point 35° 15.6534' N – 77° 14.6470' W; and northwest of a line beginning on the north shore of Greens Creek at a point 35° 14.1883' N – 77° 11.8862' W; running southwesterly to the southwest shore of Greens Creek to a point 35° 14.1389' N – 77° 11.7535' W.
 - (b) Taylor Creek - northwest of a line beginning on the north shore at a point 35° 14.3719' N – 77° 10.8050' W; running southwesterly to the south shore to a point 35° 14.3300' N – 77° 10.8352' W.
 - (c) Pine Tree Creek - west of a line beginning on the north shore at a point 35° 12.6663' N – 77° 07.4285' W; running southwesterly to the south shore to a point 35° 12.7033' N – 77° 07.3594' W and north of a line beginning on the west shore at a point 35° 12.8553' N – 77° 07.8300' W; running easterly to the east shore to a point 35° 12.8372' N – 77° 07.7934' W and north of a line beginning on the west shore at a point 35° 13.2012' N – 77° 08.7753' W; running southeasterly to the east shore to a point 35° 13.1714' N – 77° 08.7071' W.
 - (d) Swift and Little Swift creeks - north of a line beginning on the west shore at a point 35° 11.5972' N – 77° 06.0562' W; running easterly to the east shore

- to a point 35° 11.5816' N – 77° 05.9861' W for both creeks and south of a line beginning on the northeast shore at a point 35° 17.8175' N – 77° 08.9421' W; running southwesterly along the SSR 1440 bridge (Streets Ferry Road) to the southwest shore to a point 35° 17.8027' N – 77° 08.9529' W for Swift Creek; and southwest of two lines, one beginning on the northwest shore of Fisher Swamp at a point 35° 14.6533' N – 77° 03.9072' W; running southeasterly to the southeast shore to a point 35° 14.6322' N – 77° 03.8983' W; and the other beginning on the northwest shore of Little Swift Creek at a point 35° 14.1315' N – 77° 03.6823' W; running southeasterly along the SR 1627 bridge (Craven County) to the southeast shore to a point 35° 14.1179' N – 77° 03.6676' W for Little Swift Creek.
- (e) Bachelor Creek - west of a line beginning on the north shore at a point 35° 09.0099' N – 77° 04.5858' W; running southerly to the south shore to a point 35° 08.9085' N – 77° 04.7172' W and east of a line at Rollover Creek beginning on the north shore at a point 35° 07.9194' N – 77° 11.9438' W; running southerly to the south shore to a point 35° 07.8931' N – 77° 11.9445' W.
- (f) Trent River Area:
- (i) Brice Creek - south of a line beginning on the west shore at a point 35° 02.1261' N – 77° 02.1243' W; running easterly to the east shore to a point 35° 02.1268' N – 77° 02.1015' W and north of a line beginning on the west shore at a point 34° 59.7828' N – 77° 00.0710' W; running easterly along the SSR 1101 bridge (County Line Road) to the east shore to a point 34° 59.7789' N – 77° 00.0534' W.
- (ii) Mill Creek - south of a line beginning on the west shore at a point 35° 00.4595' N – 77° 12.8427' W; running easterly to the east shore to a point 35° 00.4593' N – 77° 12.8160' W; and north of a line beginning on the west shore at a point 34° 59.8881' N – 77° 12.8536' W; running easterly to the east shore to a point 34° 59.8878' N – 77° 12.8368' W.
- (iii) Mill Run - southwest of a line beginning on the northwest shore at a point 35° 00.3766' N – 77° 16.8680' W; running southeasterly along the NC 58 bridge (Jones County) to the southeast shore to a point 35° 00.3654' N – 77° 16.8487' W; and northeast of a line beginning on the northwest shore at a point 35° 00.0929' N – 77° 17.3282' W; running southeasterly to the southeast shore to a point 35° 00.0740' N – 77° 17.3024' W.
- (g) Trent River including all the waters of Jumping Creek - main stem waters southwest of a line beginning on the west shore at a point 35° 01.9478' N – 77° 15.6377' W; running easterly along the SSR 1121 bridge (Oak Grove Road) to the east shore to a point 35° 01.9506' N – 77° 15.6095' W; and northeast of a line beginning on the northeast shore at a point 35° 04.0759' N – 77° 35.3891' W; running southwesterly along the SSR 1153 bridge (Vine Swamp Road) to the southwest shore to a point 35° 04.0624' N – 77° 35.4063' W; including all the waters of Jumping Creek.
- (h) Upper Broad Creek - northwest of a line beginning on the north shore at a point 35° 06.8922' N – 76° 56.3911' W, running southerly to the south shore to a point 35° 06.8623' N – 76° 56.3916' W and southeast of a line beginning on the west shore at a point 35° 08.3197' N – 76° 58.7314' W; running easterly along the NC 55 bridge at the Craven and Pamlico county line to the east shore to a point 35° 08.3209' N – 76° 58.6753' W.
- (i) Beard Creek - northwest of a line beginning on the north shore at a point 35° 02.6853' N – 76° 52.3346' W; running southerly to the south shore to a point 35° 02.6663' N – 76° 52.3351' W and southeast of line beginning on the southwest shore at a point 35° 03.7198' N – 76° 52.6024' W; running northeasterly along the SSR 1115 bridge (Pamlico County) to the

- northeast shore to a point 35° 03.7258' N – 76° 52.5942' W.
- (j) Dawson Creek - northwest of a line beginning on the southwest shore at a point 35° 01.8352' N – 76° 47.4672' W; running northeasterly to the northeast shore to a point 35° 01.8475' N – 76° 47.4283' W; and southeast of a line beginning on the southwest shore of Fork Run at a point 35° 02.1112' N – 76° 48.3083' W; running northeasterly along the SSR 1005 bridge (Pamlico County) to the northeast shore of Fork Run to a point 35° 02.1206' N – 76° 48.2922' W.
- (k) Slocum Creek:
- (i) Southwest Prong - southwest of a line beginning on the northwest shore at a point 34° 53.1520' N – 76° 55.8540' W; running southeasterly along the SSR 1746 bridge (Greenfield Heights Boulevard) to the southeast shore to a point 34° 53.1369' N – 76° 55.8460' W; and northeast of a line beginning on the west shore at a point 34° 51.5981' N – 76° 57.1687' W; running easterly to the east shore to a point 34° 51.5935' N – 76° 57.1229' W.
- (ii) East Prong - south of a line beginning on the west shore at a point 34° 52.9687' N – 76° 54.5195' W; running easterly along the NC 101 bridge (Fontana Boulevard) to the east shore to a point 34° 52.9680' N – 76° 54.5020' W.
- (l) Hancock Creek - south of a line beginning on the west shore at a point 34° 52.1403' N – 76° 50.8518' W; running easterly along the NC 101 bridge (Craven County) to the east shore to a point 34° 52.1412' N – 76° 50.8382' W.
- (29) White Oak River - main stem waters north and west of a line beginning on the west shore at a point 34° 48.1466' N – 77° 11.4711' W; running easterly to a point on the west shore 34° 48.1620' N – 77° 11.4244' W; and south and east of a line beginning on the west shore at a point 34° 53.5120' N – 77° 51.4013' W; running easterly to a point on the east shore 34° 53.5009' N – 77° 14.0194' W; including the following tributaries from their confluence with White Oak River in the direction indicated to the specified boundary:
- (a) Holston Creek - east to a line beginning on the north shore at a point 34° 49.6284' N – 77° 09.3783' W; running southerly to shore at a point 34° 49.6177' N – 77° 09.3670' W.
- (b) Grant's Creek - west to a line beginning on the north shore at a point 34° 47.9302' N – 77° 12.8060' W; running southerly along SSR 1434 bridge (Belgrade-Swansboro Road) to a point on the south shore 34° 47.9185' N – 77° 12.7954' W.
- (30) New River - main stem waters north of a line beginning on the west shore at a point 34° 45.1654' N – 77° 26.1222' W; running easterly along the US Highway 17 bridge to a point on the east shore 34° 45.2007' N – 77° 25.9790' W; and south of a line beginning at a point on the west shore 34° 50.5818' N – 77° 30.1735' W running easterly along the SSR 1316 bridge (Rhodestown Road) to a point on the east shore 34° 50.5951' N – 77° 30.1534' W.
- (31) Northeast and Little Northeast Creeks - north and east of a line beginning on the west shore at a point 34° 44.0778' N – 77° 21.2640' W; running southeasterly along the railroad bridge to a point on the east shore 34° 44.0446' N – 77° 21.2126' W; and west of a line beginning on the north shore 34° 44.9055' N – 77° 19.7541' W; running southerly along SSR 1406 bridge (Piney Green Road) to a point on the south shore 34° 44.8881' N – 77° 19.7649' W.
- (32) Northeast Cape Fear River - main stem waters north of a line beginning at a point on the west shore 34° 26.5658' N – 77° 50.0871' W; running northeasterly along the NC 210 bridge to a point on the east shore 34° 26.6065' N – 77° 49.9955' W and south of a line beginning on the west shore 34° 38.7667' N – 77° 52.3417' W running easterly along SSR 1318 bridge (Croombsbridge Road) to a point on the east shore 34° 38.7744' N – 77° 52.3093' W; including the following tributaries from their confluence with the Northeast Cape Fear River in the direction indicated to the specified boundary:
- (a) Burgaw Creek - west to a line beginning on the north shore at a point 34° 32.4670' N – 77° 51.1705' W; running southerly along SSR 1411 bridge (Stag Park Road) to a point on the south shore 34° 32.4567' N – 77° 51.1711' W.
- (b) Pike Creek - west to a line beginning on the north shore at a point 34° 28.7928' N – 77° 52.5148' W; running southerly along SSR 1411 bridge

- (Ashton Lake Road) to a point on the south shore 34° 28.7882' N – 77° 52.5261' W.
- (c) Merrick Creek - north and east to a line beginning on the north shore at a point 34° 26.8264' N – 77° 48.1948' W; running southerly along NC 210 bridge to a point on the south shore 34° 26.8028' N – 77° 48.1797' W.
- (d) Island Creek - south and east to a line beginning on the west shore at a point 34° 22.0359' N – 77° 48.9107' W; running easterly along SSR 1002 bridge (Holly Shelter Road) to a point on the east shore 34° 22.0213' N – 77° 48.8854' W.
- (e) Prince George Creek - south and east to a line beginning on the north shore at a point 34° 20.6773' N – 77° 54.2113' W; running southerly along NC 133 bridge to a point on the south shore 34° 20.6659' N – 77° 54.2170' W.
- (f) Turkey Creek - north and east to a line beginning on the north shore at a point 34° 23.8546' N – 77° 54.7872' W; running southerly along NC 133 bridge to a point on the south shore 34° 23.8429' N – 77° 54.7772' W.
- (g) Long Creek - north and west to a line beginning on the west shore at a point 34° 26.3494' N – 78° 01.5716' W; running easterly along NC 210 bridge to a point on the east shore 34° 26.3500' N – 78° 01.5396' W.
- (33) Black River - north and west of a line beginning on the west shore at a point 34° 22.0783' N – 78° 04.4123' W; running easterly to a point on the east shore 34° 21.9950' N – 78° 04.2864' W and south and east of a line beginning at a point on the north shore 34° 42.5285' N – 78° 15.8178' W; running southerly to a point on the south shore 34° 42.5008' N – 78° 15.7972' W. South River - south and east of a line beginning at a point on the west shore 34° 38.4120' N – 78° 18.7075' W; running easterly along SSR 1007 bridge (Ennis Bridge Road) to a point on the east shore 34° 38.4080' N – 78° 18.6727' W.
- (34) Cape Fear River - main stem waters north and west of a line at Lock and Dam #1 beginning on the west shore at a point 34° 24.2628' N – 78° 17.6390' W; running easterly to a point on the east shore 34° 24.2958' N – 78° 17.5634' W and south and east of a line beginning at a point on the west shore 35° 24.8404' N – 78° 49.4267' W; running easterly to a point on the east shore 35° 24.8833' N – 78° 49.3288' W; including the following tributaries from their confluence with the Cape Fear River in the direction indicated to the specified boundary:
- (a) Brown's Creek - south and west to a line beginning on the north shore at a point 34° 36.8641' N – 78° 35.0917' W; running southerly along NC 87 bridge to a point on the south shore 34° 36.8477' N – 78° 35.0731' W.
- (b) Hammond Creek - south and west to a line beginning on the north shore at a point 34° 34.032' N – 78° 30.3542' W; running southerly along NC 87 bridge to a point on the south shore 34° 34.0142' N – 78° 30.3397' W.
- (c) Steep Run - south and west to a line beginning on the north shore at a point 34° 25.5019' N – 78° 20.9934' W; running southerly along NC 87 bridge to a point on the south shore 34° 25.4742' N – 78° 20.9549' W.
- (d) Wayman's Creek - south and west to a line beginning on the north shore at a point 34° 22.4396' N – 78° 16.3904' W; running southerly along NC 87 bridge to a point on the south shore 34° 22.4287' N – 78° 16.3723' W.
- (e) Livingston Creek - south to a line beginning on the north shore at a point 34° 19.5405' N – 78° 12.9889' W; running southerly along NC 87 bridge to a point on the south shore 34° 19.5128' N – 78° 12.9727' W.
- (f) Hood Creek - south and west to a line beginning on the north shore at a point 34° 18.6658' N – 78° 07.1988' W; running southerly along NC 87 bridge to a point on the south shore 34° 18.6612' N – 78° 07.1741' W.
- (g) Indian Creek - west to a line beginning on the north shore at a point 34° 17.7383' N – 78° 02.6706' W; running southerly along SSR 1453 bridge (Brunswick County) to a point on the south shore 34° 17.7210' N – 78° 02.6697' W.
- (h) Sturgeon Creek - west to a line beginning on the north shore at a point 34° 14.6391' N – 78° 01.8154' W; running southerly to a point on the south shore 34° 14.5918' N – 78° 01.7941' W.
- (i) Mill Creek - north and west of Sturgeon Creek to a line beginning on the north shore at a point 34° 15.2342' N – 78° 01.6370' W; running southerly to a point on the south shore 34° 15.2024' N – 78° 01.6525' W.
- (j) Alligator Creek - north of the Brunswick River to the origin of the

- Creek excluding the dredged portions of the Creek.
- (k) Jackeys Creek - west of the Brunswick River to a line beginning on the north shore at a point 34° 11.9672' N – 77° 58.8303' W; running southerly along the NC 133 bridge to a point on the south shore 34° 11.9544' N – 77° 58.8307' W.
 - (l) Mallory Creek - west of the Brunswick River to a line beginning on the north shore at a point 34° 10.0530' N – 77° 58.5927' W; running southerly along the NC Highway 133 bridge to a point on the south shore 34° 10.0351' N – 77° 58.5942' W.
 - (m) Town Creek - west to a line beginning on the north shore at a point 34° 09.4084' N – 78° 05.5059' W; running southerly along US 17 bridge to a point on the south shore 34° 09.3731' N – 78° 05.5147' W.
 - (n) Lilliput Creek - west to a line beginning on the north shore at a point 34° 04.5292' N – 77° 57.3187' W; running southerly along NC 133 bridge to a point on the south shore 34° 04.5137' N – 77° 57.3108' W.

History Note: Authority G.S. 113-132; 113-134;
Eff. May 1, 2008;
Readopted Eff. October 1, 2021.

15A NCAC 10F .0317 STANLY COUNTY

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

- (1) Badin Lake, within 50 yards northeast and southwest of the section of railroad trestle designed for vessel traffic, northwest of the Old Whitney Boating Access Area near the Stanly-Montgomery County line.
- (2) Lake Tillery.
 - (A) Turner Beach Cove shore to shore, south of a point at 35.22529 N, 80.09318 W; and
 - (B) The waters within 50 yards of the fuel docks at the Boathouse and Marina at 712 Berry Hill Drive in Norwood.

(b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no-wake speed within 50 yards of any public boat launching ramp while on the waters of a regulated area described in Paragraph (a) of this Rule.

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

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

(e) Placement of Markers. The North Carolina Wildlife Resources Commission shall be the designated agency for placement and maintenance of the markers implementing Subparagraph (a)(1) of this Rule. The Board of Commissioners of Stanly County shall be the designated agency for placement of markers implementing Parts (a)(2)(A) and (B) of this Rule.

History Note: Authority G.S. 75A-3; 75A-15;
Eff. February 1, 1976;
Amended Eff. July 1, 1995; March 25, 1978; November 1, 1977;
Temporary Amendment Eff. June 1, 1998;
Amended Eff. July 1, 2000; April 1, 1999; July 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Amended Eff. October 1, 2018;
Emergency Amendment Eff. July 30, 2019;
Temporary Amendment Eff. June 1, 2020; October 1, 2019;
Temporary Amendment Expired February 26, 2021;
Amended Eff. October 1, 2021; February 1, 2021.

15A NCAC 10F .0327 MONTGOMERY COUNTY

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

- (1) Badin Lake.
 - (A) the cove west of Lakeshore Drive and east of Strand Drive, southeast of a line at the mouth of the cove from a point on the east shore at 35.49242 N, 80.09241 W to a point on the west shore at 35.49242 N, 80.09241 W;
 - (B) Lake Forest Drive Cove shore to shore, west of a point 50 yards east of the fueling site at the marina at 35.48739 N, 80.10918 W;
 - (C) Garr Creek shore to shore, north of a line beginning at a point on the east shore at 35.47952 N, 80.13633 W to a point on the west shore at 35.47946 N, 80.13932 W;
 - (D) the channel between Beyer's Island and the mainland, shore to shore beginning at a line from a point on Beyer's Island at 35.49102 N, 80.10221 W to a point on the mainland at 35.49230 N, 80.10241 W, ending at a line westward, from a point on Beyer's Island at 35.48988 N, 80.10573 W to a point on the mainland at 35.49077 N, 80.10702 W; and
 - (E) within 50 yards of the fueling station at the Old North State Marina at the entrance to a cove within the Uwharrie Point community.
- (2) Lake Tillery.
 - (A) the waters within 50 yards of the boat ramp in the south end of Woodrun Cove at 35.33113 N, 80.06277 W;
 - (B) Carolina Forest Cove shore to shore and the waters within 50 yards of the

boat ramps and boat slips at the end of Arroyo Drive in Carolina Forest Community, from a point on the south shore at 35.36276 N, 80.05386 W, northeast to a point on the north shore at 35.36405 N, 80.05304 W; and

- (C) Lilly's Bridge Boating Access Area shore to shore, from line 25 feet north of the SR 1110 bridge otherwise known as Lillys Bridge Road at a point on the east shore at 35.23223 N, 80.06166 W, to a point on the west shore at 35.23289 N, 80.06318 W, to a line 200 feet southwest of the Lilly's Bridge Boating Access Area, from a point on the east shore at 35.23067 N; 80.06262 W, to a point on the west shore at 35.23156 N; 80.06437 W.

(3) Tuckertown Reservoir.

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

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

(d) Badin Lake Swimming Area. No person operating or responsible for the operation of a vessel shall permit it to enter the marked swimming area on Badin Lake at the Pinehaven Village beach area at 370 Pinehaven Drive in New London, within 50 feet of the shoreline between points at 35.49927 N, 80.11428 W; and 35.49934 N, 80.11437 W.

(e) Placement of Markers. The Board of Commissioners of Montgomery County shall be the designated agency for placement of the markers implementing Parts (a)(1)(A), (B), (C), (D), (E), (2)(A) and (B), and Subparagraph (a)(3) of this Rule. The North Carolina Wildlife Resources Commission is the designated agency for placement and maintenance of the markers implementing Part (a)(2)(C) of this Rule. The Board of Commissioners of Montgomery County shall be the designated agency for placement and maintenance of the ropes and markers implementing Paragraph (d) of this Rule.

History Note: Authority G.S. 75A-3; 75A-15;

Eff. November 1, 1977;

Amended Eff. December 1, 1990; May 1, 1989; March 25, 1978;

Temporary Amendment Eff. June 1, 1998;

Amended Eff. April 1, 1999; July 1, 1998;

Temporary Amendment Eff. July 1, 2002;

Amended Eff. August 1, 2006; June 1, 2005; April 1, 2003;

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

Amended Eff. October 1, 2018; April 1, 2017;

Emergency Amendment Eff. July 30, 2019;

Temporary Amendment Eff. October 1, 2019;

Amended Eff. May 1, 2020;

Temporary Amendment Eff. June 1, 2020;

Temporary Amendment Expired March 12, 2021;

Amended Eff. October 1, 2021.

15A NCAC 10F .0329 ROWAN COUNTY

(a) Regulated Areas. This Rule shall apply to the portions of High Rock Lake and Tuckertown Lake within Rowan County.

(b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no-wake speed within 50 yards of any public boat launching ramp while on the waters of the regulated areas described in Paragraph (a) of this Rule.

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

(d) Speed Limit in Specific Zones. No person shall operate a vessel at greater than no-wake speed in the following locations on the regulated areas described in Paragraph (a) of this Rule:

- (1) the waters within 50 yards of the Tamarac Shores Marina on Second Creek on High Rock Lake extending northeast of the marina 50 yards from the shoreline to a point at 35.61097 N, 60.30647 W, and including the waters of the cove north of the marina;
- (2) the cove on the north side of Second Creek east of SR 2138 otherwise known as Poole Road on High Rock Lake, shore to shore, north of a line from a point on the east shore at 35.60800 N, 80.31985 W to a point on the west shore at 35.60741 N, 80.32106 W;
- (3) the waters within 50 yards southeast and 50 yards northwest of the I-85 bridge over High Rock Lake, from a point southeast of the bridge at 35.71930 N, 80.38873 W, to a point northwest of the bridge at 35.72012 N, 80.3990 W;
- (4) the waters within 50 yards southeast and 50 yards northwest of the SR 2168 bridge otherwise known as the Goodman Lake Road bridge at Crane Creek on High Rock Lake, from a point southeast of the bridge at 35.55354 N, 80.35344 W, to a point northwest of the bridge at 35.66406 N, 80.35435 W;
- (5) the waters within 50 yards northeast and 50 yards southwest of the SR 1002 bridge otherwise known as the Bringle Ferry Road bridge at Second Creek on High Rock Lake, from a point northeast of the bridge at 35.60916 N, 80.30626 W, to a point southwest of the bridge at 35.60840 N, 80.30693 W;
- (6) the waters within 50 yards north and 50 yards south of SR 1004 bridge otherwise known as the Stokes Ferry Road bridge at Riles Creek on Tuckertown Lake, from a point north of the bridge at 35.50535 N, 80.21680 W, to a point south of the bridge at 35.50452 N, 80.21720 W;
- (7) the waters within 50 yards northwest and 50 yards southeast of the N. C. Highway 8-49 bridge at Tuckertown Lake from a point northwest of the bridge at 35.50642 N,

- (8) 80.18430 W, to a point southeast of the bridge at 35.50538 N, 80.18372 W; and the waters within 50 yards of the Rowan Shrine Club dock located at 35.66776 N, 80.31425 W on High Rock Lake.

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

(f) Placement of Markers. The Board of Commissioners of Rowan County shall be the designated agency for placement of markers implementing this Rule.

History Note: Authority G.S. 75A-3; 75A-15;

Eff. June 18, 1978;

Amended Eff. December 1, 2010; December 1, 1985;

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

Amended Eff. October 1, 2021; October 1, 2018.

15A NCAC 10I .0103 ENDANGERED SPECIES LISTED

(a) The following species of resident wildlife shall be designated as federally-listed endangered species:

- (1) Amphibians: None Listed At This Time.
- (2) Birds:
 - (A) Bachman's warbler (*Vermivora bachmanii*);
 - (B) Ivory-billed woodpecker (*Campephilus principalis*);
 - (C) Piping plover (*Charadrius melodus circumcinctus*);
 - (D) Red-cockaded woodpecker (*Dryobates borealis*); and
 - (E) Roseate tern (*Sterna dougallii dougallii*).
- (3) Crustacea: None Listed At This Time.
- (4) Fish:
 - (A) Cape Fear shiner (*Notropis mekistocholas*);
 - (B) Roanoke logperch (*Percina rex*);
 - (C) Shortnose sturgeon (*Acipenser brevirostrum*), when found in inland fishing waters as defined in G.S. 113-129(9)a and (9)b.; and
 - (D) Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*), when found in inland fishing waters.
- (5) Mammals:
 - (A) Carolina northern flying squirrel (*Glaucomys sabrinus coloratus*);
 - (B) Eastern cougar (*Puma concolor*);
 - (C) Gray bat (*Myotis grisescens*);
 - (D) Indiana bat (*Myotis sodalis*);
 - (E) Manatee (*Trichechus manatus*), when found in inland fishing waters; and
 - (F) Virginia big-eared bat (*Corynorhinus townsendii virginianus*).
- (6) Mollusks:

- (A) Appalachian elktoe (*Alasmodonta raveneliana*);
- (B) Carolina heelsplitter (*Lasmigona decorata*);
- (C) Dwarf wedgemussel (*Alasmodonta heterodon*);
- (D) James spinymussel (*Parvaspina collina*);
- (E) Littlewing pearlymussel (*Pegias fabula*);
- (F) Tan riffleshell (*Epioblasma florentina walkeri*); and
- (G) Tar River spinymussel (*Parvaspina steinstansana*).

(7) Reptiles:

- (A) Kemp's ridley seaturtle (*Lepidochelys kempii*);
- (B) Atlantic hawksbill seaturtle (*Eretmochelys imbricata imbricata*); and
- (C) Leatherback seaturtle (*Dermochelys coriacea*).

(b) The following species of resident wildlife shall be designated as State-listed endangered species:

- (1) Amphibians:
 - (A) Gopher frog (*Rana [=Lithobates] capito*);
 - (B) Hickory Nut Gorge green salamander (*Aneides caryaensis*);
 - (C) Ornate chorus frog (*Pseudacris ornata*); and
 - (D) River frog (*Rana [=Lithobates] heckscheri*).
- (2) Birds:
 - (A) American peregrine falcon (*Falco peregrinus anatum*);
 - (B) Bewick's wren (*Thryomanes bewickii*);
 - (C) Common tern (*Sterna hirundo*);
 - (D) Henslow's sparrow (*Centronyx henslowii*); and
 - (E) Wayne's black-throated green warbler (*Setophaga virens waynei*).
- (3) Crustacea:
 - (A) Bennett's Mill cave water slater (*Caecidotea carolinensis*); and
 - (B) Waccamaw crayfish (*Procambarus braswelli*).
- (4) Fish:
 - (A) Blotchside logperch (*Percina burtoni*);
 - (B) Bridle shiner (*Notropis bifrenatus*);
 - (C) Orange-fin madtom (*Noturus gilberti*);
 - (D) Paddlefish (*Polyodon spathula*);
 - (E) Robust redhorse (*Moxostoma robustum*);
 - (F) Rustyside sucker (*Thoburnia hamiltoni*);
 - (G) Sharpnose darter (*Percina oxyrhynchus*); and

- (H) Stonecat (*Noturus flavus*).
- (5) Mammals: None Listed At This Time.
- (6) Mollusks:
 - (A) Atlantic pigtoe (*Fusconaia masoni*);
 - (B) Barrel floater (*Utterbackiana couperiana*);
 - (C) Brook floater (*Alasmidonta varicosa*);
 - (D) Carolina creekshell (*Villosa vaughaniana*);
 - (E) Fragile glyph (*Glyphyalinia clingmani*);
 - (F) Green floater (*Lasmigona subviridis*);
 - (G) Greenfield rams-horn (*Helisoma eucosmium*);
 - (H) Knotty elimia (*Elimia christyi*);
 - (I) Longsolid (*Fusconaia subrotunda*);
 - (J) Magnificent rams-horn (*Planorbella magnifica*);
 - (K) Purple wartyback (*Cyclonaias tuberculata*);
 - (L) Savannah lilliput (*Toxolasma pullus*);
 - (M) Slippershell mussel (*Alasmidonta viridis*);
 - (N) Tennessee clubshell (*Pleurobema oviforme*);
 - (O) Tennessee heelsplitter (*Lasmigona holstonia*);
 - (P) Tennessee pigtoe (*Pleurobema barnesiana*); and
 - (Q) Yellow lampmussel (*Lampsilis cariosa*).
- (7) Reptiles:
 - (A) Eastern coral snake (*Micrurus fulvius fulvius*); and
 - (B) Eastern diamondback rattlesnake (*Crotalus adamanteus*); and
 - (C) Mimic glass lizard (*Ophisaurus mimicus*).

History Note: Authority G.S. 113-134; 113-291.2; 113-292; 113-333;

Eff. June 11, 1977;

Amended Eff. October 1, 2017; August 1, 2016; May 1, 2008; April 1, 2001; February 1, 1994; November 1, 1991; April 1, 1991; June 1, 1990;

Readopted Eff. October 1, 2021.

15A NCAC 10I .0104 THREATENED SPECIES LISTED

(a) The following species of resident wildlife shall be designated as federally-listed threatened species:

- (1) Amphibians: None Listed At This Time.
- (2) Birds:
 - (A) Eastern black rail (*Laterallus jamaicensis jamaicensis*);
 - (B) Piping plover (*Charadrius melodus melodus*);
 - (C) Red knot (*Calidris canutus rufa*); and
 - (D) Wood stork (*Mycteria americana*).

- (3) Crustacea: None Listed At This Time.
- (4) Fish:
 - (A) Spotfin chub (*Erimonax monachus*); and
 - (B) Waccamaw silverside (*Menidia extensa*).
- (5) Mammals: Northern long-eared bat (*Myotis septentrionalis*)
- (6) Mollusks:
 - (A) Noonday globe (*Patera clarki nantahala*); and
 - (B) Yellow lance (*Elliptio lanceolata*).
- (7) Reptiles:
 - (A) Bog turtle (*Glyptemys muhlenbergii*);
 - (B) American alligator (*Alligator mississippiensis*);
 - (C) Green sea turtle (*Chelonia mydas*); and
 - (D) Loggerhead sea turtle (*Caretta caretta*).

(b) The following species of resident wildlife are designated as State-listed threatened species:

- (1) Amphibians:
 - (A) Eastern tiger salamander (*Ambystoma tigrinum tigrinum*);
 - (B) Green salamander (*Aneides aeneus*);
 - (C) Junaluska salamander (*Eurycea junaluska*);
 - (D) Long-tailed salamander (*Eurycea longicauda longicauda*);
 - (E) Mabee's salamander (*Ambystoma mabeei*);
 - (F) Pine Barrens tree frog (*Hyla andersonii*); and
 - (G) Wehrle's salamander (*Plethodon wehrlei*).
- (2) Birds:
 - (A) Bald eagle (*Haliaeetus leucocephalus*);
 - (B) Caspian tern (*Hydroprogne caspia*);
 - (C) Gull-billed tern (*Gelochelidon nilotica aranea*); and
 - (D) Northern saw-whet owl (*Aegolius acadicus*).
- (3) Crustacea:
 - (A) Broad River spiny crayfish (*Cambarus spicatus*);
 - (B) French Broad crayfish (*Cambarus reburus*);
 - (C) Pamlico crayfish (*Procambarus medialis*);
 - (D) Sandhills crayfish (*Procambarus pearsei*); and
 - (E) South Mountains crayfish (*Cambarus franklini*).
- (4) Fish:
 - (A) Bigeye jumprock (*Moxostoma ariommum*);
 - (B) Carolina madtom (*Noturus furiosus*);
 - (C) Carolina pygmy sunfish (*Elassoma boehlkei*);

- (D) Carolina redhorse (*Moxostoma* sp.);
- (E) Least brook lamprey (*Lampetra aepyptera*);
- (F) Logperch (*Percina caprodes*);
- (G) Mimic shiner (*Notropis volucellus*);
- (H) Rosyface chub (*Hybopsis rubrifrons*);
- (I) Sharphead darter (*Etheostoma acuticeps*);
- (J) Sicklefins redhorse (*Moxostoma* sp.);
- (K) Turquoise darter (*Etheostoma inscriptum*); and
- (L) Waccamaw darter (*Etheostoma perlongum*).
- (5) Mammals:
 - (A) Eastern woodrat (*Neotoma floridana floridana*);
 - (B) Rafinesque's big-eared bat (*Corynorhinus rafinesquii rafinesquii*); and
 - (C) Red wolf (*Canis rufus*).
- (6) Mollusks:
 - (A) Alewife floater (*Utterbackiana implicata*);
 - (B) Big-tooth covert (*Fumonelix jonesiana*);
 - (C) Cape Fear threetooth (*Triodopsis soelneri*);
 - (D) Eastern lampmussel (*Lampsilis radiata*);
 - (E) Eastern pondmussel (*Ligumia nasuta*);
 - (F) Engraved covert (*Fumonelix orestes*);
 - (G) Mountain creekshell (*Villosa vanuxemensis*);
 - (H) Notched rainbow (*Villosa constricta*);
 - (I) Rainbow (*Villosa iris*);
 - (J) Roan supercoil (*Paravitrea varidens*);
 - (K) Sculpted supercoil (*Paravitrea ternaria*);
 - (L) Smoky Mountain covert (*Inflectarius ferrissi*);
 - (M) Creeper (*Strophitus undulatus*);
 - (N) Tidewater mucket (*Leptodea ochracea*);
 - (O) Triangle floater (*Alasmidonta undulata*); and
 - (P) Waccamaw ambersnail (*Catinella waccamawensis*).
- (7) Reptiles:
 - (A) Northern pine snake (*Pituophis melanoleucus melanoleucus*); and
 - (B) Southern hognose snake (*Heterodon simus*).

Amended Eff. October 1, 2017; July 1, 2016; August 1, 2016; Readopted Eff. October 1, 2021.

15A NCAC 10I .0105 SPECIAL CONCERN SPECIES LISTED

The following species of resident wildlife shall be designated as State-listed special concern species:

- (1) Amphibians:
 - (a) Crevice salamander (*Plethodon longicrus*);
 - (b) Dwarf salamander (*Eurycea quadridigitata*);
 - (c) Dwarf black-bellied salamander (*Desmognathus folkertsii*);
 - (d) Eastern hellbender (*Cryptobranchus alleganiensis alleganiensis*);
 - (e) Four-toed salamander (*Hemidactylium scutatum*);
 - (f) Gray treefrog (*Hyla versicolor*);
 - (g) Mole salamander (*Ambystoma talpoideum*);
 - (h) Mountain chorus frog (*Pseudacris brachyphona*);
 - (i) Mudpuppy (*Necturus maculosus*);
 - (j) Neuse River waterdog (*Necturus lewisi*);
 - (k) Southern chorus frog (*Pseudacris nigrita*);
 - (l) Southern zigzag salamander (*Plethodon ventralis*); and
 - (m) Weller's salamander (*Plethodon welleri*).
- (2) Birds:
 - (a) American oystercatcher (*Haematopus palliatus*);
 - (b) Bachman's sparrow (*Peucaea aestivalis*);
 - (c) Barn owl (*Tyto alba*);
 - (d) Black-capped chickadee (*Poecile atricapillus*);
 - (e) Black skimmer (*Rynchops niger*);
 - (f) Brown creeper (*Certhia americana nigrescens*);
 - (g) Cerulean warbler (*Setophaga cerulea*);
 - (h) Glossy ibis (*Plegadis falcinellus*);
 - (i) Golden-winged warbler (*Vermivora chrysoptera*);
 - (j) Least bittern (*Ixobrychus exilis*);
 - (k) Least tern (*Sternula antillarum*);
 - (l) Little blue heron (*Egretta caerulea*);
 - (m) Loggerhead shrike (*Lanius ludovicianus*);
 - (n) Painted bunting (*Passerina ciris*);
 - (o) Red crossbill (*Loxia curvirostra*);
 - (p) Snowy egret (*Egretta thula*);
 - (q) Tricolored heron (*Egretta tricolor*);
 - (r) Vesper sparrow (*Pooecetes gramineus*); and
 - (s) Wilson's plover (*Charadrius wilsonia*).

History Note: Authority G.S. 113-134; 113-291.2; 113-292; 113-333; Eff. March 17, 1978; Amended Eff. June 1, 2008; April 1, 2001; November 1, 1991; April 1, 1991; June 1, 1990; September 1, 1989; Temporary Amendment Eff. February 27, 2015;

- (3) Crustacea:
- (a) Carolina skistodiaptomus (Skistodiaptomus carolinensis);
 - (b) Carolina well diacyclops (Diacyclops jeannelli putei);
 - (c) Chowanoke crayfish (Faxonius virginiensis);
 - (d) Graceful clam shrimp (Lynceus gracilicornis);
 - (e) Greensboro burrowing crayfish (Cambarus catagius);
 - (f) Hiwassee headwaters crayfish (Cambarus parrishi);
 - (g) Little Tennessee River crayfish (Cambarus georgiae);
 - (h) North Carolina spiny crayfish (Faxonius carolinensis); and
 - (i) Oconee stream crayfish (Cambarus chaugaensis).
- (4) Fish:
- (a) American brook lamprey (Lethenteron appendix);
 - (b) "Atlantic" Highfin carpsucker (Carpiodes sp. cf. velifer);
 - (c) Banded sculpin (Cottus carolinae);
 - (d) Blue Ridge sculpin (Cottus caeruleomentum);
 - (e) Blueside darter (Etheostoma jessiae);
 - (f) Broadtail madtom (Noturus sp.);
 - (g) Carolina darter (Etheostoma collis);
 - (h) Cutlip minnow (Exoglossum maxillingua);
 - (i) Freshwater drum (Aplodinotus grunniens);
 - (j) Kanawha minnow (Phenacobius teretulus);
 - (k) Lake sturgeon (Acipenser fulvescens);
 - (l) Least killifish (Heterandria formosa);
 - (m) Mooneye (Hiodon tergisus);
 - (n) Mountain madtom (Noturus eleutherus);
 - (o) Ohio lamprey (Ichthyomyzon bdellium);
 - (p) Olive darter (Percina squamata);
 - (q) Pinewoods darter (Etheostoma mariae);
 - (r) River carpsucker (Carpiodes carpio);
 - (s) Sandhills chub (Semotilus lumbee);
 - (t) Sickie darter (Percina williamsi);
 - (u) Smoky dace (Clinostomus sp.);
 - (v) Striped shiner (Luxilus chrysocephalus);
 - (w) Snubnose darter (Etheostoma simoterum);
 - (x) "Thinlip" chub (Cyprinella sp. cf. zanema);
 - (y) Waccamaw killifish (Fundulus waccamensis);
 - (z) Westfall's Darter (Percina westfalli);
- (aa) Wounded darter (Etheostoma vulneratum); and
- (bb) Yellowfin shiner (Notropis lutipinnis);
- (5) Mammals:
- (a) Allegheny woodrat (Neotoma magister);
 - (b) Buxton Woods white-footed mouse (Peromyscus leucopus buxtoni);
 - (c) Coleman's oldfield mouse (Peromyscus polionotus colemani);
 - (d) Eastern big-eared bat (Corynorhinus rafinesquii macrotis);
 - (e) Eastern small-footed bat (Myotis leibii leibii);
 - (f) Florida yellow bat (Lasiurus intermedius floridanus);
 - (g) Pungo white-footed mouse (Peromyscus leucopus easti);
 - (h) Southeastern bat (Myotis austroriparius);
 - (i) Southern rock vole (Microtus chrotorrhinus carolinensis); and
 - (j) Star-nosed mole (Condylura cristata parva).
- (6) Mollusks:
- (a) Appalachian gloss (Zonitoides patuloides);
 - (b) Bidentate dome (Ventridens coelaxis);
 - (c) Black mantleslug (Pallifera hemphilli);
 - (d) Blackwater ancyloid (Ferrissia hendersoni);
 - (e) Blue-foot lancetooth (Haplotrema kendeighi);
 - (f) Cape Fear spike (Elliptio marsupiobesa);
 - (g) Clingman covert (Fumonelix wheatleyi clingmanicus);
 - (h) Dark glyph (Glyphyalinia junaluskana);
 - (i) Dwarf proud globe (Patera clarki clarki);
 - (j) Dwarf threetooth (Triodopsis fulciden);
 - (k) Fringed coil (Helicodiscus fimbriatus);
 - (l) Glossy supercoil (Paravitrea placentula);
 - (m) Great Smoky slitmouth (Stenotrema depilatum);
 - (n) High mountain supercoil (Paravitrea andrewsae);
 - (o) Honey glyph (Glyphyalinia vanattai);
 - (p) Lamellate supercoil (Paravitrea lamellidens);
 - (q) Mirey Ridge supercoil (Paravitrea clappi);
 - (r) Open supercoil (Paravitrea umbilicaris);

(s)	Pink glyph (Glyphyalinia pentadelphica);	15A NCAC 18A .1934	SCOPE
(t)	Pod lance (Elliptio folliculata);	15A NCAC 18A .1935	DEFINITIONS
(u)	Queen crater (Appalachina chilhoweensis);	<i>History Note: Authority 130A-335(e) and (f); Eff. July 1, 1982;</i>	
(v)	Ramp Cove supercoil (Paravitrea lacteodens);	<i>Amended Eff. July 1, 1995; December 1, 1990; January 1, 1990; August 1, 1988; April 1, 1985;</i>	
(w)	Ridged lioplax (Lioplax subcarinata);	<i>Temporary Amendment Eff. June 24, 2003;</i>	
(x)	Roanoke slabshell (Elliptio roanokensis);	<i>Amended Eff. June 1, 2006; May 1, 2004;</i>	
(y)	Saw-tooth disc (Discus bryanti);	<i>Repealed Eff. Pending delayed effective date.</i>	
(z)	Seep mudalia (Leptoxis dilatata);	15A NCAC 18A .1937	PERMITS
(aa)	Spike (Eurynia dilatata);	15A NCAC 18A .1938	RESPONSIBILITIES
(bb)	Spiral coil (Helicodiscus bonamicus);	15A NCAC 18A .1939	SITE EVALUATION
(cc)	Velvet covert (Inflectarius subpalliatu);	15A NCAC 18A .1940	TOPOGRAPHY AND LANDSCAPE POSITION
(dd)	Waccamaw amnicola (Amnicola sp.);	15A NCAC 18A .1941	SOIL CHARACTERISTICS (MORPHOLOGY)
(ee)	Waccamaw siltsnail (Cincinnati sp.);	15A NCAC 18A .1942	SOIL WETNESS CONDITIONS
(ff)	Wavy-rayed lampmussel (Lampsilis fasciola).	15A NCAC 18A .1943	SOIL DEPTH
(7)	Reptiles:	15A NCAC 18A .1944	RESTRICTIVE HORIZONS
(a)	Carolina pigmy rattlesnake (Sistrurus miliarius miliarius);	15A NCAC 18A .1945	AVAILABLE SPACE
(b)	Carolina swamp snake (Seminatrix pygaea paludis);	15A NCAC 18A .1946	OTHER APPLICABLE FACTORS
(c)	Carolina watersnake (Nerodia sipedon williamengelsi);	15A NCAC 18A .1947	DETERMINATION OF OVERALL SITE SUITABILITY
(d)	Cumberland slider (Trachemys scripta troostii);	15A NCAC 18A .1948	SITE CLASSIFICATION
(e)	Diamondback terrapin (Malaclemys terrapin);	15A NCAC 18A .1949	SEWAGE FLOW RATES FOR DESIGN UNITS
(f)	Eastern chicken turtle (Deirochelys reticularia reticularia);	15A NCAC 18A .1950	LOCATION OF SANITARY SEWAGE SYSTEMS
(g)	Eastern coachwhip (Coluber (=Masticophis) flagellum flagellum);	15A NCAC 18A .1951	APPLICABILITY OF RULES
(h)	Eastern slender glass lizard (Ophisaurus attenuatus longicaudus);	15A NCAC 18A .1952	SEPTIC TANK, EFFLUENT FILTER, DOSING TANK AND LIFT STATION DESIGN
(i)	Eastern spiny softshell (Apalone spinifera spinifera);	15A NCAC 18A .1953	PREFABRICATED SEPTIC TANKS AND PUMP TANKS
(j)	Northern map turtle (Graptemys geographica);	15A NCAC 18A .1954	MINIMUM STANDARDS FOR PRECAST REINFORCED CONCRETE TANKS
(k)	Outer Banks kingsnake (Lampropeltis getula sticticeps);	15A NCAC 18A .1955	DESIGN INSTALLATION CRITERIA FOR CONVENTIONAL SEWAGE SYSTEMS
(l)	Stripeneck musk turtle (Sternotherus minor peltifer); and	15A NCAC 18A .1956	MODIFICATIONS TO SEPTIC TANK SYSTEMS
(m)	Timber rattlesnake (Crotalus horridus).	15A NCAC 18A .1957	CRITERIA FOR DESIGN OF ALTERNATIVE SEWAGE SYSTEMS
		15A NCAC 18A .1958	NON-GROUND ABSORPTION SEWAGE TREATMENT SYSTEMS
		15A NCAC 18A .1959	PRIVY CONSTRUCTION
		15A NCAC 18A .1960	MAINTENANCE OF PRIVIES
		15A NCAC 18A .1961	MAINTENANCE OF SEWAGE SYSTEMS
		15A NCAC 18A .1962	APPLICABILITY

History Note: Authority G.S. 113-134; 113-291.2; 113-292; 113-333;
Eff. September 1, 1989;
Amended Eff. October 1, 2017; August 1, 2016; May 1, 2008; July 18, 2002; April 1, 2001; November 1, 1991; April 1, 1991; June 1, 1990;
Readopted Eff. October 1, 2021.

History Note: Authority G.S. 89C; 89E; 89F; 90A; 130A-335(e),(f),(f1); 130A-342;
Eff. July 1, 1982;
Amended Eff. January 1, 1990; August 1, 1988; February 1, 1987; April 1, 1985; January 1, 1984; October 1, 1983; July 1, 1983, January 1, 1983; October 1, 1982;

Temporary Amendment Eff. June 30, 1990, for a period of 180 days to expire on December 27, 1990;
Amended Eff. May 1, 1991; December 1, 1990; October 1, 1990;
Temporary Amendment Eff. July 3, 1991, for a period of 180 days to expire on December 30, 1991;
Amended Eff. July 1, 1995; April 1, 1993; February 1, 1992; August 1, 1991;
Temporary Amendment Eff. January 20, 1997;
Amended Eff. August 1, 1998;
Temporary Amendment Eff. January 1, 1999;
Amended Eff. August 1, 2000; November 1, 1999;
Temporary Amendment Eff. June 24, 2003; April 17, 2002;
Amended Eff. August 1, 2007; June 1, 2006; May 1, 2004;
Repealed Eff. Pending delayed effective date.

15A NCAC 18A .1964 INTERPRETATION AND TECHNICAL ASSISTANCE

15A NCAC 18A .1965 APPEALS PROCEDURE

15A NCAC 18A .1966 SEVERABILITY

15A NCAC 18A .1967 INJUNCTIONS

15A NCAC 18A .1968 PENALTIES

History Note: Authority G.S. 130A-335(e);
Eff. July 1, 1982;
Amended Eff. January 1, 1990; February 1, 1987; January 1, 1985;
Repealed Eff. Pending delayed effective date.

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

History Note: Authority G.S. 130A-335(e),(f); 130A-343;
Eff. April 1, 1993;
Temporary Amendment Eff. June 24, 2003; February 1, 2003;
Amended Eff. June 1, 2006; February 1, 2005; May 1, 2004;
Repealed Eff. Pending delayed effective date.

15A NCAC 18A .1970 ADVANCED WASTEWATER PRETREATMENT SYSTEM

History Note: Authority G.S. 130A-334; 130A-335; 130A-336; 130A-337; 130A-340; 130A-342; 130A-343;
Eff. June 1, 2006;
Amended Eff. October 1, 2011;
Repealed Eff. Pending delayed effective date.

15A NCAC 18A .1971 ENGINEERED OPTION PERMIT

History Note: Authority G.S. 130A-335; 130A-336.1;
Temporary Adoption Eff. July 1, 2016;
Eff. April 1, 2017;
Repealed Eff. Pending delayed effective date.

15A NCAC 18A .2650 GENERAL – ADOPTION BY REFERENCE

The 2017 Food Code and the accompanying 2017 Food Code Supplement, not including subsequent amendments and editions, established by the U.S. Department of Health and Human

Services, Food and Drug Administration (hereinafter referred to as the "Food Code") are hereby incorporated by reference. A copy of the Food Code is available online and free of charge at: www.fda.gov/food/fda-food-code/food-code-2017.

History Note: Authority G.S. 130A-248; S.L. 2019-129;
Eff. September 1, 2012;
Readopted Eff. October 1, 2021.

15A NCAC 18A .2651 DEFINITIONS

The provisions of this Rule make amendments, additions, and deletions to the Food Code incorporated by reference in Rule .2650 of this Section. In Chapter 1, the following apply:

- (1) In Paragraph 1-201.10(B), add: "'Commissary' means a food establishment that services a mobile food unit or a pushcart."
- (2) In Paragraph 1-201.10(B), add: "'Congregate nutrition sites' means food establishments where food preparation is limited to same day service, reheating of time/temperature control for safety food, and operated under the rules of the Division of Aging and Adult Services, N.C. Department of Health and Human Services, which are found in 10A NCAC 05 and 06."
- (3) In Paragraph 1-201.10(B), add: "'Department' means the N.C. Department of Health and Human Services."
- (4) In Paragraph 1-201.10(B), amend "Equipment (1)" to read: "means an article that is used in the operation of a food establishment such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, or warewashing machine."
- (5) In Paragraph 1-201.10(B), amend "Food establishment (2)(b)" to read: "An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location and where consumption is on or off the premises."
- (6) In Paragraph 1-201.10(B), amend "Food establishment (3)" to read: "'Food establishment' does not include entities exempted as described in G.S. 130A-250."
- (7) In Paragraph 1-201.10(B), add: "'Food stand' means a food establishment that prepares or serves food and that only provides seating facilities as set forth in G.S. 130A-248(a6)."
- (8) In Paragraph 1-201.10(B), add: "'Good repair' means equipment and utensils shall be maintained in a state of repair and condition that meets the requirements specified under Parts 4-1 and 4-2 of the Food Code as amended by Rule .2654."
- (9) In Paragraph 1-201.10(B), amend "Imminent health hazard" to read: "'Imminent health hazard' means an imminent hazard as defined in G.S. 130A-2(3)."

- (10) In Paragraph 1-201.10(B), add: "Limited food services establishment' means a food establishment as defined in G.S. 130A-247(7)."
- (11) In Paragraph 1-201.10(B), add: "'Local health director' means a local health director as defined in G.S. 130A-2(6)."
- (12) In Paragraph 1-201.10(B), amend "Meat" to read: "'Meat' means the flesh of animals used as food including the dressed flesh of cattle, swine, sheep, or goat, other edible animals, and as defined in G.S. 106-549.15(14), except fish, poultry, and wild game animals as specified under Subparagraphs 3-201.17(A)(3) and (4)."
- (13) In Paragraph 1-201.10(B), add: "'Mobile food unit' means a food establishment with no permanent utility connections, except for an onsite electrical connection, that is designed to be moved and vend food and that does not provide seating facilities for customers to use while eating or drinking."
- (14) In Paragraph 1-201.10(B), amend "Person" to read: "'Person' means person as defined in G.S. 130A-2(7)."
- (15) In Paragraph 1-201.10(B), amend "Poultry (1)" to read: "Any domesticated bird (chickens, turkeys, ducks, geese, guineas, ratites, or squabs), whether live or dead, as defined in 9 CFR 381.1 Poultry Products Inspection Regulations Definitions, Poultry, and G.S. 106-549.51(26); and"
- (16) In Paragraph 1-201.10(B), add: "'Pushcart' means a mobile piece of equipment or vehicle used to vend food."
- (17) In Paragraph 1-201.10(B), add: "'Registered Environmental Health Specialist' means a Registered Environmental Health Specialist as defined in G.S. 90A-51(2b) and 90A-51(4) and authorized agent of the Department."
- (18) In Paragraph 1-201.10(B), amend "Regulatory Authority" to read: "'Regulatory Authority' means the Department or authorized agent of the Department."
- (19) In Paragraph 1-201.10(B), add: "'Restaurant' means a food establishment that prepares or serves food and provides seating."
- (20) In Paragraph 1-201.10(B), add: "'Supplemental cooking room' means a separate attached or detached structure in that food is cooked on grills, pits, or fireplaces and no other processing occurs."
- (21) In Paragraph 1-201.10(B), amend "Temporary food establishment" to read: "(1) 'Temporary food establishment' means a food establishment as defined in G.S. 130A-247(8). (2) 'Temporary food establishment' does not include domestic yard sales and businesses such as auctions and flea markets."
- (22) In Paragraph 1-201.10(B), add: "'Temporary food establishment commissary' means a food

establishment affiliated with a temporary food establishment that prepares food in advance of or off-site from the event. The temporary food establishment commissary permit shall be valid for no more than the time period described in G.S. 130A-247(8) and shall be permitted no more than 7 days prior to commencement of the event. Food establishments that operate in the same location for more than the time period described in G.S. 130A-247(8) per calendar year are not eligible for a temporary food establishment commissary permit. Food shall not be sold from the temporary food establishment commissary. The temporary food establishment commissary shall comply with all temporary food establishment requirements as set forth in the rules at 15A NCAC 18A .2600."

- (23) In Paragraph 1-201.10(B), add: "'Transitional Permit' means as defined at G.S. 130A-248(c). The transitional permit shall expire 180 days after the date of issuance."
- (24) In Paragraph 1-201.10(B), delete the definition of "Vending machine."
- (25) In Paragraph 1-201.10(B), delete the definition of "Vending machine location."

History Note: Authority G.S. 130A-248; S.L. 2019-129; Eff. September 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019;
Amended Eff. October 1, 2021.

15A NCAC 18A .2652 MANAGEMENT AND PERSONNEL

The provisions of this Rule make amendments, additions, and deletions to the Food Code incorporated by reference in Rule .2650 of this Section. In Chapter 2, the following apply:

- (1) In Paragraph 2-101.11(B), amend to read: "In a food establishment with two or more separately permitted departments that are the legal responsibility of the same permit holder and that are located on the same premises, the permit holder may designate a single person in charge who is present on the premises during all hours of operation, and who is responsible for each separately permitted food establishment on the premises."
- (2) In Paragraph 2-102.11(A), amend to read: "Complying with this code by having no violations of priority items during the current inspection; or"
- (3) In Paragraph 2-102.12(B), amend to read: "This section does not apply to congregate nutrition sites and Risk Category I food establishments as defined in 10A NCAC 46 .0213."

History Note: Authority G.S. 130A-248; S.L. 2019-129; Eff. September 1, 2012;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019;
Amended Eff. October 1, 2021.*

15A NCAC 18A .2653 FOOD

The provisions of this Rule make amendments, additions, and deletions to the Food Code incorporated by reference in Rule .2650 of this Section. In Chapter 3, the following apply:

- (1) In Paragraph 3-201.11(A), add at the end: "Food from food establishments in states adjacent to North Carolina may be sold within North Carolina if the food establishments are under jurisdiction of the local or state enforcement body in that originating state and approved by the regulatory authority in North Carolina in accordance with G.S. 130A-248(b). To determine the extent of compliance with this Code, the regulatory authority shall obtain reports regarding compliance and compliance history from responsible authorities in other jurisdictions where the food establishments are located."
- (2) Delete Section 3-305.13.
- (3) In Section 3-306.12, delete (B).

*History Note: Authority G.S. 130A-248; S.L. 2019-129;
Eff. September 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019;
Amended Eff. October 1, 2021.*

15A NCAC 18A .2654 EQUIPMENT, UTENSILS, AND LINENS

The provisions of this Rule make amendments, additions, and deletions to the Food Code incorporated by reference in Rule .2650 of this Section. In Chapter 4, the following apply:

- (1) Delete Sections 4-204.14, 4-204.19, 4-204.111, 4-204.121, and 4-204.123.
- (2) In Section 4-205.10, amend to read: "Except for toasters, mixers, microwave ovens, water heaters, and hoods, food equipment shall be used in accordance with the manufacturer's intended use and certified or classified for sanitation by an American National Standards Institute (ANSI)-accredited certification program. If the equipment is not certified or classified for sanitation, the equipment shall comply with Parts 4-1 and 4-2 of the Food Code as amended by this Rule. Nonabsorbent wooden shelves that are in good repair may be used in dry storage areas."
- (3) In Section 4-301.14, amend to read: "Ventilation hood systems and devices shall prevent grease or condensation from collecting on equipment, walls, and ceilings."
- (4) In Section 4-502.14, amend to read: "Except as permitted under G.S. 130A-248(c3), mollusk and crustacea shells shall not be used more than once as serving containers."

*History Note: Authority G.S. 130A-248; S.L. 2019-129;
Eff. September 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019;
Amended Eff. October 1, 2021.*

15A NCAC 18A .2655 WATER, PLUMBING, AND WASTE

The provisions of this Rule make amendments, additions, and deletions to the Food Code incorporated by reference in Rule .2650 of this Section. In Chapter 5, the following applies:

- (1) In Paragraph 5-202.12(A), change the risk designation from "priority foundation item" to "core item."
- (2) Delete Section 5-501.14.

*History Note: Authority G.S. 130A-248; S.L. 2019-129;
Eff. September 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019;
Amended Eff. October 1, 2021.*

15A NCAC 18A .2661 INSPECTIONS AND REINSPECTIONS

(a) Upon entry into a food establishment for an inspection or reinspection, the regulatory authority shall provide identification and the purpose in visiting that establishment. The regulatory authority shall inquire as to the identity of the person in charge and invite the person in charge to accompany the regulatory authority during the inspection. If no employee is identified as the person in charge, the regulatory authority shall invite an employee to accompany the regulatory authority on the inspection. Following the inspection, the regulatory authority shall offer to review the results of the inspection with the person in charge or employee, as applicable.

(b) The grading of food establishments shall be conducted using an inspection form furnished by the regulatory authority. The form shall provide for the following information:

- (1) the name and mailing address of the food establishment;
- (2) the name of the permit holder;
- (3) the permit status and score given;
- (4) standards of construction and operation as listed in .2651 through .2677 of this Section;
- (5) an explanation for all points deducted;
- (6) the signature of the regulatory authority; and
- (7) the date.

(c) The grading of food establishments shall be based on the standards of operation and construction as set forth in Rules .2650 through .2676 of this Section.

(d) The Food Establishment Inspection form shall be used to document points assessed for violation of the rules of this Section as follows:

- (1) Violation of Chapter 2 of the Food Code as amended by Rule .2652 of this Section related to person in charge present, demonstration of knowledge, or performance of duties shall equal no more than 1 point.

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| <p>(2) Violation of Chapter 2 of the Food Code as amended by Rule .2652 of this Section related to the person in charge being a certified food protection manager by having certification from an accredited program shall equal no more than 1 point.</p> <p>(3) Violation of Chapter 2 of the Food Code as amended by Rule .2652 of this Section related to management awareness, policy present, and allergy awareness shall equal no more than 2 points.</p> <p>(4) Violation of Chapter 2 of the Food Code as amended by Rule .2652 of this Section related to proper use of reporting, restriction, and exclusion shall equal no more than 3 points.</p> <p>(5) Violation of Chapter 2 of the Food Code as amended by Rule .2652 of this Section related to procedures responding to vomiting and diarrheal events shall equal no more than 1 point.</p> <p>(6) Violation of Chapters 2 and 3 of the Food Code as amended by Rules .2652 and .2653 of this Section related to proper employee eating, tasting, drinking, or tobacco use shall equal no more than 1 point.</p> <p>(7) Violation of Chapter 2 of the Food Code as amended by Rule .2652 of this Section related to no discharge from eyes, nose, and mouth shall equal no more than 1 point.</p> <p>(8) Violation of Chapter 2 of the Food Code as amended by Rule .2652 of this Section related to hands clean and properly washed shall equal no more than 4 points.</p> <p>(9) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to no bare hand contact with ready-to-eat food or approved alternate method properly followed shall equal no more than 4 points.</p> <p>(10) Violation of Chapters 5 and 6 of the Food Code as amended by Rules .2655 and .2656 of this Section related to handwashing facilities supplied and accessible shall equal no more than 2 points.</p> <p>(11) Violation of Chapters 3 and 5 of the Food Code as amended by Rules .2653 and .2655 of this Section related to food obtained from an approved source shall equal no more than 2 points.</p> <p>(12) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to food received at proper temperature shall equal no more than 2 points.</p> <p>(13) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to food in good condition, safe, and unadulterated shall equal no more than 2 points.</p> <p>(14) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to required records available, shellstock tags,</p> | <p>and parasite destruction shall equal no more than 2 points.</p> <p>(15) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to food separated and protected shall equal no more than 3 points.</p> <p>(16) Violation of Chapter 4 of the Food Code as amended by Rule .2654 of this Section related to food-contact surfaces cleaned and sanitized shall equal no more than 3 points.</p> <p>(17) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to disposition of returned, previously served, reconditioned, and unsafe food shall equal no more than 2 points.</p> <p>(18) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to cooking time and temperatures shall equal no more than 3 points.</p> <p>(19) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to reheating for hot holding shall equal no more than 3 points.</p> <p>(20) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to cooling time and temperatures shall equal no more than 3 points.</p> <p>(21) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to hot holding temperatures shall equal no more than 3 points.</p> <p>(22) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to cold holding temperatures shall equal no more than 3 points.</p> <p>(23) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to date marking and disposition shall equal no more than 3 points.</p> <p>(24) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to time as a public health control procedures and records shall equal no more than 3 points.</p> <p>(25) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to consumer advisory provided for raw or undercooked foods shall equal no more than 1 point.</p> <p>(26) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to pasteurized foods used and prohibited foods not offered shall equal no more than 3 points.</p> <p>(27) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to food additives approved and properly used shall equal no more than 1 point.</p> <p>(28) Violation of Chapter 7 of the Food Code as amended by Rule .2657 of this Section related</p> |
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| <p>(29) Violation of Chapters 3, 4 and 8 of the Food Code as amended by Rules .2653, .2654, and .2658 of this Section related to compliance with variance, specialized process, and HACCP plan shall equal no more than 2 points.</p> <p>(30) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to pasteurized eggs used where required shall equal no more than 1 point.</p> <p>(31) Violation of Chapters 3 and 5 of the Food Code as amended by Rules .2653 and .2655 of this Section related to water from an approved source shall equal no more than 2 points.</p> <p>(32) Violation of Chapter 8 of the Food Code as amended by Rule .2658 of this Section related to variance obtained for specialized processing methods shall equal no more than 2 points.</p> <p>(33) Violation of Chapters 3 and 4 of the Food Code as amended by Rules .2653 and .2654 of this Section related to proper cooling methods used or adequate equipment for temperature control shall equal no more than 1 point.</p> <p>(34) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to plant food properly cooked for hot holding shall equal no more than 1 point.</p> <p>(35) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to approved thawing methods used shall equal no more than 1 point.</p> <p>(36) Violation of Chapter 4 of the Food Code as amended by Rule .2654 of this Section related to thermometers provided and accurate shall equal no more than 1 point.</p> <p>(37) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to food properly labeled or original container shall equal no more than 2 points.</p> <p>(38) Violation of Chapters 2 and 6 of the Food Code as amended by Rules .2652 and .2656 of this Section related to insects and rodents not present or no unauthorized animals or persons shall equal no more than 2 points.</p> <p>(39) Violation of Chapters 3 and 6 of the Food Code as amended by Rules .2653 and .2656 of this Section related to contamination prevented during food preparation, storage, and display shall equal no more than 2 points.</p> <p>(40) Violation of Chapter 2 of the Food Code as amended by Rule .2652 of this Section related to personal cleanliness shall equal no more than 1 point.</p> <p>(41) Violation of Chapters 3 and 4 of the Food Code as amended by Rules .2653 and .2654 of this Section related to wiping cloths properly used and stored shall equal no more than 1 point.</p> | <p>(42) Violation of Chapters 3 and 7 of the Food Code as amended by Rules .2653 and .2657 of this Section related to washing fruits and vegetables shall equal no more than 1 point.</p> <p>(43) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to in-use utensils properly stored shall equal no more than 1 point.</p> <p>(44) Violation of Chapter 4 of the Food Code as amended by Rule .2654 of this Section related to utensils, equipment, and linens properly stored, dried and handled shall equal no more than 1 point.</p> <p>(45) Violation of Chapter 4 of the Food Code as amended by Rule .2654 of this Section related to single-use and single-service articles properly stored and used shall equal no more than 1 point.</p> <p>(46) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to gloves used properly shall equal no more than 1 point.</p> <p>(47) Violation of Chapters 3 and 4 of the Food Code as amended by Rules .2653 and .2654 of this Section related to equipment, food and non-food contact surfaces approved, cleanable, properly designed, constructed and used shall equal no more than 1 point.</p> <p>(48) Violation of Chapter 4 of the Food Code as amended by Rule .2654 of this Section related to warewashing facilities installed, maintained, used, and test strips shall equal no more than 1 point.</p> <p>(49) Violation of Chapter 4 of the Food Code as amended by Rule .2654 of this Section related to non-food contact surfaces clean shall equal no more than 1 point.</p> <p>(50) Violation of Chapter 5 of the Food Code as amended by Rule .2655 of this Section related to hot and cold water available and adequate pressure shall equal no more than 1 point.</p> <p>(51) Violation of Chapter 5 of the Food Code as amended by Rule .2655 of this Section related to plumbing installed and proper backflow devices shall equal no more than 2 points.</p> <p>(52) Violation of Chapter 5 of the Food Code as amended by Rule .2655 of this Section related to sewage and wastewater properly disposed shall equal no more than 2 points.</p> <p>(53) Violation of Chapters 5 and 6 of the Food Code as amended by Rules .2655 and .2656 of this Section related to toilet facilities properly constructed, supplied, and cleaned shall equal no more than 1 point.</p> <p>(54) Violation of Chapters 5 and 6 of the Food Code as amended by Rules .2655 and .2656 of this Section related to garbage and refuse properly disposed and facilities maintained shall equal no more than 1 point.</p> |
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- (55) Violation of Chapters 4 and 6 of the Food Code as amended by Rules .2654 and .2656 of this Section related to physical facilities installed, maintained, and clean shall equal no more than 1 point.
- (56) Violation of Chapters 4 and 6 of the Food Code as amended by Rules .2654 and .2656 of this Section related to meets ventilation and lighting requirements and designated areas used shall equal no more than 1 point.

(e) In filling out the inspection form, points may be deducted only once for a single occurrence or condition existing within or outside of the food establishment. Deductions shall be based on actual violations of the rules of this Section observed during the inspection. The regulatory authority shall take zero, one-half, or a full deduction of points depending upon the severity or the recurring nature of the core item violations. Priority items or priority foundation items may be corrected during the inspection and no more than one-half of the total point value shall be deducted when the violation meets the following criteria:

- (1) the priority item or priority foundation item violation was not documented on the previous inspection; and
- (2) correction of the item is documented on the inspection form.

(f) At the time of inspection, if a priority item or priority foundation item violation is observed and not corrected, the regulatory authority shall take one-half or a full deduction of points depending upon the severity or the recurring nature of the violation.

(g) In determining whether items or areas of a food establishment are clean for purposes of enforcing the rules set forth in this Section and grading a food establishment, the regulatory authority shall consider, among other things:

- (1) the age of the accumulated material;
- (2) the cleaning practices of the food establishment; and
- (3) the health risk posed by the circumstances.

(h) Upon request of the permit holder or his or her representative a reinspection shall be made. In the case of a food establishment that requests an inspection for the purpose of raising the alphabetical grade, and that holds an unrevoked permit, the regulatory authority shall make an unannounced inspection within 15 calendar days from the date of the request.

(i) In the case of food establishments that have been closed for failure to comply with the rules of this Section, a reinspection to consider the issuance or reissuance of a permit shall be scheduled by the regulatory authority.

(j) In Section 8-304.11 of the Food Code delete (K).

History Note: Authority G.S. 130A-248; S.L. 2019-129; Eff. September 1, 2012;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019; Amended Eff. October 1, 2021.

15A NCAC 18A .2670 GENERAL REQUIREMENTS FOR PUSHCARTS AND MOBILE FOOD UNITS

Notwithstanding the provisions set forth in Rules .2671 and .2672 of this Section, pushcarts and mobile food units shall comply with all requirements in this Section with the following exceptions:

- (1) A permit shall be issued by the regulatory authority that inspects the commissary from which a pushcart or mobile food unit is to operate, if the regulatory authority determines that the pushcart or mobile food unit complies with the rules of this Section. The permit shall be maintained on the pushcart or mobile food unit and made available to the regulatory authority upon request.
- (2) The regulatory authority that issues the permit shall be provided by the permit holder a list of counties and locations where each pushcart or mobile food unit will operate.
- (3) Prior to initiating food service operations in a particular county, the pushcart or mobile food unit permit holder shall provide the regulatory authority in each county in which food service operations are proposed a list of locations where they will operate. Such lists must be kept current.
- (4) Pushcarts or mobile food units shall operate in conjunction with a permitted commissary and shall report at least daily to the commissary for supplies, cleaning, and servicing. Facilities, in compliance with this Section, shall be provided at the commissary for storage of all supplies. The pushcart shall also be stored in an area that protects it from dirt, debris, vermin, and other contamination. Water faucets used to supply water for pushcarts or mobile food units shall be protected to prevent contact with chemicals, splash, and other sources of contamination. Solid waste storage and liquid waste disposal facilities must also be provided on the commissary premises.
- (5) Single service articles shall be used for serving customers.

History Note: Authority G.S. 130A-248; S.L. 2019-129; Eff. September 1, 2012; Readopted Eff. October 1, 2021.

15A NCAC 18A .2674 LIMITED FOOD SERVICES ESTABLISHMENTS

Limited food services establishments shall comply with all the requirements in Rules .2650 through .2662 of this Section, except as follows:

- (1) The permit for a limited food services establishment shall be posted in accordance with G.S. 130A-249. Permits for limited food services establishments shall expire one year from the date of issuance. A new permit from the regulatory authority shall be obtained before the limited food services establishment operates

- each year. Transitional permits shall not be issued.
- (2) The permit application shall be submitted to the local health department at least 30 days prior to construction or commencing operation. The permit application shall include a proposal for review and approval by the local health department that includes a menu, plans, and specifications for the proposed limited food services establishment, and location, hours, and dates of operation.
 - (3) Limited food services establishments shall not prepare any time/temperature control for safety food prior to the day of sale.
 - (4) Time/temperature control for safety food that has been heated at the limited food services establishment and remains at the end of the day shall not be served or placed in refrigeration to be used another day.
 - (5) All meats, poultry, and fish shall be purchased in a pre-portioned and ready-to-cook form.
 - (6) Equipment in the limited food services establishment that is not certified or classified for sanitation by an ANSI-accredited certificate program may be used. At least a two-compartment sink shall be provided. The sink shall be of sufficient size to submerge, wash, rinse, and sanitize utensils and shall have splashback protection. At least one drainboard, table, or counter space shall be provided for air-drying.
 - (7) Only single-service articles shall be used as tableware as defined in Chapter 1 of the Food Code.
 - (8) Limited food services establishments may reheat pre-cooked and cook food in accordance with the overhead protection requirements set forth in Rule .2669(b) of this Section.
 - (9) Floors, walls, and ceilings of limited food services establishments shall meet the requirements of this Section, except those limited food services establishments preparing food in accordance with Rule .2669(b) of this Section.
 - (10) All areas in which food is handled, prepared, or in which utensils are washed, shall be provided with artificial lighting that complies with

Section 6-202.11 of the Food Code as amended by Rule .2656 of this Section.

- (11) A handwashing sink shall be provided in food service areas for use by employees only.
- (12) Toilet facilities shall be provided for use by employees. Public toilet facilities provided on the grounds of the facility where the event is taking place are acceptable. Toilet facilities for the public are not required.

History Note: Authority G.S. 130A-248; S.L. 2019-129; Eff. September 1, 2012;
Readopted Eff. October 1, 2021.

15A NCAC 18E .0101 SCOPE

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

History Note: Authority G.S. 130A-333; 130A-334(15); 130A-335(a), (b), and (e);
Eff. Pending delayed effective date.

15A NCAC 18E .0102 APPLICABILITY

(a) The rules of this Subchapter shall not apply to wastewater systems in use which are not malfunctioning as described in Rule .1303(a)(2) of this Subchapter, unless the DDF or wastewater strength increases or unless otherwise specified in this Subchapter. Wastewater systems that are malfunctioning in accordance with Rule .1303(a)(2) of this Subchapter shall adhere to the rules of this Subchapter.

(b) The rules of this Subchapter shall not apply to IPs and CAs issued prior to the effective date of this Rule.

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

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

History Note: Authority G.S. 130A-335(e);
Eff. Pending delayed effective date.

15A NCAC 18E .0103 INCORPORATION BY REFERENCE

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

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

USDA-NRCS	
Soil Survey Laboratory Information Manual, Soil Survey Investigations Report No. 45	Available at no charge at: http://www.nrcs.usda.gov/wps/portal/nrcs/main/soils/ref/

APPROVED RULES

Kellogg Soil Survey Laboratory Methods Manual, Soil Survey Investigation Report No. 42	Available at no charge at: http://www.nrcs.usda.gov/wps/portal/nrcs/main/soils/ref/
Field Book for Describing and Sampling Soils	Available at no charge at: http://www.nrcs.usda.gov/wps/portal/nrcs/main/soils/ref/copy or U. S. Government Publishing Office, P. O. Box 979050, St. Louis, MO, 63197-9000
Guide to Soil Texture by Feel, Journal of Agronomic Education	Available at no charge at: http://www.nrcs.usda.gov/wps/portal/nrcs/detail/soils/edu/?cid=nrcs142p2_054311
National Engineering Handbook, Part 624 (Drainage), Chapter 10 (Water Table Control); Part 630 (Hydrology), Chapter 18; Part 650 (Engineering Field Handbook), Chapter 14 (Water Management, Drainage)	Available at no charge at: http://www.nrcs.usda.gov/wps/portal/nrcs/detail/mi/technical/engineering
National Electrical Manufacturers Association 1300 North 17 th Street, Suite 900, Arlington, VA 22209 www.nema.org	
Standard 250 – Enclosures for Electrical Equipment	One hundred twenty four dollars (\$124.00)
U. S. Environmental Protection Agency (EPA) U. S. EPA/NSCEP P. O. Box 42419, Cincinnati, OH 45242-0419	
Method 9080 – Cation Exchange Capacity of Soils	Available at no charge at: https://www.epa.gov/hw-sw846/sw-846-test-method-9080-cation-exchange-capacity-soils-ammonium-acetate
ASTM International 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19438-2959 http://www.astm.org	
C564 – Standard Specifications for Rubber Gaskets for Cast Iron Soil Pipe and Fittings	Forty six dollars (\$46.00) each plus seven dollars and forty four cents (\$7.44) shipping and handling
C890 – Standard Practice for Minimum Structural Design Loading for Monolithic or Sectional Precast Concrete Water and Wastewater Structures	Fifty two dollars (\$52.00) each plus fourteen dollars and seventy one cents (\$14.71) shipping and handling
C923 – Standard Specifications for Resilient Connectors Between Reinforced Concrete Manhole Structures, Pipes, and Laterals	Forty six dollars (\$46.00) each plus seven dollars and forty four cents (\$7.44) shipping and handling
C990 – Standard Specifications for Joints for Concrete Pipe, Manholes, and Precast Box Sections Using Preformed Flexible Joint Sealants	Forty six dollars (\$46.00) each plus seven dollars and forty four cents (\$7.44) shipping and handling
C1644 – Standard Specification for Resilient Connectors Between Reinforced Concrete On-Site Wastewater Tanks and Pipes	Fifty two dollars (\$52.00) each plus fourteen dollars and seventy one cents (\$14.71) shipping and handling
D448 – Standard Classification for Sizes of Aggregate for Road and Bridge Construction	Forty six dollars (\$46.00) each plus seven dollars and forty four cents (\$7.44) shipping and handling
D1784 – Standard Specification for Rigid Poly (Vinyl Chloride)(PVC) Compounds and Chlorinated Poly (Vinyl Chloride)(CPVC) Compounds	Forty six dollars (\$46.00) each plus seven dollars and forty four cents (\$7.44) shipping and handling
D1785 – Standard Specifications for Poly (Vinyl Chloride)(PVC) Plastic Pipe, Schedules 40, 80, and 120	Fifty eight dollars (\$58.00) plus fourteen dollars and seventy one cents (\$14.71) shipping and handling
D2241 – Standard Specification for Poly (Vinyl Chloride)(PVC) Pressure-Rated Pipe (SDR Series)	Fifty two dollars (\$52.00) each plus fourteen dollars and seventy one cents (\$14.71) shipping and handling

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D2466 – Standard Specification for Poly (Vinyl Chloride)(PVC) Plastic Pipe Fittings, Schedule 40	Fifty two dollars (\$52.00) each plus fourteen dollars and seventy one cents (\$14.71) shipping and handling
D2564 – Standard Specification for Solvent Cements for Poly (Vinyl Chloride)(PVC) Plastic Piping Systems	Fifty two dollars (\$52.00) each plus fourteen dollars and seventy one cents (\$14.71) shipping and handling
D2729 – Standard Specification for Poly (Vinyl Chloride)(PVC) Sewer Pipe and Fittings	Fifty two dollars (\$52.00) each plus fourteen dollars and seventy one cents (\$14.71) shipping and handling
D2774 – Standard Practice for Underground Installation of Thermoplastic Pressure Piping	Fifty two dollars (\$52.00) each plus fourteen dollars and seventy one cents (\$14.71) shipping and handling
D3034 – Standard Specification for Type PSM Poly (Vinyl Chloride)(PVC) Sewer Pipe and Fittings	Fifty eight dollars (\$58.00) plus fourteen dollars and seventy one cents (\$14.71) shipping and handling
D6913 – Standard Test Methods for Particle-Size Distribution (Gradation) of Soils Using Sieve Analysis	Seventy five dollars (\$75.00) each plus fourteen dollars and seventy one cents (\$14.71) shipping and handling
D7928 – Standard Test Method for Particle-Size Distribution (Gradation) of Fine-Grained Soils Using the Sedimentation (Hydrometer) Analysis	Seventy five dollars (\$75.00) each plus fourteen dollars and seventy one cents (\$14.71) shipping and handling
F667 – Standard Specification for 3 through 24 in. Corrugated Polyethylene Pipe and Fittings	Fifty two dollars (\$52.00) each plus fourteen dollars and seventy one cents (\$14.71) shipping and handling
F810 – Standard Specification for Smoothwall Polyethylene (PE) Pipe for Use in Drainage and Waste Disposal Absorption Fields	Forty six dollars (\$46.00) each plus seven dollars and forty four cents (\$7.44) shipping and handling
North Carolina Administrative Code	
15A NCAC 01O – Environmental Health	Available at no charge at: http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2001%20-%20departmental%20rules/subchapter%20o/subchapter%20o%20rules.html
15A NCAC 02B – Surface Water and Wetland Standards	Available at no charge at: http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2002%20-%20environmental%20management/subchapter%20b/subchapter%20b%20rules.pdf
15A NCAC 02C – Well Construction Standards	Available at no charge at: http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2002%20-%20environmental%20management/subchapter%20c/subchapter%20c%20rules.pdf
15A NCAC 02H – Procedures for Permits: Approvals	Available at no charge at: http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2002%20-%20environmental%20management/subchapter%20h/15a%20ncac%2002h%20.0101.pdf
15A NCAC 02L – Groundwater Classification and Standards	Available at no charge at: http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2002%20-%20environmental%20management/subchapter%20l/subchapter%20l%20rules.pdf
15A NCAC 02T – Waste Not Discharged to Surface Waters	Available at no charge at: http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2002%20-%20environmental%20management/subchapter%20t/subchapter%20t%20rules.pdf
15A NCAC 02U – Reclaimed Water	Available at no charge at: http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2002%20-%20environmental%20management/subchapter%20u/subchapter%20u%20rules.pdf

APPROVED RULES

15A NCAC 08G – Authority: Organization: Structure: Definitions	Available at no charge at: http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2008%20-%20water%20pollution%20control%20system%20operators%20certification%20commission/subchapter%20g/subchapter%20g%20rules.pdf
15A NCAC 13B – Solid Waste Management	Available at no charge at: http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2013%20-%20solid%20waste%20management/subchapter%20b/subchapter%20b%20rules.pdf
15A NCAC 18A – Sanitation	Available at no charge at: http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2018%20-%20environmental%20health/subchapter%20a/subchapter%20a%20rules.pdf
15A NCAC 18C – Water Supplies	Available at no charge at: http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2018%20-%20environmental%20health/subchapter%20c/subchapter%20c%20rules.pdf
21 NCAC 39 – On-Site Wastewater Contractors and Inspectors Certification	Available at no charge at: http://reports.oah.state.nc.us/ncac.asp?folderName=\Title%2021%20-%20Occupational%20Licensing%20Boards%20and%20Commissions\Chapter%2039%20-%20On-Site%20Wastewater%20Contractors%20and%20Inspectors%20Certification
NSF International PO Box 130140, Ann Arbor, MI 48105 http://www.nsf.org/	
NSF/ANSI Standard 40 – Residential Wastewater Systems	One hundred five dollars (\$105.00) each plus shipping and handling
NSF/ANSI Standard 41 – Non-Liquid Saturated Treatment Systems	One hundred five dollars (\$105.00) each plus shipping and handling
NSF/ANSI Standard 46 – Evaluation of Components and Devices Used in Wastewater Treatment Systems	One hundred five dollars (\$105.00) each plus shipping and handling
NSF/ANSI Standard 245 – Wastewater Treatment Systems – Nitrogen Reduction	One hundred five dollars (\$105.00) each plus shipping and handling
NSF/ANSI Standard 350 – Onsite Residential and Commercial Water Reuse Treatment	One hundred five dollars (\$105.00) each plus shipping and handling
IAPMO 4755 E Philadelphia St, Ontario, CA 91761 http://www.iapmo.org/Pages/IAPMOgroup.aspx	
IAPMO/ANSI Z1000 – Prefabricated Septic Tanks	One hundred dollars (\$100.00) each
CSA 178 Rexdale Blvd, Toronto, ON Canada M9W 1R3 http://www.csagroup.org/	
B66 – Design, material, and manufacturing requirements for prefabricated septic tanks and sewage holding tanks	One hundred eighty dollars (\$180.00) each plus eighteen dollars (\$18.00) shipping and handling
2012 North Carolina Plumbing Code	
	Available at no charge at: https://codes.iccsafe.org/public/collections/nc
2015 North Carolina Building Code	
	Available at no charge at: https://codes.iccsafe.org/public/collections/nc
North Carolina Food Code Manual	
	Available at no charge at: http://ehs.ncpublichealth.com/faf/docs/foodprot/NC-FoodCodeManual-2009-FINAL.pdf

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

*History Note: Authority G.S. 130A-335(e);
Eff. Pending delayed effective date.*

15A NCAC 18E .0104 ABBREVIATIONS

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

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

*History Note: Authority G.S. 130A-335(e);
Eff. Pending delayed effective date.*

15A NCAC 18E .0105 DEFINITIONS

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

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

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| <p>(22) "Cover" means the soil that is placed at or above the naturally occurring soil surface to cover the wastewater system.</p> <p>(23) "Demand dosing" means a configuration in which a specific volume of effluent is delivered to a component based upon patterns of wastewater generation from the source and liquid level detection device settings.</p> <p>(24) "Department" means the North Carolina Department of Health and Human Services, as defined in G.S. 130A-334(1f). The mailing address for the Department is as follows: NCDHHS, Division of Public Health, On-Site Water Protection Branch, 1642 Mail Service Center, Raleigh, North Carolina 27699-1642.</p> <p>(25) "Design daily flow" means the unadjusted quantity of wastewater a facility is projected to produce in a 24-hour period upon which wastewater system sizing and design are based as determined in Section .0400 of this Subchapter.</p> <p>(26) "Design unit" means a discrete connection such as an individual dwelling unit, place of business, or place of public assembly on which wastewater DDF is based. Multiple design units may comprise a facility.</p> <p>(27) "Dispersal field" means the physical location where final treatment and dispersal of effluent occurs in the soil.</p> <p>(28) "Dispersal media" means the media used to provide void space through which effluent flows and may be stored prior to infiltration, such as washed gravel or crushed stone, products referenced in Section .0900 of this Subchapter, products approved pursuant to Section .1700 of this Subchapter, etc.</p> <p>(29) "Dispersal system" means the dispersal field and associated components that distribute effluent to and within the dispersal field. This includes a pump, pump tank, pressure manifold, distribution box, drip box, lateral, dispersal media, etc.</p> <p>(30) "Dose volume" means an amount of effluent delivered during a dosing event as determined by the liquid level detection device settings in a demand dosing system or by a timer in a timed dosing system.</p> <p>(31) "Dwelling unit" means any room or group of rooms located within a structure and forming a single, habitable unit with facilities which are used or intended to be used for living, sleeping, bathing, toilet usage, cooking, and eating.</p> <p>(32) "Effluent" means the liquid discharge from a pretreatment process, component, or system.</p> <p>(33) "Facility" means one or more design units located on a single or multiple lot(s) or tract(s) of land and served by a wastewater system comprised of one or more wastewater systems.</p> | <p>(34) "Finished grade" means the final elevation of the land over the wastewater system after installation.</p> <p>(35) "Flow equalization" means a system configuration that includes sufficient storage capacity to allow for uniform flow to a subsequent component despite variable flow from the source.</p> <p>(36) "Full kitchen" means the appliances meet the requirements of North Carolina Food Code, Chapters 4-1 and 4-2.</p> <p>(37) "Grab sample" means a discrete sample collected at a specific time and location.</p> <p>(38) "Grease tank" means the tank located outside the facility that is used to reduce the amount of grease discharged to a wastewater system.</p> <p>(39) "Grease trap" means a device used inside the facility to reduce the amount of grease discharged to a wastewater system.</p> <p>(40) "Gravity distribution" means gravity flow of effluent to and within each lateral.</p> <p>(41) "Groundwater lowering system" means a type of artificial drainage system designed to lower the water table by gravity or, in conjunction with a pump, to maintain the vertical separation beneath a dispersal field.</p> <p>(42) "Horizon" means a layer of soil, parallel to the surface that has distinct physical, chemical, and biological properties or characteristics such as color, structure, texture, consistence, kinds and number of organisms present, degree of acidity or alkalinity, etc., resulting from soil forming processes.</p> <p>(43) "Infiltrative surface" means the designated interface where effluent moves from dispersal media or a distribution device into treatment media, naturally occurring soil, or fill.</p> <p>(44) "Influent" means the sewage discharged to a pretreatment component.</p> <p>(45) "Installer" means a person authorized to construct, install, or repair a wastewater system in accordance with G.S. 90A, Article 5 and applicable rules of the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board.</p> <p>(46) "Interceptor drain" means a type of artificial drainage designed to intercept and divert lateral moving groundwater or perched water away from the dispersal field or other system component to an effective outlet.</p> <p>(47) "Invert" means the lowest elevation of the internal cross-section of a pipe, fitting, or component.</p> <p>(48) "Jurisdictional wetland" means an area subject to the regulatory jurisdiction of the U.S. Army Corps of Engineers or DEQ.</p> <p>(49) "Ksat" or saturated hydraulic conductivity, means the rate of water flow through a unit cross sectional area of soil under saturated</p> |
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- conditions. In-situ Ksat is measured in the field using clean water. Results of in-situ Ksat are used to simulate movement of effluent through the soil and may be used to field verify LTAR.
- (50) "Lateral water movement" means the movement of subsurface water downslope often associated with a less permeable horizon. Lateral water movement can be observed in a bore hole, excavation, or monitoring well on sloping sites.
- (51) "Lateral" means any pipe, tubing, or other device used to convey and distribute effluent in a dispersal field.
- (52) "Limiting condition" means soil conditions or site features that determine wastewater system design options. Soil conditions are morphology, depth, restrictive horizons, soil wetness, or organic matter content. Site features are topography, slope, landscape position, or available space.
- (53) "Lithochromic feature" means soil mottle or matrix associated with variations of color due to weathering of parent materials.
- (54) "Long Term Acceptance Rate" means the rate of effluent absorption by the soil, existing fill, or saprolite in a wastewater system after long-term use. The LTAR, in units of gpd/ft², is assigned based upon soil textural class, structure, consistence, depth, percent coarse rock, landscape position, topography, and system type, and is used to determine the dispersal field sizing requirements, in accordance with applicable rules of this Subchapter.
- (55) "Local health department" means any county, district, or other health department authorized to be organized under the General Statutes of North Carolina.
- (56) "Management Entity" means the person, entity, company, or firm designated by the owner of the wastewater system who has primary responsibility for the operation of a wastewater system in accordance with this Subchapter, G.S. 90A, Article 3, and applicable rules of the Water Pollution Control System Operators Certification Commission. The Management Entity may be the owner, a public Management Entity, a certified operator, a management company, or an entity that employs certified operators. The Management Entity is or employs the operator in responsible charge for the wastewater system.
- (57) "Mass loading" means the total mass of one or more organic or inorganic effluent constituents delivered to the wastewater system over a specified period. It is computed by multiplying the total volume of flow during the specified period by the flow-weighted average constituent concentration in the same period. Units of measurement are pounds per day.
- (58) "Matrix" means a volume of soil equivalent to 50 percent or greater of the total volume of a horizon.
- (59) "Mean high-water mark" means, for coastal waters having six inches or more lunar tidal influence, the average height of the high-water over a 19-year period as may be ascertained from National Ocean Survey, U.S. Army Corps of Engineers tide stations data, or as otherwise determined under the provisions of the Coastal Area Management Act. The highest high-water mark as reported by the three agencies shall be applied.
- (60) "Media" means a solid material that can be described by shape, dimensions, surface area, void space, and application.
- (61) "Media filter" means a device that uses materials designed to treat effluent by reducing BOD₅ and removing TSS in an unsaturated environment. Biological treatment is facilitated via microbial growth on the surface of the treatment media.
- (62) "Mottle" means subordinate color of a differing Munsell color system notation in a soil horizon.
- (63) "Mountain region" means Alleghany, Ashe, Avery, Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Swain, Transylvania, Watauga, and Yancey counties.
- (64) "Naturally occurring soil" means soil formed in place due to natural formation processes that is unaltered by filling, removal, or other artificial modification other than tillage.
- (65) "NEMA 4X" means an enclosure for an electrical control panel or junction box that meets standards for protection of equipment due to the ingress of water, including rain and hose-directed water, and an additional level of protection against corrosion, as set forth in NEMA Standard 250.
- (66) "NSF/ANSI 40 systems" means individual RWTS that are approved and listed in accordance with the standards adopted by NSF International for Class I residential wastewater treatment systems under NSF/ANSI Standard 40 and approved for use in accordance with G.S. 130A-342 and the rules of this Subchapter.
- (67) "Non-ground absorption system" means a system for waste treatment designed not to discharge to the soil, land surface, or surface waters, including approved vault privies, incinerating toilets, mechanical toilets, composting toilets, chemical toilets, and recycling systems.
- (68) "Normal water level" means the term as defined in 15A NCAC 02B .0610(28).

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

- strongly cemented with iron, aluminum, silica, organic matter, or other compounds. Restrictive horizons may occur as fragipans, iron pans, or organic pans, and are recognized by their resistance in excavation or in using a soil auger.
- (88) "Rock" means the body of consolidated or partially consolidated material composed of minerals at or below the land surface. Rock includes bedrock and partially weathered rock that is hard and cannot be dug with hand tools. The upper boundary of rock is saprolite, soil, or the land surface.
- (89) "Saprolite" means the body of porous material formed in place by weathering of rock that has a massive, rock-controlled structure and retains the arrangement of minerals of its parent rock in a minimum of 50 percent of its volume. Saprolite can be dug with hand tools. The lower limit of saprolite is rock and its upper limit is soil or the land surface.
- (90) "Septic tank" means a structurally sound, water-tight, covered receptacle, approved in accordance with Section .1400 of this Subchapter. A septic tank is designed for primary treatment of wastewater and is constructed to:
- (a) receive the discharge of wastewater from a building;
 - (b) separate settleable and floating solids from the liquid;
 - (c) digest organic matter by anaerobic bacterial action;
 - (d) store digested solids through a period of detention; and
 - (e) allow effluent to discharge for additional treatment and final dispersal.
- (91) "Septic tank effluent pump" means a collection system that uses a septic tank to separate solids and incorporates a pump vault, pump, and associated devices to convey effluent under pressure to a subsequent component.
- (92) "Sequential distribution" means the distribution method in which effluent is loaded into one trench and fills it to a predetermined level before passing through a drop box or relief device to the succeeding trench at a lower elevation. All trenches are fed from the same side.
- (93) "Setback" means the minimum horizontal separation distance between the wastewater system and features listed in Section .0600 of this Subchapter.
- (94) "Settling tank" means a septic tank designed for use in conjunction with a RWTS. A settling tank is not required to meet the design requirements of a septic tank.
- (95) "Serial distribution" means the distribution method in which effluent is loaded into one trench and fills it to a predetermined level before passing through a pipe to the succeeding trench at a lower elevation.
- (96) "Site" means the area in which the wastewater system is located, including the repair area.
- (97) "Soil" means the naturally occurring body of unconsolidated mineral and organic materials on the land surface. Soil is composed of sand-, silt-, and clay-sized particles that are mixed with varying amounts of larger fragments and some organic material. Soil contains less than 50 percent of its volume as rock, saprolite, or coarse-earth fraction. The coarse-earth fraction are mineral particles greater than 2.0 millimeters. The upper limit of the soil is the land surface, and its lower limit is rock, saprolite, or other parent materials.
- (98) "Soil consistence" means the degree and kind of cohesion and adhesion that a soil exhibits.
- (99) "Soil series" means an official series name established by USDA-NRCS.
- (100) "Soil structure" means the arrangement of primary soil particles into compound particles, peds, or clusters that are separated by natural planes of weakness from adjoining units.
- (101) "Soil textural classes" means soil classification based upon size distribution of mineral particles in the fine-earth fraction less than two millimeters in diameter. The fine-earth fraction includes sand, silt, and clay particles. Sand particles are 0.05 – 2.0 mm in size, silt particles are 0.002 – 0.05 mm in size, and clay particles are less than 0.002 mm in size.
- (102) "Stream" means a body of concentrated flowing water in a natural low area or natural or manmade channel on the land surface. This includes ephemeral, intermittent, and perennial streams as those terms are defined at 15A NCAC 02B .0233(2)(d), (g), and (i), respectively, as well as streams which have been modified by channeling, culvert installation, or relocation.
- (103) "Structurally sound" means a tank that has been installed in accordance with the tank manufacturer's requirements and is able to withstand a minimum uniform live loading of 150 pounds per square foot in addition to all loads to which an underground tank is normally subjected, such as dead weight of the material and soil over the tank, active soil pressure on tank walls, and the uplifting force of groundwater.
- (104) "Surface water diversion" means a natural or constructed drainage feature used to divert surface water, collect runoff, and direct it to an effective outlet. Surface water diversions include waterways, berms, swales, and ditches. Surface water diversions are a type of artificial drainage.

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

Carolina DEQ Public Water Supply Section in accordance with 15A NCAC 18C.

- (118) "Watertight" means that no water moves into or out of the structure or device, except through designated inlets and outlets. Watertight tanks shall demonstrate compliance with the leak testing requirements in Rule .0805 of this Subchapter.

*History Note: Authority G.S. 130A-335(e) and (f);
Eff. Pending delayed effective date.*

15A NCAC 18E .0201 GENERAL

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

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

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

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

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

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

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

*History Note: Authority G.S. 130A-335; 130A-336; 130A-336.1; 130A-336.2; 130A-337; 130A-338;
Eff. Pending delayed effective date.*

15A NCAC 18E .0202 APPLICATION

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

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

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

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

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

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

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

- (1) name, mailing address, and phone number of the applicant and owner;
- (2) type of permit requested:
 - (A) new;
 - (B) change of use;
 - (C) expansion or increase in DDF; or
 - (D) wastewater system relocation;
- (3) site plan or plat indicating the locations of the following:
 - (A) existing and proposed facilities, structures, appurtenances, and wastewater systems;
 - (B) proposed wastewater system showing setbacks to property line(s) or other fixed reference point(s);
 - (C) existing and proposed vehicular traffic areas;
 - (D) existing and proposed water supplies, wells, springs, and water lines; and
 - (E) surface water, drainage features, and all existing and proposed artificial drainage, as applicable;
- (4) location, parcel identification number, other property identification, 911 address if known, acreage, and general directions to the property;
- (5) description of existing and proposed facilities and wastewater systems;
- (6) information needed to determine DDF and effluent strength of the facility(s) served, including number and function of individual design units, number of bedrooms and occupants per bedroom, or number of occupants;
- (7) whether wastewater other than DSE will be generated;
- (8) notification if the property includes, or is subject to, any of the following:
 - (A) previously identified jurisdictional wetlands;
 - (B) existing or proposed easements, rights-of-way, encroachments, or other areas subject to legal restrictions; or
 - (C) approval by other public agencies; and
- (9) signature of applicant and owner.

(h) The application for a CA shall contain:

- (1) the information required in Paragraph (g) of this Rule. A site plan or plat shall not be required with the application to repair a permitted wastewater system when the repairs will be

accomplished on property owned and controlled by the owner and for which property lines are identifiable in the field;

- (2) identification of the proposed use of a grinder pump or sewage pump; and
- (3) the type of the proposed wastewater system specified by the applicant.

(i) The application for an existing system authorization shall contain:

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

(j) Submittal of a signed application shall constitute right of entry to the property by an authorized agent.

History Note: Authority G.S. 130A-335; 130A-336; 130A-337; 130A-338;

Eff. Pending delayed effective date.

15A NCAC 18E .0203 IMPROVEMENT PERMIT

(a) Upon receipt of a complete application for an IP, an authorized agent shall evaluate the site to determine whether the site is suitable or unsuitable for the installation of a wastewater system in accordance with Section .0500 of this Subchapter. If the site is classified suitable, an IP shall be issued in accordance with this Subchapter. The authorized agent shall prepare dated, written documentation of the soil and site conditions required to be evaluated in Section .0500 of this Subchapter.

(b) When the site is classified suitable an authorized agent shall issue an IP for the site that includes the items contained in G.S. 130A-336(a)(1) through (6) and the following information:

- (1) DDF, number of bedrooms, maximum number of occupants or people served, and wastewater strength in accordance with Section .0400 of this Subchapter;
- (2) required effluent standard - DSE, HSE, NSF/ANSI 40, TS-I, TS-II, or RCW in accordance with Table III of Rule .0402(a), Table XXV of Rule .1201(a), or Rule .1002, of this Subchapter;
- (3) all applicable setbacks and requirements in accordance with Section .0600 of this Subchapter;
- (4) description of the facility, structures, vehicular traffic areas, and other proposed improvements;

- (5) description of existing and proposed public or private water supplies, including private drinking water wells and springs and associated water lines;
- (6) a site plan or plat as defined in G.S. 130A-334 showing the existing and proposed property lines with dimensions, the location of the facility and appurtenances, the site for the proposed wastewater system and repair area, and the location of water supplies and surface water;
- (7) the proposed initial wastewater system and repair system areas and types, including LTARs for each system; and
- (8) permit conditions, such as site-specific site modifications, installation requirements, maintenance of the groundwater lowering system, etc.

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

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

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

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

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

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

*History Note: Authority G.S. 130A-335; 130A-336;
Eff. Pending delayed effective date.*

15A NCAC 18E .0204 CONSTRUCTION AUTHORIZATION

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

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

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

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

(e) The CA shall specify the following:

- (1) all information required in Rule .0203(b) of this Section;
- (2) the initial wastewater system type and layout, location of all initial wastewater system components, and design details and specifications for the following, as applicable;
 - (A) tanks;
 - (B) collection sewers;
 - (C) pump requirements;
 - (D) advanced pretreatment;
 - (E) distribution devices; and
 - (F) trench width, length, and depth on the downslope side of the trench;
- (3) the nature of the Management Entity required and the minimum operation and maintenance requirements in accordance with Section .1300 of this Subchapter; and
- (4) permit conditions, such as site-specific installation requirements, maintenance of the groundwater lowering system, etc.

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

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

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

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

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

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

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

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

- (1) the information submitted in the application is found to be incomplete, false, or incorrect;
- (2) the site is altered and the permitted system cannot be installed or operated as permitted;

- (3) conditions of the CA or the Rules of this Subchapter cannot be met;
- (4) a new CA is issued for the same design unit on the same property; or
- (5) an NOI is issued in accordance with G.S. 130A-336.1(b) or G.S. 130A-336.2(b) for the same design unit on the same property.

History Note: Authority G.S. 130A-335; 130A-336; 130A-338;

Eff. Pending delayed effective date.

15A NCAC 18E .0205 OPERATION PERMIT

(a) The applicant shall obtain an OP after the wastewater system has been installed or repaired and the authorized agent has inspected the system. The inspection shall occur prior to the system being covered with soil. The authorized agent shall determine that the system has been installed in accordance with this Subchapter and any conditions of the IP and CA.

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

(c) The OP shall include:

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

- (8) a statement specifying that best professional judgement was used to repair the malfunctioning wastewater system, if applicable; and
- (9) approved engineered plans, specifications, and record drawings if required in Rule .0303(g) of this Subchapter.

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

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

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

- (1) wastewater strength and DDF remain unchanged;
- (2) the system is operated and maintained in accordance with Section .1300 of this Subchapter;
- (3) no malfunction is found as defined in Rule .1303(a)(2) of this Subchapter;
- (4) the system has not been abandoned in accordance with Rule .1307 of this Subchapter;
- (5) the system complies with the condition(s) of the OP; and
- (6) the OP has not expired or been revoked.

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

(h) An authorized agent shall modify, suspend, or revoke the OP or seek other remedies under G.S. 130A, Article 2, if it is determined that the system is not being operated and maintained in accordance with Section .1300 of this Subchapter and all conditions imposed by the OP.

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

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

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

History Note: Authority G.S. 130A-335; 130A-337; 130A-338;

Eff. Pending delayed effective date.

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

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

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

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

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

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

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

(e) When an approval cannot be issued in accordance with this Rule, a signed, written report shall be provided by the authorized agent to the applicant describing the reasons for the denial, citing the applicable rule(s), and including notice of the right to appeal under G.S. 130A-24 and 150B.

History Note: Authority G.S. 130A-335; 130A-337(c) and (d); Eff. Pending delayed effective date.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) file all EOP and AOWE documentation consistent with current permit filing procedures at the LHD;
- (2) revoke an IP or CA for a wastewater system prior to issuing written confirmation of the NOI for the same design unit on the same property, if applicable;

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

(n) The applicant may contract with different licensed professionals than those originally identified on the initial NOI to complete an EOP or AOWE project. When the applicant contracts with different licensed professionals, a revised NOI reflecting the new licensed professionals and proof of insurance shall be submitted to the LHD.

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

*History Note: Authority G.S. 130A-335; 130A-336.1; 130A-336.2; S.L. 2019-151, s. 14;
Eff. Pending delayed effective date.*

15A NCAC 18E .0301 OWNERS

(a) The owner of a wastewater system shall:

- (1) comply with G.S. 130A, Article 11, the rules of this Subchapter, and permit conditions regarding wastewater system location, including repair area;
- (2) identify property lines and fixed reference points in the field prior to the LHD site evaluation;
- (3) make the site accessible for the site evaluation described in Rule .0501 of this Subchapter;
- (4) field stake or otherwise mark the proposed facility location and all associated appurtenances, such as vehicular traffic areas, garage, swimming pool, shed, entryways, decks, etc.;
- (5) provide for pits with excavated steps or a ramp in the pit that allow for ingress and egress when necessary for a soil and site evaluation at the

site as determined by the LHD or the Department in accordance with Rule .0501 of this Subchapter;

- (6) provide for system operation, maintenance, monitoring, and reporting, including access for system maintenance;
- (7) maintain artificial drainage systems, as applicable;
- (8) prevent encroachment on the initial wastewater system and repair area by utilities, structures, vehicular traffic areas, etc.;
- (9) provide documentation supporting an exemption from the minimum setback requirements in Rule .0601(a) of this Subchapter to the LHD, as applicable;
- (10) establish and maintain site-specific vegetation over the dispersal field and repair area; and
- (11) repair a malfunctioning system as necessary in accordance with this Subchapter.

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

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

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

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

stations, distribution devices, and dispersal fields; and

- (6) be recorded with the register of deeds in the county where the system and facility are located.

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

*History Note: Authority G.S. 130A-335;
Eff. Pending delayed effective date.*

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

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

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

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

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

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

(e) The Department shall review and approve the wastewater system, including design, layout, plans, and specifications for all

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

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

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

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

(g) Department review shall not be required when a PE calculates the proposed DDF to be less than or equal to 3,000 gpd based on engineering design utilizing low-flow fixtures and low-flow technologies in accordance with Rule .0403(e) of this Subchapter. Pursuant to S.L. 2013-413, s.34, as revised by S.L. 2014-120, s.53, neither the Department nor any LHD shall be liable for a system approved or permitted in accordance with this Paragraph.

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

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

Eff. Pending delayed effective date.

15A NCAC 18E .0303 LICENSED OR CERTIFIED PROFESSIONALS

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

- (1) the system has a DDF greater than 3,000 gpd, as determined in Section .0400 of this Subchapter, except where the system is limited to an individual wastewater system serving an individual dwelling unit or multiple individual wastewater systems, each serving an individual dwelling unit;
- (2) the system requires advanced pretreatment or drip dispersal and is not a system approved under Sections .1500, .1600, or .1700 of this Subchapter;
- (3) pressure dispersal systems that require pumping more than 500 feet horizontally or more than 50 feet of net elevation head;
- (4) pressure dosed gravity distribution systems that require pumping more than 1,000 feet horizontally or more than 100 feet of net elevation head;
- (5) dosing systems or force mains that have one or more intermediate high points greater than five feet;
- (6) the system requires pumping downhill to a pressure dosed gravity or pressure dispersal field where the volume of the supply line that could drain to the dispersal field between doses exceeds 25 percent of the required dose volume;
- (7) pressure dispersal systems and pressure dosed gravity systems with a DDF greater than 600 gpd serving a single design unit;
- (8) pressure dispersal systems where there is more than 15 percent variation in line length. The 15 percent variation shall be measured by comparing the longest line length to the shortest line length in any dispersal field;
- (9) two or more septic tanks or advanced pretreatment units, each serving a separate design unit, and served by a common dosing tank;
- (10) a STEP system with a pressure sewer or other pressure sewer system receiving effluent from two or more pump tanks;
- (11) an adjusted DDF is proposed based on the use of low-flow fixtures or low-flow technologies in accordance with Rule .0403(e) of this Subchapter;
- (12) the system requires use of sewage pumps prior to the septic tank or other pretreatment system, except for systems governed by the North Carolina Plumbing Code or which consist of grinder pumps and associated pump basins that

History Note: Authority G.S. 130A-335;

- are approved and listed in accordance with standards adopted by NSF International;
 - (13) an individual system is required to use more than one pump or siphon in a single pump tank. Examples include dual pumps as set forth in Rule .1101(b) of this Subchapter;
 - (14) the system includes a collection sewer prior to the septic tank or other pretreatment system serving two or more design units, except for systems governed by the North Carolina Plumbing Code;
 - (15) the wastewater system includes structures that have not been pre-engineered;
 - (16) the proposed pump model is not listed by a third-party electrical testing and listing agency;
 - (17) the system is designed for the collection, treatment, and dispersal of IPWW, except under the following circumstances:
 - (A) the Department has determined that the wastewater generated by the proposed facility has a pollutant strength that is lower than or equal to DSE and does not require specialized treatment or management. This determination shall be made based on a review of the wastewater generating process, wastewater characteristic data, and material safety data sheets, as compared to DSE; or
 - (B) the Department has approved a treatment system or process and management method proposed by the facility owner that generates effluent with a pollutant strength which is lower than or equal to DSE. This approval shall be based on a review of documentation provided in conjunction with prior project specific reviews or a PIA approval. This approval shall be based on data from other facilities, management practices, and other information provided by the owner;
 - (18) the wastewater system is designed for RCW;
 - (19) any wastewater system designed by a licensed professional that has been determined to be within the practice of engineering in accordance with G.S. 89C-3(6) by the North Carolina Board of Examiners for Engineers and Surveyors;
 - (20) any wastewater system approved in accordance with Sections .1500, .1600, and .1700 of this Subchapter that requires in the RWTS or PIA Approval that the system be designed by a PE;
 - (21) any system or system component where the Rules of this Subchapter provide for an engineer to propose alternative materials, capacity determination, or performance requirements; and
 - (22) any other system so specified by the LHD, based on wastewater system complexity and LHD's experience with the proposed system type.
- (b) A PE, in accordance with G.S. 89C, may propose an alternative design for a facility projected to generate HSE in accordance with Rule .0401(h) of this Subchapter. The alternative design shall include supporting documentation showing that the proposed system design will meet DSE in Table III of Rule .0402(a) of this Subchapter. The alternative design shall be reviewed and approved by the Department unless the system has been approved in accordance with Section .1700 of this Subchapter.
 - (c) Plans and specifications for the use of a groundwater lowering system to comply with the vertical separation to a SWC shall be prepared by a licensed professional if required in G.S. 89C, 89E, or 89F. Prior to the issuance of an IP or CA, the plans and specifications shall be reviewed and approved by the authorized agent if the plans and specifications meet the requirements of Rules .0504 and .0910 of this Subchapter and accepted design practices.
 - (d) An installer shall construct, install, or repair wastewater systems as required by G.S. 90A, Article 5. The installer shall be responsible for the following:
 - (1) certification at the required level according to the system design specifications as required by G.S. 90A, Article 5;
 - (2) notification to the LHD upon completion of the system installation and each stage requiring inspection as conditioned on a CA;
 - (3) participation in a preconstruction conference when specified in the CA or by the RWTS or PIA Approval;
 - (4) participation during the inspection of the wastewater system by the authorized agent;
 - (5) participation during the post-construction conference and all other requirements when the wastewater system is permitted in accordance with Rule .0207 of this Subchapter and G.S. 130A-336.1 or G.S. 130A-336.2; and
 - (6) final cover of the system after LHD approval. The wastewater system shall be in the same condition when covered as when approved.
 - (e) The Management Entity, or its employees, shall hold a valid and current certificate or certifications as required for the system from the Water Pollution Control Systems Operators Certification Commission. Nothing in this Subchapter shall preclude any requirements for system Management Entities in accordance with G.S. 90A, Article 3.
 - (f) Nothing in this Rule shall be construed as allowing any licensed professional to provide services for which he or she has neither the educational background, expertise, or license to perform, or is beyond his or her scope of work and the applicable statutes for their respective professions.
 - (g) The PE, AOWE, or authorized designer shall provide a written statement to the owner specifying that construction is complete and in accordance with approved plans, specifications, and modifications. This statement shall be based on periodic observations of construction and a final inspection for design

compliance. Record drawings shall be provided to the owner and LHD when any change has been made to the wastewater system installation from the approved plans.

History Note: Authority G.S. 89C; 89E; 89F; 90A; 130A-335; Eff. Pending delayed effective date.

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

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

- (1) Applicant information and DDF determination:
 - (a) the seal, signature, and the date on all plans, specifications, and reports prepared by the PE, LSS, and any other licensed or registered professionals who contributed to the plans, specifications, or reports;
 - (b) name, address, and phone number for the owner and all licensed professionals who have prepared plans, specifications, and reports for the wastewater system; and
 - (c) DDF and projected wastewater strength based on the application submitted to the LHD that includes calculations and the basis for the proposed DDF and wastewater strength.
- (2) Special site evaluation in accordance with Rule .0510 of this Subchapter, including soil and site evaluation, hydraulic and hydrologic assessment reports, and site plans:
 - (a) soil and site evaluation report, written by the LSS, on the field evaluation of the soil conditions and site features within the proposed initial and repair dispersal field areas including the following:
 - (i) vertical soil profile descriptions for pits and soil borings in accordance with Section .0500 of this Subchapter;
 - (ii) recommended LTAR, system type, trench width, length, depth on downslope side of trench for proposed initial and repair dispersal field areas with justification;

- (iii) soil and site-based criteria for dispersal field design and site modifications;
 - (iv) for sites originally classified unsuitable, written documentation indicating that the proposed system can be expected to function in accordance with Rule .0509(c) of this Subchapter; and
 - (v) recommended effluent standard for proposed initial and repair dispersal field areas with justification; and
- (b) hydraulic assessment reports on site-specific field information that shall include:
- (i) in-situ Ksat measurements at the proposed infiltrative surface elevation where possible and at each distinct horizon within and beneath the treatment zone to a depth of 48 inches below the ground surface or to a depth referenced in an associated hydraulic assessment, such as groundwater mounding analysis or lateral flow analysis;
 - (ii) logs from deep borings identifying restrictive layers, changes in texture and density, and aquifer boundaries;
 - (iii) groundwater mounding for level sites or lateral flow analysis for sloping sites in accordance with Rule .0510(e) of this Subchapter, as applicable; and
 - (iv) contaminant transport analysis showing projected compliance with groundwater standards at property lines or at the required setback from water supply sources within the property, as applicable;
- (3) Site plan prepared by the PE based on a boundary survey prepared by a registered land surveyor with the following information:
- (a) site topography, proposed site modifications, location of existing and proposed site features listed in Rule .0601 of this Subchapter, proposed facility location, location of proposed initial and repair dispersal field areas

- and types, and location of LSS soil pits, hand auger borings, deep borings, and in-situ Kats tests, as applicable;
- (b) existing and proposed public wells or water supply sources on the property or within 500 feet of any proposed initial and repair dispersal field areas;
- (c) existing and proposed private wells or water supply sources within 200 feet of existing or proposed system component locations;
- (d) other existing and proposed wells, existing and proposed water lines including fire protection, irrigation, etc., within the property boundaries and within 10 feet of any projected system component;
- (e) surface waters with water quality classification, jurisdictional wetlands, and existing and proposed stormwater management drainage features and groundwater drainage systems;
- (f) topographic map with two-foot contour intervals or spot elevations when there is less than a two-foot elevation difference across the site identifying areas evaluated for initial and repair dispersal field areas, proposed location of trenches, and pits and soil borings labeled to facilitate field identification;
- (g) location of tanks and advanced pretreatment components, including means of access for pumping and maintenance; and
- (h) any site modifications and site and slope stabilization plans.
- (4) System components design, installation, operation, and maintenance information:
 - (a) collection systems and sewers:
 - (i) plan and profile drawings, including location, pipe diameter, invert and ground surface elevations of manholes and cleanouts;
 - (ii) proximity to utilities and site features listed in Rule .0601 of this Subchapter;
 - (iii) drawings of service connections, manholes, cleanouts, valves and other appurtenances, aerial crossings, road crossings, water lines, stormwater management drainage features, streams, or ditches; and
 - (b) tank information:
 - (i) plan and profile drawings of all tanks, including tank dimensions and all elevations;
 - (ii) access riser, manhole, chamber interconnection, effluent filter, and inlet and outlet details;
 - (iii) construction details for built-in-place tanks, including dimensions, reinforcement details and calculations, and construction methods;
 - (iv) identification number for Department approved tanks;
 - (v) installation criteria and water tightness testing procedures with pass or fail criteria; and
 - (vi) anti-buoyancy calculations and provisions;
 - (c) pump stations, including raw sewage lift stations and pump tanks:
 - (i) information required in Sub-item (4)(b) of this Rule;
 - (ii) specifications for pumps, discharge piping, pump removal system, and all related appurtenances;
 - (iii) dosing system total dynamic head calculations, pump specifications, pump curves and expected operating conditions, including dosing, flushing, etc.;
 - (iv) control panel, floats and settings, high-water alarm components, location, and operational description under normal and high-water conditions;
 - (v) emergency storage capacity calculations, timer control settings, and provisions for stand-by power; and
 - (vi) lighting, ventilation, if applicable, wash-down water supply with back siphon protection, and protective fencing;
 - (d) advanced pretreatment systems:
 - (i) information required in Sub-items (4)(b) and (c) of this Rule;
 - (ii) drawings and details showing all advanced pretreatment
- (iv) installation and testing procedures and pass or fail criteria;

- units and appurtenances such as pumps, valves, floats, etc., size and type of piping, disinfection unit, blowers if needed, location of control panels, height of control panels, etc; and
 - (iii) documentation from the manufacturer supporting the proposed design and use of the advanced pretreatment system to achieve specified effluent standards if not otherwise approved by the Department in accordance with Section .1700 of this Subchapter;
- (e) dispersal field plans and specifications with design and construction details:
 - (i) final field layout, including ground elevations based on field measurements at a maximum of two-foot intervals or spot elevations when there is less than a two-foot elevation difference across the site;
 - (ii) trench plan and profile drawings, including cross sectional details, length, spacing, connection details, cleanouts, etc., and invert elevations for each lateral;
 - (iii) manifolds, supply lines, pipe sizes, cleanouts and interconnection details, and invert elevations;
 - (iv) flow distribution device design;
 - (v) artificial drainage system locations, elevations, discharge points, and design details, as applicable;
 - (vi) site preparation procedures;
- (vii) construction phasing and wastewater system testing; and
- (viii) final landscaping and compliance with erosion control requirements, such as site stabilization procedures and drainage;
- (f) materials specification for all materials to be used, methods of construction, means for assuring the quality and integrity of the finished product; and
- (g) operation and maintenance procedures for the Management Entity, inspection schedules, and maintenance specifications for mechanical components and dispersal field vegetative cover; and
- (5) any other information determined to be applicable by the LHD or the Department, such as the impact of projected wastewater constituents on the trench and receiving soil.

*History Note: Authority G.S. 130A-335;
Eff. Pending delayed effective date.*

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

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

- (1) Rule .0304(1) of this Section;
- (2) Rule .0304(2) of this Section for special site evaluations and submittals prepared under Rule .0510 of this Subchapter; and
- (3) Rule .0304(4) of this Section for advanced pretreatment and IPWW.

*History Note: Authority G.S. 130A-335;
Eff. Pending delayed effective date.*

15A NCAC 18E .0401 DESIGN DAILY FLOW

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

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

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

TABLE II. Design daily flow for Facilities

Facility type	Design daily flow
Commercial	
Airports, railroad stations, bus and ferry terminals, etc.	5 gal/traveler, food preparation not included

APPROVED RULES

Barber shops	50 gal/chair
Bars, cocktail lounges∞	20 gal/seat, food preparation not included
Beauty shops, style shops, hair salons	125 gal/chair
Bed and breakfast homes and inns	Dwelling unit DDF based on Paragraph (a) of this Rule plus 120 gal/rented room which includes the following: Meals served to overnight guests Laundry for linens 150 gal/room with cooking facilities in individual rooms
Event Center∞	5 gal/person with toilets and hand sinks up to 4 hrs 10 gal/person with toilets and hand sinks up to 8 hrs 15 gal/person with toilets and hand sinks greater than 8 hrs Add 5 gal/person with full kitchen
Markets open less than four days/week, such as a flea market or farmers market	30 gal/stall or vendor, food preparation not included
Marinas with no holding tank discharge included	30 gal/boat slip, with bathhouse 10 gal/boat slip, wet slips or slips on dock 5 gal/boat slip, dry storage or warehouse
Motels/hotels	120 gal/room includes the following: No cooking facilities in individual rooms other than a microwave or other similar devices No food service or limited food service establishment Laundry for linens 150 gal/room with cooking facilities in individual rooms
Offices and factories with no IPWW included	12 gal/employee/≤ 8 hr shift Add 2 gal/employee/hr for more than 8 hr shift Add 10 gal/employee for showers
Stores, shopping centers, and malls	100 gal/1,000 ft ² of retail sales area, food preparation not included
Warehouse that are not retail sales warehouses	100 gal/loading bay or 12 gal/employee/≤ 8 hr shift Add 2 gal/employee/hr for more than 8 hr shift
Storage warehouse including self-storage facilities and does not include caretaker residence	12 gal/employee/≤ 8 hr shift Add 2 gal/employee/hr for more than 8 hr shift
Alcoholic beverage tasting areas with no process wastewater included	200 gal/1,000 ft ² of tasting area floor space and includes glass washing equipment Food preparation and food clean up not included 12 gal/employee/≤ 8 hr shift
Camps/Campgrounds	
Summer camps with overnight stays*	60 gal/person, applied as follows: 15 gal/person/food preparation 20 gal/person/toilet facilities 10 gal/person/bathing facilities 15 gal/person/laundry facilities
Day camps not inclusive of swimming area bathhouse*	20 gal/person and 5 gal/meal served with multiuse service or 3 gal/meal served with single-service articles
Temporary Labor Camp or Migrant Housing Camp with overnight stays*	60 gal/person, applied as follows: 15 gal/person/food preparation 20 gal/person/toilet facilities 10 gal/person/bathing facilities 15 gal/person/laundry facilities
Travel trailer or RV in an RV park*	100 gal/space
Recreational Park Trailer or Park Model Trailer 400 ft ² or less in an RV park*	150 gal/space
Bathhouse for campsites and RV park sites with no water and sewer hook ups with a maximum of four people per campsite	70 gal/campsite
Food preparation facilities	
Food Establishments with multiuse articles*	25 gal/seat or 25 gal/15 ft ² of floor space open 6 hrs/day or less

APPROVED RULES

	40 gal/seat or 40 gal/15 ft ² of floor space open 6 to 16 hrs/day Add 4 gpd/seat for every additional hour open beyond 16 hrs
Food Establishments with single service articles*	20 gal/seat or 20 gal/15 ft ² of floor space open 6 hrs/day or less 30 gal/seat or 30 gal/15 ft ² of floor space open 6 to 16 hrs/day Add 3 gpd/seat for every additional hour open beyond 16 hrs
Food stand with up to eight seats, mobile food units, and commissary kitchens*	50 gal/100 ft ² of food stand, food unit, or food prep floor space and 12 gal/employee/≤ 8 hr shift Add 2 gal/employee/hr for more than 8 hr shift
Other food service facilities*	5 gal/meal served with multiuse articles 3 gal/meal served with single service articles
Meat markets or fish markets with no process wastewater included*	50 gal/100 ft ² of floor space and 12 gal/employee/≤ 8 hr shift Add 2 gal/employee/hr for more than 8 hr shift
Health care and other care institutions	
Hospitals*	300 gal/bed
Rest homes, assisted living homes, and nursing homes*	150 gal/bed with laundry 75 gal/bed without laundry Add 60 gal/resident employee with laundry
Day care facilities	15 gal/person open ≤ 12 hr shift without laundry Add 1 gal/person/hr open for more than 12 hrs per day Add 5 gal/person with full kitchen
Group homes, drug rehabilitation, mental health, and other care institutions	75 gal/person with laundry
Orphanages	60 gal/student or resident employee with laundry
Public access restrooms	
Convenience store, service station, truck stop*	250 gal/toilet or urinal meeting the following: Open less than 16 hrs/day Food preparation not included Retail space not included
	325 gal/toilet or urinal meeting the following: Open 16 to 24 hrs/day Food preparation not included Retail space not included
Highway rest areas and visitor centers*	325 gal/toilet or urinal or 10 gal/parking space, whichever is greater
Recreational facilities	
Bowling center	50 gal/lane, food preparation not included
Community center, gym∞	5 gal/person plus 12 gal/employee/≤ 8 hr shift Add 2 gal/employee/hr for more than 8 hr shift or 50 gal/100 ft ² , whichever is greater
Country club or golf course	10 gal/person 12 gal/employee/≤ 8 hr shift Add 2 gal/employee/hr for more than 8 hr shift 3 gal/person for convenience stations Food preparation not included
Fairground	250 gal/toilet or urinal
Fitness center, spas, karate, dance, exercise∞	50 gal/100 ft ² of floor space used by clientele Food preparation not included
Recreational park, State park, county park, and other similar facilities with no sports facilities	10 gal/parking space
Outdoor sports facilities, mini golf, batting cages, driving ranges, motocross, athletic park, ball fields, stadium, and other similar facilities	250 gal/toilet or urinal, 5 gal/seat, or 10 gal/parking space, whichever is greater Food preparation not included
Auditorium, theater, amphitheater, drive-in theater	2 gal/seat or 10 gal/parking space, whichever is greater Food preparation not included
Swimming pools and bathhouses	5 gal/person domestic waste only, bathing load of pool may be used as an alternative method of sizing
Sports facilities courts or other similar facilities	250 gal/toilet or urinal or 50 gal/court, whichever is greater

Institutions	
Church or other religious institution*	2 gal/seat sanctuary only 3 gal/seat with warming kitchen in same structure as sanctuary 5 gal/seat with full kitchen in same structure as sanctuary
Public or private assembly halls used for recreation, regularly scheduled meetings, events, or amusement∞*	2 gal/person with toilets and hand sinks 3 gal/person with addition of a warming kitchen 5 gal/person with full kitchen
For churches, flow shall be in addition to sanctuary structure flow	
Schools	
Day schools*	6 gal/student with no cafeteria or gymnasium 9 gal/student with cafeteria only 12 gal/student with cafeteria and gymnasium
After school program	5 gal/student in addition to flow for regular school day
Boarding schools	60 gal/student and resident employee with laundry

* Facility has potential to generate HSE.

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

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

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

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

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

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

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

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

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

*History Note: Authority G.S. 130A-335(e); S.L. 2013-413, s.34; S.L. 2014-120, s. 53;
Eff. Pending Legislative Review.*

15A NCAC 18E .0402 SEPTIC TANK EFFLUENT CHARACTERISTICS

(a) Septic tank effluent standards for DSE shall be as set forth in Table III of this Paragraph. Effluent that exceeds these standards for any constituent shall be considered HSE. When measured, effluent characteristics shall be based on at least two effluent samples collected during normal or above-normal operating periods. A normal period is when the occupancy, operation, or use of the facility is average when compared to the occupancy, operation, or use over a time frame of a minimum of one year. The samples shall be taken from the existing or a comparable facility on non-consecutive days of operation. A comparable facility is based on documentation showing that the hours of operation, floor plan, water use practices, water-using fixtures, location, etc., are similar to the facility listed in the application. The samples shall be analyzed for a minimum of BOD₅, TSS, TN, and FOG.

Table III. Septic tank effluent standards for DSE

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

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

(b) Designs for facilities that generate HSE or when an adjusted DDF is proposed in accordance with Rule .0403 shall address the

issue of wastewater strength in accordance with one of the following:

- (1) Wastewater systems that meet one of the following criteria shall utilize advanced pretreatment, designed in accordance with Rule .1201(b) of this Subchapter, to produce DSE or better prior to dispersal:
 - (A) DDF greater than 1,500 gpd and HSE;
 - (B) any proposed flow reduction in accordance with Rule .0403 of this Section where the DDF is greater than 1,500 gpd; or
 - (C) any proposed flow reduction in accordance with Rule .0403 of this Section with projected or measured effluent characteristics that exceed DSE as set forth in Table III of this Rule; or
- (2) A licensed professional, in accordance with G.S. 89C, 89E, or 89F, may justify not using advanced pretreatment by providing the following, as applicable:
 - (A) the system design is determined based upon a mass loading adjusted LTAR calculated using site-specific LTAR and projected or measured BOD₅ and TSS values. The adjusted LTAR calculations shall be done as follows:

$$MLAF = 300 / (BOD_5 + TSS)$$
 or one, whichever is smaller

$$ALTAR = MLAF \times LTAR$$
 Where MLAF = mass loading
 LTAR adjustment factor
 BOD₅ = measured or projected
 TSS = measured or projected
 LTAR = LTAR assigned by the authorized agent for DSE in accordance with this Subchapter

$$ALTAR = \text{adjusted LTAR}$$
 - (B) site-specific nitrogen migration analysis when projected or measured effluent total nitrogen levels are greater than 100 mg/L. Analysis shall demonstrate that the nitrate-nitrogen concentration at the property line will not exceed 10 mg/L; and
 - (C) additional pretreatment to reduce FOG to less than or equal to 30 mg/L, including justification for the proposed pretreatment method.

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

History Note: Authority G.S. 130A-335(e); S.L. 2013-413, s. 34; S.L. 2014-120, s. 53;
Eff. Pending Legislative Review.

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

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

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

- (1) the submitted data shall consist of a minimum of 12 consecutive monthly total water consumption readings, and 30 consecutive daily water consumption readings taken during a projected normal or above normal wastewater flow month. A normal or above normal month is when the average flow equals or exceeds the mean of the 12 consecutive monthly total water consumption readings. The following calculations shall be done with the submitted data:
 - (A) a hydraulic peaking factor shall be calculated by dividing the highest monthly flow of the 12 monthly readings by the sum of the 30 consecutive daily water consumption readings. The hydraulic peaking factor shall not be less than one; and
 - (B) the adjusted DDF shall be calculated by multiplying the numerical average of the greatest 10 percent of the daily readings by the hydraulic peaking factor; or
- (2) the adjusted DDF shall be calculated by multiplying the highest of the 12 monthly readings by 1.5 and then dividing by the number of days in the month.

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

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

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

- (1) DDF less than those listed in Rule .0401 of this Section that are achieved through engineering design that utilizes low-flow fixtures and low-flow technologies;
- (2) comparison of flow from proposed fixtures and technologies to flow from conventional fixtures and technologies;
- (3) the signed and sealed proposal shall account for the site-specific impact on the wastewater system based on projected increased constituent concentrations resulting from reduction in water use in accordance with Rule .0402(b) of this Section;
- (4) inspection of the existing wastewater system and verification that the system meets the Rules of this Subchapter and can accept the increase in constituent loading, as applicable;
- (5) proposed adjusted DDF for wastewater systems determined to be less than or equal to 3,000 gpd shall not require Department review in accordance with Rule .0302(e) of this Subchapter unless requested by the LHD; and
- (6) neither the Department nor any LHD shall be liable for any damages caused by a system approved or permitted in accordance with this Paragraph.

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

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

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

History Note: Authority G.S. 130A-335(e); S.L. 2013-413, s. 34; S.L. 2014-120, s. 53;
Eff. Pending Legislative Review.

15A NCAC 18E .0501 SITE EVALUATION

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

- (1) topography, slope, and landscape position;
- (2) soil morphology:
 - (A) depth of horizons;
 - (B) texture;
 - (C) structure;
 - (D) consistence;
 - (E) color; and

- (F) organic soils, as applicable;
- (3) SWC;
- (4) soil depth;
- (5) restrictive horizons;
- (6) the suitability for each profile description;
- (7) LTAR; and
- (8) available space.

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

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

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

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

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

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

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

History Note: Authority G.S. 130A-335(e);
Eff. Pending delayed effective date.

15A NCAC 18E .0502 TOPOGRAPHY AND LANDSCAPE POSITION

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

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

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

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

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

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

$$SD = MSD + (TW \times S)$$

Where SD = soil depth required with slope correction, in inches

MSD = minimum soil depth, in inches
 TW = proposed trench width, in inches
 S = percent slope, in decimal form

*History Note: Authority G.S. 130A-335(e);
 Eff. Pending delayed effective date.*

15A NCAC 18E .0503 SOIL MORPHOLOGY

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

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

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

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

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

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

Table V. Soil structure and associated suitability classification

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

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

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

Soil Consistence	Mineralogy	Classification
Moist		
Loose, very friable	Slightly expansive	suitable
Friable, firm	Slightly expansive	suitable
Very firm or extremely firm	Expansive	unsuitable*
Wet		
Nonsticky, slightly sticky Nonplastic, slightly plastic	Slightly expansive	suitable
Moderately sticky Moderately plastic	Slightly expansive	suitable
Very sticky or very plastic	Expansive	unsuitable*

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

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

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

ACEC in cmol/kg	Mineralogy	Classification
≤ 16.3	Slightly expansive	suitable
> 16.3	Expansive	unsuitable

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

History Note: Authority G.S. 130A-335(e);
Eff. Pending delayed effective date.

15A NCAC 18E .0504 SOIL WETNESS CONDITION

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

- (1) the presence of colors with a value 4 or more and a chroma 2 or less using the Munsell Soil Color Book at greater than or equal to two percent of soil volume as redox depletions or as the matrix of a horizon. Colors of chroma 2 or less that are lithochromic features shall not be considered indicative of a SWC; or
- (2) the observation or indication of saturated soils, a perched water table, or lateral water movement flowing into a bore hole, monitoring well, or open excavation above a less permeable

horizon, that may occur without the presence of colors with a value 4 or more or chroma 2 or less at greater than or equal to two percent of soil volume as redox depletions or as the matrix of a horizon.

- (3) The shallowest depth to SWC determined in this Paragraph shall be used.

(b) Initial site suitability as to SWC shall be determined by field observations of soil wetness indicators in accordance with Paragraph (a) of this Rule. Sites where the SWC is less than 12 inches below the naturally occurring soil surface, or less than 18 inches if more than six inches of Group I soils are present, shall be considered unsuitable with respect to SWC.

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

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

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

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

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

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

- (1) no later than 30 days prior to the start of the monitoring period, the owner shall notify the LHD of the intent to monitor water surface elevations by submitting a proposal prepared by a licensed professional, if required in G.S. 89C, 89E, or 89F, that includes a site plan, well and soil profile at each monitoring site, and a monitoring plan as follows:
 - (A) the site plan shall include the proposed sites for wastewater systems, the longitude and latitude of the site, the location of monitoring wells, and all drainage features that may influence the SWC. The site plan shall also specify any proposed fill and drainage modifications;
 - (B) the monitoring plan shall include the proposed number, installation depth, screening depth, soil and well profile, materials, and installation procedures for each monitoring well. A minimum of three water level monitoring wells shall be installed for water surface observation at each site. Sites handling systems with a DDF greater than 600 gpd shall have one additional well per 600 gpd increment. Well locations shall include portions of the initial and repair dispersal field areas containing the most limiting soil and site conditions. The monitoring plan shall also provide for monitoring of the water surface elevations in the wells and all precipitation at the site; and
 - (C) notification of whether the owner or a licensed professional will perform the

monitoring, including the name of the licensed professional, if applicable.

- (2) prior to installation of the monitoring wells, the authorized agent shall approve the plan. Plan approval shall be based upon a site visit and compliance with this Rule. If the plan is denied, a signed, written report shall be provided to the owner that describes the reasons for denial, the changes necessary for approval of the plan, and notice of the right to appeal under G.S. 130A-24 and 150B;
- (3) wells shall extend a minimum of five feet below the naturally occurring soil surface, or existing ground surface for existing fill determined in accordance with Rule .0909(d) of this Subchapter, except that wells that extend down only 40 inches from the ground surface may be used if a continuous record of the water table is provided for a minimum of half of the monitoring period. One or more shallower wells may be required on sites where shallow lateral water movement or a perched SWC is anticipated based on the site investigation;
- (4) the water elevation in the monitoring wells shall be recorded daily from January 1 to April 30, taken at the same time during the day, plus or minus three hours. Rain gauges shall be located within two miles of the site. Daily rainfall measurements shall also be recorded from December 1 through April 30; and
- (5) the most recent information available from the SCO shall be used to determine the recurrence frequency of the total amount of rainfall at the site for the 120-day period ending April 15 based upon the site's historic rainfall record. This shall be done when the 120-day cumulative rainfall for the monitoring period ending on April 15 equals or exceeds the site's historic rainfall for the same period with a 30 percent frequency. The recurrence frequency shall be determined with one of the following methods:
 - (A) the licensed professional shall determine the 120-day SPI for April 15 by using the Integrated Water Portal located on the SCO's website at: <http://climate.ncsu.edu/water/map>. The licensed professional shall click on the map pixel that corresponds closest to the site's location. The Department will assist in obtaining this information upon request; or
 - (B) the recurrence frequency of the site's cumulative precipitation for the 120-day monitoring period ending on April 15 shall be determined for the site on a case-by-case basis from the most recent master grid provided to the Department by the SCO. The master

grid contains probability distribution parameters that shall be used by the Department based upon guidance from the SCO. Based on the master grid, the Department shall derive the recurrence frequency values for the grid point that corresponds closest to the site's latitude and longitude.

- (6) The SWC shall be determined by the shallowest level that is continuously saturated for the number of consecutive days during the January through April well monitoring period shown in Table VIII as follows:

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

April 15 SPI 120-day range	Recurrence frequency range 120-day cumulative April 15 rainfall	Number of consecutive days of continuous saturation for SWC
SPI -0.543 to 0	30% to 49.9% duration	3 days or 72 hours
SPI 0 to 0.545	50% to 69.9% duration	6 days or 144 hours
SPI 0.546 to 0.864	70% to 79.9% duration	9 days or 216 hours
SPI ≥ 0.865	80% to 100% duration	14 days or 336 hours

- (7) If monitoring well data is collected during monitoring periods that span multiple years, the year that yields the shallowest SWC shall apply.
- (h) The modeling procedure may be used to determine SWC by using DRAINMOD, a groundwater simulation model, to predict daily water levels over a minimum 30-year period using site-specific input parameters as outlined in the DRAINMOD User's Guide. The SWC shall be determined as the shallowest level predicted by DRAINMOD to be saturated for a 14-day continuous period between January 1 and April 30 with a recurrence frequency of 30 percent, an average of a minimum of nine years in 30, and in accordance with the following:
- (1) weather input files shall consist of hourly rainfall and daily temperature data collected over the entire period of record but for a minimum of a 30-year period from a measuring station site, such as the National Weather Service or SCO. The measuring station used shall be the station located closest to the owner's site;
 - (2) soil and site inputs for DRAINMOD shall include the following:
 - (A) soil input file with the soil moisture characteristic curve and data for the soil profile that is closest to the described soil profile that is present on the site;
 - (B) soil horizon depths determined on site;
 - (C) site measured or proposed drain depth and spacing, and drain outlet elevation;
 - (D) in-situ Ksat measurements for a minimum of three representative locations on the site and at each location for the three most representative soil horizons within five feet of the surface. In-situ Ksat measurements shall be for one representative soil horizon at or above redoximorphic depletion features and two representative soil horizons at and

- below redoximorphic concentration features at each location on the site;
- (E) all other model parameters based upon the DRAINMOD User's Guide; and
- (F) a sensitivity analysis shall be conducted for the following model parameters: soil input files for a minimum of two other most closely related soil profiles; in-situ Ksat of each horizon; drain depth and spacing; and surface storage and depth of surface flow inputs.

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

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

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

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

- (1) the procedures set forth in Paragraph (g) shall be used to monitor water surface elevation and precipitation. The rain gauges and monitoring wells required by Subparagraph (g)(4) shall use a recording device and a data file that is DRAINMOD compatible. The recording devices shall record rainfall hourly or daily and well water levels daily. The data file shall be submitted with the report to the LHD;
- (2) DRAINMOD shall be used to predict daily water levels. The DRAINMOD modeling shall be in accordance with the following:
 - (A) weather input files shall be developed from daily temperature and hourly or daily rainfall data collected over a minimum 30-year period from a measuring station, such as the National Weather Service or SCO. The measuring station used shall be the station located closest to the site. Daily maximum and minimum temperature data for the December 1 through April 30 monitoring period shall be obtained from the closest available weather station;
 - (B) soil and site inputs for DRAINMOD, including a soils data file closest to the soil series identified, depths of soil horizons, in-situ Ksat of each horizon, depth and spacing of drainage features, and depression storage shall be selected in accordance with procedures outlined in the DRAINMOD User's Guide;
 - (C) inputs shall be based upon site-specific soil profile descriptions. Soil and site input factors shall be adjusted during the model calibration process to achieve the best possible fit as indicated by the least squares analysis of the daily observations over the whole monitoring period and to achieve the best possible match between the shallowest water table depth during the monitoring period that is saturated for 14 consecutive days, measured vs. predicted. The mean absolute deviation between measured and predicted values shall be no greater than six inches during the monitoring period;

- (D) for sites intended to receive greater than 1,500 gpd, the SWC determination using DRAINMOD shall take into consideration the impact of wastewater application on the projected water table surface; and
- (E) the DRAINMOD analysis shall be prepared and submitted to the LHD by licensed professionals, if required in G.S. 89C, 89E, or 89F, qualified to use DRAINMOD by training and experience. The LHD or owner may request a technical review by the Department prior to approval of the SWC determination.

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

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

- (1) the modeling procedures use daily water levels or weather records over a 30-year period to predict future daily water levels;
- (2) the proposed model and prediction are shown to be as accurate as the prediction from DRAINMOD, calculated in accordance with Paragraph (h) of this Rule; and
- (3) documentation is provided in accordance with Rule .0509(c) of this Section.

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

History Note: Authority G.S. 130A-335(e); Eff. Pending delayed effective date.

15A NCAC 18E .0505 SOIL DEPTH

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

History Note: Authority G.S. 130A-335(e); Eff. Pending delayed effective date.

15A NCAC 18E .0506 SAPROLITE

- (a) Sites classified unsuitable due to depth to saprolite or other LC may be reclassified suitable in accordance with this Rule.

(b) Sites with saprolite shall be classified as suitable if an investigation of the site using pits at locations approved by the authorized agent confirms that the following conditions are met:

- (1) a 24-inch minimum vertical separation shall be maintained in saprolite from the infiltrative surface to an unsuitable LC, unless any of the vertical separation consists of a suitable soil horizon, in which case, the 24-inch separation may be calculated based on one inch of suitable soil being equivalent to two inches of saprolite; and
- (2) the following physical properties and characteristics shall be present in the saprolite below the proposed infiltrative surface:
 - (A) the saprolite texture as determined in the field by hand texturing samples of each horizon shall be sand, loamy sand, sandy loam, loam, or silt loam;
 - (B) the clay mineralogy shall be suitable in accordance with Rule .0503(3) of this Section;
 - (C) greater than two-thirds of the saprolite by volume shall have a moist consistence of loose, very friable, friable, or firm;
 - (D) the saprolite wet consistence shall be nonsticky or slightly sticky and nonplastic or slightly plastic;
 - (E) the saprolite shall be in an undisturbed, naturally occurring state;
 - (F) the saprolite shall have no open and continuous joints, quartz veins, or fractures relic of parent rock; and
 - (G) laboratory determinations may be used to supplement field determinations. Split samples shall be made available to the LHD.

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

Eff. Pending delayed effective date.

15A NCAC 18E .0507 RESTRICTIVE HORIZONS

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

History Note: Authority G.S. 130A-335(e);

Eff. Pending delayed effective date.

15A NCAC 18E .0509 SITE SUITABILITY AND CLASSIFICATION

- (a) A site evaluated in accordance with Rules .0502 through .0508 of this Section with all parameters determined as suitable shall result in an overall site classification of suitable. Any parameter

determined as unsuitable shall result in an overall site classification of unsuitable.

(b) Sites classified as unsuitable may be reclassified as suitable as follows:

- (1) when site modifications are made that meet the requirements in Sections .0900 or .1200 of this Subchapter for the minimum vertical separation to the SWC;
- (2) if installation of an interceptor drain will intercept and divert lateral water to prevent saturation of the wastewater system;
- (3) with the use of advanced pretreatment based on the modified siting and sizing criteria in Section .1200 of this Subchapter; or
- (4) with the use of a wastewater system identified or approved in Sections .0900 or .1700 of this Subchapter.

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

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

History Note: Authority G.S. 130A-335(e);

Eff. Pending Legislative Review.

15A NCAC 18E .0510 SPECIAL SITE EVALUATIONS

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

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

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

- (1) proposal submitted in accordance with Rule .0509(c) of this Section;
- (2) sand lined trench systems when the texture of the receiving permeable horizon is sandy loam or loam and the DDF is greater than 600 gpd, or when the texture of the receiving permeable horizon is silt loam;
- (3) DSE drip dispersal systems meeting the following soil and site conditions:
 - (A) depth from the naturally occurring soil surface to any LC is greater than or equal to 18 inches and the LTAR is proposed to exceed 0.5 gpd/ft² for Group I, 0.35 gpd/ft² for Group II, or 0.2 gpd/ft² for Group III soils;

- (B) depth from the naturally occurring soil surface to any SWC is less than 18 inches and the LTAR is proposed to exceed 0.5 gpd/ft² for Group I, 0.3 gpd/ft² for Group II, or 0.15 gpd/ft² for Group III soils;
- (C) Group IV soils are encountered within 18 inches of the naturally occurring soil surface or within 12 inches of the infiltrative surface, whichever is deeper, and the LTAR is proposed to exceed 0.05 gpd/ft²;
- (D) Group IV soils are encountered within 18 inches of the naturally occurring soil surface and the depth from the naturally occurring soil surface to any LC is less than 24 inches;
- (E) Group IV soils are encountered within 18 inches of the naturally occurring soil surface and the driplines are installed in new fill material;
- (F) groundwater lowering system is used to comply with soil depth and vertical separation requirements to a SWC;
- (G) proposed LTAR exceeds that assigned by the LHD; or
- (H) DDF is greater than 1,500 gpd;
- (4) advanced pretreatment systems meeting the following soil and site conditions:
 - (A) vertical separation to a LC is proposed to be reduced. The vertical separation to rock or tidal water shall not be reduced to less than 12 inches;
 - (B) less than 18 inches of naturally occurring soil to a LC, excluding SWC;
 - (C) increased LTAR is proposed for a site with Group III or IV soils within three feet of the infiltrative surface;
 - (D) increased LTAR is proposed for a site with Group II or III soils that requires a groundwater lowering system;
 - (E) proposed use of a groundwater lowering system to comply with vertical separation requirements to a SWC;
 - (F) bed systems located beneath the advanced pretreatment unit on a site with uniform slope exceeding two percent except in Group I soils with a SWC greater than 36 inches;
 - (G) bed systems with a DDF greater than 1,500 gpd; or
 - (H) increased LTAR is proposed on a site with a DDF greater than 1,500 gpd;
- (5) drip dispersal systems and Group IV soils are within 18 inches of the naturally occurring soil surface or within 12 inches of the infiltrative surface, whichever is deeper, and the LTAR is proposed to exceed 0.1 gpd/ft² for NSF/ANSI 40, 0.12 gpd/ft² for TS-I, or 0.15 gpd/ft² for TS-II;
- (6) NSF/ANSI 40 and drip dispersal systems when the LTAR is proposed to exceed 0.8 gpd/ft² for Group I soils, 0.5 gpd/ft² for Group II soils, 0.25 gpd/ft² for Group III soils, or 0.1 gpd/ft² for Group IV soils;
- (7) TS-I and drip dispersal systems which meet the following criteria:
 - (A) site has less than 18 inches of naturally occurring soil to any unsuitable LC;
 - (B) Group III soils are present and a groundwater lowering system is used to comply with the vertical separation requirements to a SWC;
 - (C) Group IV soils are encountered within 18 inches of the naturally occurring soil surface, the LTAR is proposed to exceed 0.05 gpd/ft², and the system is proposed to be installed in new fill; or
 - (D) LTAR is proposed to exceed 1.0 gpd/ft² for Group I soils, 0.6 gpd/ft² for Group II soils, 0.3 gpd/ft² for Group III soils, or 0.12 gpd/ft² for Group IV soils;
- (8) TS-II and drip dispersal systems which meet the following criteria:
 - (A) Subparagraphs (7)(A), (B), or (C) of this Rule; or
 - (B) LTAR is proposed to exceed 1.2 gpd/ft² for Group I soils, 0.7 gpd/ft² for Group II soils, 0.4 gpd/ft² for Group III soils, or 0.15 gpd/ft² for Group IV soils;
- (9) site-specific nitrogen migration analysis is required to verify that the nitrate-nitrogen concentration at the property line will not exceed groundwater standards;
- (10) LHD or Department determines that the combination of soil conditions, site topography and landscape position, DDF, system layout, and proposed stormwater appurtenances will potentially result in hydraulic overload; or
- (11) DDF greater than 3,000 gpd, unless the requirements of Rule .0302(f) of this Subchapter are met.
- (d) The special site evaluation shall include hydrologic or hydraulic testing, as applicable, and analysis, in accordance with Rule .0304(2)(b) of this Subchapter.
- (e) For wastewater systems with a DDF greater than 3,000 gpd, the special site evaluation shall include sufficient site-specific data to predict the height of the water table mound that will develop beneath the field on level sites and the rate of lateral and vertical flow away from the trenches on sloping sites, unless the conditions in Paragraph (f) of this Rule are met. The data submitted may include deep soil borings to an impermeable layer or to a depth to support the hydrologic testing and modeling, permeability, in-situ Ksat measurements, water level readings,

and other information determined to be necessary by the LHD or the Department, such as the impact of projected wastewater constituents on the trench and receiving soil. The site shall be considered unsuitable if the data indicate any of the following:

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

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

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

*History Note: Authority G.S. 89E; 89F; 130A-335(a1), (e), and (f);
Eff. Pending Legislative Review.*

15A NCAC 18E .0601 LOCATION OF WASTEWATER SYSTEMS

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

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

Site Features	Setback in feet
Any transient or non-transient non-community water supply well, community well, shared water supply well, well that complies with 15A NCAC 18A .1700, or water supply spring	100
A private drinking water well or upslope spring serving a single family dwelling unit	50
Any other well or source not listed in this table, excluding monitoring wells	50
Surface waters classified WS-I, from ordinary high-water mark	100
Waters classified SA, from mean high-water mark	100
Any Class I or Class II reservoir, from normal water level	100
Lake or pond, from normal water level	50

Any other stream, non-water supply spring, or other surface waters, from the ordinary high-water mark	50
Tidal influenced waters, such as marshes and coastal waters, from mean high-water mark	50
Permanent stormwater retention basin, from normal water level	50
Any water line, unless the requirements of Paragraph (i) have been met	10
Closed loop geothermal wells	15
Building foundation and deck supports	5
Patio, porch, stoop, lighting fixtures, or signage, including supporting structures such as posts or pilings	1
Any basement, cellar, or in-ground swimming pool	15
Buried storage tank or basin, except stormwater	10
Above ground swimming pool and appurtenances that require a building permit	5
Top of slope of embankment or cuts of two feet or more vertical height with a slope greater than 50 percent	15
Top of slope of embankment or cuts of two feet or more vertical height with a slope greater than 33 percent and less than or equal to 50 percent	15
	If the site has suitable soil depth that extends for a minimum horizontal distance of 15 feet from the edge of the dispersal field, no minimum setback is required.
Top of slope of embankment or cuts of two feet or more vertical height with a slope less than 33 percent	0
Groundwater lowering system, as measured on the ground surface from the edge of the feature	25
Downslope interceptor drains and surface water diversions with a vertical cut of more than two feet, as measured on the ground surface from the edge of the feature	15
Upslope and sideslope interceptor drains and surface water diversions with a vertical cut of more than two feet, as measured on the ground surface from the edge of the feature	10
A stormwater collection system as defined in 15A NCAC 02H .1002(48), excluding gutter drains that connect to a stormwater collection system, with a	10

vertical cut of more than two feet as measured from the center of the collection system	
Bio-retention area, injection well, infiltration system, or dry pond	25
Any other dispersal field, except designated dispersal field repair area for project site	20
Any property line	10
Burial plot or graveyard boundary	10
Above ground storage tank from dripline or foundation pad, whichever is more limiting	5
Utility transmission and distribution line poles and towers, including guy wires, unless a greater setback is required by the utility company	5
Utility transformer, ground-surface mounted	5
Underground utilities	5

(b) Wastewater systems may be located closer than 100 feet but never less than 50 feet from water supply wells or an upslope spring for repairs, space limitations, and other site-planning considerations when one of the following conditions is met:

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

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

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

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

TABLE X. Reduced setbacks for tanks to some site features

Site Features	Setback in feet
Permanent stormwater retention basin, from normal water level	35
Bio-retention area, injection well, infiltration system, or dry pond	15
Groundwater lowering system, as measured on the ground surface from the edge of the feature	15

Any water line	5
A stormwater collection system as defined in 15A NCAC 02H .1002(48), excluding gutter drains that connect to a stormwater collection system, with a vertical cut of more than two feet as measured from the center of the collection system	5

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

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

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

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

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

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

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

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

(k) Collection sewers shall be located the minimum setbacks to site features shown in Table IX, unless a different minimum setback is specified in Table XII. When a reduced setback to a collection sewer is utilized, the piping requirements for the reduced setback shall be extended to comply with the unreduced setback. The distribution device shall receive the reduced setback when demonstrated to be watertight with an on-site leak test.

TABLE XII. Minimum setbacks from collection sewers to site features

Feature	Setback in feet
Any public water supply source, including wells, springs, and Class I or Class II reservoirs, from feature or normal water level	100
	50, if constructed of or sleeved in Schedule 80 PVC or DIP with mechanical joints equivalent to water main standards, and the collection sewer is leak tested and shown to be watertight*
Any water supply well excluding those regulated under 15A NCAC 18C	50
	25, if constructed of Schedule 40 pressure rated PVC or DIP with mechanical joints equivalent to water main standards, and the collection sewer is leak tested and shown to be watertight*
	15, if constructed of Schedule 80 PVC, sleeved in DIP or Schedule 80 PVC, and the collection sewer is leak tested and shown to be watertight*
Surface waters classified WS-I, WS-II, WS-III, B, SA, or SB, from mean high-water mark or ordinary high-water mark	50
	10, if constructed of or sleeved in Schedule 80 PVC or DIP with mechanical joints equivalent to water main standards, and the collection sewer is leak tested and shown to be watertight*
Any other stream, non-water supply spring, or other surface waters, from the ordinary high-water mark	10
Tidal influenced waters, such as marshes and coastal waters, from mean high-water mark	10
Closed loop geothermal wells	5
Any service connection as defined in 15A NCAC 18C .0102(c)(21)	5
Any basement, cellar, or in-ground swimming pool	10

Top of slope of embankment or cuts of two feet or more vertical height with a slope greater than 50 percent	5
Interceptor drains and surface water diversions, with a vertical cut of more than two feet as measured on the ground surface from the edge of the diversion	5
Permanent stormwater retention basin, from normal water level	10
Bio-retention area, injection well, infiltration system, or dry pond	5
Any other dispersal field, except designated dispersal field repair area for project site	5
Any property line	5
Burial plot or graveyard boundary	5

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

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

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

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

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

- (B) the water line is constructed of ferrous materials with joints equivalent to water main standards and extends a minimum of 10 feet on each side of the point of crossing, with full sections of pipe centered at the point of crossing.
- (n) Collection sewers shall not cross storm drains, except as follows:
- (1) 12 inches clear vertical separation is maintained between the collection sewer and storm drain;
 - (2) the collection sewer is constructed of DIP with mechanical joints or restrained push-on joints equal to water main standards; or
 - (3) the collection sewer is encased in concrete or DIP for a minimum of five feet on either side of the crossing.
- (o) Collection sewers shall not cross under a stream, except as follows:
- (1) a minimum of 36 inches of separation from the stream bottom is maintained;
 - (2) the collection sewer is constructed of DIP with mechanical joints or restrained push-on joints equal to water main standards; or
 - (3) the collection sewer is encased in concrete or DIP for a minimum of 10 feet on either side of the crossing and protected against the normal range of high and low water conditions, including the 100-year flood or wave action.
- (p) Collection sewer aerial crossings shall be constructed of DIP with mechanical joints or restrained push-on joints equal to water main standards and freeze protected. Pipe shall be anchored for a minimum of 10 feet on either side of the crossing.
- (q) If septic tanks, pump tanks, grease tanks, raw sewage lift stations, wastewater treatment plants, sand filters, and other advanced pretreatment systems are located in areas subject to flooding at a frequency greater than a 10-year storm, they shall be designed and installed to be watertight and to remain operable during all flooding events.

History Note: Authority G.S. 130A-334; 130A-335(e) and (f); S.L. 2019-215, s. 2; Eff. Pending Legislative Review.

15A NCAC 18E .0602 APPLICABILITY OF SETBACKS

- (a) The minimum setback requirements in Table IX of Rule .0601(a) of this Section for SA waters, basements, property lines, and cuts of two feet or more vertical height, shall not apply to the installation of a single wastewater system serving a single-family residence with a maximum DDF of 480 gpd on a lot or tract of land that meets the following requirements:
- (1) on July 1, 1977, is described in a deed, contract, other instrument conveying fee title, or in a recorded plat;
 - (2) is of insufficient size to satisfy the minimum setback requirements in Table IX of Rule .0601(a) of this Section for SA waters, basements, property lines, and cuts of two feet or more vertical height of this Section on July 1, 1977; and

- (3) cannot be served by a community or public sewerage system on the date system construction is proposed to begin.
- (b) For those lots or tracts of land described in Paragraph (a) of this Rule, the maximum feasible setback shall be required, but shall not be less than the minimum setbacks in Table XIII.

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

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

- (c) For wastewater systems installed in Group I soils on lots or tracts of land that meet the requirements of Paragraph (a) of this Rule, the wastewater system shall be located the maximum feasible distance but no less than 10 feet from any other wastewater system.
- (d) For wastewater systems installed on lots or tracts of land which, on July 1, 1982, are specifically described in a deed or recorded plat, and the wastewater system cannot meet the minimum setbacks in Table IX of Rule .0601(a) of this Section for groundwater lowering systems, the wastewater system shall be located the maximum feasible horizontal distance but no less than 10 feet from the groundwater lowering system.
- (e) Any local board of health ordinances in effect on June 30, 1977, which establish greater minimum setback requirements than those provided for in this Section, shall remain in effect and shall apply to a lot or tract of land to which Table IX of Rule .0601(a) of this Section does not apply.

History Note: Authority G.S. 130A-335(e); Eff. Pending Legislative Review.

15A NCAC 18E .0701 COLLECTION SEWERS

- (a) Collection sewers shall be designed and constructed in accordance with the following criteria:
- (1) Building drains and building sewers shall be in accordance with the North Carolina Plumbing Code and approved by the local building inspector.
 - (2) Pipe material shall be specified to comply with the applicable ASTM standards based on pipe material.
 - (3) Gravity sewers shall be designed to maintain minimum scour velocities of two feet per second with the pipe half full and one foot per second at the peak projected instantaneous flow rate. Force mains shall be sized to obtain a minimum two-foot per second scour velocity at the projected pump operating flow rate.

- (4) Infiltration and exfiltration shall not exceed 100 gpd per inch diameter per mile of gravity sewer pipe or 20 gpd per inch diameter per mile of pressure pipe in force mains and supply lines.
 - (5) Collection sewers shall be buried three feet deep, except as provided for in Rule .0601(h)(4) of this Subchapter.
 - (6) Ferrous material pipe or other pipe designed and bedded for traffic-bearing loads shall be provided where collection sewers are subject to vehicular traffic.
 - (7) Manholes shall be used for gravity collection sewers at any bend, junction, and a maximum of every 425 feet along the collection sewer. Drop manholes shall be required where the inlet to outlet elevation difference exceeds two and one half feet. Manhole lids shall be watertight if located below the 100-year flood elevation, within 100 feet of any public water system source, or within 50 feet of any private water system source or any surface waters classified WS-I, WS-II, WS-III, SA, SB, or B.
 - (8) Cleanouts may be used instead of manholes for four-inch and six-inch sewers serving one or two design units, or as otherwise allowed by the North Carolina Plumbing Code. Cleanouts shall be required a maximum of every 100 feet for four or six-inch sewers and at all junctions and bends which exceed 45 degrees, unless otherwise allowed by the North Carolina Plumbing Code.
 - (9) Air relief valves shall be provided as needed for force mains when the length exceeds 1,000 feet or for intermediate high points that exceed five feet.
 - (10) Collection sewers may require additional ventilation provisions, such as a stand pipe, based on length, size, and location.
- (b) STEP systems may be used as an alternative to gravity collection sewers.

History Note: Authority G.S. 130A-335(e), (f), and (f1); Eff. Pending delayed effective date.

15A NCAC 18E .0702 RAW SEWAGE LIFT STATIONS

- (a) Raw sewage lift stations permitted by the LHD shall meet all setbacks for wastewater systems in accordance with Table IX of Rule .0601(a) of this Subchapter.
- (b) Raw sewage lift stations shall meet the following design and construction standards:
- (1) dual pumps shall be provided for stations serving two or more buildings or for a facility with more than six water closets;
 - (2) pumps shall be listed by a third-party electrical testing and listing agency, such as Underwriter's Laboratories;
 - (3) pumps shall be grinder pumps or solids-handling pumps capable of handling a minimum of three-inch spheres. If the raw

- sewage lift station serves no more than a single water closet, lavatory, and shower, two-inch solids handling pumps shall be acceptable;
- (4) minimum pump capacity shall be two and one half times the average daily flow;
- (5) raw sewage lift stations serving single buildings shall be designed for pump run times between three to 10 minutes at average daily flow;
- (6) pump station emergency storage capacity and total liquid capacity shall be determined in accordance with Rule .0802 of this Subchapter except for a sealed, watertight chamber serving an individual building, in which case a minimum storage capacity of eight hours shall be required; and
- (7) all applicable requirements for pump tanks and dosing systems as set forth in Rule .0802 and Section .1100 of this Subchapter shall apply to raw sewage lift stations.

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

History Note: Authority G.S. 130A-335(e), (f), and (f1); Eff. Pending delayed effective date.

15A NCAC 18E .0703 PIPE MATERIALS

- (a) The gravity pipe between a septic tank, gravity distribution device, and the dispersal field shall be a minimum of three-inch Schedule 40 PVC, Schedule 40 polyethylene, or Schedule 40 ABS.
- (b) Three-inch or greater non-perforated polyethylene corrugated tubing, PVC SDR 21 and SDR 26 pressure rated at 160 psi or greater and labeled as compliant with ASTM D2241, PVC SDR 35 gravity sewer pipe rated as compliant with ASTM D3034, or alternative non-perforated pipe materials described in Paragraph (d) of this Rule, may be substituted for Schedule 40 between the distribution device and the dispersal field when the following minimum installation criteria are met:
- (1) the pipe is placed on a compacted, smooth surface free of indentations or clods at a uniform grade, and with an excavation width of one foot;
 - (2) the pipe is placed in the middle of the excavation with three inches of clearance between the pipe and the walls;
 - (3) a washed gravel or crushed stone envelope is placed in the excavation on both sides of the pipe and to a point two inches above the top of the pipe;
 - (4) six inches of soil is placed and compacted over the stone or gravel envelope; and
 - (5) earthen dams consisting of two feet of undisturbed or compacted soil are located at both ends of the excavation separating the trench from the distribution device.

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

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

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

(f) Pipe materials other than those identified in this Rule may be proposed when designed and certified by a PE, including any installation and testing procedures. Gravity pipe materials shall be shown to comply with the requirements of Paragraphs (a), (b), and (c) of this Rule. Alternative pressure rated pipe materials shall be constructed of PVC, polyethylene, or other pressure rated pipe and conform to applicable ASTM standards for pipe material and methods of joining. The proposed pipe shall be installed per ASTM D2774. Installation testing shall include a hydrostatic pressure test similar to pressure testing required for water mains for any line exceeding 500 feet in length and shall comply with the requirements of Rule .0701(a)(4) of this Section.

History Note: Authority G.S. 130A-335(e), (f), and (f1);
Eff. Pending delayed effective date.

15A NCAC 18E .0801 SEPTIC TANK CAPACITY REQUIREMENTS

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

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

TABLE XIV. Minimum septic tank liquid capacity for dwelling units

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

(3) Septic tanks for dwelling units greater than five bedrooms, multiple dwelling units, places of business, or places of public assembly shall be sized in accordance with Table XV.

(4) The minimum septic tank capacity serving two or more dwelling units shall be 1,500 gallons.

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

Design daily flow in gpd (Q)	Minimum septic tank liquid capacity (V) calculation in gallons
$Q \leq 600$	$V = 2Q$
$600 < Q < 1,500$	$V = 1.17Q + 500$
$1,500 \leq Q \leq 4,500$	$V = 0.75Q + 1,125$
$Q > 4,500$	$V = Q$

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

(b) The minimum liquid capacity requirements of Paragraph (a) of this Rule shall be met by use of a single two compartment tank or by two tanks installed in series. The tanks in series may be constructed with or without a baffle wall. Each tank shall have a minimum liquid capacity of 1,000 gallons.

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

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

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

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

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

History Note: Authority G.S. 130A-334; 130A-335(e), (f), and (f1);
Eff. Pending delayed effective date.

15A NCAC 18E .0802 PUMP TANK CAPACITY REQUIREMENTS

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

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

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

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

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

(d) A PE may propose an alternative design to the LHD to calculate the minimum pump tank liquid capacity required. The alternative method shall provide documentation of pump submergence, dose volume capacity, emergency storage capacity, and flow equalization storage, as applicable. The LHD shall approve the alternative design upon a showing that all required storage capacity is accounted for in the wastewater system without reducing the required septic tank or grease tank capacities specified in Rules .0801 and .0803 of this Section.

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

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

TABLE XVI. Pump tank emergency storage capacity requirements

Facility Type	Surface Water Classification of Watershed	Standby Power and Emergency Maintenance Personnel Provisions	Emergency Storage Capacity Period Requirement
Residential systems and other systems in full time use	WS-I, WS-II, WS-III, SA, SB, and B waters	No standby power	24 hours
		Manually activated standby power and telemetry contacting a 24-hour maintenance service	12 hours
		Automatically activated standby power and telemetry contacting a 24-hour maintenance service	4 hours
	All other surface waters or no surface waters	No standby power	12 hours
		Manually activated standby power and telemetry contacting a 24-hour maintenance service	8 hours
		Automatically activated standby power and telemetry contacting a 24-hour maintenance service	4 hours
Non-residential systems not in full-time use and all other systems	All surface waters	No standby power	12 hours
		Manually activated standby power and telemetry contacting a 24-hour maintenance service	8 hours
		Automatically activated standby power and telemetry contacting a 24-hour maintenance service	4 hours

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

*History Note: Authority G.S. 130A-335(e), (f), and (f1);
Eff. Pending Legislative Review.*

15A NCAC 18E .0803 GREASE TANK CAPACITY REQUIREMENTS

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

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

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

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

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

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

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

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

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

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

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

History Note: Authority G.S. 130A-335(e), (f), and (f1);
Eff. Pending Legislative Review.

15A NCAC 18E .0804 SIPHON TANK CAPACITY REQUIREMENTS

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

History Note: Authority G.S. 130A-335(e), (f), and (f1);
Eff. Pending delayed effective date.

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

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

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

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

- (1) The operational procedures to be followed for the hydrostatic test are:
 - (A) fill tank with water to the outlet invert or pipe, as applicable;
 - (B) allow the tank to sit for one hour;
 - (C) tank shall be approved if the water level drops less than or equal to one-eighth inch in one hour;
 - (D) if a leak is detected, the tank may be repaired in accordance with the tank manufacturer's written instructions, refilled, and retested;

- (E) surface wetness or condensation shall not be considered an active water leak; and
 - (F) the tank manufacturer or installer is allowed one attempt to retest the tank before the authorized agent can deny the tank for use in the installation based on failure to pass the leak test.
- (2) The operational procedures to be followed for the vacuum test are:
- (A) temporarily seal inlet and outlet pipes and access openings;
 - (B) using calibrated equipment, draw a vacuum on the empty tank to a negative pressure of two and one half inches of mercury;
 - (C) hold the vacuum for five minutes and re-measure and record the ending negative pressure inside the tank;
 - (D) no bracing or internal support that is not part of the approved tank shall be allowed;
 - (E) tank shall be approved if the difference between the starting negative pressure and the ending negative pressure is less than or equal to one-fifth inch;
 - (F) if a leak is detected, the tank may be repaired in accordance with the tank manufacturer's written instructions and retested;
 - (G) the tank manufacturer or installer is allowed one attempt to retest the tank before the authorized agent can deny the tank for use in the installation based on the failure to pass the leak test; and
 - (H) all tank openings shall be un-sealed after the vacuum test is completed.

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

(d) The septic tank outlet pipe shall be inserted through the outlet pipe penetration boot, creating a watertight joint, and extending a minimum of two feet beyond the septic tank outlet. The pump tank outlet pipe shall be inserted through the outlet pipe penetration boot, creating a watertight joint, or through another watertight joint, such as a rubber grommet, in the pump tank riser.

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

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

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

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

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

History Note: Authority G.S. 130A-335(e), (f), and (f1); Eff. Pending Legislative Review.

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

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

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

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

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

- (1) Tables XVII and XVIII shall be used, as applicable;
- (2) the LTAR shall be assigned based upon soil textural class or saprolite textural class, as applicable, structure, consistence, SWC, depth, percent coarse rock, landscape position, topography, and system type;
- (3) LTARs determined from Table XVII shall be based on the soil textural class of the most limiting, naturally occurring soil horizon to a depth of 12 inches below the infiltrative surface or 18 inches to any SWC if more than six inches of the separation consists of Group I soils;
- (4) LTARs determined from Table XVIII shall be based on the saprolite textural class of the most limiting, naturally occurring saprolite to a depth of 24 inches below the infiltrative surface, or less than 24 inches if combined with soil in accordance with Rule .0506(b) of this Subchapter; and
- (5) for facilities that generate HSE as specified in Rule .0401(h) of this Subchapter or a facility

with a full kitchen, the LTAR shall not exceed the mean rate for the applicable Soil Group.

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

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

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

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

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

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

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

$$TL = (DDF / LTAR) / ETW$$

Where TL = trench length, in feet
DDF = design daily flow, in gpd
LTAR = in gpd/ft²
ETW = equivalent trench width, in feet;
- (3) the area occupied by step-downs, drop boxes, and supply lines shall not be part of the minimum required infiltrative surface area;

(4) the total trench length required for trench products other than conventional gravel shall be as follows:

- (A) for trench products identified in Section .0900 of this Subchapter, the minimum line length shall be calculated in accordance with this Section; or
 - (B) for trench products approved under Section .1700 of this Subchapter, the minimum line length shall be calculated in accordance with the PIA Approval; and
- (5) when HSE is proposed to be discharged to a dispersal field with no advanced pretreatment or has not been reclassified as DSE in accordance with Rule .0402(c) of this Subchapter, a licensed professional, if required in G.S. 89C, 89E, or 89F, shall calculate the adjusted LTAR in accordance with Rule .0402(b)(2) of this Subchapter.

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

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

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

- (1) a device that measures elevation, such as an engineer's level or laser level shall be used for the following:
 - (A) staking, flagging, or marking on the ground surface the location of trenches on site before installation begins;
 - (B) installation of the trenches; and
 - (C) verification of elevations, excavations, and installation of other system components;
- (2) trenches shall be installed with 12 inches of naturally occurring suitable soil between the infiltrative surface and any unsuitable LC. If the vertical separation between the infiltrative surface and any SWC is less than 18 inches, and if more than six inches of the separation consists of Group I soils, a pressure dispersal system shall be required;
- (3) the trenches shall follow the ground contour. Trenches may be installed level but off contour if an authorized agent has determined that there is sufficient vertical separation to a LC along the entire trench length in accordance with Subparagraph (2) of this Paragraph;
- (4) the lateral shall be centered horizontally in the trench;
- (5) the type and placement of soil cover shall be approved by the authorized agent in accordance

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

History Note: Authority G.S. 130A-335(e), (f), and (f1); Eff. Pending delayed effective date.

15A NCAC 18E .0902 CONVENTIONAL WASTEWATER SYSTEMS

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

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

History Note: Authority G.S. 130A-335(e) and (f); 130A-343; Eff. Pending delayed effective date.

15A NCAC 18E .0903 BED SYSTEMS

- (a) This Rule shall apply to bed systems receiving DSE.
- (b) Bed systems shall be limited to 600 gpd unless approved for a greater DDF in accordance with a PIA Approval.
- (c) Sites for bed systems shall meet the following criteria:
 - (1) soil texture is Group I, II, or III; and
 - (2) design options for the site are limited by topography or available space.
- (d) The number of square feet of infiltrative surface area required shall be increased by 50 percent over that required for a trench system as calculated in accordance with Rule .0901(d) of this Section.
- (e) In addition to the installation requirements set forth in Rule .0901(g) of this Section, the following shall apply:
 - (1) the bottom of the bed shall be excavated level, plus or minus one-half inch, in all directions;
 - (2) laterals shall be one and one-half feet from the side of the bed;
 - (3) laterals shall be placed on three-foot centers;
 - (4) aggregate used shall comply with the requirements of Rule .0902(b)(4) of this Section;
 - (5) products approved under Section .1700 of this Subchapter shall be installed in accordance with their PIA Approval;
 - (6) the gravel surface shall be covered by an approved geo-textile fabric capable of preventing the downward movement of soil

- (7) particles while allowing the movement of liquids and gases; and
- (7) when pressure dispersal is used, the lateral design criteria shall meet the minimum requirements of Rules .0907(e) or .0908(d) of this Section or in accordance with a PIA Approval.

History Note: Authority G.S. 130A-335(e), (f), and (f1); Eff. Pending delayed effective date.

15A NCAC 18E .0904 LARGE DIAMETER PIPE SYSTEMS

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

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

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

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

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

Table XIX. Minimum filter wrap requirements for LDP

Property	Value
Unit Weight	1.0 ounce per square yard
Sheet Grab Tensile Strength	Machine Direction: 23 pounds
Trapezoid Tear Strength	Machine Direction: 6.2 pounds
Mullen Burst Strength	40 psi or 276 kilopascals

Frazier Air Permeability	500 cubic feet per minute per square foot at pressure differential of one-half inch of water
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(d) The requirements of Rule .0901 of this Section shall apply to LDP systems except as follows:

- (1) the LTAR determined in accordance with Rule .0901(c) of this Section shall not exceed 0.8 gpd/ft²; and
- (2) to calculate the minimum trench length in accordance with Rule .0901(d) of this Section, an equivalent trench width of two feet shall be used for eight-inch LDP and two and one-half feet shall be used for 10-inch LDP.

(e) In addition to the requirements set forth in Rule .0901(g) of this Section, LDP system installations shall comply with the following:

- (1) trenches for 8-inch LDP shall be a minimum of 10 inches and a maximum of 18 inches wide. Trenches for 10-inch LDP shall be a minimum of 12 inches and a maximum of 24 inches wide;
- (2) the infiltrative surface and pipe shall be level with a maximum fall of one inch in 100 feet;
- (3) backfill shall have no more than 10 percent by volume of fibrous organics, building rubble, rocks, large clods, or other debris and shall be Soil Groups I, II, or III;
- (4) the LDP shall be connected to the collection sewer or a stepdown pipe using an offset adapter to create a mechanical joint; and
- (5) the minimum on center spacing for eight-inch LDP shall be five feet and for 10-inch LDP shall be six feet.

History Note: Authority G.S. 130A-335(e) and (f); Eff. Pending delayed effective date.

15A NCAC 18E .0905 PREFABRICATED PERMEABLE BLOCK PANEL SYSTEMS

(a) PPBPS utilize both horizontal and vertical air chambers in a 16-inch PPBPS and are constructed to promote downline and horizontal distribution of effluent. PPBPS systems shall only be used with DSE.

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

- (1) the LTAR determined in accordance with Rule .0901(c) of this Section shall not exceed 0.8 gpd/ft²; and
- (2) to calculate the minimum trench length in accordance with Rule .0901(d) of this Section, an equivalent trench width of six feet shall be used.

(c) In addition to the requirements set forth in Rule .0901(g) of this Section, PPBPS system installations shall comply with the following and the manufacturer's specifications:

- (1) PPBPS trenches shall be located a minimum of eight feet on center or three times the trench width, whichever is greater; and

- (2) trench sidewalls shall be raked in Group IV soils.

(d) When used in bed and fill systems, PPBPS shall use the equivalent trench width of six feet to calculate the minimum trench or lateral length required.

(e) When used in sand lined trench systems, PPBPS shall use the equivalent trench width of three feet to calculate the minimum trench length required.

History Note: Authority G.S. 130A-335(e) and (f); Eff. Pending Legislative Review.

15A NCAC 18E .0906 SAND LINED TRENCH SYSTEMS

(a) Sand lined trench systems receiving DSE may be used on sites originally classified unsuitable due to SWC, soil morphology, restrictive horizon, or soil depth that may be reclassified as suitable in accordance with this Rule when there is a DDF less than or equal to 1,500 gpd.

(b) Sand lined trench systems with advanced pretreatment shall comply with Rule .1205 of this Subchapter.

(c) The soil and site shall meet the following criteria:

- (1) the texture of the receiving permeable horizon is sand, loamy sand, sandy loam, loam, or silt loam;
- (2) the structure of the receiving permeable horizon is classified suitable;
- (3) the moist consistence of the receiving permeable horizon is loose, very friable, friable, or firm;
- (4) if the receiving permeable horizon has zones of heavier textured materials, these zones are discontinuous with an average thickness not exceeding one-third of the required thickness of the receiving permeable horizon;
- (5) the naturally occurring receiving permeable horizon shall be less than or equal to 60 inches below the naturally occurring soil surface. If the receiving permeable horizon is greater than 60 inches below the naturally occurring soil surface, advanced pretreatment shall be used in accordance with Rule .1205 of this Subchapter;
- (6) artificial drainage shall be provided, as needed, to maintain the following minimum vertical separation from the infiltrative surface to a SWC:
 - (A) 18 inches with gravity or pressure dosed gravity distribution; or
 - (B) 12 inches with pressure dispersal; and
- (7) the minimum required thickness of the receiving permeable horizon shall be determined by the texture of that horizon as follows:
 - (A) sand or loamy sand texture requires a minimum thickness of one foot;
 - (B) sandy loam or loam texture requires a minimum thickness of two feet; or
 - (C) silt loam texture requires a minimum thickness of three feet.

(d) If a groundwater lowering system is required to comply with the minimum vertical separation in Paragraph (c)(6) of this Rule to a SWC that is not related to lateral water movement, design plans and specifications shall be prepared by a licensed professional if required in G.S. 89C, 89E, or 89F. The groundwater lowering system shall:

- (1) extend into the receiving permeable horizon;
- (2) have an outlet with location and elevation that allows for free discharge of groundwater as required for the groundwater lowering system

(e) The LTAR shall be determined in accordance with Table XX for sand-lined trench systems. The minimum trench length shall be calculated in accordance with Rule .0901(d) of this Section, except that the ETW shall be equal to the installed trench width. The LTAR shall be based on the lesser of the following:

- (1) LTAR set forth in Table XX based on the most hydraulically limiting, naturally occurring soils overlying the permeable receiving horizon; or
- (2) 10 percent of the in-situ Ksat of the receiving permeable horizon.

to be functional. The outlet location and elevation shall be shown on the artificial drainage system plan with relative water level elevations and wastewater system site elevations labeled; and

- (3) all groundwater lowering system components are integral to the wastewater system and subject to ownership and control requirements of Rule .0301(b) and (c) of this Subchapter.

TABLE XX. LTAR for sand lined trench systems based on the most hydraulically limiting, naturally occurring soils overlying the permeable receiving horizon

Soil Group	Texture of Most Hydraulically Limiting Overlying Soil Horizon	Distribution Type	LTAR in gpd/ft ²
I	Sands	Gravity or Pressure Dosed Gravity	0.7 – 0.9
		Pressure Dispersal	0.8 – 1.2
II	Coarse Loams	Gravity or Pressure Dosed Gravity	0.5 – 0.7
		Pressure Dispersal	0.6 – 0.8
III	Fine Loams	Gravity or Pressure Dosed Gravity	0.2 – 0.4
		Pressure Dispersal	0.3 – 0.6
IV	Clays	Gravity or Pressure Dosed Gravity	0.1 – 0.2
		Pressure Dispersal	0.15 – 0.3

(f) There shall be no reduction in trench length compared to a conventional wastewater system when Accepted or Innovative gravelless trench product is used.

(g) A special site evaluation in accordance with Rule .0510 of this Subchapter shall be required for the following conditions to field verify the LTAR:

- (1) the texture of the receiving permeable horizon is sandy loam or loam and the system DDF is greater than 600 gpd; or
- (2) the texture of the receiving permeable horizon is silt loam.

(h) In addition to the requirements set forth in Rule .0901(g) of this Section, sand lined trench system installations shall comply with the following:

- (1) gravity trenches shall have a maximum width of three feet and a minimum width of one and a half feet;
- (2) trenches shall be located not less than three times the trench width on center. The minimum spacing for trenches shall be five feet on center;
- (3) the sand lined trenches shall be constructed to extend into the naturally occurring receiving permeable horizon;
- (4) the infiltrative surface shall be no deeper than 24 inches below finished grade. The top of the trench media shall be at or below the naturally occurring soil surface. Drip tubing shall be

installed a minimum of six inches below the natural grade;

- (5) soil used to line the trench shall be sand in texture. The installer shall provide written laboratory verification of the media textural classification and quality when requested by the LHD based on a visual inspection of the sand used during installation. When laboratory analysis is required, the material shall be clean, uncoated fine, medium, or coarse sand with a minimum of 90 percent in sizes ranging from 0.1 to 2.0 millimeters, with no more than one percent smaller than 0.074 millimeters or a No. 200 Sieve;
- (6) pressure dosed gravity distribution or pressure dispersal shall be used when the total dispersal field line length exceeds 750 linear feet in a single system;
- (7) pressure dispersal shall be used when the total dispersal field line length exceeds 1,200 linear feet in a single system;
- (8) when pressure dispersal is used, the pressure dispersal network shall be designed in accordance with Rules .0907(e) or .0908(f) of this Section, except that the trench width shall comply with this Paragraph. The total line length shall be calculated based on infiltrative surface area;

- (9) drip dispersal systems in sand lined trenches shall require multiple runs per trench of drip tubing with emitters as follows:
- (A) a minimum of two runs within a trench between one and one half and two feet wide; and
 - (B) a minimum of three runs within a trench between two and three feet wide.
- The drip tubing shall be uniformly spaced across the trench with the tubing six inches from the trench sidewalls. Drip tubing shall be covered by a minimum of six inches of sand lined trench media meeting the requirements of Subparagraph (5) of this Paragraph. Drip dispersal systems shall comply with the requirements of Section .1600 of this Subchapter and this Rule;
- (10) finished grade shall provide for positive surface drainage away from all system components, with the dispersal field crowned at one-half percent as measured from the centerline of the dispersal field. The finished grade requirements shall be made a condition of the CA; and
- (11) trench products approved under Section .1700 of this Subchapter shall be installed in accordance with PIA Approval.

(i) Other sand lined trench systems may be approved on a site-specific basis in accordance with Rule .0509(c) of this Subchapter.

History Note: Authority G.S. 130A-335(e) and (f); Eff. Pending delayed effective date.

15A NCAC 18E .0907 LOW PRESSURE PIPE SYSTEMS

- (a) LPP systems utilize a network of small diameter pipes with three feet to six feet pressure head to distribute effluent across the entire dispersal field. Any subsurface dispersal system listed in this Section may incorporate LPP dispersal.
- (b) LPP systems with advanced pretreatment shall comply with Rules .1202, .1203, .1205, or .1206 of this Subchapter.
- (c) The LTAR shall be determined as follows:
 - (1) Tables XXI and XXII shall be used to determine the LTAR for LPP systems, as applicable;
 - (2) the LTAR determined from Table XXI shall be based on the soil textural class of the most limiting, naturally occurring soil horizon to a depth of 12 inches below the infiltrative surface;
 - (3) the LTAR determined from Table XXII shall be based on the saprolite textural class of the most limiting, naturally occurring saprolite to a depth of 24 inches below the infiltrative surface, or less than 24 inches if combined with soil in accordance with Rule .0506(b) of this Subchapter; and

- (4) for facilities that generate HSE as specified in Rule .0401(h) of this Subchapter or a facility with a full kitchen, the LTAR shall not exceed the mean rate for the applicable Soil Group.

TABLE XXI. LTAR for LPP systems based on Soil Group and texture class

Soil Group	USDA Soil Textural Class		LTAR in gpd/ft ²
I	Sands	Sand	0.4 – 0.6
		Loamy Sand	
II	Coarse Loams	Sandy Loam	0.3 – 0.4
		Loam	
III	Fine Loams	Sandy Clay Loam	0.15 – 0.3
		Silt Loam	
		Clay Loam	
		Silty Clay Loam	
		Silt	
IV	Clays	Sandy Clay	0.05 – 0.2
		Silty Clay	
		Clay	

TABLE XXII. LTAR for LPP systems in saprolite based on Saprolite Group and texture class

Saprolite Group	Saprolite Textural Class		LTAR in gpd/ft ²
I	Sands	Sand	0.3 – 0.4
		Loamy Sand	0.25 – 0.35
II	Loams	Sandy Loam	0.2 – 0.3
		Loam	0.1 – 0.2
		Silt Loam	0.05 – 0.15

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

- (1) the minimum required dispersal field area shall be calculated by dividing the DDF by the LTAR; and
- (2) the minimum trench length shall be calculated by dividing the required dispersal field area by a lateral spacing of five feet. The following equation shall be used to calculate the minimum line length required.

$$TL = (DDF / LTAR) / LS$$

Where TL = length of trench, in feet
 DDF = design daily flow, in gpd
 LTAR = in gpd/ft²
 LS = five-foot line spacing
- (3) When HSE is proposed to be discharged to an LPP dispersal field with no advanced pretreatment or has not been reclassified as DSE in accordance with Rule .0402(c) of this Subchapter, a licensed professional, if required in G.S. 89C, 89E, or 89F, shall calculate the adjusted LTAR in accordance with Rule .0402(b) of this Subchapter.

(e) In addition to the requirements set forth in Rule .0901(g) of this Section, LPP system design and installation shall comply with the following, unless otherwise specified in a PIA Approval:

- (1) the LPP distribution network shall be constructed of one to two-inch diameter pressure rated Schedule 40 PVC laterals placed in gravel that meets the requirements in Rule .0902(b)(4) of this Section or other approved media;
- (2) the trench width shall be one to two feet;
- (3) trenches shall be located not less than three times the trench width on center. The minimum spacing for trenches shall be five feet on center;
- (4) trenches shall include a minimum of eight inches of gravel or other approved media, either from a PIA Approval or subsurface dispersal system listed in Section .0900 of this Subchapter. The lateral shall be installed a minimum of five inches above the infiltrative surface;
- (5) laterals, manifolds and LPP fields shall comply with the following design criteria:
 - (A) the maximum lateral length shall yield no more than a 10 percent difference in orifice delivery rate between the first and last orifice along the lateral;
 - (B) no more than one-third of the total number of holes shall be less than 5/32 inches in diameter, with no orifices sized smaller than one-eighth inch in diameter in any lateral line;
 - (C) all orifices shall face upwards, except for two orifices, one-third of the way from the beginning and end of each lateral, which shall face downward; and
 - (D) maximum orifice spacing shall be as follows: Soil Group I - five feet; Soil Group II - six feet; Soil Group III - eight feet; and Soil Group IV - 10 feet;
- (6) the orifices shall be protected by the following:
 - (A) lateral sleeved within a three or four-inch perforated corrugated or smooth wall tubing meeting the requirements of Rule .0703(d) of this Subchapter; or
 - (B) orifice shields that prevent aggregate, soil, and tree roots from clogging the orifices;
- (7) the following additional design provisions shall be required for sloping sites:
 - (A) separately valved manifolds shall be required for all subfield segments where the elevation difference between the highest and lowest laterals exceeds three feet;
 - (B) the orifice spacing, orifice size or both shall be adjusted to compensate for relative elevation differences between laterals branching off a common

- (C) supply manifold and to compensate for the lines at the lowest elevation receiving more effluent at the beginning and end of a dosing cycle; the lateral network shall be designed to achieve a 10 to 40 percent higher steady state flow rate per linear foot into the upper lines, relative to the lower lines, depending on the amount of elevation difference and the number of laterals. The steady state flow rate is based on the pipe being full;
- (D) maximum elevation difference between the highest and lowest laterals in a field shall not exceed 10 feet unless the flow is uniformly divided using multiple pumps or split between subfield segments without requiring simultaneous adjustment of multiple pressure regulating valves in separate locations. Flow shall be uniformly divided such that the dose volumes to the subfields does not vary more than 10 percent on an area basis; and
- (E) the Department shall approve other designs based upon the authorized designer or PE providing documentation showing equivalent hydraulic performance to this Subparagraph;
- (8) turn-ups shall be provided at the ends of each lateral, constructed of Schedule 40 PVC pipe or stronger pressure-rated pipe, and shall terminate at the ground surface and be installed in a valve box or equivalent that provides access for operation and maintenance;
- (9) the supply manifold shall be constructed of solvent-welded pressure rated Schedule 40 PVC;
- (10) the supply manifold shall be sized large enough based on the size and number of laterals served to prevent more than a 20 percent variation in pressure head between the first and last laterals due to losses within the manifold when feeding the manifold from a lower elevation;
- (11) the supply manifold shall comply with the following design criteria:
 - (A) the ratio of the supply manifold inside cross-sectional area to the sum of the inside cross-sectional areas of the laterals served shall exceed 0.7:1 as measured from where the supply line connects to the manifold;
 - (B) the reduction between the manifold and connecting laterals shall be made off the manifold using reducing tees or fittings; and

- (C) cleanouts shall be installed at the distal ends of the supply manifold and shall be enclosed in valve boxes accessible from the ground surface;
 - (12) pressure regulating valves shall be provided for pressure adjustment at the fields;
 - (13) valves shall be installed in an access device, such as a valve box, and be accessible and operable from the ground surface. Valves serving contiguous subfields shall be in a common valve box;
 - (14) the LPP dosing system shall comply with the following design criteria:
 - (A) the pump operating flow rate shall be based upon delivering three feet to six feet of residual pressure head at the distal end of all laterals;
 - (B) the dose volume shall be between five and 10 times the liquid capacity of the lateral pipe dosed, plus the liquid capacity of the portions of manifold and supply lines which drain between doses; and
 - (C) when pumping downhill and the supply line volume exceeds 20 percent of the calculated dose volume, special design considerations shall be followed to prevent more than 20 percent of the dose volume from draining by gravity to the dispersal field between doses; and
 - (15) the trenches shall be covered to a minimum depth of four inches after settling.
- (f) The authorized agent or Department may approve on a site-specific basis drip dispersal systems used in LPP trenches and other LPP designs based on documentation showing that the proposed design meets the performance requirements of this Rule.

History Note: Authority G.S. 130A-335(e) and (f); Eff. Pending delayed effective date.

15A NCAC 18E .0908 DRIP DISPERSAL SYSTEMS

- (a) This Rule provides for the permitting of drip dispersal systems receiving DSE. Drip dispersal systems shall comply with the provisions of this Rule and Section .1600 of this Subchapter.
- (b) Drip dispersal systems with advanced pretreatment shall comply with Rule .1204 of this Subchapter.
- (c) Drip dispersal systems shall meet the following soil and site criteria:
 - (1) A minimum of 18 inches of naturally occurring suitable soil above a LC, 13 inches of naturally occurring suitable soil above a SWC, and the minimum vertical separation to any LC shall be 12 inches. A groundwater lowering system may be used to comply with the vertical separation to a SWC when only Group I or II soils with suitable structure are present within 36 inches of the naturally occurring soil surface.

- (2) For new fill, the soil and site shall meet the following criteria:
 - (A) Rule .0909(b) and (c) of this Section, except as otherwise specified in this Subparagraph;
 - (B) no SWC shall exist within the first 12 inches below the naturally occurring soil surface. A groundwater lowering system shall not be used to comply with the initial site requirements for a new fill system; and
 - (C) minimum vertical separation to any unsuitable soil horizon or rock shall be 18 inches and 12 inches for any SWC.
- (3) For existing fill, the soil and site shall meet the following criteria:
 - (A) Rule .0909(d) and (e) of this Section, except as otherwise specified in this Subparagraph; and
 - (B) minimum vertical separation to any LC shall be 24 inches.

(d) Tables XXIII and XXIV shall be used to determine the LTAR for all DSE drip dispersal systems:

- (1) Table XXIII shall be used for systems utilizing soil. The LTAR shall be based on the most limiting, naturally occurring soil horizon within 18 inches of the naturally occurring soil surface or to a depth of 12 inches below the infiltrative surface, whichever is deeper;
- (2) Table XXIV shall be used for systems utilizing saprolite. The LTAR shall be based on the most limiting, naturally occurring saprolite to a depth of 24 inches below the infiltrative surface;
- (3) the LTAR for new fill systems shall not exceed 0.5 gpd/ft² for Group I, 0.3 for gpd/ft² Group II, 0.15 gpd/ft² for Group III or 0.05 gpd/ft² for Group IV soils, respectively;
- (4) sections of blank tubing without emitters shall not count towards the minimum dripline length required; and
- (5) the DDF shall be divided by the LTAR, determined from Table XXIII or XXIV, to determine the minimum dispersal field area required. The minimum dripline length shall be determined by dividing the required area by the maximum line spacing of two feet. The designer may recommend additional linear footage as soil and site conditions allow. The following equations shall be used to calculate the minimum dispersal field area and dripline length required:

$$MA = DDF / LTAR$$

$$DL = MA / LS$$

Where MA = minimum dispersal field area, in ft²

DDF = design daily flow, in gpd

LTAR = in gpd/ft²

DL = dripline length, in feet

LS = two-foot line spacing

TABLE XXIII. LTAR for DSE drip dispersal systems based on Soil Group and texture class

Soil Group	USDA Soil Textural Class		LTAR in gpd/ft ²
I	Sands	Sand	0.4 – 0.6
		Loamy Sand	
II	Coarse Loams	Sandy Loam	0.3 – 0.4
		Loam	
III	Fine Loams	Sandy Clay Loam	0.15 – 0.3
		Silt Loam	
		Clay Loam	
		Silty Clay Loam	
		Silt	
IV	Clays	Sandy Clay	0.05 – 0.2
		Silty Clay	
		Clay	

TABLE XXIV. LTAR for DSE drip dispersal systems based on Saprolite Group and texture class

Saprolite Group	Saprolite Textural Class	LTAR in gpd/ft ²
I	Sand	0.3 – 0.4
	Loamy sand	0.25 – 0.35
II	Sandy loam	0.2 – 0.3
	Loam	0.1 – 0.2
	Silt Loam	0.05 – 0.1

(e) A special site evaluation shall be required in accordance with Rule .0510 of this Subchapter, as applicable.

(f) Drip dispersal installation shall be in accordance with the following criteria:

- (1) dripline shall be installed in accordance with the approved design. The design shall specify installation depth, installation equipment, blanking, drainback prevention, and any other site-specific design requirements identified by the designer;
- (2) dripline shall be installed a minimum of one inch into naturally occurring soil, except when installed in a fill system;
- (3) driplines shall be installed level. A maximum variance of plus or minus two inches shall be allowed within any contiguous section of dripline containing drip emitters;
- (4) a minimum of six inches of cover shall be maintained over the dripline. The six inches of cover may be met by the addition of up to six inches, after settling, of suitable Group II or III soil over the drip field;
- (5) drip dispersal fields shall be sloped to shed surface water;
- (6) if cover material is required and the slope is greater than 30 percent, a slope stabilization plan shall be provided by a licensed

professional if required in G.S. 89C, 89E, or 89F; and

- (7) the drip dispersal system shall be field tested after installation in accordance with Rule .1603 of this Subchapter.

History Note: Authority G.S. 130A-335(e) and (f);
Eff. Pending Legislative Review.

15A NCAC 18E .0909 FILL SYSTEMS

(a) Both new and existing fill systems are a system in which all or part of the dispersal field media is installed in fill material. The system includes both the basal area of dispersal field and the toe slope in all directions.

(b) New fill systems may be installed on sites that meet the following requirements:

- (1) a minimum of the first 18 inches below the naturally occurring soil surface consists of suitable soil with the exception that no SWC exists within the first 12 inches below the naturally occurring soil surface and a groundwater lowering system is not used to meet this requirement;
- (2) systems shall be installed only on sites with uniform slopes less than four percent;
- (3) stormwater diversions, subsurface interceptor drains, or swales shall be required as needed upslope of the system to divert surface runoff or lateral flow from passing over or into the system; and
- (4) the area of suitable soil shall be large enough to include the basal area of dispersal field and the toe slope in all directions.

(c) New fill system design and installation shall be in accordance with the following criteria:

- (1) trenches shall be installed with a minimum of 24 inches separating the infiltrative surface and any LC for gravity distribution and pressure dosed gravity distribution, except for any SWC that requires 18 inches of separation. If pressure dispersal is used, the minimum separation distance shall be 18 inches between the infiltrative surface and any LC and 12 inches to a SWC. This separation requirement may be met with the use of a groundwater lowering system only in Soil Groups I and II with suitable structure;
- (2) fill systems with a DDF greater than 480 gpd shall use pressure dispersal systems;
- (3) fill material soil texture shall be classified as Group I up to the top of the trenches. The final six inches of fill used to cover the system shall have a finer texture, such as Group II or III soils, for the establishment of a vegetative cover;
- (4) minimum cover shall be six inches after settling;
- (5) additional fill may be added to facilitate drainage and accommodate final landscaping

- requirements at the site necessary to stabilize the fill, shed surface water, and establish a vegetative cover. The additional fill may be provided if the infiltrative surface is less than 30 inches below the finished grade;
- (6) where fill material is added, the fill material and the existing soil shall be mixed to a depth of six inches below the interface. Vegetative cover, organic litter, and the O horizon shall be removed before the additional fill material is incorporated;
 - (7) the fill system shall be constructed as an elongated berm with the long axis parallel to the ground elevation contours of the slope;
 - (8) the side slope of the fill system shall not exceed a rise to run ratio of 1:4. If the first 18 inches below the naturally occurring soil surface is Group I soil, the side slope of the fill shall not exceed a rise to run ratio of 1:3;
 - (9) the outside edge of the trench shall be located a minimum of five feet horizontally from the top of the side slope;
 - (10) the fill system shall be shaped to shed surface water and shall be stabilized with a vegetative cover;
 - (11) trench products approved under Section .1700 of this Subchapter shall be installed in accordance with PIA Approval; and
 - (12) the setback requirements shall be measured from the projected toe of the slope. If this setback cannot be met, the setback requirements shall be measured five feet from the nearest edge of the trench if the following conditions are met:
 - (A) slope of the site does not exceed two percent;
 - (B) the first 18 inches of soil beneath the naturally occurring soil surface shall consist of Group I soils; and
 - (C) the lot or tract of land was recorded on or before December 31, 1989.
- (d) An existing pre-July 1, 1977 fill site that does not meet the requirements of Paragraph (b) of this Rule may be utilized for a wastewater system if the following requirements are met:
- (1) substantiating data are provided by the lot owner indicating that the fill material was placed on the site prior to July 1, 1977;
 - (2) the fill material shall have Group I soil texture for a minimum depth of 24 inches below the existing ground surface;
 - (3) the fill material shall have no more than 10 percent by volume of fibrous organics, building rubble, or other debris, and shall not have discreet layers containing greater than 35 percent of shell fragments;
 - (4) if a minimum of 24 inches of Group I fill material is present, additional fill with soil texture classified Group I may be added to
- comply with the separation requirements of Subparagraph (e)(5) of this Rule;
- (5) SWC is 18 inches or greater below the ground surface of the fill. This requirement shall be met without the use of a groundwater lowering system; and
 - (6) the area of suitable soil shall be large enough to include the basal area of dispersal field and the toe slopes in all directions.
- (e) Existing fill system design and installation shall be in accordance with Paragraph (c) of this Rule and the following criteria:
- (1) the DDF shall not exceed 480 gpd;
 - (2) pressure dispersal shall be used. LPP systems shall meet the requirements of Rule .0907(d) and (e) of this Section. Drip dispersal systems shall meet the requirements of Rule .0908(d) and (f) of this Section;
 - (3) the LTAR shall not exceed 0.5 gpd/ft² for pressure dispersal systems;
 - (4) existing fill sites with 48 inches of Group I soils may use conventional trenches with a maximum LTAR of 1.0 gpd/ft² in lieu of a pressure dispersal system;
 - (5) the minimum vertical separation to any LC shall be 24 inches for pressure dispersal systems and 48 inches for conventional systems. This vertical separation requirement may be met by adding additional Group I soil, but shall not be met with the use of a groundwater lowering system;
 - (6) where additional Group I fill is to be added, the side slope of the fill shall not exceed a side slope ratio of 1:3; and
 - (7) trench products approved under Section .1700 of this Subchapter shall be installed in accordance with their PIA Approval.
- (f) The LTAR for new and existing fill systems shall be determined in accordance with Rule .0901(c) of this Section and the following:
- (1) the LTAR shall be based on the most limiting, naturally occurring soil horizon within 18 inches of the ground surface or to a depth 12 inches below the infiltrative surface, whichever is deeper;
 - (2) the lowest LTAR for the applicable Soil Group shall be used for systems installed in accordance with this Rule; and
 - (3) for sites with a minimum of 18 inches of Group I soils below the naturally occurring soil surface or to a depth of 12 inches below the infiltrative surface, whichever is deeper, the LTAR shall not exceed 1.0 gpd/ft² for gravity or pressure dosed gravity distribution or 0.5 gpd/ft² for pressure dispersal systems.
- (g) The authorized agent or Department may approve other fill system designs on a site-specific basis in accordance with a PIA Approval or Rule .0509(c) of this Subchapter.

*History Note: Authority G.S. 130A-335(e) and (f);
Eff. Pending delayed effective date.*

15A NCAC 18E .0910 ARTIFICIAL DRAINAGE SYSTEMS

(a) Artificial drainage systems are a site modification and may be proposed to reclassify sites as suitable that were originally classified unsuitable due to a SWC, lateral water movement, saturated soils, a perched water table, or other oxyaquic conditions. Artificial drainage systems include groundwater lowering systems, interceptor drains, and surface water diversions.

(b) Groundwater lowering systems may be used when the following criteria are met:

- (1) the site has Group I or II soils with suitable structure and clay mineralogy; and
- (2) the groundwater lowering system shall be designed to maintain the vertical separation to a SWC as specified in Rule .0901(g)(2) of this Section.

(c) Plans and specifications for the use of a groundwater lowering system to comply with the vertical separation to a SWC shall be prepared by a licensed professional if required in G.S. 89C, 89E, or 89F in accordance with Rule .0303 of this Subchapter. The plans and specifications shall meet the following design criteria:

- (1) Gravity groundwater lowering systems shall be designed in accordance with the following:
 - (A) substantiating information, calculations, and data shall be provided justifying the effectiveness of the proposed drainage system design;
 - (B) design and devices shall comply with accepted standards of practice as set forth in the USDA-NRCS National Engineering Handbook, Part 624 - Drainage, Chapter 10 - Water Table Control, and Part 650 - Engineering Field Handbook, Chapter 14 - Water Management, Drainage;
 - (C) the effectiveness of groundwater lowering systems shall be determined by use of the Ellipse, Hooghoudt, or equivalent drainage equations for sites with Group I or II soils. Justification for use of a specific drainage equation shall be provided;
 - (D) drainage equation input parameters shall be based upon field descriptions of soil profiles and in-situ Ksat measurements. The drainage coefficient used in these equations shall be calculated from the highest monthly rainfall value with a 30-percent exceedance probability from the closest available National Weather Service or SCO. A source of these data is the WETS tables published in the Natural Resource Conservation

Service Field Office Technical Guides available online at: efotg.sc.egov.usda.gov/efotg_locator.aspx. This monthly value shall be divided by 14 to give the drainage coefficient in inches per day. For systems with a DDF greater than 1,500 gpd, the projected contribution of wastewater application shall be added to the drainage coefficient used in the equations;

- (E) DRAINMOD shall be used to determine the groundwater lowering system effectiveness at sites with three or more effective soil layers, Group III or IV soils within 36 inches of the naturally occurring soil surface, or sites requiring a groundwater lowering system using pumps; and
- (F) the modeling procedure set forth in Rule .0504(h) of this Subchapter shall be followed.

(2) Groundwater lowering systems using pumps shall be designed in accordance with the following:

- (A) plan and profile detail drawings of pump tank, showing all dimensions, pumps, discharge piping, floats, and float and alarm activation levels;
- (B) calculations and supporting information shall be provided as the basis for sizing the pumps, dose volume, emergency storage capacity, and overall tank capacity;
- (C) the high-water alarm in the control panel shall automatically contact a 24-hour maintenance service;
- (D) information on discharge pipe line, line location, materials, and provisions for erosion control at the discharge point;
- (E) except as otherwise provided in this Paragraph, the requirements of Section .1100 of this Subchapter shall apply to artificial drainage systems using pumps; and
- (F) dual alternating pumps shall be required when serving two or more design units. Each pump shall be sized at a capacity of two and one half times the projected peak inflow rate to the pump tank.

(3) Plans and specifications for all groundwater lowering systems shall include the following:

- (A) location of existing and proposed drainage systems in relation to all facilities and wastewater system components. Plans shall indicate flow

- (B) direction, slope and drain outlet location;
- (B) profile drawings showing drainage trench dimensions, depth, pipe size, aggregate envelope, and filter fabric detail, cover, and cleanout detail;
- (C) elevations with reference to an established benchmark;
- (D) specifications for all groundwater lowering system materials and installation procedures;
- (E) the entire groundwater lowering system, including the outlet, shall be on property owned or controlled by the person owning or controlling the system. Necessary legal agreements shall be provided in accordance with Rule .0301(c) of this Subchapter; and
- (F) easements for egress, ingress, and regress for maintenance of groundwater lowering systems serving two or more lots shall be at least 20 feet wide plus the width of the groundwater lowering system.

(d) Interceptor drains shall be used on sites where a SWC results from laterally flowing groundwater that can be diverted away from the dispersal field.

(e) Other artificial drainage systems, including surface water diversions, shall comply with USDA-NRCS guidance documents.

*History Note: Authority G.S. 130A-335(e) and (f);
Eff. Pending delayed effective date.*

15A NCAC 18E .0911 PRIVIES

(a) A privy shall be approved when it consists of a pit, floor slab, and seat assembly housed in a building that affords privacy and protection from the weather and meets the following criteria:

- (1) the pit shall consist of an excavation with a minimum bottom surface area of three and one half feet square;
- (2) the maximum depth of the pit shall not exceed 36 inches;
- (3) the pit bottom shall not be located closer than 12 inches to a LC;
- (4) the pit shall be curbed to prevent caving. In sandy or loose soil, the curb shall extend the full depth of the pit. In clay soils, partial curbing may be acceptable if soils have sufficient cohesion to not collapse;
- (5) the floor shall be constructed of concrete, wood, or other approved materials. The following criteria shall be met, as applicable:
 - (A) for wood construction, rot resistant joists are used covered with tight tongue-and-groove rot resistant flooring;
 - (B) wood floors shall be anchored to the sills. The minimum sill size shall be four-inch by four-inch; and

- (C) when other materials are used the material shall be shown to provide strength, durability and prevent entrance of flies and mosquitoes to the privy pit;
- (6) the pit shall be vented through screened PVC Schedule 40 pipe or other pipe approved in accordance with Rule .0703 of this Subchapter, six inches in diameter, and extending above the roofline. The vent pipe shall be:
 - (A) located on a south side wall of the building;
 - (B) covered to prevent rainfall from entering, but still allow gases to escape;
 - (C) straight without any bends in the pipe; and
 - (D) black colored pipe; and
- (7) privies shall not be used for the disposal of water-carried sewage.

(b) Any person owning or controlling the property upon which a privy is located shall be responsible for the following requirements:

- (1) when the pit becomes filled to within 18 inches of the top of the ground, the privy building shall be moved to a new pit and the old pit covered with soil; and
- (2) if the pit caves in, a new pit shall be provided.

(c) The person owning or controlling the system shall be responsible for the following requirements:

- (1) the privy and grounds adjacent shall be kept free of debris;
- (2) a hinged seat cover and hinged door shall be provided and kept closed when the privy is not in use;
- (3) flies shall be excluded from the pit by the privy building door fitting in the frame and no unscreened openings in the building;
- (4) garbage and trash shall be kept out of the pit; and
- (5) the privy building shall not be used for storage.

(d) When a new pit is required, a CA and OP shall be obtained.

*History Note: Authority G.S. 130A-335(e) and (f);
Eff. Pending delayed effective date.*

15A NCAC 18E .1001 ALTERNATIVE TOILETS

(a) Use of alternative toilets, such as incinerating, composting, and mechanical toilets, and privies shall comply with the North Carolina Plumbing Code and this Rule.

(b) Use of chemical or portable toilets is governed by G.S. 130A-335(h).

(c) When an alternative toilet or chemical toilet is used, all wastewater generated in the facility shall be discharged to a wastewater system that is approved under this Subchapter.

(d) Removal of residuals from incinerating toilets, composting toilets, mechanical toilets, vault privies, chemical toilets, or portable toilets shall be performed only by a person that holds a current NC Septage Management Firm permit in accordance with

Rule 15A NCAC 13B .0832(a)(1). All waste shall be taken to an approved disposal site per G.S. 130A-291.1(d).

History Note: Authority G.S. 130A-335(e);
Eff. Pending delayed effective date.

15A NCAC 18E .1002 RECLAIMED WATER SYSTEMS

(a) An RCW system shall be one of the following:

- (1) an alternate management option as identified in 15A NCAC 02U .0401(c) for use with a system permitted in accordance with 15A NCAC 02U;
- (2) a conjunctive wastewater system, as defined in 15A NCAC 02U .0103(4), permitted under the Rules of this Subchapter that:
 - (A) incorporates a beneficial use component, such as toilet flushing or landscape irrigation; and
 - (B) the beneficial use component is not necessary to meet the wastewater disposal needs of the facility;
- (3) a conjunctive wastewater system permitted under the rules of this Subchapter when there is a non-conjunctive use wastewater system permitted and approved in accordance with 15A NCAC 02H or 15A NCAC 02T for the facility;
- (4) a wastewater system designed for the complete recycle or reuse of DSE; or
- (5) a wastewater system designed to meet the wastewater disposal needs of a facility that serves a beneficial reuse, as defined in 15A NCAC 02U .0103(2), which incorporates a subsurface wastewater dispersal system.

(b) An RCW system shall be designed to produce effluent prior to discharge that complies with the effluent standards for a Type 1 treatment process in accordance with 15A NCAC 02U .0301(b) and the TN standard for a TS-II system in accordance with Table XXV of Rule .1201(a) of this Subchapter. The wastewater system shall be approved in accordance with Section .1700 of this Subchapter or designed by a PE and approved by the Department when it has been determined to comply with this Rule.

(c) When utilizing an RCW system, the dispersal field and repair area shall comply with the siting and sizing requirements of Section .1200 of this Subchapter for a TS-II system except as follows:

- (1) setback reductions may be concurrently taken with both an LTAR increase and a vertical separation reduction when a special site evaluation is submitted and approved in accordance with Rule .0510 of this Subchapter;
- (2) for systems designed to comply with a TN standard of 10 mg/L one of the following siting and sizing criteria may be utilized:
 - (A) the property line setback may be reduced to five feet and the SA waters setback may be reduced to 50 feet for wastewater systems with a DDF less than or equal to 3,000 gpd;
 - (B) the property line setback may be reduced to 10 feet, the SA waters

setback may be reduced to 100 feet, and the other surface waters setback may be reduced to 50 feet for systems with a DDF greater than 3,000 gpd; or the vertical separation to a SWC may be reduced to 12 inches for wastewater systems with a DDF greater than 3,000 gpd that use pressure dispersal;

(C) the LTAR may be increased up to a factor of four compared to that assigned by the LHD for a system using DSE in Group I soils with a wastewater system that uses pressure dispersal when the following site conditions are met:

- (A) 48 inches of Group I soils from the naturally occurring soil surface; and
- (B) 30 inches to a SWC below the naturally occurring soil surface;

(4) requirements to comply with an effluent TN standard set forth in this Paragraph may be waived when:

- (A) the effluent is used exclusively for toilet or urinal flushing; or
- (B) a site-specific nitrogen migration analysis based on projected or measured effluent nitrogen levels demonstrates that the nitrate-nitrogen concentration at the property line will not exceed 10 mg/L; and

(5) the size of the dispersal field may be proportionally reduced based on the documented percentage of effluent reduction that is enabled by the year-round conjunctive, recycle, or reuse component.

(d) Conjunctive uses may include toilet and urinal flushing and landscape irrigation by drip dispersal. Wastewater from a system designed for complete recycling of DSE shall be used only for flushing of toilets and urinals. RCW shall not be used for body contact or human consumption. An RCW system that includes conjunctive use shall meet the following:

- (1) Toilet and urinal flushing components shall be approved by the local building inspections department and be in compliance with the North Carolina Plumbing Code, including pipe marking requirements and back-siphon protection provisions for proximate potable water supplies.
- (2) Siting, sizing, setbacks, and installation requirements of this Subchapter may be modified for the landscape irrigation component if they comply with the requirements for conjunctive use irrigation systems in 15A NCAC 02U, based upon information provided by the licensed professionals, if required in G.S. 89C, 89E, or 89F.
- (3) System design, operation, and management requirements shall comply with requirements for comparable systems in 15A NCAC 02U, including provisions for continuous on-line

monitoring and recording for turbidity and a mechanism to prevent effluent utilization if the turbidity exceeds 10 NTUs, if the E. Coli or fecal coliform levels are not being met, or the disinfection unit is not operable.

- (4) Requirements to comply with an effluent TN standard may be waived on a project specific basis when documentation is provided showing that the proposed design will not result in an exceedance of the groundwater standards in accordance with 15A NCAC 02L.

(e) All RCW systems approved in accordance with this rule shall be designed by a PE and the plans approved by the Department prior to LHD permit issuance.

*History Note: Authority G.S. 130A-335(e);
Eff. Pending Legislative Review.*

15A NCAC 18E .1101 GENERAL DOSING SYSTEM REQUIREMENTS

(a) Dosing systems with a single pump or siphon shall be required to be used to deliver effluent into laterals when:

- (1) gravity distribution cannot be achieved between the septic tank and dispersal field;
- (2) the total lateral length exceeds 750 linear feet in a single system; or
- (3) a pressure dosed gravity distribution or pressure dispersal system is used.

(b) Dosing systems with multiple alternating or sequencing pumps or siphons shall be used to discharge to separate dispersal fields when:

- (1) DDF from a single system exceeds 3,000 gpd; or
- (2) the total line length exceeds 2,000 linear feet in a single trench system or 5,000 linear feet in a drip dispersal system.

(c) If alternating pumps or siphons are not required in accordance with Paragraph (b) of this Rule, but used, then the alternating pumps or siphons may discharge to a single dispersal field.

(d) The dose volume to a dispersal field shall be calculated as follows:

- (1) 66 to 75 percent of the volume of the installed linear lateral footage for pressure dosed gravity distribution systems;
- (2) 66 to 75 percent of the volume of the installed linear lateral footage for LDP systems and trench products with a PIA approval based on lateral capacity equivalent to the capacity of a four-inch corrugated pipe;
- (3) LPP systems in accordance with Rule .0907(e)(14)(B) of this Subchapter; and
- (4) drip dispersal systems in accordance with Rule .1602(f)(3) of this Subchapter.

(e) The pump operating flow rate from a dosing system shall be designed to achieve scour velocity in the supply line and to distribute effluent in accordance with the dispersal field design.

(f) The pump operating flow rate or average pump run time shall be within 25 percent of the initial measurements collected during the final inspection.

(g) All dosing systems shall be tested using water prior to issuance of an OP. The test shall be conducted by the installer, LSS, authorized designer, AOWE, and PE, as applicable, witnessed by the LHD, and include a demonstration and documentation of the following:

- (1) pump or siphon operating flow rate and dose volume delivered;
- (2) float control levels;
- (3) high-water alarm, including sound;
- (4) operating pressure head, if applicable; and
- (5) delivery of water to the dispersal field.

*History Note: Authority G.S. 130A-335(e), (f), and (f1);
Eff. Pending Legislative Review.*

15A NCAC 18E .1102 PUMP DOSING

(a) The effluent pump shall be:

- (1) capable of handling a minimum of one-half inch solids or be a screened, high head pump designed for effluent;
- (2) designed to meet the pump operating flow rate and total dynamic head specified for the effluent distribution system;
- (3) removable without requiring entrance into the tank; and
- (4) listed by a third-party electrical testing and listing agency, such as Underwriter's Laboratory. A PE may propose a pump model not listed by a third-party electrical testing and listing agency. The Department shall approve the pump when review of documentation provided by the PE demonstrates that the pump model meets the performance requirements for the dispersal field design.

(b) A vent or anti-siphon hole of a 3/16-inch minimum diameter shall be used to prevent air locking of the pump and siphoning from the pump tank when pumping downhill. When a check valve is provided, the anti-siphon hole or vent shall be located between the pump and the check valve. Additional venting may be required at the high point in the pump force main to prevent siphoning.

(c) Each pump discharge line in a pump tank shall have a disconnect device, such as a pressure-rated threaded union, flange, or camlock.

(d) Check valves or other type valves shall prevent drainback from the dispersal field or supply line into the pump tank. A system may be designed and approved for the supply line to drain back to the pump tank based on site-specific considerations, such as freeze protection.

(e) An isolation valve shall be provided on the field side of the disconnect device when pumping uphill.

(f) The pump discharge piping shall be accessible within the tank or riser from finished grade.

(g) Fittings and valves shall be of compatible non-corrodible material. Isolation valves and disconnects shall be located within 18 inches of the top of the access riser opening.

(h) All submersible pumps shall be provided with a non-corrodible rope or chain attached to each pump enabling pump removal from the ground surface without requiring dewatering or entrance into the tank.

History Note: Authority G.S. 130A-335(e), (f), and (f1);
Eff. Pending Legislative Review.

15A NCAC 18E .1103 CONTROL PANELS

(a) A control panel shall be provided for all systems that use a pump. The control panel enclosure shall be rated NEMA 4X at a minimum. A third-party electrical testing and listing agency shall list the control panel. The control panel shall include for each pump:

- (1) an independent overload protection, if not integral with the pump motor;
- (2) circuit breaker(s);
- (3) a motor contactor that disconnects all current to the pump or a solid-state relay that controls current to the pump;
- (4) a hand-off-automatic (H-O-A) switch or alternate method to enable manual or automatic pump operation and for the pump to be deactivated manually;
- (5) a pump run light;
- (6) an elapsed time meter; and
- (7) an event counter.

(b) An automatic pump sequencer shall be included in systems requiring multiple pumps in accordance with Rule .1101(b) of this Section and shall remain operable whenever any pump is inoperable.

(c) When telemetry is required in accordance with Sections .0800, .1500, .1600, and .1700 of this Subchapter, the control panel shall be connected to an active phone line, wireless internet router, dedicated cellular line, or another form of telemetry that allows the Management Entity to be notified and respond to alarm conditions. The telemetry shall remain active for the life of the wastewater system. The authorized designer, AOWE, or PE shall specify the minimum notification frequency based on site-specific conditions.

(d) The control panel bottom shall be mounted a minimum of 24 inches above finished grade, within 50 feet of and in the line of sight of the pump tank. The Management Entity and LHD shall be able to access the control panel and operate the pumps when the owner is not present.

(e) A NEMA 4X junction box shall be installed above grade or adjacent to the pump tank riser when the control panel is located more than 10 feet from the pump tank access riser and one or more electrical splices are used. Electrical splices shall not be used within the conduit piping.

(f) Wiring shall be conveyed to the control panel or outside junction box through waterproof, gasproof, and corrosion-resistant conduits, with no splices or junction boxes inside the tank. Wire and wire conduit openings inside the pump tank and disconnect enclosure shall be sealed.

(g) Dual and multiple fields shall be dosed by separate pumps that shall automatically alternate or sequence. The supply lines shall be "H" connected to permit manual alternation between fields dosed by each pump. "H" connection valving shall be accessible from the ground surface, either from the pump tank access manhole or in a separate valve chamber outside the pump tank. The Department shall approve other methods of dosing dual or multiple fields when the authorized designer or PE provides documentation of equivalent performance to this Paragraph.

(h) Liquid level detection devices, such as floats, shall be provided in the pump tank to control pump cycles and trigger notification of alarm conditions. The liquid level detection device configuration shall meet the following requirements:

- (1) a minimum of 12 inches of effluent shall be maintained in the bottom of the pump tank;
- (2) pump-off level shall be set to keep the pump submerged or in accordance with the manufacturer's written specifications;
- (3) a separate control float shall be provided to activate the high-water alarm;
- (4) the high-water alarm float shall be set to activate within six inches of the pump-on level or higher, if applicable, if providing design equalization capacity in a timed dosing system;
- (5) the lag pump float switch, where provided, shall be located at or above the high-water alarm activation level; and
- (6) floats shall be supported utilizing durable, corrosion resistant material, and designed to be adjustable, removable, and replaceable from the ground surface without requiring dewatering, entrance into the tank, or pump removal.

(i) The pump tank shall have a high-water alarm that shall:

- (1) be audible and visible to the system users and the Management Entity;
- (2) have a silencer button or silencer device that is located on the outside of the panel enclosure;
- (3) provide for manual testing;
- (4) automatically reset after testing and when an alarm condition has cleared;
- (5) remain operable whenever the pump is inoperable;
- (6) have an enclosure that is watertight, corrosion resistant, and shall be rated NEMA 4X at a minimum; and
- (7) be mounted outside the facility and accessible.

(j) For systems designed, inspected, and certified by a PE, alternative panel construction and location criteria may be used if the alternative panel construction and location criteria meet the panel performance criteria, comply with local electrical codes, and are approved by the local electrical inspector.

History Note: Authority G.S. 130A-335(e), (f), and (f1);
Eff. Pending delayed effective date.

15A NCAC 18E .1104 SIPHON DOSING

Siphons and siphon tanks may be used when a minimum of two feet of elevation drop is maintained between the siphon outlet invert and the inlet invert in the dispersal field distribution system. Siphons and siphon tanks shall meet the following criteria:

- (1) Slope and size of the siphon discharge line shall be sufficient to handle the peak siphon discharge by gravity flow without the discharge line flowing full. Vents for the discharge lines shall be located outside of the siphon tank and shall not serve as an overflow for the tank.
- (2) All siphon parts shall be installed in accordance with the manufacturer's specifications. All

materials shall be corrosion-resistant, of cast iron, high-density plastic, fiberglass, stainless steel, or equal as approved by the Department when documentation is provided which shows the materials meet the requirements of this Rule.

- (3) Siphon tanks shall have a functioning trip counter and high-water alarm. The high-water alarm shall be audible and visible by system users and weatherproof if installed outdoors in an enclosure rated as NEMA 4X at a minimum. The high-water alarm shall be set to activate within two inches of the siphon trip level.

History Note: Authority G.S. 130A-335(e), (f), and (f1);
Eff. Pending delayed effective date.

15A NCAC 18E .1105 TIMED DOSING

(a) Timed dosing systems shall be used with the following:

- (1) when a dosing system is required in accordance with Rule .1101 of this Section in conjunction with an adjusted DDF granted in accordance with Rule .0403 of this Subchapter;
- (2) flow equalization systems;
- (3) advanced pretreatment or dispersal systems, if required by the manufacturer; or
- (4) when specified by the authorized designer.

(b) The timed dosing system shall be integrated with the pump tank control sensors to ensure that the minimum dose volume calculated in accordance with Rule .1101(d) of this Section is present prior to the start of any scheduled dose event and to provide that a full dose is delivered.

(c) The float configuration of a flow equalization system using timed dosing shall be adjusted by the LHD, authorized designer, or PE, to provide for equalization capacity in the system.

History Note: Authority G.S. 130A-335(e), (f), and (f1);
Eff. Pending delayed effective date.

15A NCAC 18E .1201 ADVANCED PRETREATMENT SYSTEM STANDARDS

(a) Advanced pretreatment systems with a DDF less than or equal to 3,000 gpd shall meet the following conditions:

- (1) have an RWTS or PIA Approval;
- (2) be designed to comply with the effluent standard specified in the OP and defined in Table XXV prior to effluent dispersal to the soil;
- (3) comply with the siting and sizing requirements of this Section; and
- (4) comply with Rules .1302(f) and .1710 of this Subchapter.

TABLE XXV. Effluent standards for advanced pretreatment systems

Constituent	Effluent Standards		
	NSF/ANSI 40	TS-I	TS-II
CBOD	≤ 25 mg/L	≤ 15 mg/L	≤ 10 mg/L
TSS	≤ 30 mg/L	≤ 15 mg/L	≤ 10 mg/L
NH ₃		≤ 10 mg/L or 80% removal of NH ₃ if influent TKN exceeds 50 mg/L	≤ 10 mg/L
TN			≤ 20 mg/L
Fecal Coliform		≤ 10,000 colonies/100 mL	≤ 1,000 colonies/100 mL

15A NCAC 18E .1106 PRESSURE DOSED GRAVITY DISTRIBUTION DEVICES

(a) Pressure manifolds for pressure dosed gravity distribution shall meet the following minimum design and performance requirements:

- (1) uniform distribution of flow proportional to lateral length with a minimum of two feet of residual pressure head;
- (2) a pressure regulating valve incorporated in the supply line just prior to the pressure manifold to control pressure to the manifold;
- (3) a mechanism or device for measuring residual pressure head in the manifold;
- (4) a mechanism to stop flow to individual laterals;
- (5) a method to visually verify the flow to each individual lateral;
- (6) the feeder lines from the pressure manifold shall be of sufficient size and slope for effluent to flow by gravity to each lateral; and
- (7) the pressure manifold and appurtenances shall be designed and installed to be accessible for inspection, operation, maintenance, and monitoring.

(b) A distribution box or a drop box may be used to dissipate or distribute flow in a pressure dosed gravity dispersal system for parallel, serial, or sequential distribution. Such devices shall be watertight, corrosion resistant, constructed to withstand active and passive loads, and the volume of the device shall be such that when the dose volume is delivered, the box shall not overflow. The authorized agent shall approve the distribution device when it has been determined to be in accordance with Rule .0901(g)(9) through (11) of this Subchapter.

History Note: Authority G.S. 130A-335(e), (f), and (f1);
Eff. Pending delayed effective date.

(b) The effluent applied to advanced pretreatment systems shall not exceed DSE as specified in Table III of Rule .0402(a) of this Subchapter, unless the system is designed to treat HSE and approved by the Department on a product or project-specific basis in accordance with the rules of this Subchapter and engineering practices.

(c) The effluent standards in Table XXV, or modifications to these effluent standards, may be proposed by a PE for systems with a design flow greater than 3,000 gpd or IPWW. The

Department shall review and approve the proposed effluent standards in accordance with Rule .0302(e) of this Subchapter. Documentation shall also be provided that the proposed system meets the requirements of Rule .0510(e) of this Subchapter.

History Note: Authority G.S. 130A-334; 130A-335; 130A-342; 130A-343;

Eff. Pending Legislative Review.

15A NCAC 18E .1202 SITING AND SIZING CRITERIA FOR ADVANCED PRETREATMENT SYSTEMS WITH A DESIGN DAILY FLOW LESS THAN OR EQUAL TO 1,500 GALLONS/DAY

(a) Wastewater systems utilizing advanced pretreatment with a DDF less than or equal to 1,500 gpd may only use one of the following modifications to system siting and sizing criteria, unless otherwise identified in this Rule:

- (1) reduction in depth to LC or vertical separation to LC in accordance with Paragraph (b) of this Rule;
- (2) LTAR increase in accordance with Paragraph (c) of this Rule; or
- (3) setback reductions in accordance with Paragraph (d) of this Rule.

(b) The minimum required vertical separation to a LC in natural soil may be reduced with the use of advanced pretreatment in accordance with Table XXVI. Table XXVII provides the minimum depths and vertical separation for new and existing fill. A special site evaluation shall be submitted and approved in accordance with Rule .0510 of this Subchapter when a reduction in vertical separation to a LC is proposed in accordance with this Rule.

Table XXVI. Minimum vertical separation to LC based on effluent standards for wastewater systems with a DDF less than or equal to 1,500 gpd

Minimum vertical separation in inches from infiltrative surface to LC					
Soil Group	Distribution Method	Effluent Standard**			
		DSE*	NSF/ANSI 40	TS-I	TS-II
I	Gravity	18	12	12	12
	LPP	12	12	9	6
	Drip	12	12	9	6
II-IV	Gravity	12	12	9	9
	LPP	12	12	9	6
	Drip	12	12	9	6

*For comparison

**12-inch vertical separation shall always be maintained to rock or tidal water

Table XXVII. Minimum depth to LC and vertical separation to SWC in new or existing fill based on effluent standards for wastewater systems with a DDF less than or equal to 1,500 gpd for new fill and less than or equal to 480 gpd for existing fill

Minimum depth in inches from naturally occurring soil surface or existing fill surface to LC					
Type of Fill	Distribution Method		Effluent Standard		
		DSE**	NSF/ANSI 40	TS-I	TS-II
New Fill	Gravity	18 to LC 12 to SWC	18 to LC 12 to SWC	14 to LC 12 to SWC	14 to LC 12 to SWC
	LPP	18 to LC 12 to SWC	18 to LC 12 to SWC	12	12
	Drip	18 to LC 12 to SWC	18 to LC 12 to SWC	12	12
Existing Fill	Gravity LPP Drip	24 of Group I Fill or Soil to LC 18 of Group I Fill or Soil to SWC			
Minimum vertical separation in inches from infiltrative surface to LC*					
Type of Fill	Distribution Method	Effluent Standard			

		DSE**	NSF/ANSI 40	TS-I	TS-II
New Fill	Gravity	24 to LC 18 to SWC	18 to LC 18 to SWC	18 to LC 14 to SWC	18 to LC 14 to SWC
	LPP	18 to LC 12 to SWC	18 to LC 12 to SWC	12 to LC 9 to SWC	9 to LC 6 to SWC
	Drip	18 to LC 12 to SWC	18 to LC 12 to SWC	12 to LC 9 to SWC	9 to LC 6 to SWC
Existing Fill	Gravity	48	36	24	24
	LPP	24	18	12	12 to LC 9 to SWC
	Drip	24	18	12	12 to LC 9 to SWC

*Minimum depth after adjustment for slope correction

**For comparison

(c) The LTAR shall be based on the effluent standard and dispersal field type proposed in accordance with the following:

- (1) The LTAR may be increased by the following factors when compared to the rate assigned by the authorized agent for a new system using DSE:
 - (A) up to 1.33 for NSF/ANSI 40 effluent standards in soils which are Group I or II with suitable structure;
 - (B) up to 2.0 for TS-I or TS-II effluent standards when pressure dispersal is utilized; or
 - (C) up to 2.5 for TS-II effluent standards when all the following conditions are met: minimum of 36 inches of Group I soils from the naturally occurring soil surface; minimum depth to a SWC below the naturally occurring soil surface is 24 inches; space shall be available for an equivalently sized dispersal field repair area; and pressure dispersal shall be utilized.
- (2) A special site evaluation, if required in accordance with Rule .0510 of this Subchapter, shall be submitted and approved.
- (3) The LTAR for an aerobic drip system shall be determined in accordance with Rule .1204 of this Section.
- (4) Trench dispersal products approved for a specific dispersal field reduction in area or trench length when receiving DSE in

accordance with this Subchapter or a PIA Approval shall not be reduced by more than 50 percent when any LTAR adjustments are taken in accordance with this Rule.

- (5) When using pressure dispersal systems, the proposed LTAR increases in Subparagraph (c)(1) of this Rule may be used concurrently with the reduced setbacks for TS-II Systems in Table XXVIII.

- (6) The DDF shall not be increased by the addition of advanced pretreatment to an existing wastewater system by more than 33 and one-third percent on a site without repair area or by more than 50 percent on a site with 100 percent repair area.

(d) Advanced pretreatment systems shall meet the following setback requirements:

- (1) minimum setback requirements of Section .0600 of this Subchapter shall be met, except as shown in Table XXVIII; and
- (2) when any other siting or sizing modifications are applied, such as reduced depth to LC, vertical separation, or increased LTAR, for a TS-I or TS-II system in accordance with Paragraphs (b) and (c) of this Rule, no setback reductions shall be taken except those to artificial drainage systems described in Table XXVII, unless otherwise specified in this Section.

Table XXVIII: Setbacks for wastewater systems meeting NSF/ANSI 40, TS-I, or TS-II effluent standards

Site Features	Setback in feet according to Effluent Standard**			
	DSE*	NSF/ANSI 40	TS-I	TS-II
Surface waters classified WS-I, from ordinary high-water mark	100	70	70	50
Waters classified SA, from mean high-water mark	100	70	70	50
Any Class I or Class II reservoir, from normal water level	100	70	70	50
Any other stream, non-water supply spring, or other surface water, from the ordinary high-water mark	50	35	35	25

Tidal influenced waters, such as marshes and coastal water, from mean high-water mark	50	35	35	25
Lake or pond, from normal water level	50	35	35	25
Groundwater lowering system, as measured on the ground surface from the edge of the feature	25	25	20	15
Downslope interceptor drains and surface water diversions with a vertical cut of more than two feet, as measured on the ground surface from the edge of the feature	15	15	10	10
Upslope and side slope interceptor drains and surface water diversions with a vertical cut of more than two feet, as measured on the ground surface from the edge of the feature	10	10	7	5
A stormwater collection system as defined in 15A NCAC 02H .1002(48), excluding gutter drains that connect to a stormwater collection system, with a vertical cut of more than two feet as measured from the center of the collection system	10	10	7	5
Permanent stormwater retention basin, from normal water level	50	50	35	25
Any other dispersal field, except designated dispersal field repair area for project site	20	20	10	5

*For comparison

**May require a variance from DEQ based on local buffer rules.

*History Note: Authority G.S. 130A-334; 130A-335; 130A-342; 130A-343;
Eff. Pending Legislative Review.*

15A NCAC 18E .1203 SITING AND SIZING CRITERIA FOR ADVANCED PRETREATMENT SYSTEMS WITH A DESIGN DAILY FLOW GREATER THAN 1,500 GALLONS/DAY AND LESS THAN OR EQUAL TO 3,000 GALLONS/DAY

(a) Wastewater systems utilizing advanced pretreatment with a DDF greater than 1,500 gpd and less than or equal to 3,000 gpd may utilize the system siting and sizing in this Rule.

(b) The LTAR shall be based on the effluent standard and dispersal field type proposed in accordance with the following:

- (1) The LTAR may be increased by the following factors when compared to the rate assigned by the authorized agent for a new system using DSE:
 - (A) up to 2.0 for TS-I or TS-II effluent standards; or
 - (B) up to 2.5 for TS-II effluent standards when there is a minimum of 48 inches of Group I soils from the naturally occurring soil surface and a minimum of 30 inches to a SWC below the naturally occurring soil surface.
- (2) The LTAR for an aerobic drip system shall be determined in accordance with Rule .1204 of this Section.

(c) When the LTAR for a system is proposed to be increased in accordance with Paragraph (b) of this Rule, the following conditions shall be met:

- (1) a special site evaluation required in accordance with Rule .0510 of this Subchapter shall be submitted and approved;
- (2) pressure dispersal shall be utilized;
- (3) space shall be available for an equivalently sized dispersal field repair area; and
- (4) 25-foot setback shall be maintained to all property lines unless a site-specific nitrogen migration analysis for a TS-I system indicates that the nitrate-nitrogen concentration at the property line will not exceed 10 mg/L or a TS-II system is used.

(d) Trench dispersal products approved for a specific dispersal field reduction in area or trench length when receiving DSE in accordance with this Subchapter or a PIA Approval shall not be reduced by more than 50 percent as a result of increased LTAR in accordance with this Rule.

(e) The DDF shall not be increased by the addition of advanced pretreatment to an existing wastewater system.

(f) Wastewater systems utilizing advanced pretreatment with a DDF greater than 3,000 gpd may propose LTAR adjustments in accordance with Paragraphs (a) through (c) of this Rule. The Department shall review and approve the proposed LTAR adjustments in accordance with Rule .0302(e) of this Subchapter. Documentation shall also be provided that the proposed system meets the requirements of Rule .0510(e) of this Subchapter.

*History Note: Authority G.S. 130A-334; 130A-335; 130A-342; 130A-343;
Eff. Pending Legislative Review.*

15A NCAC 18E .1204 ADVANCED PRETREATMENT DRIP DISPERSAL SYSTEMS

(a) This Rule provides for the permitting of drip dispersal systems receiving advanced pretreatment effluent with a DDF less than or equal to 3,000 gpd. Drip dispersal systems shall comply with the provisions of this Rule and Section .1600 of this Subchapter.

(b) Drip dispersal systems with a DDF less than or equal to 1,500 gpd shall utilize the siting and sizing criteria in this Paragraph when used with advanced pretreatment.

- (1) The soil and site characteristics shall meet the following criteria based on effluent standards:
 - (A) NSF/ANSI 40 Systems
 - (i) a minimum of 18 inches of naturally occurring suitable soil above a LC and 13 inches of naturally occurring suitable soil above a SWC, and the minimum vertical separation to any LC shall be 12 inches;
 - (ii) for new fill, the requirements of Rules .0909(b) and (c) of this Subchapter shall be met; or
 - (iii) for existing fill, the requirements of Rules .0909(d) and (e) of this Subchapter shall be met, except that the minimum vertical separation to any LC shall be 18 inches;
 - (B) TS-I Systems
 - (i) a minimum of 15 inches of naturally occurring suitable soil above a LC and a minimum of 13 inches of naturally occurring suitable soil above a SWC, and the minimum vertical separation to any LC shall be nine inches;
 - (ii) for new fill, the requirements of Rules .0909(b) and (c) of this Subchapter shall be met, except there shall be a minimum of 12 inches of naturally occurring suitable soil above a LC, a minimum of nine inches vertical separation to a SWC, and a minimum of 12 inches vertical separation to a LC; or
 - (iii) for existing fill, the requirements of Rules .0909(d) and (e) of this Subchapter shall be met, except that the minimum vertical separation to any LC shall be 12 inches; or
 - (C) TS-II Systems
 - (i) a minimum of 13 inches of naturally occurring suitable soil above a LC and the minimum vertical separation to any LC shall be six inches;
 - (ii) for new fill, the requirements of Subpart (B)(ii) of this Paragraph shall be met, except there shall be a minimum of nine inches of vertical separation to a LC, and a minimum of six inches of vertical separation to a SWC; or
 - (iii) for existing fill, the requirements of Subpart (B)(iii) of this Paragraph shall be met, except there shall be a minimum vertical separation of nine inches to a SWC.
- (2) Site modifications for advanced pretreatment drip dispersal systems shall meet the following criteria based on effluent standards:
 - (A) NSF/ANSI 40 Systems may utilize a groundwater lowering system to comply with the vertical separation requirements to a SWC only when Group I or II soils with suitable structure are present within 36 inches of the naturally occurring soil surface. The minimum vertical separation to the projected, or drained, SWC shall be 12 inches. The addition of fill material shall not be used to comply with this requirement; and
 - (B) TS-I and TS-II Systems may utilize a groundwater lowering system to comply with the vertical separation requirements to a SWC. The minimum vertical separation to the projected, or drained, SWC shall be 12 inches. The groundwater lowering system may be used with the following: Group III soils are present at any depth above the invert elevation of the highest point of the artificial drainage system or within 36 inches of the naturally occurring soil surface, whichever is deeper; or on new fill sites.
- (3) Table XXIX shall be used to determine the LTAR for advanced pretreatment drip dispersal systems based on Soil Group. Limitations in adjustment allowances for NSF/ANSI 40, TS-I, and TS-II systems are listed in Parts (E), (F), and (G) of this Subparagraph.

TABLE XXIX. LTAR for advanced pretreatment drip dispersal systems based on Soil Group

Soil Group	USDA Soil Textural Class		LTAR in gpd/ft ²		
			NSF/ANSI 40	TS-I	TS-II
I	Sands	Sand	0.6 – 1.0	0.8 – 1.2	0.8 – 1.5
		Loamy Sand			
II	Coarse Loams	Sandy Loam	0.4 – 0.6	0.5 – 0.8	0.6 – 1.0
		Loam			
III	Fine Loams	Sandy Clay Loam	0.15 – 0.4	0.2 – 0.6	0.2 – 0.8
		Silt Loam			
		Clay Loam			
		Silty Clay Loam			
		Silt			
IV	Clays	Sandy Clay	0.05 – 0.2	0.05 – 0.2	0.05 – 0.2
		Silty Clay			
		Clay			

- (A) The LTAR shall be based on the most limiting, naturally occurring soil horizon within 18 inches of the naturally occurring soil surface or to a depth of 12 inches below the infiltrative surface.
- (B) The DDF shall be divided by the LTAR, determined from Table XXIX or XXX, to calculate the minimum dispersal field area required. The minimum dripline length shall be calculated by dividing the required area by the maximum line spacing of two feet. The following equations shall be used to calculate the minimum dispersal field area and dripline length required:
- $$\begin{aligned} \text{MA} &= \text{DDF} / \text{LTAR} \\ \text{DL} &= \text{MA} / \text{LS} \end{aligned}$$
- Where MA = minimum dispersal field area, in ft²
 DDF = design daily flow, in gpd
 LTAR = in gpd/ft²
 DL = dripline length, in feet
 LS = two-foot line spacing
- (C) The minimum dripline length calculated in Part (B) of this Subparagraph shall not be less than 0.5 x DDF for Group I soils, 0.83 x DDF for Group II soils, 1.25 x DDF for Group III soils, or 3.33 x DDF for Group IV soils. The dripline spacing may be adjusted in accordance with Rule .1602(e)(3) of this Subchapter and the PIA Approval so that the minimum required dispersal field area calculated in Part (B) of this Subparagraph does not need to be increased.
- (D) Sections of blank tubing without emitters required to comply with site-specific conditions shall not count towards the minimum length of dripline needed when laying out the system or when calculating the linear footage of dripline needed.
- (E) LTAR adjustment limitations for NSF/ANSI 40 Systems
- (i) the LTAR for new fill shall not exceed 0.6 gpd/ft² for Group I soils, 0.4 gpd/ft² for Group II soils, 0.15 gpd/ft² for Group III soils, or 0.05 gpd/ft² for Group IV soils; and
 - (ii) the LTAR for existing fill shall not exceed 0.8 gpd/ft².
- (F) LTAR adjustment limitations for TS-I Systems
- (i) the LTAR for new fill shall not exceed 1.0 gpd/ft² for Group I soils, 0.6 gpd/ft² for Group II soils, 0.4 gpd/ft² for Group III soils, or 0.1 gpd/ft² for Group IV soils;
 - (ii) the LTAR for existing fill shall not exceed 1.0 gpd/ft²; and
 - (iii) the LTAR for sites with less than 18 inches of naturally occurring soil to any unsuitable LC shall not exceed the lowest LTAR for Soil Groups I, II, and III, and 0.1 gpd/ft² for Group IV soils.
- (G) LTAR adjustment limitations for TS-II Systems
- (i) the LTAR for new fill shall not exceed 1.2 gpd/ft² for Group I soils, 0.8 gpd/ft² for Group II soils, 0.5 gpd/ft² for Group III soils, or 0.12 gpd/ft² for Group IV soils;
 - (ii) the LTAR for existing fill shall not exceed 1.0 gpd/ft²; and
 - (iii) the LTAR for sites with less than 18 inches of naturally occurring soil to any unsuitable LC shall not exceed the lowest LTAR for Soil Groups I, II, and III, and 0.12 gpd/ft² for Group IV soils.
- (4) Table XXX shall be used in determining the LTAR for advanced pretreatment drip dispersal systems installed in saprolite. The LTAR shall be based on the most limiting, naturally occurring saprolite to a depth of 24 inches below the infiltrative surface.

TABLE XXX. LTAR for advanced pretreatment drip dispersal systems based on Saprolite Group

Saprolite Group	Saprolite Textural Class	LTAR, area basis, in gpd/ft ²		
		NSF/ANSI 40	TS-I	TS-II
I	Sand	0.4 – 0.5	0.4 – 0.6	0.4 – 0.8
	Loamy sand	0.3 – 0.4	0.3 – 0.5	0.3 – 0.6
II	Sandy loam	0.25 – 0.35	0.25 – 0.4	0.25 – 0.5
	Loam	0.2 – 0.25	0.2 – 0.3	0.2 – 0.4
	Silt loam	0.05 – 0.1	0.05 – 0.15	0.05 – 0.2
III	Sandy clay loam	0.05 – 0.1	0.05 – 0.12	0.05 – 0.15

- (5) A special site evaluation shall be required in accordance with Rule .0510 of this Subchapter, as applicable.
- (6) Setbacks allowed in Table XXVIII of Rule .1202(d) of this Section may be used with advanced pretreatment drip dispersal systems when no reduction in the depth to a LC or vertical separation reduction is proposed compared to the requirements for DSE in Table XXVI or Table XXVII of Rule .1202(b) of this Section. A minimum of 18 inches of naturally occurring soil to an unsuitable LC shall be required to take setback reductions. The following LTAR limitations shall be applicable:

- (A) for NSF/ANSI 40 systems, with the exception of the setback reductions to artificial drainage systems, when reductions are taken in setbacks, the LTAR shall not exceed the lowest LTAR for Soil Groups I, II, and III, and 0.1 gpd/ft² for Group IV soil;
- (B) for TS-I Systems, with the exception of setback reductions to artificial drainage systems, when reductions are taken in setbacks, the LTAR shall not exceed the mid-range LTAR for Soil Groups I, II, and III, and 0.1 gpd/ft² for Group IV soils;
- (C) for NSF/ANSI 40 and TS-I Systems, Table XXIX may be used to determine the LTAR when no other setback reductions are taken aside of those to artificial drainage systems; and
- (D) for TS-II Systems, Table XXIX shall be used to determine the LTAR. The LTAR from Table XXIX and reduced setbacks for TS-II Systems from Table XXVIII of Rule .1202(d) of this Section may be taken concurrently.

(c) Drip dispersal systems with a DDF greater than 1,500 gpd and less than or equal to 3,000 gpd used with advanced pretreatment may propose an adjusted LTAR if the following criteria are met:

- (1) no reduction in the depth to a LC, vertical separation, or setback reduction is proposed;
- (2) proposed LTAR is supported by a special site evaluation in accordance with Rule .0510 of this Subchapter; and
- (3) 25-foot setback shall be maintained to all property lines, unless one of the following criteria is met:
 - (A) site-specific nitrogen migration analysis for a TS-I system indicates that the nitrate-nitrogen concentration at the property line will not exceed 10 mg/L; or
 - (B) TS-II system is used.

(d) Drip dispersal installation shall be in accordance with Rule .0908(f) of this Subchapter.

History Note: Authority G.S. 130A-334; 130A-335; 130A-342; 130A-343;
Eff. Pending Legislative Review.

15A NCAC 18E .1205 ADVANCED PRETREATMENT SAND LINED TRENCH SYSTEMS

(a) Sand lined trench systems with a DDF less than or equal to 1,500 gpd receiving TS-I or TS-II effluent shall meet the requirements of this Rule.

(b) The site meets the criteria in Rule .0906(c) of this Subchapter and the receiving permeable horizon may be deeper than 60 inches below the natural grade.

(c) If a groundwater lowering system is used to comply with the vertical separation to a SWC, the following conditions shall apply:

- (1) the site shall comply with the requirements of Rule .0906(d) of this Subchapter; and
- (2) the vertical separation requirement to a SWC shall be reduced to nine inches with pressure dosed gravity distribution or six inches with pressure dispersal.

(d) Table XXXI shall be used to determine the LTAR for a sand-lined trench system and shall be based on the most limiting, naturally occurring soils overlying the permeable receiving layer. An equivalent trench width of three feet shall be used to determine trench length in accordance with Rule .0901(d) of this Subchapter. The LTAR shall be one of the following:

- (1) the rate set forth in Table XXXI; or
- (2) 20 percent of the in-situ Ksat of the receiving permeable horizon, whichever is less.

TABLE XXXI. LTAR for advanced pretreatment sand lined systems based on texture of the most hydraulically limiting overlying soil horizon

Soil Group	Texture of Most Hydraulically Limiting Overlying Soil Horizon	LTAR in gpd/ft ² *
I	Sand	0.9 – 1.4
II	Coarse Loams	0.7 – 1.0
III	Fine Loams	0.4 – 0.8

IV	Clays	0.2 – 0.4
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*There shall be no reduction in trench length compared to a conventional gravel trench when Accepted or Innovative gravelless trench product is used.

(e) A Special Site Evaluation in accordance with Rule .0510 of this Subchapter shall be required for the following conditions to field verify the LTAR:

- (1) when the texture of the receiving permeable horizon is sandy loam or loam, and the system DDF is greater than 600 gpd; or
- (2) when the texture of the receiving permeable horizon is silt loam.

(f) Setbacks in accordance with Table XXVIII of Rule .1202(d) of this Section shall be applied to sand lined trench systems.

(g) Sand lined trench system installation shall be in accordance with Rule .0906(h) of this Subchapter.

History Note: Authority G.S. 130A-334; 130A-335; 130A-342; 130A-343;
Eff. Pending Legislative Review.

15A NCAC 18E .1206 ADVANCED PRETREATMENT BED SYSTEMS

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

(b) Bed systems receiving NSF/ANSI 40 effluent, or better, on sites with a DDF less than or equal to 600 gpd shall meet the following requirements:

- (1) the soil and site shall meet the following criteria:
 - (A) the vertical separation requirements of Rule .0901(g)(2) of this Subchapter;
 - (B) soil texture is Group I, II, or III; and

- (C) design options for the site are limited by topography or available space;
 - (2) Table XVII in Rule .0901(c) of this Subchapter shall be used to determine the LTAR for a bed system. On sites where the soil texture is Group I or II, the initial LTAR shall be increased by a factor of 1.125 with no further reduction in bed size allowed;
 - (3) setbacks allowed in Table XXVIII of Rule .1202(d) of this Section shall be used; and
 - (4) bed system installation shall be in accordance with Rule .0903(e) of this Subchapter.
- (c) Bed systems receiving TS-I or TS-II effluent on sites with a DDF less than or equal to 1,500 gpd shall meet the following requirements:
- (1) The soil and site meet the following criteria:
 - (A) there is a minimum of 30 inches of suitable Group I or II soils below the naturally occurring soil surface and no SWC within the first 36 inches below the naturally occurring soil surface or 36 inches of Group I soils below the naturally occurring soil surface and no SWC exists within the first 12 inches below the naturally occurring soil surface;
 - (B) the requirement for 30 inches of Group I or II soils or 36 inches of Group I soils in Part (A) of this Subparagraph may be reduced to 18 inches when a special site evaluation in accordance with Rule .0510 of this Subchapter is provided;
 - (C) sites shall have a uniform slope not exceeding two percent, unless a special site evaluation submitted and approved in accordance with Rule .0510 of this Subchapter is provided; and
 - (D) the bed system shall be considered to be a fill system if the infiltrative surface is installed less than six inches below the naturally occurring soil surface. For bed systems in fill, the requirements of Paragraph (e) of this Rule shall also be met.
 - (2) Table XVII in Rule .0901(c) of this Subchapter shall be used to determine the initial LTAR for a bed system and shall be based on the most limiting, naturally occurring soil horizon within 36 inches of the naturally occurring soil surface or to a depth of 12 inches below the bed bottom, whichever is deeper. The minimum bed size shall be determined in accordance with the following:
 - (A) the minimum amount of bottom area square feet shall be determined by dividing the DDF by the LTAR;
 - (B) when the bed is a fill system, the lowest LTAR for the applicable Soil Group shall be used. The LTAR shall not exceed 1.0 gpd/ft²;
 - (C) fill shall not be added to the naturally occurring soil surface in order to increase the LTAR of a bed system;
 - (D) the minimum bed size shall be reduced by up to 25 percent when the system is designed to comply with TS-I or TS-II effluent and is not installed in existing fill; and
 - (E) the minimum bed size may be reduced by up to 40 percent when the following criteria are met: the system is designed to comply with TS-II effluent; Group I Soil is present in the first 36 inches of naturally occurring soil; no SWC exists within the first 30 inches below the naturally occurring soil surface or within 24 inches of the bed bottom; the bed or beds are not located beneath the advanced pretreatment components, and pressure dispersal is used; effluent is distributed to the beds by a pump and timer control system designed to distribute flow evenly over a 24-hour period; and there is 100 percent dispersal field repair area.
 - (3) A special site evaluation shall be submitted and approved in accordance with Rule .0510 of this Subchapter when the vertical separation to a LC is reduced and on sites with slopes greater than two percent.
 - (4) Setbacks as set forth in Table XXVIII of Rule .1202(d) of this Section shall apply as follows:
 - (A) the setbacks shall be measured from the nearest edge of the bed;
 - (B) for bed systems using fill, the setbacks shall be measured from a point five feet from the nearest edge of the bed sidewall, or from the projected toe of the slope that is required to comply with the soil and site limitations, whichever is greater;
 - (C) the minimum separation between initial and repair dispersal field areas serving a single system and facility shall be two feet of naturally occurring soil. Ten feet of naturally occurring soils shall separate the initial and repair dispersal field areas serving separate facilities when these bed systems are on a common site or tract of land; and
 - (D) whenever the bed size is reduced in accordance with this Rule, only reduced setbacks to artificial drainage

systems in accordance with Table XXVIII of Rule .1202(d) of this Section shall be allowed.

- (5) Bed system installation shall be in accordance with Rule .0903(e) of this Subchapter and the following:

- (A) pressure dispersal shall be used whenever effluent is distributed to a bed not located beneath the advanced pretreatment component; and
- (B) when new fill is required for the installation of a bed system, suitable Group I fill material shall be used to comply with the vertical separation requirements from the bed bottom to a LC, when all of the following conditions are met: a groundwater lowering system is not used to comply with the vertical separation requirements; new fill material is sand or loamy sand, containing not more than 10 percent by volume fibrous organics, building rubble, or other debris and does not have discreet layers containing greater than 35 percent of shell fragments by volume; and the requirements of Rule .0909(c)(8) of this Subchapter, for the projected side slope of the fill are met, as determined beginning at a point six inches above the top edge of the bed.

(d) Bed systems receiving TS-I or TS-II effluent on sites with a DDF greater than 1,500 gpd and less than or equal to 3,000 gpd shall meet the following requirements:

- (1) The soil and site shall meet the minimum following criteria:
 - (A) Group I soils are present for 54 inches below the naturally occurring soil surface;
 - (B) no SWC exists within the first 48 inches below the naturally occurring soil surface; and
 - (C) vertical separation of 24 inches to any SWC is maintained below the bed bottom, unless a site-specific groundwater mounding analysis is performed and demonstrates a 12-inch separation or 18-inch minimum for a fill system in accordance with Rule .0909(c) of this Subchapter shall be maintained.
- (2) Table XVII in Rule .0901(c) of this Subchapter shall be used to determine the initial LTAR for a bed system and shall be based on the most limiting, naturally occurring soil horizon within 36 inches of the naturally occurring soil surface or to a depth of 12 inches below the bed bottom, whichever is deeper. The minimum bed size

shall be determined in accordance with the following:

- (A) the minimum number of square feet of bed bottom area shall be calculated by dividing the DDF by the LTAR;
 - (B) the minimum bed size shall be reduced by up to 25 percent when the system is designed and approved to comply with TS-I or TS-II effluent standards and will be installed in naturally occurring soil; and
 - (C) the minimum bed size may be reduced by up to 40 percent when all of the following criteria are met: the system is designed and approved to comply with TS-II effluent standards; the hydraulic assessment demonstrates that a 24-inch minimum vertical separation to a SWC is maintained after accounting for projected groundwater mounding; and there is 100 percent dispersal field repair area.
- (3) A special site evaluation shall be submitted and approved in accordance with Rule .0510 of this Subchapter.
- (4) No setback reductions shall be allowed in accordance with Table XXVIII of Rule .1202(d) of this Section. The following horizontal setbacks shall be met:
- (A) the minimum setback between initial and repair dispersal field areas serving a single system and facility shall be two feet of naturally occurring soil. Ten feet of naturally occurring soil shall separate the initial and repair dispersal field areas serving separate facilities when these bed systems are on a common site or tract of land;
 - (B) when two beds are used, the minimum separation between two beds shall be 20 feet. When three or more beds are used, the minimum separation between beds shall be 10 feet; and
 - (C) a 25-foot setback shall be maintained from edge of the bed to the property line unless a site-specific nitrogen migration analysis indicates that the nitrate-nitrogen concentration at the property line will not exceed 10 mg/L or TS-II or better effluent is produced by the approved system.
- (5) Bed system installation shall be in accordance with Rule .0903(e) of this Subchapter and the following criteria:
- (A) two or more equally sized beds shall be used and the beds shall not be located beneath the advanced pretreatment components; and

- (B) effluent shall be distributed to the beds by a pressure dispersal system. A timed dosed system shall be used to distribute flow evenly to the beds over a 24-hour period.

(e) Bed systems receiving TS-I or TS-II quality effluent may be proposed for a site with existing fill that meets the requirements of Rule .0909(d) of this Subchapter under the following conditions:

- (1) no SWC exists within 18 inches of the existing fill surface;
- (2) 18 inches of vertical separation exists to the SWC;
- (3) the DDF does not exceed 480 gpd; and
- (4) pressure dispersal is used. The requirement for pressure dispersal shall not be required if the advanced pretreatment system PIA Approval allows for advanced pretreatment unit(s) to discharge directly to the underlying bed and for multiple units, where applicable, when the advanced pretreatment units are spaced at equal intervals across the entire bed area.

History Note: Authority G.S. 130A-334; 130A-335; 130A-342; 130A-343;
Eff. Pending Legislative Review.

15A NCAC 18E .1302 OPERATION AND MAINTENANCE OF ADVANCED PRETREATMENT SYSTEMS

(a) This Rule shall apply to all advanced pretreatment systems approved in accordance with Sections .1500 and .1700 of this Subchapter.

(b) System management in accordance with Table XXXII of Rule .1301(b) of this Section shall be required for advanced pretreatment systems.

(c) Prior to the issuance or re-issuance of an OP for an advanced pretreatment system, the owner shall provide to the LHD documentation that a contract for operation and maintenance of the system is in place with a Management Entity. For proprietary advanced pretreatment systems, the contract shall be with either the manufacturer, manufacturer's representative, or a Management Entity authorized in writing by the manufacturer or manufacturer's representative to operate the system. For non-proprietary advanced pretreatment systems, the contract shall be with an operator certified in accordance with Rule .0303(e) of this Subchapter for the classification indicated on the OP.

(d) Operation and maintenance for advanced pretreatment shall be in accordance with the following:

- (1) the Management Entity shall evaluate the performance of each system;
- (2) minimum inspection, sampling, and reporting frequency shall be in accordance with this Section, the RWTS or PIA Approval, and conditions of the OP;
- (3) the Management Entity shall inspect each system during one or more of the required Management Entity inspections while the system is in operation using a VIP specified by

the manufacturer and included in the RWTS or PIA Approval. The VIP shall include the following:

- (A) a visual inspection and evaluation of all critical treatment components and of the effluent in the field for solids, clarity, color, and odor. The VIP shall also include field tests of pH, turbidity, and dissolved oxygen content and, for TS-II systems, alkalinity, and any other tests proposed by the manufacturer and specified in the RWTS or PIA Approval;
- (B) compliance criteria to determine system compliance status and proposed responses to conditions observed; and
- (C) for systems serving vacation rentals subject to the North Carolina Vacation Rental Act, G.S. 42A, this visit shall be scheduled during the seasonal high use period and shall coincide with a water quality sampling event if required in accordance with Rule .1709 of this Subchapter;

(4) the actual flow shall be recorded in accordance with the RWTS or PIA Approval by the Management Entity prior to the visual inspection of the system in accordance with Subparagraph (d)(3) of this Rule and prior to any effluent sampling event required in accordance with Rule .1709 of this Subchapter; and

(5) sampling and resampling for an approved RWTS or PIA System shall be undertaken as required in accordance with Rule .1709 of this Subchapter and the following:

- (A) all samples shall be collected, preserved, transported, and analyzed in compliance with 40 CFR 136;
- (B) samples shall be taken to a certified laboratory, as defined in G.S. 130A-313(2), for analysis;
- (C) documented chain of custody for each sample collected shall be maintained; and
- (D) re-sampling at any site shall be performed as required in the RWTS or PIA Approval, Rule .1709 of this Subchapter, or as otherwise directed by the LHD or Department as part of an enforcement action. The owner, manufacturer, or manufacturer's representative may also re-sample a system to verify or refute sample results. A new complete data set for re-sampling conducted within 30 days of receipt of a non-compliant data set may be substituted to demonstrate

compliance with the designed effluent quality standard in accordance with Table XXV of Rule .1201(a) of this Subchapter. All sample results collected shall be reported.

(e) The results of all sampling shall be reported by the Management Entity to the owner, LHD, Department, and the proprietary advanced pretreatment manufacturer.

(f) An individual advanced pretreatment system at a single site shall be considered compliant when the following conditions are met:

- (1) annual VIP specified in the RWTS or PIA Approval indicates that the results of the VIP meet the requirements specified in the RWTS or PIA Approval; and
- (2) the arithmetic mean for BOD₅, TSS, TKN, and TN and the geometric mean for Fecal Coliform from three or more consecutive sampling dates does not exceed the designated effluent standard in Table XXV in Rule .1201(a) of this Subchapter. A new complete data set for re-sampling conducted within 30 days of receipt of a non-compliant data set may be substituted to demonstrate compliance with the designed effluent quality standard in accordance with Table XXV of Rule .1201(a) of this Subchapter.

(g) Mass loading for BOD₅, TSS, or TN may be used to demonstrate site compliance with Subparagraph (f)(2) of this Rule for a wastewater system with a DDF less than or equal to 3,000 gpd. The mass loading to the wastewater system shall be based on site-specific water use data and effluent sampling results. At least one year of water use data shall be used in this calculation. The mass loading to the wastewater system shall be calculated as follows:

EML = Flow x EFF

AML = 0.6 x DDF x TS

If EML ≤ AML, the site is compliant

Where EML = effective mass loading

AML = allowable mass loading

Flow = average daily flow during the peak water use month or the average of the peak 30 consecutive day period during the prior year, in gpd

EFF = average of the results for the constituent from at least the two most recent complete data sets, in mg/L

TS = the effluent limit based on the constituent and effluent standard in mg/L, from Table XXV in Rule .1201(a) of this Subchapter

(h) The Management Entity may record daily wastewater flow and may sample influent to the advanced pretreatment system as needed to determine compliance with this Rule and OP conditions.

History Note: Authority G.S. 130A-335(e) and (f); Eff. Pending delayed effective date.

15A NCAC 18E .1303 OWNER RESPONSIBILITIES FOR WASTEWATER SYSTEM OPERATION AND MAINTENANCE

(a) Any person owning or controlling the property upon which a wastewater system is installed shall be responsible for the following items regarding the operation and maintenance of the system:

- (1) the wastewater system shall be operated and maintained to protect North Carolina ground and surface water quality standards and to prevent the following conditions:
 - (A) discharge of sewage or effluent to the surface of the ground, surface waters, or into groundwater at any time;
 - (B) back-up of sewage or effluent into the facility, building drains, collection system, freeboard volume of the tanks, or distribution system; or
 - (C) effluent within three inches of finished grade over one or more trenches based on two or more observations made not less than 24 hours apart, and greater than 24 hours after a rainfall event;
- (2) the system shall be considered to be malfunctioning when one or more of the conditions of Subparagraph (a)(1) of this Rule occur or if it is necessary to remove the contents of the tank(s) at a frequency greater than once per month in order to prevent one or more of the conditions of Subparagraph (a)(1) of the Rule. The owner shall contact the LHD when the wastewater system is malfunctioning and implement remedies as directed by the LHD in accordance with Rule .1306 of this Section. If the system was permitted under an EOP or AOWE permit, the owner shall contact the PE or AOWE when the wastewater system is malfunctioning;
- (3) wastewater systems shall be inspected, and the entire contents of all septic tank compartments shall be removed whenever the depth of both the scum and sludge is found to be more than one-third of the liquid depth in any compartment. The effluent filter shall be rinsed to remove accumulated solids that can cause the wastewater to back up into the facility or clog the system, or replaced as needed;
- (4) residuals from the wastewater system shall be transported and disposed of in accordance with G.S. 130A, Article 9, and 15A NCAC 13B;
- (5) grease traps and grease tanks shall be pumped as needed to prevent discharge of FOG from the trap or tank to the next treatment component, but no less than yearly. Grease traps and grease tanks shall be maintained in accordance with Rule .0803(h) of this Subchapter and the owner shall maintain a contract with a septage management firm. All pumping records shall be maintained on-site;

- (6) site-specific vegetation shall be established and maintained over the wastewater system and repair area to stabilize slope and control erosion;
- (7) activities that result in soil disturbance or soil compaction shall not occur over the initial and repair dispersal field area;
- (8) maintaining the wastewater system in accordance with Rule .1301(a) of this Section; and
- (9) turning the effluent flow diversion valve for alternating dual dispersal fields once a year or as specified by the PE, AOWE, or authorized designer.

(b) A contract for operation and maintenance of a wastewater system required to be maintained by a Management Entity, as specified in Table XXXII of Rule .1301(b) of this Section, shall be in effect for as long as the system is in use. A contract shall be executed between the system owner and a Management Entity prior to the issuance of an OP, unless the system owner and Management Entity are the same. The contract shall include:

- (1) specific requirements for operation, maintenance, and associated reporting;
- (2) responsibilities of the owner;
- (3) responsibilities of the Management Entity;
- (4) provisions for notification to the LHD by the owner and Management Entity upon termination of the contract; and
- (5) other requirements for the continued performance of the system, as determined by the Management Entity, LHD, and Department, as applicable.

History Note: Authority G.S. 130A-335(e) and (f);
Eff. Pending delayed effective date.

15A NCAC 18E .1304 MANAGEMENT ENTITY RESPONSIBILITIES FOR WASTEWATER SYSTEM OPERATION AND MAINTENANCE

- (a) When a Management Entity is required to be or to employ a certified operator as specified in Table XXXII in Rule .1301(b) of this Section, the operator shall, at a minimum, be certified as a subsurface operator in accordance with G.S. 90A, Article 3, and 15A NCAC 08G. Operators of systems classified as Type V or VI in Table XXXII in Rule .1301(b) of this Section may be required to have additional certifications by the Department in accordance with Rule .1301(d) of this Section and upon consultation with the Water Pollution Control Systems Operator Certification Commission, if required by G.S. 90A, Article 3.
- (b) The Management Entity shall inspect the wastewater system at the frequency specified in Table XXXII in Rule .1301(b) of this Section or in accordance with the RWTS or PIA Approval.
- (c) The Management Entity shall provide a copy of the inspection report, including results of the VIP with respect to compliance criteria as specified in the RWTS or PIA Approval and effluent sampling, to the owner, LHD, and manufacturer within 30 days of the system inspection.
- (d) When inspections indicate the need for system repairs, the Management Entity shall notify the LHD within 48 hours.

(e) The Management Entity shall be responsible for conducting routine maintenance procedures and monitoring requirements in accordance with the conditions of the OP and the contract.

(f) The Management Entity shall notify the LHD and the proprietary advanced pretreatment manufacturer, as applicable, when the owner or the Management Entity chooses not to renew an operation and maintenance contract executed in accordance with this Rule.

(g) The Management Entity shall submit the inspection report to the Department centralized data management system.

History Note: Authority G.S. 130A-335(e) and (f);
Eff. Pending Legislative Review.

15A NCAC 18E .1305 LOCAL HEALTH DEPARTMENT RESPONSIBILITIES FOR WASTEWATER SYSTEM OPERATION AND MAINTENANCE

(a) No IP, CA, or OP shall be issued for Type IV, V, or VI systems, unless a Management Entity of the type specified in Table XXXII in Rule .1301(b) of this Section is authorized and operational to carry out operation and maintenance requirements for the wastewater system as set forth in these Rules and the OP.

(b) An LHD may be the Management Entity only for systems classified Type IV, Va, Vb, Vc, Vd, Ve, Vf, and Vg and only when authorized by the local board of health.

(c) An authorized agent shall review the performance and inspection reports submitted in accordance with Rule .1304(c) of this Section and perform an on-site compliance inspection of the systems as required in Table XXXII in Rule .1301(b) of this Section. More frequent inspections may be performed by an authorized agent if requested by the system owner or the Management Entity, or specified in the PIA approval or OP.

(d) The LHD may provide the owner with the option for a private Management Entity, who is not the owner, to perform the on-site compliance inspection for Type IIIb and IIIh systems in accordance with Table XXXII in Rule .1301(b) of this Section instead of the LHD. The Management Entity shall provide to the owner and LHD a written compliance inspection report every five years. The report shall document that the wastewater system is compliant with this Subchapter, the performance standards in the OP or ATO, and conditions in the OP or the ATO.

(e) The authorized agent shall issue a written notice of non-compliance to the owner when the wastewater system is not malfunctioning in accordance with Rule .1303(a)(2) of this Section, but non-compliant with this Subchapter, the performance standards in the OP or ATO, or conditions in the OP or the ATO.

(f) The LHD shall investigate malfunctions in accordance with Rule .1306 of this Section.

History Note: Authority G.S. 130A-335(e) and (f);
Eff. Pending Legislative Review.

15A NCAC 18E .1306 SYSTEM MALFUNCTION AND REPAIR

(a) This Rule identifies the responsibilities of the LHD and the owner when a system is malfunctioning or otherwise determined to require repair.

(b) The LHD or Department shall issue a written NOV to the wastewater system owner in accordance with Rule .0302(c) of this Subchapter.

(c) The wastewater system shall be repaired within 30 days of the date on the NOV issued by the Department or LHD unless the NOV specifies a different time frame for the repair based on site-specific factors, such as the severity of the repair, wastewater backing up into a restaurant or discharging into SA waters, or adverse weather that delays construction of the repair. The following steps shall be followed to remedy a malfunctioning wastewater system:

- (1) The owner shall apply for a repair in accordance with Section .0200 of this Subchapter, unless only maintenance is required to bring the wastewater system into compliance.
- (2) After investigating the malfunction, the Department or LHD shall require that the wastewater system be repaired to correct the malfunction and eliminate any public health hazard. The wastewater system shall be repaired so that it meets G.S. 130A, Article 11 and this Subchapter. When it is not possible to bring the wastewater system into compliance with G.S. 130A, Article 11 and this Subchapter, the authorized agent shall use their best professional judgement, based on education and experience, to require a repair that should enable the wastewater system to function in a manner that complies with Rule .1303(a)(1) of this Section. The LHD shall document that the repair uses best professional judgement on the CA and OP.
- (3) When necessary to protect the public health, the Department or LHD shall require the owner of a malfunctioning system to pump and haul sewage to an approved wastewater system during the time needed to repair the wastewater system. This requirement shall be included in the NOV issued to the owner.

(d) If no repair options are available for the wastewater system in accordance with Paragraph (c), the LHD may issue a CA and OP for a permanent pump and haul system. The applicant shall submit an application to the LHD for the permanent pump and haul system. The application and permanent pump and haul system shall meet the following conditions:

- (1) The owner shall provide the following information as part of the application:
 - (A) a report that the system cannot be repaired by connection to a system approved under this Section or a system approved under G.S. 143, Article 21;
 - (B) a contract with a septage management firm permitted in accordance with G.S. 130A-291.1 to pump and haul the sewage;
 - (C) documentation that the wastewater system has been approved under this Subchapter or in accordance with 15A

NCAC 02H or 15A NCAC 02T to accept sewage; and

- (D) documentation from the facility receiving the sewage confirming that the facility has the capacity for the additional sewage and agrees to accept it.
- (2) The LHD shall design the pump and haul system based on the following criteria:
 - (A) tankage with a minimum of five days storage capacity and two days emergency storage capacity;
 - (B) high-water alarm set to go off with two days of emergency storage capacity left in the tankage; and
 - (C) telemetry unit that contacts the septage management firm.
- (3) The owner of a non-residential facility may request a reduction in the five day storage requirement, if the owner can document the ability to have the tanks pumped out with only 24 hours' notice. The total tank capacity shall never be less than the minimum required septic tank and pump tank capacity required by Section .0800 of this Subchapter.
- (4) Tanks shall be approved by the LHD for permanent pump and haul if shown to be structurally sound, watertight, and of a capacity needed based on the DDF and projected pumping frequency. Existing tanks may be used for permanent pump and haul if the tanks meet the requirements in this Subparagraph.
- (5) Prior to issuing the OP, the LHD shall receive from the owner a contract with a Management Entity for inspection and maintenance of the system.
- (6) A non-transferrable OP, valid for a period of five years, shall be issued to the pump and haul system owner.

(e) A malfunctioning wastewater system that has been disconnected from the facility for any reason shall be repaired prior to reuse.

(f) If the dispersal field in a malfunctioning wastewater system is found to be nonrepairable, the dispersal field shall not be used. The system owner shall be required to abandon the system to protect the public health and safety as specified in Rule .1307 of this Section.

(g) For facilities with a malfunctioning wastewater system installed prior to July 1, 1977, the authorized agent shall use their best professional judgement, based on education and experience, to repair the system.

(h) For facilities with a wastewater disposal method installed prior to July 1, 1977, which has been in continual use and acts as the sole source of wastewater disposal, the authorized agent shall use their best professional judgement, based on education and experience, to repair the wastewater disposal method.

(i) Legal remedies may be pursued, in accordance with G.S. 130A, Article 1, Part 2, after an authorized agent has observed and

documented one or more malfunctioning conditions and issued an NOV.

*History Note: Authority G.S. 130A-291.1; 130A-291.2; 130A-335(e) and (f);
Eff. Pending Legislative Review.*

**15A NCAC 18E .1307 WASTEWATER SYSTEM
ABANDONMENT**

If a wastewater system is abandoned or is otherwise no longer in use, the tanks shall:

- (1) have the contents removed by a septage management firm permitted in accordance with G.S. 130A-291.1;
- (2) be removed, collapsed, or otherwise rendered unable to retain liquid, and backfilled; and
- (3) have the electrical components de-energized and above ground components removed.

*History Note: Authority G.S. 130A-335;
Eff. Pending delayed effective date.*

**15A NCAC 18E .1401 PLANS FOR PREFABRICATED
TANKS**

(a) All tanks proposed for use in a wastewater system described in this Subchapter shall be approved by the Department. Tanks shall be approved as follows:

- (1) The tank design shall be approved based on the plans and specifications submitted in accordance with Subparagraphs (c)(1) through (c)(8) of this Rule. After the tank design has been approved, a temporary identification number shall be assigned for tracking purposes.
- (2) The tank shall pass a structural load test as described in Subparagraph (c)(9) of this Rule. The test shall be performed and certified by a third-party. The test shall be observed in person by the Department, LHD, PE, or a third-party testing organization. If the tank passes the structural load test, then the tank shall be assigned a permanent identification number. Tanks shall not be sold for use in a wastewater system without a permanent identification number.
- (3) The structural design verification shall be required for new tanks, modifications to tank design, and when tank forms are sold to a different tank manufacturer.
- (4) Pump tanks may be tested and approved with a baffle wall, without a baffle wall, or with a partial baffle wall. The most limiting design produced by the manufacturer shall be tested.

(b) The tank manufacturer shall submit three copies of the plans and specifications for the initial design of each tank to the Department for approval.

(c) Plans and specifications for tanks with a total liquid capacity less than or equal to 4,000 gallons shall include the following:

- (1) all tank dimensions in inches, including:

- (A) top, bottom, and sidewall thickness and variations;
 - (B) minimum and maximum dimensions on tanks with tapered or ribbed walls;
 - (C) baffle wall location and minimum and maximum thickness and variations;
 - (D) location and dimension of all openings in baffle wall for gas and liquid movement; and
 - (E) dimensions of all compartments;
- (2) material type and strength, including reinforcement material and location, as applicable, specified by the manufacturer;
 - (3) method for fastening the baffle wall to the tank interior;
 - (4) liquid depth and operating capacity in gallons;
 - (5) pipe penetration boot locations and pipe penetration boots approved in accordance with Rule .1404 of this Section;
 - (6) methods and material for sealing sections and forming watertight joints in tanks with multiple sections;
 - (7) drawings showing access openings, tank lids, access manhole risers, and other proposed appurtenances to the tank;
 - (8) tank manufacturer and PE requirements for installation, including bedding, additional sealing methods, and leak testing procedures; and
 - (9) documentation of proof of design. The tank shall withstand a minimum uniform live load of 150 pounds per square foot in addition to the dead weight of the material and all geostatic and hydrostatic loads to which an underground tank is normally subjected, such as active soil pressure on tank walls and the uplifting force of groundwater. The documentation shall be one of the following:
 - (A) a vacuum test of 4.24 inches of mercury held for five minutes meeting the following criteria:
 - (i) no loss in vacuum greater than two-fifths of an inch of mercury during the test;
 - (ii) no deformation or deflection greater than two percent along any dimension unless shown by measurement or calculation to result in a reduction in volume no greater than two percent;
 - (iii) no distortion of the access openings occurs during the testing that prevents removal and replacement of the access opening lids at the conclusion of the test; and
 - (iv) for tanks constructed with integral risers, no distortion

of the riser during the testing and the riser lid can be removed and replaced at the conclusion of the test;

- (B) calculations from a PE that the tank can withstand the loading requirements of this Subparagraph and the performance requirements of Part (A) of this Subparagraph shall be met; or
- (C) the tank shall be either IAPMO/ANSI Z1000 or CSA B66 certified and the tank manufacturer enrolled in a third-party quality assurance and quality control program, which includes material testing and unannounced annual manufacturing facility audits.

(d) Plans and specifications for tanks with a total liquid capacity greater than 4,000 gallons and all tanks designed for traffic loads shall be designed by a PE in accordance with ASTM C890. Plans shall show the design, including all the information listed in Paragraph (c) of this Rule and engineering calculations showing the minimum and maximum soil burial depth, water table, and traffic load the tank is designed to support.

(e) Plans for tanks not proposed for general use and issued an identification number under this Section shall meet the minimum requirements of this Section and shall be approved by the Department.

(f) The Department or LHD may inspect approved tanks at the place of manufacture, the inventoried sites of the distributors, or at the installation of the tank in a wastewater system for compliance with the approved plans and specifications.

(g) Tanks found to be out of compliance shall be brought back into compliance by the tank manufacturer or the installer as directed by the Department or LHD. Tanks that are not or cannot be brought into compliance shall not be used in a wastewater system and the imprints identified in Rule .1402(d)(15) or (e)(8) of this Section shall be permanently marked over by the authorized agent.

History Note: Authority G.S. 130A-335(e), (f), and (f1); Eff. Pending delayed effective date.

15A NCAC 18E .1402 TANK DESIGN AND CONSTRUCTION

(a) Tanks shall be watertight, structurally sound, and not subject to corrosion or decay.

(b) Septic tanks and grease tanks shall have effluent filters and access devices approved in accordance with Rule .1404 of this Section. An effluent filter and support case shall be installed level in the outlet end of the septic tank or grease tank and shall meet the following criteria:

- (1) solvent welded to a minimum of three-inch PVC Schedule 40 outlet pipe;
- (2) be installed in accordance with filter manufacturer's specifications and effluent filter approval; and
- (3) be accessible and removable without entering the septic tank or grease tank.

(c) Septic tanks installed where the access openings on the top of the tank are deeper than six inches below finished grade shall have an access riser over each compartment with a cover that extends to within six inches of the finished grade. The opening of the access riser shall be large enough to accommodate the removal of the septic tank lid. When the top of the septic tank or access riser is below the finished grade, the location of the tank shall be visible at finished grade. When access risers are used they shall be installed in accordance with the Rules of this Subchapter, the manufacturer's specifications, and the Department's approval.

(d) Septic tanks shall meet the following minimum design standards:

- (1) a minimum liquid depth of 36 inches;
- (2) a minimum of nine inches freeboard, measured as the air space between the top of the liquid and the bottom of the tank top. Venting of the tank shall be provided to prevent the buildup of gases;
- (3) the approved septic tank capacity shall be determined as the liquid volume below the outlet invert to the bottom of the tank;
- (4) the length of the tank shall be a minimum of twice as long as the width, as measured by the longest axis and widest axis based on the internal tank dimensions;
- (5) there shall be three inlet openings in the tank, one on the tank end and one on each sidewall of the inlet end of the tank;
- (6) outlet openings shall have a cast or manufactured penetration point and include a watertight, sealed, non-corrodible, and flexible connective sleeve. A flexible connective sleeve shall be able to bend without breaking. The connective sleeve shall meet ASTM C1644 for precast concrete tanks or ASTM C1644, C923, or C564 for thermoplastic or glass-fiber-reinforced polyester tanks and be approved by the Department if it meets the requirements of this Subparagraph and Rule .1404 of this Section;
- (7) inlet penetrations shall be greater than or equal to four inches in diameter and outlet penetrations shall be greater than or equal to three inches in diameter;
- (8) there shall be no openings below the septic tank operating liquid level;
- (9) the outlet shall be through an effluent filter approved in accordance with Rule .1404 of this Section, and secured in place in an effluent filter support case. The effluent filter case inlet shall extend down to between 25 and 50 percent of the liquid depth measured from the top of the liquid level. Other methods of supporting the effluent filter case and for making pipe penetrations shall be approved by the Department on a case-by-case basis upon a showing that the performance is identical to those designed in accordance with this Rule;

- (10) the invert of the outlet shall be a minimum of two inches lower in elevation than the invert of the inlet;
 - (11) all septic tanks shall be designed with a partition so that the tank contains two compartments. The following conditions shall be met:
 - (A) the partition shall be located at a point not less than two-thirds or more than three-fourths the length of the tank from the inlet end;
 - (B) the partition shall be designed, manufactured, installed, and maintained to remain in position when subjected to a liquid capacity in one compartment that corresponds with the lowermost elevation of the water passage slot or holes;
 - (C) the partition shall be designed to create a gas passage, not less than the area of the inlet pipe, and the passage shall not extend lower than seven inches from the bottom side of the tank top;
 - (D) the top and bottom sections of the partition shall be designed to create a water passage slot four inches high for the full interior width of the tank, or a minimum of two four- or five-inch openings, or one four- or five-inch opening per 30 horizontal linear inches of baffle wall, whichever is greater, may be designed into the partition instead of the four-inch slot;
 - (E) the partition shall be designed, manufactured, and installed to create an average opening not greater than one-half inch between the partition and the tank wall below the liquid level, with a tolerance of one-half inch;
 - (F) the entire liquid passage in the partition wall shall be located between 25 and 50 percent of the liquid depth of the tank, as measured from the top of the liquid level; and
 - (G) other methods for designing the partition shall be approved by the Department on a case-by-case basis upon a showing that the performance is identical to those designed in accordance with this Rule;
 - (12) access openings shall be provided in the top of the tank, located over each compartment, and have a minimum opening of 15 inches by 15 inches or 17 inches in diameter. The opening shall allow for maintenance and removal of internal devices of the septic tank;
 - (13) access risers and covers shall be designed and manufactured to prevent surface water infiltration;
 - (14) tank lids and riser covers shall be locked, secured with fasteners, or weigh a minimum of 40 pounds, but no more than 80 pounds; and
 - (15) all septic tanks shall bear an imprint or embossment identifying the manufacturer, the septic tank serial number assigned to the manufacturer's plans and specifications approved by the Department, and the liquid or working capacity of the tanks. The imprint or embossment shall be located to the right of the blockout made for the outlet pipe on the top or end of outlet end of the tank.
- (e) Pump tanks shall meet the design requirements of Paragraph (d) of this Rule with the following modifications:
- (1) a watertight access riser with removable cover shall be located over the pump. The access riser shall extend to a minimum of six inches above finished grade and shall be designed and maintained to prevent surface water infiltration;
 - (2) the access opening over the pump shall have a minimum opening of 24 inches in diameter or equidimensional opening;
 - (3) when two or more pumps are required in accordance with Rule .1101(b) of this Subchapter the access openings shall be sized to allow for pump removal, operation, and maintenance;
 - (4) tanks may be designed with a single compartment. If a partition is provided, the partition shall be designed to contain a minimum of two four-inch diameter circular openings, or openings with an equivalent area, located no more than 12 inches above the tank bottom;
 - (5) there shall be no requirement as to tank length, width, or shape, provided the tank satisfies all other requirements of the rules of this Section;
 - (6) the invert of the inlet openings shall be located within 12 inches of the tank top. No freeboard shall be required in the pump tank;
 - (7) tanks shall be vented if located more than 50 feet from the facility, and accessible for routine maintenance;
 - (8) all pump tanks shall bear an imprint or embossment identifying the manufacturer, the pump tank serial number assigned to the manufacturer's plans and specifications by the Department, and the liquid or working capacity of the tank. The imprint or embossment shall be located to the left of the blockout made for the outlet pipe on the top or end of outlet end of the tank; and
 - (9) the pump tank working capacity shall be the entire internal tank volume.
- (f) Grease tanks shall be septic tanks approved in accordance with Paragraph (d) of this Rule with the following modifications:

- (1) the liquid passage between chambers shall be located between 40 and 60 percent of the operating liquid depth measured from the top of the liquid level. The liquid passage between chambers may be made using a sanitary tee extending down between 40 and 60 percent of the liquid depth measured from the top of the liquid level;
 - (2) when sanitary tees are used as the liquid passage through an interior compartment partition, an access opening and riser to grade over the tees shall be provided for servicing and routine maintenance;
 - (3) when two or more tanks are used in series, a sanitary tee shall be provided in the outlet end of each interconnected tank extending down between 40 and 60 percent of the liquid depth;
 - (4) the final chamber shall contain an effluent filter and support case extending down between 40 and 60 percent of the liquid depth. The effluent filter shall be approved by the Department for use in grease tanks. The grease rated effluent filter shall be sized for the DDF and have openings of 1/32-inch or less; and
 - (5) access risers shall extend to finished grade and be capped with cast iron manhole rings and covers. Lockable aluminum hatches may be substituted for cast iron manhole rings and covers in non-traffic areas. Aluminum hatches or manhole rings and covers shall be designed and maintained to prevent surface water infiltration. Locks shall be the responsibility of the person owning or controlling the system.
- (g) Siphon tanks shall meet the design requirements of Paragraph (e) of this Rule and shall:
- (1) be designed in accordance with the construction requirements of this Rule and Rule .0804 of this Subchapter;
 - (2) provide three inches of freeboard;
 - (3) have the invert of the inlet pipe three inches above the siphon trip level; and
 - (4) have a watertight access opening over each siphon with an opening of 24 inches, extending to finished grade, and designed to prevent surface water inflow.

History Note: Authority G.S. 130A-335(e), (f), and (f1); 130A-335.1;

Eff. Pending delayed effective date.

15A NCAC 18E .1403 TANK MATERIAL REQUIREMENTS

- (a) Tanks approved in accordance with this Section shall be constructed of materials capable of resisting corrosion from sewage and sewage gases, structurally sound, and watertight.
- (b) Reinforced precast concrete tanks shall meet the following minimum material and construction requirements:
- (1) the ends and sides of the tank shall have a minimum thickness of two and one-half inches.

- (2) The top and bottom of the tanks shall be a minimum of three inches thick;
 - (2) the top, bottom, end and sides of the concrete tank and tank lid shall be reinforced by using a minimum reinforcing of six-inch by six-inch No. 10 gage welded steel reinforcing wire. Reinforcement shall be placed to maximize the structural integrity of the tank;
 - (3) alternative reinforcement designs may be used when they perform in a manner equal to or more effective than the reinforcement design described in Subparagraph (2) of this Paragraph;
 - (4) when the concrete tank, tank lid, riser, or riser cover are subjected to vehicular traffic, the tank shall be designed by a PE to handle the traffic load in accordance with ASTM C890;
 - (5) any tank installed deeper than three feet shall be designed by a PE for the proposed tank burial depth. The tank design shall be submitted to the Department for review. The design shall be approved when documentation is provided to show that the proposed tank design can withstand all active and passive loads on the tank, including the additional soil weight from a deeper burial depth.
 - (6) the concrete shall achieve a minimum 28-day compressive strength of 4,000 psi. The concrete shall meet a compressive strength of 3,500 psi prior to removal of the tank from the place of manufacture. It shall be the responsibility of the manufacturer to certify that the tank meets this condition;
 - (7) tanks manufactured in multiple sections shall be joined and sealed at the joint by using butyl rubber or other pliable sealant meeting ASTM C990 or other material that has been approved by the Department when documentation has been provided to show that the material meets all performance requirements of ASTM C990. Documentation shall also be provided to the Department to show that the material is waterproof and corrosion resistant; and
 - (8) tank lids and riser covers shall have a durable handle made of corrosion-resistant materials and capable of pull capacity sufficient for the weight of the lid or cover.
- (c) Thermoplastic tank materials shall conform with IAPMO/ANSI Z1000 or CSA B66 requirements.
- (d) Glass-fiber-reinforced polyester tanks shall meet the following requirements:
- (1) top, bottom, ends, and sides of the tank shall have a minimum thickness of one-fifth inches. The baffle wall shall be a minimum of 3/16-inches thick;
 - (2) material and laminate requirements specified in IAPMO/ANSI Z1000 or CSA B66 for glass-fiber-reinforced polyester tanks; and

- (3) enrolled in a third-party quality assurance and quality control program, which include material testing and unannounced annual audits.

(e) Cast or manufactured in place tanks shall be designed by a PE, if required by G.S. 89C, and approved by the Department when the tank design, construction, and materials meet the criteria set forth in this Rule and Rule .1402 of this Section.

History Note: Authority G.S. 130A-335(e), (f), and (f1); Eff. Pending delayed effective date.

15A NCAC 18E .1404 PLANS AND SPECIFICATIONS FOR RISERS, EFFLUENT FILTERS, AND PIPE PENETRATION BOOTS

(a) All risers, effluent filters, and pipe penetration boots proposed for use in a wastewater system shall be approved by the Department prior to being offered for sale or use in North Carolina.

(b) Three copies of the plans and specifications for the initial design of each riser, effluent filter, or pipe penetration boot shall be submitted to the Department. Plans for risers, effluent filters, and pipe penetration boots shall be approved by the Department and an approval letter issued when the design is found to comply with this Section. All changes or modifications to risers, effluent filters, or pipe penetration boots shall be approved by the Department when the changes or modifications comply with the requirements of this Rule.

(c) Risers and riser lids shall be able to withstand a minimum uniform live loading of 300 pounds per square foot or a minimum 1,500 pound load applied in a 10 inch by 10 inch area centered on the lid, in addition to all loads to which a riser is normally subjected, such as dead weight of the material and soil cover and active soil pressure on riser walls.

(d) Riser plans and specifications submitted to the Department for review and approval shall show the design of the riser and include the following information:

- (1) manufacturer's name, mailing address, phone and fax numbers, email address, and name of manufacturer's point of contact;
- (2) physical dimensions of the riser and riser cover, including wall thickness, internal diameter, proposed casting or installation details and methods, and pipe penetrations;
- (3) material type and strength, including reinforcement material and location as required;
- (4) documentation from a third-party showing that the riser meets the load requirements specified in Paragraph (c) of this Rule;
- (5) plans for septic tank risers of a secondary lid, concrete plug, or other safety device that shall be provided inside the riser for security and to prevent accidental entry;
- (6) plans for pump tank risers of primary and secondary safety mechanisms that shall be provided with the riser. The primary safety mechanism shall be a locking riser lid, ring and lock, or other riser lid locking or tamper-resistant mechanism. The secondary safety

mechanism shall be a secondary lid, concrete plug, or other safety device to be provided inside the pump tank riser; and

- (7) specifications for application, installation, operation, and maintenance for both new and retrofit applications for single and multiple riser sections.

(e) Effluent filter plans and specifications submitted to the Department for review and approval shall show the design of the effluent filter and include the following information:

- (1) manufacturer's name, address, phone and fax numbers, and contact name;
- (2) documentation and a written statement from the manufacturer that the effluent filter is designed, constructed, and performs in compliance with G.S. 130A-335.1(a);
- (3) capacity and wastewater strength for all models of proposed filters to be approved; and
- (4) specifications for application, installation, operation, and maintenance.

(f) Pipe penetration boot plans and specifications submitted to the Department for review and approval shall show the design of the pipe penetration boot and include the following information:

- (1) manufacturer's name, address, phone and fax numbers, and contact name;
- (2) design specifications and materials used in the manufacture of pipe penetration boot components;
- (3) applicable testing results from third-party verification showing pull and flexibility testing;
- (4) documentation of a watertight seal around the piping and any component or device needed to ensure the seal, such as non-corrodible adjustable bands;
- (5) documentation that the pipe penetration boot meets the requirements of ASTM C1644 for precast concrete tanks or ASTM C1644, C923, or C564 for thermoplastic or glass-fiber-reinforced polyester tanks; and
- (6) specifications for application, installation, operation, and maintenance of the pipe penetration boot.

(g) Plans for prefabricated risers, effluent filters, and pipe penetration boots, other than those approved for general use and issued an approval letter under this Rule, shall be considered for approval on a case-by-case basis. The riser, effluent filter, or pipe penetration boot shall be approved if it is determined that it meets the requirements of this Rule based on information provided by the manufacturer to the Department.

History Note: Authority G.S. 130A-335(e), (f), and (f1); 130A-335.1;

Eff. Pending delayed effective date.

15A NCAC 18E .1405 RISERS, EFFLUENT FILTERS, AND PIPE PENETRATION BOOTS APPROVAL RENEWAL

(a) All riser, effluent filter, and pipe penetration boot approvals shall expire on December 31 of each year. Riser, effluent filter,

and pipe penetration boot manufacturers who wish to continue product approval shall submit annually a proprietary product renewal form provided by the Department no later than November 30 of each year.

(b) The approval renewal form shall include the following elements:

- (1) manufacturer's name, mailing address, phone and fax numbers, email address, and manufacturer's point of contact;
- (2) model number(s) approved; and
- (3) a notarized statement that the product has not changed from the previous year without prior approval from the Department.

(c) The Department shall notify the manufacturer of the pending riser, effluent filter, and pipe penetration boot Approval expiration in writing no later than September 30 of each year. The notification shall include information on how to request riser, effluent filter, and pipe penetration boot renewal.

(d) The riser, effluent filter, and pipe penetration boot approval shall be deemed renewed upon receipt of a renewal form that contains all of the elements set out in Paragraph (b) of this Rule.

History Note: Authority G.S. 130A-335(e) and (f); 130A-343; Eff. Pending delayed effective date.

15A NCAC 18E .1406 MODIFICATION, SUSPENSION, AND REVOCATION OF APPROVALS

The Department shall modify, suspend, or revoke the approval for tanks, risers, effluent filters, or pipe penetration boots upon a finding that:

- (1) the approval is determined to be based on false, incomplete, or misleading information;
- (2) the product has been altered;
- (3) the product fails to perform in compliance with performance standards established for the product in accordance with the rules of this Section; or
- (4) the product fails to meet conditions of its approval or comply with G.S. 130A, Article 11, Rule .1405 of this Section, this Subchapter, or conditions of the approval.

History Note: Authority G.S. 130A-335(e), (f), and (f1); Eff. Pending delayed effective date.

15A NCAC 18E .1501 GENERAL

(a) RWTS that comply with NSF International Standard 40 for Class I residential wastewater treatment systems shall be designed, constructed, and installed in accordance with this Section to serve facilities with a DDF less than or equal to 1,500 gpd.

(b) RWTS shall only be used with DSE.

(c) RWTS shall bear one of the following to certify that the product is in accordance with NSF/ANSI Standard 40:

- (1) the NSF mark and the NSF listed model number; or
- (2) the certification mark and listed model number of a third-party certification program accredited

by ANSI to certify RWTS in accordance with NSF/ANSI Standard 40.

(d) For approval of an RWTS as a PIA System, a manufacturer shall apply in accordance with Section .1700 of this Subchapter.

History Note: Authority G.S. 130A-342; Eff. Pending Legislative Review.

15A NCAC 18E .1502 APPLICATION

An application shall be submitted for RWTS approval in writing to the Department and shall include the following:

- (1) manufacturer's name, mailing address, phone number, email address, plant location(s), and contact information for distributors;
- (2) verification of NSF/ANSI Standard 40 Class I system approval and listing by NSF International or other ANSI-accredited third-party certification program;
- (3) manufacturer's identifying name or logo, listed model number(s) and treatment capacity in gpd to be imprinted on unit;
- (4) three copies of plans and specifications, including information required to evaluate any tanks as required in accordance with Rule .1401 of this Subchapter; and
- (5) fee payment as required by G.S. 130A-343(k)(6), by corporate check, money order or cashier's check made payable to: North Carolina On-Site Water Protection Account or North Carolina OSWW System Account, and mailed to the Department.

History Note: Authority G.S. 130A-342; Eff. Pending Legislative Review.

15A NCAC 18E .1503 DESIGN AND CONSTRUCTION STANDARDS

RWTS shall meet the following design and construction standards:

- (1) No blockouts or openings shall be permitted below the liquid level of the RWTS.
- (2) RWTS shall be watertight, corrosion resistant structures, with all components requiring maintenance accessible to the Management Entity. Access openings shall be provided in the RWTS top. Access shall be provided for:
 - (a) cleaning or rodding out the inlet pipe;
 - (b) cleaning or clearing the air or gas passage space above any partition;
 - (c) pumping of each compartment required to be pumped;
 - (d) sampling the effluent; and
 - (e) repairing and maintaining any system components.
- (3) Tanks used in RWTS designed to hold sewage or effluent shall comply with all tank requirements in accordance with Section .1400 of this Subchapter.

- (4) RWTS shall bear an imprint identifying the manufacturer, the RWTS serial number assigned to the manufacturer's model approved by the Department, and the liquid or working capacity of the unit. The imprint shall be located on the outlet end of the tank within 24 inches of the top of the tank.
- (5) The design, construction, and operation of RWTS shall prevent bypass of wastewater.
- (6) The manufacturer shall ensure that the system can be sampled in compliance with 40 CFR 136 and shall specify the recommended method for effluent sampling.
- (7) Control panels provided by the manufacturer shall comply with the requirements for control panels in accordance with Rule .1103 of this Subchapter.
- (8) The RWTS shall have an alarm device or devices to warn the user or Management Entity of a unit malfunction or a high-water condition in accordance with Rule .1103 of this Subchapter.
- (9) The control panel shall include a method to automatically measure and record daily wastewater flow dispersed to the dispersal field in accordance with Rule .1702(a)(2)(I) of this Subchapter.
- (10) The blower location shall be shown on the plans and detail proposed corrosion-resistant blower enclosures, if applicable.
- (11) A settling tank shall be required prior to or as an integral part of the design of the RWTS. The liquid capacity of the settling tank shall be a minimum of half of the DDF of the RWTS, or as otherwise specified by the manufacturer, whichever is larger. The settling tank may either be an integral chamber of the RWTS tank, a septic tank approved in accordance with Section .1400 of this Subchapter, or another tank designed for an individual system and approved by the Department as a part of the plans for the RWTS.

*History Note: Authority G.S. 130A-342;
Eff. Pending delayed effective date.*

15A NCAC 18E .1504 SAMPLING REQUIREMENTS FOR RESIDENTIAL WASTEWATER TREATMENT SYSTEMS

Effluent from an approved RWTS shall be grab or 24-hour composite sampled annually for all effluent standards listed in Table XXV of Rule .1201(a) of this Subchapter for NSF/ANSI 40 systems, unless adjusted sampling requirements have been requested and granted in accordance with Rules .1301 and .1709 of this Subchapter.

*History Note: Authority G.S. 130A-342;
Eff. Pending Legislative Review.*

15A NCAC 18E .1505 RESIDENTIAL WASTEWATER TREATMENT SYSTEM APPROVAL RENEWAL

(a) All RWTS Approvals shall expire on December 31 of each year. RWTS manufacturers who wish to continue product approval shall submit annually a proprietary product renewal form provided by the Department no later than November 30 of each year.

(b) The renewal form shall include the following updated elements:

- (1) manufacturers' name, mailing address, phone and fax numbers, email address, and manufacturer's point of contact;
- (2) model number(s) approved;
- (3) a notarized statement that the product has not changed from the previous year without prior approval from the Department; and
- (4) verification of the manufacturer's continued certification and listing by a nationally recognized certification body, including compliance with NSF/ANSI Standard 40.

(c) The Department shall notify the manufacturer of the pending RWTS Approval expiration in writing no later than September 30 of each year. The notification shall include information on how to request RWTS Approval renewal.

(d) The RWTS approval shall be deemed renewed upon receipt of a renewal form that contains all of the elements set out in Paragraph (b) of this Rule.

(e) The Department shall suspend or revoke a system approval upon a finding that the system fails to perform in compliance with established effluent standards in Table XXV of Rule .1201(a) of this Subchapter or as provided for in Rule .1708(b) of this Subchapter.

*History Note: Authority G.S. 130A-342;
Eff. Pending Legislative Review.*

15A NCAC 18E .1601 GENERAL

(a) Drip dispersal systems for DDF less than or equal to 3,000 gpd shall be configured as a package and approved as a PIA System in accordance with Section .1700 of this Subchapter.

(b) The integrated system package shall be provided from a single source manufacturer or system integrator, comprised of catalogued standardized design components that have been coordinated and tested by the manufacturer or integrator. Components shall include:

- (1) dispersal field pump(s) and floats;
- (2) headworks assemblies;
- (3) dispersal field piping network, drip tubing, and appurtenances; and
- (4) system controls that provide for automatic filter cleaning, timed field dosing, field flushing, alarm notification, and recording of system operation.

(c) All components shall be integrated and designed to operate together. The system manufacturer or integrator shall provide system design information including:

- (1) head loss charts, tables, or formulas for various drip tubing lateral lengths during a dosing and flushing cycle;

- (2) minimum and maximum zone size and design;
 - (3) design plans and specifications for all components;
 - (4) installation specifications; and
 - (5) operation and maintenance manuals.
- (d) The system manufacturer shall provide support to train and authorize designers, installers, Management Entities, regulators, and users.
- (e) Drip dispersal system performance, siting, sizing, installation, operation, monitoring, maintenance and reporting requirements shall comply with Rules .0908, .1204, and Section .1300 of this Subchapter, as applicable, and the rules of this Section.
- (f) Drip dispersal systems that are not pre-engineered packages approved in accordance with Section .1700 of this Subchapter shall be designed on a project specific basis by a PE and shall comply with Rules .0908, .1204, and Section .1300 of this Subchapter, as applicable, and the rules of this Section.
- (g) Drip dispersal systems for DDF greater than 3,000 gpd shall comply with the design and performance requirements of this Section and shall be designed on a project specific basis by a PE. The system design shall be reviewed and approved by the Department in accordance with Rule .0302 of this Subchapter, unless the system is permitted in accordance with Rule .0207 of this Subchapter.

*History Note: Authority G.S. 130A-343;
Eff. Pending delayed effective date.*

15A NCAC 18E .1602 DESIGN AND CONSTRUCTION STANDARDS

- (a) Drip dispersal systems shall be preceded by pretreatment designed to comply with one of the following effluent standards: DSE, NSF/ANSI 40, TS-I, TS-II, or RCW as specified in Table III of Rule .0402(a), Table XXV of Rule .1201(a), or Rule .1002, of this Subchapter, as applicable.
- (b) The pump tank shall meet one of the following conditions:
- (1) a separate pump tank sized in accordance with Rule .0802 of this Subchapter; or
 - (2) a pump tank or compartment that is part of an advanced pretreatment system approved in accordance with Section .1700 of this Subchapter.

Pump tank operating levels shall not result in effluent backing up into a part of any pretreatment component designed for free gravity flow drainage. All pump submergence, dose volume, flow equalization, and emergency storage capacity requirements for the dosing system shall be met without interfering in the performance of the pretreatment components.

- (c) Pumps shall meet the following conditions:
- (1) have sufficient capacity to accommodate projected flow and total dynamic head conditions;
 - (2) deliver 15 to 60 psi of pressure during dosing events;
 - (3) provide minimum flow and pressure as required to backwash or forward flush headworks filter;
 - (4) maintain velocities of two feet per second at the distal end of each drip lateral line during automatic field flushing for DSE; and

- (5) maintain velocities of one foot per second at the distal end of each drip lateral line during automatic field flushing for advanced pretreatment effluent. Valving shall be provided to achieve flushing velocities of two feet per second at the distal end of each dripline with manual flushing.

Pump manufacturer requirements shall be followed to protect the pump intake from solids that may accumulate in the pump tank and for pump cooling during operation.

(d) Headworks assemblies shall contain filtration, totalizing flow meter, provisions for filter cleaning, and field flushing valves. Zone and isolation valves may be located in the headworks assembly or in the drip dispersal field. The headworks assemblies shall meet the following conditions:

- (1) filters shall remove particles greater than 115 microns at the peak operating flow rate, during network forward flushing. Filter number and size shall operate during both dosing and flushing conditions at a pump operating flow rate within the filter manufacturer's specified acceptable operating range;
- (2) filters for drip dispersal systems receiving DSE shall be configured with two independently backwashed disk filters;
- (3) for drip dispersal systems receiving advanced pretreatment effluent, single or multiple screens or disc filters may be used, designed to be cleaned by either backwashing or forward washing;
- (4) filter cleaning and field flushing residuals shall be returned to the head of the septic tank or settling tank prior to being returned to the pretreatment unit;
- (5) a totalizing flow meter shall be used to record total flow through the system. The meter shall also be used to monitor pump operating flow rates during dosing and flushing events; and
- (6) the headworks and associated components shall be in a separate enclosure that is freeze protected, UV and corrosion resistant, and accessible for routine operation, maintenance, monitoring and servicing. Design shall facilitate access to all internal components.

(e) The drip dispersal field shall consist of one or more separately dosed zones comprised of a supply and return manifold, manifold to lateral connections, laterals containing drip tubing with emitters, blank sections of tubing, and associated field appurtenances. Drip emitter and associated field appurtenances design shall meet the following:

- (1) drip emitters shall be designed and demonstrated to uniformly distribute wastewater effluent at a pre-determined rate when operated in accordance with manufacturer's specified pressure range for emitter operation. Emitter design coefficient of variation, Cv, shall be five percent or less. Emitters shall be designed to be self-cleaning and to resist root intrusion. Hydraulic design of

- a drip dispersal zone shall be based upon achieving no more than a 10 percent variation in flow from any emitter over the entire zone, regardless of emitter elevation or position along the lateral including any effluent redistribution due to drainback;
- (2) drip emitters shall be pressure compensating unless the manufacturer and designer provide documentation and calculations that a maximum 10 percent flow variance allowance can otherwise be achieved with non-pressure compensating emitters in a PIA Approval or on a project-specific basis. Drip tubing shall be marked to identify the emitter type and flow rate;
 - (3) drip emitters shall be spaced at uniform intervals along the tubing on 24-inch centers or less, and drip tubing with emitters shall be spaced an average of 24 inches on centers or less, in accordance with the proposed system design. Spacing shall be chosen as needed to ensure a sufficient number and density of emitters are present to achieve uniform distribution and instantaneous emitter loading rates that do not exceed the hydraulic capacity of the receiving infiltrative surfaces;
 - (4) connections between supply and return manifolds, and between runs or drip lateral sections installed at varying elevations or locations shall be made with solvent welded solid Schedule 40 PVC or flexible PVC;
 - (5) blanking sections of tubing without drip emitters shall be used where unfavorable site conditions, such as rocks, trees, or roots, are encountered along a drip run. Blanking tubing shall be a different color from the drip tubing or marked tubing of the same material, specification, and diameter as the connecting dripline, or flexible PVC;
 - (6) the manufacturer shall specify methods for drainback prevention; and
 - (7) field appurtenances shall include the following:
 - (A) air or vacuum relief valve at the highest elevation of each zone;
 - (B) cleanout at both ends of the supply and return manifolds;
 - (C) pressure monitoring fittings at the zone inlet and outlet points;
 - (D) pressure regulating valve where needed;
 - (E) for two or more zones: solenoid valves for each zone in the headworks or at the field, with an isolation valve on the supply line side; and a check valve with an isolation valve for each zone between the return manifold and the common return line; and
 - (F) valves, vents, cleanouts, and pressure monitoring fittings shall be provided with protective vaults or boxes that are decay resistant, ultraviolet rated, and accessible to the Management Entity from the ground surface.
- (f) An integrated controller shall be provided that meets the following conditions:
- (1) enable each drip dispersal field or zone to be time-dosed at equal intervals throughout the day, at a projected average flow, and to accommodate the DDF. The controller shall allow for adjustable and variable dose volumes between or among zones;
 - (2) adjust pump dosing and resting cycles to comply with system design and the projected range of operating conditions;
 - (3) provide a minimum dose volume per zone that is a minimum of five times the liquid capacity of the drip laterals or so 80 percent of each dose is delivered when the minimum pressure in the field network is 10 psi;
 - (4) provide for automatic cleaning of headworks filter(s);
 - (5) provide for adjustable automatic forward flushing, or field flushing, of the drip laterals with filtered effluent, at designer and manufacturer-specified frequency and duration;
 - (6) provide for monitoring of pump cycles and run times;
 - (7) include telemetry, in accordance with Rule .1103(c) of this Subchapter, for systems with a DDF greater than 1,500 gpd or as required in conjunction with an advanced pretreatment system;
 - (8) for systems with a DDF greater than 3,000 gpd the controller shall monitor flow volume to each zone and provide a flow variance indication when flow is plus or minus 20 percent of design. The telemetry system and alarm shall be designed to be functional during power outages;
 - (9) for multi-zone systems, the system controller shall provide for a zone to be rested or taken out of service manually. The controller shall have the capability to bypass zones and dose the next available zone with the normal dosing sequence continuing; and
 - (10) controls and floats are to be configured to ensure the minimum dose is available prior to initiating a dosing cycle and to ensure that a full dose is delivered.
- (g) Alternatives to the design criteria in this Rule may be proposed by the manufacturer during the PIA approval process or by a PE on a project-specific basis. These alternatives shall be reviewed and approved by the Department on a case-by-case basis when documentation is provided that the system will meet the performance standards of this Section.

*History Note: Authority G.S. 130A-343;
Eff. Pending Legislative Review.*

15A NCAC 18E .1603 DRIP DISPERSAL SYSTEM

TESTING

(a) The drip dispersal system field testing shall include system designer requirements and the following items:

- (1) all leaks in the pipe network or from emitters exhibiting emission rates greater than 20 percent of the emitter design flow rate shall be repaired; and
- (2) after the system is pressurized, dosing and flushing flow rates and pressures for each zone shall be measured and confirmed to be in accordance with the design parameters as follows:
 - (A) dosing pressure shall be measured at the lowest point in the supply manifold and highest point in the return manifold;
 - (B) minimum and maximum emitter pressure shall be verified to be within emitter design parameters;
 - (C) flushing pressures shall be measured at the ends of each supply and return manifold within each zone;
 - (D) dosing and flushing flow rates shall be measured with the flow meter after the system is pressurized; and
 - (E) all dosing and flushing flow rates and pressures shall be recorded.

(b) All components shall be demonstrated to be operable and in accordance with their design during the inspection by the LHD.

History Note: Authority G.S. 130A-343;

Eff. Pending delayed effective date.

15A NCAC 18E .1701 GENERAL

PIA Systems are any wastewater systems, system components, or devices as defined by G.S. 130-343(a) that are not described in other Sections of this Subchapter and systems for which any of the following are proposed:

- (1) reduced setbacks;
- (2) reduced depth to LC or vertical separation requirements; or
- (3) increased LTAR.

This Section shall provide for the approval and permitting of PIA Systems.

History Note: Authority G.S. 130A-335(e) and (f); 130A-343;

Eff. Pending Legislative Review.

15A NCAC 18E .1702 APPLICATION

(a) An application shall be submitted in writing to the Department for a PIA System. All applications shall include the information required by G.S. 130A-343(d), (f), (g), (g1), and (h), and the following, as applicable:

- (1) identification of the type of PIA Approval requested:
 - (A) Provisional;
 - (B) Innovative;
 - (C) Functionally Equivalent;

- (D) Accepted; or
- (E) a combination of any of the above;
- (2) plans and specifications for the system, including the following:
 - (A) description of the system;
 - (B) materials used in construction;
 - (C) proposed use of system;
 - (D) system design criteria;
 - (E) system design and drawings;
 - (F) installation manual;
 - (G) operation and maintenance manual, including a checklist for documentation of inspection and maintenance activities and the VIP;
 - (H) influent and effluent sampling locations for advanced pretreatment systems while the system remains in operation;
 - (I) method for automatically measuring and recording daily wastewater flow dispersed to the dispersal field for advanced pretreatment systems; and
 - (J) start-up requirements and information;
- (3) the following information:
 - (A) product specific literature;
 - (B) published research; and
 - (C) previous experience and performance with the system;
- (4) results of any available testing, research or monitoring of pilot systems or full-scale operational systems including:
 - (A) identification of the third-party research or testing organization that conducted the testing, research, or monitoring provided;
 - (B) documentation that the protocol or evaluation used in the testing, research, or monitoring is:
 - (i) established by a nationally recognized certification body;
 - (ii) a listed protocol that has been approved by the Department in accordance with G.S. 130A-343(d);
 - (iii) a comparable evaluation protocol used for system approval in other states. The comparable evaluation protocol shall include information on relevant conditions such as wastewater system design, soil types, climate, and hydrology and be reviewed by the Department; or
 - (iv) in accordance with an alternative performance evaluation protocol proposed

- by the manufacturer for approval;
- (C) documentation that the system is tested, certified, and listed by a nationally recognized certification body and complies with an ongoing verification program administered by that certification body, as applicable; and
- (D) documentation that the system can be sampled in compliance with 40 CFR 136 and that the method for system sampling monitors system compliance with effluent standards;
- (5) verification that the product submitted for PIA Approval is the same as the certified, listed, or tested product, and if not, identification of any modifications made to the submitted product;
- (6) notification of any proprietary or trade secret information, system, component, or device. All documents received are considered Public Records in accordance with G.S. 132-1, unless they meet the criteria for classification as a trade secret as defined in G.S. 66-152(3);
- (7) draft written PIA Approval that includes criteria for site selection, installation requirements, operation and maintenance procedures including a VIP protocol with compliance criteria, system classification, frequency of system inspection and monitoring in accordance with Table XXXII of Rule .1301(b) of this Subchapter, and minimum certification or licensing requirements as set forth in applicable certification and licensing rules and statutes for designers, installers, and Management Entities; and
- (8) fee payment as required by G.S. 130A-343(k), by corporate check, money order or cashier's check made payable to: North Carolina On-Site Water Protection System Account or North Carolina OSWW System Account, and mailed to the Department. Fees received are non-refundable.

(b) Innovative System applications shall include the information listed in Paragraph (a) of this Rule.

(c) Provisional System applications shall include the information listed in Paragraph (a) of this Rule and an evaluation protocol containing all information set forth in G.S. 130-343(f), including:

- (1) identity and qualifications of the proposed third-party evaluator, including documentation of their third-party status;
- (2) description of the evaluation protocol, including any proposed laboratory and field testing;
- (3) number of systems to be installed;
- (4) site selection criteria;
- (5) system monitoring and reporting procedures, and proposed duration of evaluation; and

- (6) any other information needed for the system to be able to achieve Innovative status upon completion of the Provisional System evaluation protocol.

(d) Functionally Equivalent Trench System Innovative applications shall include the information listed in Paragraph (a) of this Rule and documentation that the manufacturer has petitioned the Commission for Public Health in accordance with G.S. 130A-343(g1).

(e) Accepted System applications shall include the information listed in Paragraph (a) of this Rule and documentation that the manufacturer has petitioned the Commission for Public Health in accordance with G.S. 130A-343(h).

History Note: Authority G.S. 130A-335(e) and (f); 130A-343; Eff. Pending Legislative Review.

15A NCAC 18E .1703 DEPARTMENT AND COMMISSION APPLICATION REVIEW

(a) The Department shall review all applications submitted to determine if the information listed in Rule .1702 of this Section is included and determine whether additional information is needed to continue the review.

(b) Within 30 days of receipt of the initial application, the Department shall notify the manufacturer of any items necessary to complete the application or notify the manufacturer that the application is complete. This determination shall not constitute a qualitative review of the information provided, nor the approval or denial of the proposed system designation. Specified additional information shall be received within 180 days or the application file shall be closed.

(c) Upon receipt of a complete application, the Department shall conduct a qualitative review in accordance with PIA Approval criteria identified in Rules .1704, .1705, and .1706 of this Section, as applicable.

(d) For systems that are certified and listed by a nationally recognized certification body, the Department shall complete its review and determine whether to approve or deny Provisional System applications within 90 days of receipt of a complete application.

(e) The Department shall complete its review and determine whether to approve or deny Innovative System applications within 90 days of publication in the North Carolina Register of the notice of receipt of a complete application.

(f) The Department shall prepare and submit its findings and recommendations for a Functionally Equivalent Trench System or an Accepted System to the Commission within 120 days of receipt of a complete application.

(g) Upon request by the petitioner, the Commission may modify the 180-day time frame for receipt of additional information specified by the Department for a Functionally Equivalent Trench System or Accepted System petition based on a determination that a petition is incomplete and additional information is needed. The petitioner may also request Commission review of the Department's determination that a petition is incomplete or additional information request.

(h) The Department shall notify the applicant and LHDs of the approval or denial of a PIA System. The PIA Approval shall include conditions for permitting, siting, installation, use,

monitoring, operation and maintenance, and number of systems that can be installed. When an application is denied, the Department shall inform the applicant in writing of the reason for denial. The Department shall assign a unique code to the approved products for tracking purposes.

(i) An applicant may reapply in accordance with this Section. When reapplying, a new application shall be required and the applicant shall make a new fee payment as required by G.S. 130A-343(k).

(j) Denials issued under this Rule shall include notice of the right to appeal under G.S. 130A-24 and 150B.

History Note: Authority G.S. 130A-335(e) and (f); 130A-343; Eff. Pending Legislative Review.

15A NCAC 18E .1704 APPROVAL CRITERIA FOR PROVISIONAL SYSTEMS

(a) A dispersal system shall be approved for use as a Provisional System when the following criteria have been met:

- (1) documentation of one of the following is provided:
 - (A) a minimum of 50 installations that have been in use for a minimum of 12 months, with available information indicating comparable hydraulic performance and rate of malfunction to a conventional trench system;
 - (B) the system's design is functionally similar to another approved system described elsewhere in this Subchapter, or to a PIA System approved in accordance with this Section. The system's design and functional similarity shall be equal or superior to the approved comparable system for the following: material physical properties and chemical durability; field installed permeable sidewall area and bottom infiltrative area; method and manner of function for conveyance and application of effluent; structural integrity; and field installed storage volume;
 - (C) the system has been certified and listed by a nationally recognized certification body, as defined by G.S. 130A-343(a)(6), for a period that exceeds one year; or
 - (D) the system has complied with a comparable evaluation protocol used for system approval in other states. The comparable evaluation protocol shall include information on relevant conditions such as wastewater system design, soil and site conditions, climate, and hydrology and be reviewed by the Department;
- (2) documentation of load testing is provided that demonstrates the structural integrity to be

comparable to a conventional trench system, including subjecting the trench system to the following without collapsing, fracturing, or breaking when installed in a trench with the proposed product configuration and width:

- (A) an axle load of 16,000 pounds when covered with 12 inches of compacted soil; and
 - (B) an axle load of 4,000 pounds when covered with six inches of compacted soil; and
- (3) a proposed evaluation protocol to be overseen by a third-party evaluator is submitted to the Department for review. The evaluation protocol shall ensure that all information necessary to satisfy the criteria to achieve Innovative Approval, as specified in G.S. 130A-343(f) and Rule .1705 of this Section, is collected. The protocol shall include the following:
- (A) a minimum of 100 installations operational and in use for a minimum of 12 months; and
 - (B) sufficient information collected to evaluate the system's hydraulic performance, structural integrity and rate of malfunction compared with a conventional trench system.

(b) Advanced pretreatment systems shall be approved for use as a Provisional System when the following criteria have been met:

- (1) documentation of one of the following is provided for designs complying with TS-I, TS-II, or RCW effluent standards:
 - (A) a minimum of 50 complete third-party field verification data sets from a minimum of 15 sites that have been in use for six months, including all constituents necessary to verify compliance with the applicable effluent standard. Two to five data sets may be from the same site if collected a minimum of three months apart, with no data excluded from the field sampling sites. The data sets shall demonstrate compliance with TS-I, TS-II, or RCW effluent standards in accordance with Rule .1710 of this Section;
 - (B) the system's design is functionally similar to another approved system described elsewhere in this Subchapter, or to a Provisional or Innovative System approved in accordance with this Section. The system's design and functional similarity shall be equal or superior to the comparable system for all of the following: material physical properties and chemical durability; structural integrity; biological,

- chemical, or physical treatment processes; method and manner of function for conveyance and application of effluent through the system; and number and size of system compartments;
 - (C) the system has been certified and listed by a nationally recognized certification body, as defined by G.S. 130A-343(a)(6), for a period that exceeds one year; or
 - (D) the system has complied with a comparable evaluation protocol used for system approval in other states. The comparable evaluation protocol shall include information on relevant conditions such as wastewater system design, soil types, climate, and hydrology and be reviewed by the Department; and
- (2) a proposed evaluation protocol to be overseen by a third-party evaluator is submitted to the Department for review. The evaluation protocol shall ensure that all information necessary to satisfy the criteria to achieve Innovative Approval, as specified in G.S. 130A-343(f) and Rule .1705 of this Section, is collected. The protocol shall include one of the following:
- (A) for a system that has been certified and listed by a nationally recognized certification body, as defined by G.S. 130A-343(a)(6) for a period that exceeds two consecutive years, a minimum of 50 complete third-party field verification data sets from a minimum of 15 sites in operation for a minimum of six months, including all constituents necessary to verify compliance with the applicable effluent standard. Two to five data sets may be from the same site if collected a minimum of three months apart, with no data excluded from the field sampling sites. The data may be collected from systems in-state or out-of-state. The data sets shall show compliance with TS-I, TS-II, or RCW effluent standards in accordance with Rule .1710 of this Subchapter, as applicable; or
 - (B) a minimum of 150 complete third-party field verification data sets from a minimum of 50 sites in operation for a minimum of six months, including all constituents necessary to verify compliance with the applicable effluent standard. Two to five data sets may be from the same site if collected a minimum of three months apart, with

no data excluded from the field sampling sites. The data may be collected from systems in-state or out-of-state. The data sets shall demonstrate compliance with TS-I, TS-II, or RCW effluent standards in accordance with Rule .1710 of this Section, as applicable.

- (c) Manufacturers requesting Provisional Approval as both an advanced pretreatment and dispersal system shall meet the requirements for advanced pretreatment and dispersal as described in this Rule.

History Note: Authority G.S. 130A-335(e) and (f); 130A-343; Eff. Pending Legislative Review.

15A NCAC 18E .1705 APPROVAL CRITERIA FOR INNOVATIVE SYSTEMS

- (a) A dispersal system shall be approved for use as an Innovative System when the following criteria have been met:

- (1) the performance requirements for an Innovative System identified in G.S. 130A-343(a)(5) and (g) have been met;
- (2) materials used in construction are equal or superior in physical properties, chemical durability, and structural integrity compared to materials used for similar proposed systems described in other Sections of this Subchapter;
- (3) the system has been demonstrated to perform equal or superior to a system that is described in other Sections of this Subchapter or to an Innovative or Accepted System previously approved in accordance with this Section, based upon controlled pilot-scale research studies or statistically valid monitoring of full-scale operational systems;
- (4) the system has met one of the following criteria:
 - (A) the system has completed an evaluation protocol as a Provisional System in accordance with Rule .1704 of this Section;
 - (B) the manufacturer has provided comparable third-party research and testing conducted in other states, with the data and findings of all evaluations of the system performance, that support the proposed use of the system. The comparable research shall include information on relevant conditions, such as wastewater system design, soil and site conditions, climate, and hydrology; or
 - (C) the system has been evaluated in accordance with G.S. 130A-343(g)(3); and
- (5) the following documentation is provided:
 - (A) load testing that demonstrates the structural integrity to be comparable to a conventional trench system,

including subjecting the trench system to an axle load of 16,000 pounds when covered with 12 inches of compacted soil and an axle load of 4,000 pounds when covered with six inches of compacted soil without collapsing, fracturing, or breaking;

- (B) a minimum of 100 installations operational and in use for a minimum of one year. The 100 installations sites may include any combination of systems installed in conjunction with an approved Provisional System evaluation completed in North Carolina and systems in other states; and

- (C) system hydraulic performance and rate of malfunction is equal or superior to the demonstrated performance of a conventional trench system.

(b) Advanced pretreatment systems complying with TS-I, TS-II, or RCW effluent standards shall be approved for use as an Innovative System when the following information is provided:

- (1) information required in Subparagraphs (a)(1) through (a)(4) of this Rule; and
- (2) documentation of one of the following:

- (A) for a system that has been certified and listed by a nationally recognized certification body, as defined by G.S. 130A-343(a)(6) for a period that exceeds two consecutive years, a minimum of 50 complete third-party field verification data sets from a minimum of 15 sites in operation for a minimum of six months, including all constituents necessary to verify compliance with the applicable effluent standard. Two to five data sets may be from the same site if collected a minimum of three months apart, with no data excluded from the field sampling sites. The data may be collected from systems in-state or out-of-state. The data sets shall demonstrate compliance with TS-I, TS-II, or RCW effluent standards in accordance with Rule .1710 of this Section; or

- (B) a minimum of 150 complete third-party field verification data sets from a minimum of 50 sites in operation for a minimum of six months, including all constituents necessary to verify compliance with the applicable effluent standard. Two to five data sets may be from the same site if collected a minimum of three months apart, with no data excluded from the field sampling sites. The 50 sites may

include a combination of sites monitored in conjunction with an approved Provisional System evaluation completed in North Carolina and sites in other states. The data sets shall demonstrate compliance with TS-I, TS-II, or RCW effluent standards in accordance with Rule .1710 of this Section.

- (c) Manufacturers requesting Innovative Approval as both an advanced pretreatment and dispersal system shall meet the requirements for advanced pretreatment and dispersal as described in this Rule.

History Note Authority G.S. 130A-335(e) and (f); 130A-343; Eff. Pending Legislative Review.

15A NCAC 18E .1706 APPROVAL CRITERIA FOR ACCEPTED SYSTEMS

(a) The Commission shall designate a wastewater dispersal system as an Accepted System when it finds based on the information provided in accordance with this Rule that the standards set forth by G.S. 130A-343(a)(1) and G.S. 130A-343(h) have been met.

(b) The following information shall be provided by the petitioner and reviewed by the Commission prior to granting Accepted System status:

- (1) documentation of a minimum of 300 systems installed statewide and in use for more than five years as an approved Innovative System or a wastewater dispersal system identified in the rules of this Subchapter;
- (2) data and findings of all prior evaluations of the system performance as provided by the manufacturer;
- (3) results of prior performance surveys of the systems in use in North Carolina for at least the five-year period immediately preceding the petition, including any information available to the manufacturer pertinent to the accuracy and validity of performance surveys not completed under their control;
- (4) review(s) of records on system use and performance reported by LHDs, authorized designers, installers, and Management Entities documenting the experiences with performance of the system in North Carolina, including information collected and reported in accordance with Rules .1711 and .1713 of this Section. The Department, in consultation with the manufacturer, shall evaluate the accuracy and validity of performance data and surveys considered for inclusion in the review. LHDs and other stakeholders shall be invited to participate in the discussion; and
- (5) the results of a statistically valid survey of system performance in North Carolina in accordance with Paragraphs (d) or (g) of this Rule.

(c) The manufacturer shall propose a plan for the statistically valid survey for review and approval by the Department prior to the survey being performed. The Department shall approve a statistically valid survey plan when it meets the requirements of Paragraphs (d) or (g) of this Rule and includes the following information:

- (1) number of systems to be evaluated;
- (2) period of evaluation;
- (3) method to randomly select systems to be evaluated;
- (4) methods of field and data evaluation; and
- (5) proposed survey team members, including proposed cooperative arrangements to be made with Department and LHD staff.

(d) The proposed survey shall meet one of the following survey protocols:

- (1) a field survey of test and control systems that compares the failure rates between the systems. Statistical analysis of the survey results using a one-sided test shall document at the 95 percent confidence level that there is a five percent or less chance that a difference in failure rates of five percentage points or more would occur by chance. The field survey shall meet the following criteria:
 - (A) a minimum of 250 randomly selected test and control systems that have been in operation for at least two years and are currently in use, for a total of at least 500 systems that are surveyed;
 - (B) a minimum of 40 percent of both test and control systems shall have been in operation for at least five years;
 - (C) systems surveyed shall be distributed among the Soil Groups in the Coastal, Piedmont, and Mountain regions of the State in approximate proportion to their use across the State;
 - (D) systems shall be evaluated from February 1 through April 15; and
 - (E) similar numbers of test and control systems of similar ages shall be surveyed during similar time periods across the State; or
- (2) a field survey of test systems only. The failure rate determined by the field survey shall not exceed seven percent at the 95 percent confidence level. The field survey for test systems only shall meet the following criteria:
 - (A) the system is identified in the rules of this Subchapter and the manufacturer provides documentation that there have been at least 3,000 operational systems installed in the state in more than one county. The systems shall have been installed over at least an eight-year period with a total reported failure rate statewide of less than two percent. The statewide failure rate is

based on records provided by the manufacturer and monthly activity reports from the LHD;

- (B) a minimum of 250 randomly selected systems that are currently in operation are surveyed; and
- (C) the survey criteria in Subparagraph (d)(1) of this Rule are met.

(e) The Department shall facilitate LHD participation with any performance review or survey to identify sites and systems for evaluation based on the LHD's permit records.

(f) The Department shall utilize the Division of Public Health's State Center for Health Statistics for assistance in evaluating the statistical validity of the proposed evaluation protocols.

(g) Alternative survey protocols, which evaluate different numbers of test and control systems or test systems only, may be submitted by the petitioner to the Department for approval. The alternative survey protocol shall be approved by the Department when the survey protocol is designed to verify equal or superior performance of the test system when compared to the control system under actual field conditions in North Carolina and when the alternative survey protocol has comparable statistical validity as described in Subparagraph (d) of this Rule. The Department's review and approval of proposed alternative survey protocols shall be subject to review and concurrence by the Commission, which shall use the same approval criteria as the Department as set forth in in this Paragraph.

(h) The Commission shall impose any use, design, installation, operation, maintenance, monitoring, and management conditions in accordance with G.S. 130A-343 and the rules of this Subchapter.

(i) If there is a conflict between approvals or between an approval and the Rules of this Subchapter, then an Accepted System approval shall take precedence, followed by an Innovative System Approval, and then the Rules of this Subchapter.

History Note: Authority G.S. 130A-335(e) and (f); 130A-343; S.L. 2014-120, s. 47; S.L. 2019-151, s. 13; Eff. Pending Legislative Review.

15A NCAC 18E .1707 DESIGN AND INSTALLATION CRITERIA FOR PROVISIONAL, INNOVATIVE, AND ACCEPTED APPROVALS

All products approved under this Section shall be designed and installed in accordance with the requirements of the PIA Approval.

History Note: Authority G.S. 130A-335(e) and (f); 130A-343; Eff. Pending Legislative Review.

15A NCAC 18E .1709 WASTEWATER SAMPLING REQUIREMENTS FOR ADVANCED PRETREATMENT SYSTEMS

(a) Wastewater sampling requirements shall vary in accordance with wastewater system classification, designated effluent standard, DDF, and performance history.

- (1) Provisional Systems shall be grab or composite sampled quarterly for all applicable influent and effluent constituents listed in Table XXV of

Rule .1201(a) of this Subchapter until the system receives Innovative Approval.

- (2) When the DDF is less than or equal to 1,500 gpd, Innovative Systems shall be grab or composite sampled annually for all applicable influent and effluent constituents from Table XXV of Rule .1201(a) of this Subchapter.
- (3) When the DDF is greater than 1,500 gpd and less than or equal to 3,000 gpd, Innovative Systems shall be grab or composite sampled twice a year for all applicable influent and effluent constituents listed in Table XXV of Rule .1201(a) of this Subchapter.
- (4) Sampling for Fecal Coliforms shall not be required for Innovative Systems at any site that is found to be compliant with all other constituents in Table XXV of Rule .1201(a) of this Subchapter.
- (5) Innovative Systems serving vacation rentals subject to the North Carolina Vacation Rental Act, G.S. 42A, shall be sampled during the seasonal high use period.
- (6) Effluent may be re-sampled within 30 days of receipt of laboratory results indicating non-compliance with Table XXV of Rule .1201(a) of this Subchapter if requested by the owner, manufacturer, or manufacturer's representative, or required in a PIA Approval. Complete data sets from resampling may be substituted to comply with the minimum number of compliant data sets required for PIA Approval. Data sets from resampling may be used by a manufacturer as part of a reduced effluent sampling request in accordance with Paragraph (d) of this Rule.
- (7) The Management Entity may record daily wastewater flow and sample influent to the advanced pretreatment system as needed to determine compliance with Rule .1302(f) of this Subchapter.
- (8) A manufacturer of a Provisional or Innovative System may apply for adjusted sampling requirements in accordance with this Rule.

(b) The manufacturer of a Provisional System may apply to the Department in accordance with Rule .1701 of this Section to request adjusted effluent sampling requirements for Fecal Coliforms. The Department shall approve the request when the documentation submitted to the Department includes the following information:

- (1) data from a minimum of five separate North Carolina sites in operation for a minimum of six months after the Provisional Approval has been issued;
- (2) a minimum of 25 data sets, including results for Fecal Coliforms. No data sets shall be excluded. Data sets may be from the same site if collected a minimum of three months apart; and

- (3) analysis indicating compliant system performance in accordance with Rule .1710 of this Section.

(c) If an effluent sample for a Provisional or Innovative System that is not required to sample for Fecal Coliforms is determined to be non-compliant with Table XXV of Rule .1201(a) of this Subchapter, the effluent may be re-sampled in accordance with Rule .1302(f)(2) of this Subchapter. If re-sampled, the effluent shall also be sampled for Fecal Coliforms in addition to all other applicable constituents. If re-sampling indicates compliance with Table XXV of Rule .1201(a) of this Subchapter, no further Fecal Coliform sampling is required from that site, unless an effluent sample is again determined to be non-compliant for one or more constituents.

(d) The manufacturer of an Innovative System may apply to the Department in accordance with Rule .1701 of this Section to request an adjustment in sampling requirements for constituents or frequency, including reducing to field parameters only. The Department shall approve the request when one of the following conditions are met:

- (1) documentation submitted to the Department includes the following information:
 - (A) data from a minimum of 25 separate North Carolina sites in operation for a minimum of six months after the Innovative Approval has been issued;
 - (B) written reports summarizing results of the VIP inspections for all North Carolina sites submitted as part of this Rule;
 - (C) a minimum of 50 complete data sets, with no data excluded. Data sets may be from the same site if collected a minimum of three months apart;
 - (D) analysis indicating compliant system performance in accordance with Rule .1710 of this Section; and
 - (E) identification of the constituents for which the manufacturer requests a reduced sampling frequency;
- (2) the proprietary advanced pretreatment system is also certified and listed by a nationally recognized certification body and is in compliance with the ongoing verification program of such body, and the manufacturer is requesting a reduction in data set requirements set forth in Rule .1705 of this Section by up to 50 percent only; or
- (3) the manufacturer has demonstrated compliant system performance in accordance with Rule .1710 of this Section and is only requesting to replace the requirement for routine effluent sampling as set forth in Rule .1705 of this Section for all individual sites with routine field constituent testing that is included as part of the VIP.

(e) Systems approved for field parameters shall only be required to sample the field parameters listed in Table XXXIII at the site during a VIP Management Entity inspection. The PIA Approval

may specify other field parameters or alternative field parameter effluent criteria. The results shall be recorded in the written report. If the field parameters fall outside the range specified in the PIA Approval, an effluent sample shall be collected and analyzed for all parameters as necessary to demonstrate system compliance with the site's applicable effluent standard specified in Table XXV of Rule .1201(a) of this Subchapter.

TABLE XXXIII. Field parameters advanced pretreatment systems

Field Parameter	Effluent Criteria
pH	5 - 9
Turbidity	≤ 10
DO	≥ 2

(f) While routine sampling of individual sites may no longer be required in accordance with Paragraph (d) of this Rule, effluent sampling may still be determined to be necessary during the visual inspection of the system in accordance with Rule .1302(d) of this Subchapter or if required as part of an enforcement action by the LHD or the Department.

(g) Alternative sampling requirements may be proposed by the manufacturer for a Provisional or Innovative System and approved by the Department when determined to provide an equal or more reliable indication of system compliance with effluent standards.

History Note: Authority G.S. 130A-335(e) and (f); 130A-343; Eff. Pending Legislative Review.

15A NCAC 18E .1710 COMPLIANCE CRITERIA FOR ADVANCED PRETREATMENT SYSTEMS

An approved system shall be considered in compliance with the effluent standards of Rule .1002 or Table XXV of Rule .1201(a) of this Subchapter when all the following conditions are met:

- (1) the arithmetic mean for BOD₅, TSS, TKN, and TN and the geometric mean for Fecal Coliform for all data collected from all sites does not exceed the designated effluent standard;
- (2) no more than 20 percent of all data from all sites shall exceed the designated effluent standard for any applicable constituent. A new complete data set for re-sampling conducted within 30 days of receipt of a non-compliant data set may be substituted to demonstrate compliance with the designed effluent quality standard in accordance with Table XXV of Rule .1201(a) of this Subchapter;
- (3) fifty percent of all complete data sets from all sites shall comply with the designated effluent standard for all applicable constituents;
- (4) when determining compliance with system effluent standards in Items (1), (2), and (3) of this Rule, no data sets shall be excluded from individual advanced pretreatment systems except at single sites found to be out of compliance in accordance with Rule .1302(f) of this Subchapter and that have been documented

to have been subjected to abuse, such as hydraulic or organic overloading, physical damage to the system, or discharge of deleterious substances; and

- (5) results of influent samples from all sites shall be provided to demonstrate compliance with percent reduction effluent criteria in accordance with Table XXV in Rule .1201(a) of this Subchapter.

History Note: Authority G.S. 130A-335(e) and (f); 130A-343; Eff. Pending Legislative Review.

15A NCAC 18E .1711 PROVISIONAL AND INNOVATIVE APPROVAL RENEWAL

(a) All PIA Approvals shall expire on December 31 of each year. PIA manufacturers or other parties who wish to continue product approval shall submit annually a product renewal form provided by the Department no later than November 30 of each year.

(b) The renewal form shall include the following updated elements:

- (1) company or organization's name, mailing address, phone and fax numbers, email address, and manufacturer's point of contact;
- (2) model number(s) approved; and
- (3) a notarized statement that the product(s) has not changed from the previous year without prior approval from the Department.

(c) The Department shall notify the manufacturer of the pending PIA Approval expiration in writing no later than September 30 of each year. The notification shall include information on how to request PIA Approval renewal.

(d) Manufacturers of proprietary products with Provisional Approvals shall additionally submit with its renewal form an annual report to the Department with the following information:

- (1) list of all systems installed under the Provisional Approval;
- (2) results of all effluent samples collected, as applicable;
- (3) copies of all Management Entity inspection reports, as applicable;
- (4) assessment of system performance in relation to this Subchapter;
- (5) summary of progress made to complete installations, research, and testing as outlined in the approved evaluation protocol;
- (6) any conditions and limitations related to the use of the system; and
- (7) a list of all authorized designers, installers, and management entities.

(e) Manufacturers of products that are approved as an RCW system shall submit with the product renewal form an annual report to the Department with the following information for RCW systems:

- (1) list of all systems installed under the PIA Approval;
- (2) results of all effluent samples collected; and

- (3) documentation that the effluent samples meet the compliance criteria in Rule .1710 of this Section.

(f) A PIA Approval shall be deemed to be renewed upon receipt of a renewal form that contains all of the elements set out in Paragraph (b) of this Rule and annual report in accordance with Paragraph (d) of this Rule.

(g) The Department shall review all annual reports for Provisional Approvals for compliance with its PIA approval conditions, including its approved evaluation protocol, and determine whether any action to modify, suspend, or revoke the approval is warranted in accordance with Rule .1708 of this Section.

(h) The Department shall review all annual reports for manufacturers approved as an RCW system and determine whether the RCW effluent samples meet the compliance criteria in Rule .1710 of this Section. If the compliance criteria are not met the Department may modify, suspend, or revoke the approval in accordance with Rule .1708 of this Section.

History Note: Authority G.S. 130A-335(e) and (f); 130A-343; Eff. Pending Legislative Review.

15A NCAC 18E .1712 AUTHORIZED DESIGNERS, INSTALLERS, AND MANAGEMENT ENTITIES

(a) Designers, installers, and Management Entities shall be authorized in writing by the manufacturer when required in the PIA Approval based on product specific factors, such as wastewater system classification, designated effluent standard, DDF, wastewater strength, complexity, and operation and maintenance.

(b) Manufacturers of proprietary systems approved under this Section shall provide a list of manufacturer's authorized designers, installers, and Management Entities, as specified in the PIA Approval, to the Department and LHDs. The manufacturers shall update this list annually and include it with the product renewal form required in accordance with Rule .1711(a) of this Section.

History Note: Authority G.S. 130A-335(e) and (f); 130A-343; Eff. Pending Legislative Review.

15A NCAC 18E .1713 LOCAL HEALTH DEPARTMENT RESPONSIBILITIES

To implement this Section the LHD shall:

- (1) When a Provisional System is proposed, confirm that the designated repair system complies with the provisions of Rule .0508 of this Subchapter and with individual PIA Approval requirements, except:
 - (a) when an existing wastewater system is available for immediate use, including connection to a public or community wastewater system;
 - (b) when the Provisional System is used as a repair to an existing malfunctioning system when there are no other approved Innovative or Accepted repair options; or
 - (c) as provided in G.S. 130A-343(f) for Provisional Systems.

- (2) Notify the Department of all IPs, CAs, and OPs issued for Provisional Systems.
- (3) Notify the Department of all OPs issued for Innovative Systems.
- (4) Permit systems designated as Accepted Systems in an equivalent manner to a conventional system at the owner's request. The Accepted System shall be sited and sized in accordance with Section .0900 of this Subchapter or PIA Approval. The type of Accepted System installed shall be indicated on the OP. The owner shall re-apply to the LHD and receive a new or revised IP or CA for any of the following before system installation:
 - (a) location of any part of the dispersal field outside of the approved initial dispersal field area;
 - (b) changes to the trench depth, and slope correction if applicable, specified on the IP or CA;
 - (c) changes to the effluent distribution method; or
 - (d) changes to the DDF or wastewater strength.
- (5) Grant permit reductions in total trench length less than or equal to 25 percent for Innovative or Accepted Systems only to dispersal fields receiving DSE or better quality. A facility with a full kitchen shall not be granted a permit reduction in total trench length.
- (6) Grant facilities generating HSE the 25 percent reduction allowed for Innovative or Accepted Systems if the system includes an approved advanced pretreatment system designed to ensure effluent strength equal to or better than DSE.
- (7) Prohibit issuance of an OP for a proprietary system installed by a person not authorized by the manufacturer, unless the manufacturer of the proprietary system approves the installation in writing.
- (8) Inform the Department, as well as the manufacturer or their authorized representative, of any system determined to be malfunctioning. If the system has been permitted in accordance with G.S. 130A-336.1 or G.S. 130A-336.2 and Rule .0207 of this Subchapter, the LHD shall instruct the owner to contact the PE or AOWE for determination of the reason and the malfunction and development of an NOI for repairs.
- (9) Issue a NOV to the owner when the system is determined to be malfunctioning in accordance with Rule .1303(a)(1) and (2) of this Subchapter or when an individual advanced pretreatment system at a single site is out of compliance in accordance with Rule .1302(f) of this Subchapter. The notice shall identify the violations and steps necessary to remedy the

problems, including modification of the system, established time frame to achieve compliance, other follow-up requirements, and specify further enforcement possibilities if compliance is not achieved.

- (10) Include in its monthly activity report submitted to the Department the following information identified by unique codes:
- (a) number of new system OPs issued for PIA Systems;
 - (b) number of new system OPs issued for Accepted Systems;
 - (c) number of CAs issued for Provisional Systems, including system type;
 - (d) number of CAs issued for repairs of PIA Systems, including system type being repaired;
 - (e) number of CAs issued for repairs of Accepted Systems, including system type being repaired; and
 - (f) repair system type.

History Note: Authority G.S. 130A-335(e) and (f); 130A-343; Eff. Pending Legislative Review.

TITLE 19A - DEPARTMENT OF TRANSPORTATION

19A NCAC 03D .0523 OPERATION OF SAFETY OR EMISSIONS INSPECTIONS STATIONS

(a) Safety or Emissions Inspection Stations shall post the following information:

- (1) Official Safety Equipment or Safety Equipment Emissions Inspection Procedure Poster;
- (2) Safety Equipment or Safety Equipment Emissions Inspection Station License, which shall be posted under a material that protects the information contained on the license from dirt and facing;
- (3) Mechanic licenses report issued by the North Carolina Division of Motor Vehicles; and
- (4) On the outside of its building or adjacent thereto, a sign in block letters at least four inches in height bearing the words: OFFICIAL INSPECTION STATION.

(b) Requirements for Licensed Inspection Mechanic. Licensed inspection mechanics may be required by authorized law enforcement officers of the Division to demonstrate knowledge pertaining to the Safety Equipment or Safety Equipment Emissions inspections in the presence of any such authorized officer.

(c) Location. Inspections shall be conducted only at the location shown on the inspection station's license and only in the designated inspection area. Trailers may be inspected outside of inspection area as long as they are attached to the engine unit.

(d) Vehicle presented to be inspected. Each station shall inspect any vehicle presented for inspection according to the year model, and type of engine except as provided in this section or when exempted from the emissions inspection by a waiver issued by the

Commissioner of Motor Vehicles. Stations without the equipment required to inspect a motorcycle or a heavy duty vehicle are not required to conduct the inspection.

(e) Repairs. The owner or operator of a vehicle that has failed inspection, may obtain the necessary repairs to pass an inspection at any place he or she chooses. Inspection stations shall not require unnecessary repairs or in any manner attempt to require owners or operators of disapproved vehicles to have a vehicle repaired at the inspection station. Permission must be obtained before making any repairs or adjustments.

(f) Hours of operation. Except for State holidays, as set forth in 25 NCAC 01E .0901, each public station must be open for at least eight business hours, five days per week. Hours of operation must be posted outside of the business. A licensed inspection mechanic shall be on duty to conduct inspections during hours of operation.

History Note: Authority G.S. 20-2; 20-39; 20-183.4; 20-183.5;

Eff. October 1, 1994;

Readopted Eff. October 1, 2021.

19A NCAC 03D .0525 PRE-INSPECTION REQUIREMENTS

Prior to performing an inspection, the inspection mechanic shall:

- (1) Have all occupants leave the vehicle;
- (2) Request that the operator produce the current registration card for the vehicle;
- (3) Enter applicable information in all data fields prompted by the analyzer or inspection program and as needed to conduct the classification of inspection, safety, or safety and emissions. The use of a one-dimensional bar-code scanner capable of reading vehicle identification numbers and information printed on vehicle registration shall be used for data entries to reduce errors. In the event the barcode on the registration card is not readable or the vehicle owner is unable to produce a registration card, the inspector mechanic shall enter the information by scanning the public vehicle identification number through the vehicle windshield or on the Federal Certification Label. If the vehicle identification number cannot be scanned through any of the methods listed in this Item, or if the station is not equipped with a bar code scanner, the inspector mechanic shall manually enter the VIN through keyboard entry. In instances where the vehicle does not have a license plate, "none" shall be entered in the field. If the inspected vehicle is owned by a dealership and part of the dealer's inventory, the dealer number, followed by a "D" shall be entered in the license plate field.

History Note: Authority G.S. 20-2; 20-39; 20-183.2; 20-183.6A;

Eff. October 1, 1994;

Codifier determined that agency did not meet criteria for temporary rule Eff. September 24, 1997;

*Temporary Amendment Eff. November 1, 1997;
Amended Eff. August 1, 1998;
Readopted Eff. October 1, 2021.*

19A NCAC 03D .0526 SAFETY EQUIPMENT, EMISSIONS INSPECTION, AND EMISSION CONTROLS TAMPERING EVALUATION

During the safety or safety and emissions inspection of a vehicle, the inspection mechanic shall enter the information set forth in this Rule into the analyzer or inspection program when evaluating the condition of each inspected item:

- (1) Safety and emission inspection grading:
 - (a) For those items that are inspected, approved, and in operational condition, the letter "P" for "passed" shall be placed in the appropriate block as indicated by the inspection analyzer.
 - (b) For those items that are inspected and not approved, the letter "F" for "failed" shall be placed in the appropriate block as indicated by the inspection analyzer.
 - (c) For those items that were not approved and corrected, the letter "C" for "corrected" shall be placed in the appropriate block as indicated by the inspection analyzer.
 - (d) For those items that do not apply to the vehicle inspected, the letter "N" for "not applicable" shall be placed in the appropriate block as indicated by the inspection analyzer.
- (2) Emission controls tamper check:
 - (a) For those vehicles inspected and not originally equipped with the emission control devices as listed, "Not Applicable" shall be indicated.
 - (b) For those vehicles equipped with the item, it is connected, and in operable condition, "Passed" shall be indicated.
 - (c) For those vehicles that the required emission control equipment has been disconnected, removed, made inoperable, or if emission component simulators are installed, "Failed" shall be indicated.
 - (d) For those vehicles that the emission equipment that was disconnected, removed, or inoperable is repaired or replaced, "Corrected" shall be indicated.

*History Note: Authority G.S. 20-2; 20-39; 20-183.2; 20-183.4D; 20-183.6A;
Eff. October 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 22, 2018;
Amended Eff. October 1, 2021.*

19A NCAC 03D .0527 EXHAUST EMISSION CONTROLS TAMPERING CHECK
19A NCAC 03D .0528 SAFETY EQUIPMENT EXHAUST EMISSION INSPECTIONS

*History Note: Authority G.S. 20-2; 20-39; 20-183.2; 20-183.4D; 20-183.6A;
Eff. October 1, 1994;
Repealed Eff. October 1, 2021.*

19A NCAC 03D .0529 CERTIFICATION

When the vehicle receives a passing inspection result, the inspection mechanic shall:

- (1) finalize the inspection process in the analyzer or inspection program by entering all required data, then following the steps necessary to transmit the data to the State vehicle inspection database;
- (2) collect fees as described in G.S. 20-183.7; and
- (3) sign and give the original Receipt and Statement form to the operator or owner.

*History Note: Authority G.S. 20-2; 20-39; 20-183.4D; 20-183.7;
Eff. October 1, 1994;
Readopted Eff. October 1, 2021.*

19A NCAC 03D .0530 DISAPPROVAL

If a vehicle inspected is disapproved, the inspection mechanic at the end of the total inspection shall advise the owner or operator of the defect or defects found during the inspection. Repairs shall only be made at the request of the owner or operator. Upon completion of authorized repairs, the inspection mechanic shall require the owner or operator of the vehicle that gave approval for the repairs to sign the inspection receipt. If the owner or operator requests the repairs to be made at some other location, then the inspection mechanic conducting the inspection shall:

- (1) Provide the customer with the Vehicle Inspection Receipt and Statement signed by the inspection mechanic; showing the vehicle Failed.
- (2) Collect fees as prescribed in G.S. 20-183.7; and
- (3) After giving the owner or operator the original copy of the Vehicle Inspection Receipt and Statement explain to the owner or operator he or she has 60 days to bring the vehicle back to the inspection station for reinspection at no charge when the vehicle was disapproved for either safety or emissions defects.

*History Note: Authority G.S. 20-2; 20-39; 20-183.4D; 20-183.5; 20-183.7;
Eff. October 1, 1994;
Readopted Eff. October 1, 2021.*

19A NCAC 03D .0531 REINSPECTION

(a) A vehicle that is inspected at an inspection station and fails is entitled to be reinspected at the same station any time within 60

days of the failed inspection without paying another inspection fee.

(b) If the vehicle is approved following reinspection, the inspection mechanic shall check the appropriate block on the analyzer. The inspection mechanic shall collect the authorization fee as set forth in G.S. 20-183.7.

History Note: Authority G.S. 20-2; 20-39; 20-183.3(c); 20-183.7;

Eff. October 1, 1994;

Readopted Eff. October 1, 2021.

19A NCAC 03D .0532 BRAKES

No vehicle brakes shall be approved for an inspection unless the items indicated in this Rule are inspected and found to meet the minimum requirements established in G.S. 20-124 and this Rule.

- (1) Footbrakes shall not be approved if:
 - (a) when applying brakes to the moving vehicle, the braking force is not distributed evenly to all wheels originally equipped with brakes by the manufacturer. The inspection mechanic must drive the vehicle to make this test. The inspector may check the brakes while driving vehicle forward into the inspection area.
 - (b) there is audible indication (metal on metal) that the brake lining is worn to the extent that it is no longer serviceable; The wheel must be pulled and the brake lining examined when this occurs.
 - (c) pedal reserve is less than one third of the total possible travel when the brakes are fully applied, or does not meet the manufacturer's specification for power brakes or air brakes;
 - (d) the reservoir of the master cylinder is not full; Only brake fluid meeting SAE specifications for heavy duty hydraulic brake fluid shall be used when adding or changing brake fluid.)
 - (e) there is a visible leakage or audible seepage in hydraulic, vacuum or air lines and cylinders, or visible cracked, chafed, worn, or weakened hoses;
 - (f) the vehicle has any part of the brake system removed or disconnected, the brake lines and hoses do not meet the manufacturer's specifications, or are made of a material not approved for motor vehicles; or
 - (g) once applied, and while holding pedal pressure for one minute, the brake pedal gradually moves toward the toeboard, indicating fluid leakage.
- (2) Except as provided in Sub-item (1)(b) of this Rule, inspection mechanics are not required to remove the wheels of a vehicle to examine the

condition of the brakes. An inspection mechanic shall raise vehicles to check the underside of a vehicle, including the applicable brake components list in this Rule.

- (3) Auxiliary, parking, or holding handbrakes shall not be approved if:
 - (a) there is no lever reserve when the brake is fully applied;
 - (b) cables are visibly frayed or frozen; there are missing or defective cotter pins; there are broken or missing retracting springs; or there are worn rods or couplings;
 - (c) the operating mechanism, when fully applied, fails to hold the brakes in the applied position without manual effort; and
 - (d) when emergency or handbrakes are applied, without depressing the accelerator, they fail to hold vehicle.

History Note: Authority G.S. 20-2; 20-39; 20-183.3(a)(1);

Eff. October 1, 1994;

Readopted Eff. October 1, 2021.

19A NCAC 03D .0533 LIGHTS

(a) Headlights shall conform to the requirements of G.S. 20-129(b) and (c). Headlights shall not be approved if:

- (1) there are not at least two headlamps, or at least four on dual headlamp systems. Motorcycles and motor driven cycles need only one headlamp;
- (2) the headlamp lens or light produces other than a white or yellow light;
- (3) any lens or reflector is cracked, broken, discolored, or missing;
- (4) the high beam-low beam dimmer switch does not operate or the high beam indicator light does not burn on vehicles manufactured after January 1, 1956;
- (5) lights can be moved by hand, due to a broken fender or loose support, or if a good ground is not made by the mounting;
- (6) foreign materials, such as shields or painted lenses, are placed on the headlamp lens that interferes with light beam of lamp;
- (7) using a headlight testing device that meets Society of Automotive Engineers standards or light testing chart that is approved by the Division, lights are improperly aimed;
- (8) lights project a dazzling or glaring light when on low beam as defined in G.S. 20-131(b); and
- (9) the vehicle is equipped with headlamps that change the original design or performance of the headlamps; or do not comply with Federal Motor Vehicle Safety Standard No. 108, as adopted by the National Highway Traffic Safety Administration.

(b) Rear Lights shall conform to the requirements of G.S. 20-129(d). Taillights shall not be approved if:

- (1) all original equipped rear lamps or the equivalent are not in working order;
- (2) the lens is cracked or discolored, the lens or light projects a color other than red, or is covered by a foreign material, such as shields or painted lenses. Cracks on lenses shall not lead to disapproval unless water is likely to short out the bulb;
- (3) they do not operate and project white light on the license plate; and
- (4) they are not mounted.

(c) Stoplights shall conform to the requirements of G.S. 20-129(g). A stoplight shall not be approved if:

- (1) the lens is cracked, discolored, or the lens or light projects a color other than red or amber, or is covered by a foreign material such as shields or painted lenses. Cracks on lenses shall not lead to disapproval unless water is likely to short out the bulb;
- (2) it does not come on when pressure is applied to foot brake; and
- (3) it is not mounted so as to project a light to the rear.

(d) Vehicles shall have the lights as required by G.S. 20-129.1.

(e) Parking lights shall conform to the requirements of G.S. 20-134. A vehicle shall not be approved if parking lights are not working or covered by a foreign material, such as shields or painted lenses.

(f) A motor vehicle that was originally equipped with back-up lamps, lamps, must have those lamps maintained in operating condition. Backup lamps shall not be lighted when the motor vehicle is in a forward motion, nor shall the backup lamp emit any color other than white.

*History Note: Authority G.S. 20-2; 20-39; 20-131(a)(b); 20-183.3;
Eff. October 1, 1994;
Readopted Eff. October 1, 2021.*

19A NCAC 03D .0534 HORN

(a) In addition to the requirements set forth in G.S. 20-125, the horn shall not be approved if:

- (1) it will not emit a sound audible for a distance of at least 200 feet. Original equipment, operating as intended by the manufacturer, shall meet these requirements. Air horns shall not be substituted for original equipment.
- (2) the wiring or wiring harness has been frayed, been damaged, is broken, or is missing wiring; the horn button is not mounted to the motor vehicle or is not positioned within the driver's reach; or
- (3) operation of the horn interferes with the operation of any other mechanism.

(b) Vehicles equipped with sirens shall not be approved unless they are within the class listed in G.S. 20-125(b) as being authorized to carry a siren.

*History Note: Authority G.S. 20-2; 20-39; 20-183.3;
Eff. October 1, 1994;
Readopted Eff. October 1, 2021.*

19A NCAC 03D .0535 STEERING MECHANISM

(a) The inspection mechanic must raise the vehicle to check the steering mechanism.

(b) The steering mechanism shall not be approved if:

- (1) with front wheels in straight ahead position there is more than three inches of free play in steering wheels up to 18 inches in diameter or more than four inches of free play in steering wheels over 18 inches in diameter. If the vehicle is equipped with power steering, the engine must be operating;
- (2) either front or rear springs are sagging or broken;
- (3) the front wheels or front end assembly is loose, bent, or twisted; or bolts, nuts, or rivets are loose or missing;
- (4) power steering system shows visible leaks or the power steering belt is loose or worn;
- (5) vehicle frame or component of the steering mechanism is rusted to the point of mechanical failure; or
- (6) shock or strut is leaking to the point of failure that will inhibit the steering of the vehicle.

*History Note: Authority G.S. 20-2; 20-39; 20-183.3(a)(4);
Eff. October 1, 1994;
Readopted Eff. October 1, 2021.*

19A NCAC 03D .0536 WINDSHIELD WIPER

Windshield wipers shall not be approved if:

- (1) the vehicle is not equipped with a windshield wiper or wipers, provided the vehicle has a windshield;
- (2) the wiper or wipers do not operate freely;
- (3) the wiper controls are not so constructed and located that the driver may operate them;
- (4) the wiper or wipers are not adequate to clean rain, snow, and other matter from the windshield; and
- (5) parts of blades or arms are missing or show evidence of damage.

*History Note: Authority G.S. 20-2; 20-39; 20-183.3(a)(5);
Eff. October 1, 1994;
Readopted Eff. October 1, 2021.*

19A NCAC 03D .0537 DIRECTIONAL SIGNALS

Vehicles required to have directional signals pursuant to G.S. 20-125.1, which does not include motorcycles, shall be disapproved if:

- (1) The vehicle is not equipped with signals by which the operator of the vehicle may indicate to other motorists approaching from a distance of 200 feet from the front or rear the operator's intentions to turn the vehicle;

- (2) all lights do not operate or if any lenses are broken, missing, or do not fit;
- (3) signal lens or light color is other than red or amber on the rear and other than white or amber on the front, and is covered by a foreign material, such as shields and painted lenses;
- (4) lamps are not mounted or wiring and connections are not working;
- (5) signals are not visible from front or back due to faulty or damaged mounting or due to the manner in which mounted; or
- (6) switch does not operate as designed by the manufacturer or is not located in a position that allows the operator to reach and operate the switch, or the switch that interferes with the operation of other mechanisms.

*History Note: Authority G.S. 20-2; 20-39; 20-183.3(a)(6);
Eff. October 1, 1994;
Readopted Eff. October 1, 2021.*

19A NCAC 03D .0538 TIRES

(a) A vehicle shall be disapproved if:

- (1) any tire has cuts or snags that expose the cords;
- (2) any tire has a visible bump, bulge, or knot related to tread or sidewall separation or partial failure of the tire structure including bead area; or
- (3) there is less than 2/32-inch tread at two or more locations around the circumference of the tire in two adjacent major tread grooves or if the tread wear indicators are in contact with the roadway at two or more locations around the circumference of the tire in two adjacent major tread grooves.

(b) Tire depth shall be measured by a tread depth gauge which shall be of a type calibrated in thirty-seconds of an inch. Readings for a tire with a tread design that does not have two adjacent grooves near the center shall be taken at the center of the tire around the circumference of the tire. Each tire must be completely lifted from the ground for an inspection to be performed.

*History Note: Authority G.S. 20-2; 20-39; 20-183.3(a)(7);
Eff. October 1, 1994;
Readopted Eff. October 1, 2021.*

19A NCAC 03D .0539 TIRES - DEFINITIONS

As used in this and Rule .0538 of this Section, these terms have the following meanings:

- (1) "Bead" is that part of the tire that is shaped to fit the rim. The bead is made of high tensile steel wires wrapped and reinforced by the plies.
- (2) "Cord" is made from textile, steel wire strands forming the plies or other structure of the tires.
- (3) "Groove" is the space between two tread ribs.
- (4) "Ply" is layers of rubber coated parallel cords forming the tire body.
- (5) "Rib" is the tread section running circumferentially around the tire.

- (6) "Rim" is a metal support for the tire or tire and tube assembly on the wheel. Tire beads are seated on the rim.
- (7) "Sidewall" is that portion of the tire between tread and bead.

*History Note: Authority G.S. 20-2; 20-39; 20-183.(a)(7);
Eff. October 1, 1994;
Readopted Eff. October 1, 2021.*

19A NCAC 03D .0540 REAR VIEW MIRRORS

Rear view mirrors shall not be approved if:

- (1) There is any movement between the attachment bracket and the windshield;
- (2) Forward vision of the device is obstructed by mirror assembly;
- (3) They do not provide a view of the highway to the rear;
- (4) They are cracked, broken, have sharp edges or cannot be cleaned such that rear vision is not obscured;
- (5) They cannot be adjusted or will not maintain a set adjustment;
- (6) Bus, truck, or truck-tractor with a GVWR of 10,001 pounds or more is not equipped with a rear vision mirror on each side. If a vehicle is configured in such a way that the inside mirror is obstructed, a passenger side outside mirror is required; or
- (7) Vehicles manufactured, assembled, or first sold after January 1, 1966 are not equipped with outside rear view mirrors on the driver's side. The passenger's outside rear view mirror is not required equipment on passenger vehicles if an inside rear view mirror is present.

*History Note: Authority G.S. 20-2; 20-39; 20-183.3(a)(8);
Eff. October 1, 1994;
Readopted Eff. October 1, 2021.*

19A NCAC 03D .0541 EXHAUST EMISSION CONTROLS

(a) An exhaust emission shall not be approved if the vehicle is a 1968-year model or newer and any of the visible emission control devices placed thereon by the manufacturer are missing, disconnected, made inoperative, or as set forth in G.S. 20-128(d) have been altered without approval of the Department of Environmental Quality.

(b) If the unleaded gas restrictor on a vehicle manufactured after model year 1967 has been altered or removed a new or reconditioned catalytic converter and unleaded gas restrictor must be replaced before the vehicle shall pass inspection.

(c) An exhaust system shall not be approved if:

- (1) the vehicle has no muffler or other exhaust system of the type installed at the time of manufacture or does not operate as designed by the vehicle manufacturer;
- (2) the muffler, exhaust, or tail pipes have leaking joints;

- (3) the exhaust or tail pipes have holes, leaking seams, or leaking patches on muffler;
- (4) the tail pipe end is pinched;
- (5) the exhaust system is equipped with muffler cut-out or muffler by-pass; or
- (6) any part of the system passes through the passenger compartment.

History Note: Authority G.S. 20-2; 20-39; 20-128; 20-183.3(a)(9);
Eff. October 1, 1994;
Readopted Eff. October 1, 2021.

19A NCAC 03D .0542 EMISSIONS CONTROL DEVICE

Pursuant to G.S. 20-183.8A(a)(2), a civil penalty shall be assessed against individuals who instruct or allow a person to remove, disconnect, tamper with, or render inoperable any emissions control device equipped by the manufacturer of any motor vehicle as described in G.S. 20-183.3. These devices include:

- (1) Catalytic converter;
- (2) Unleaded gas restrictor;
- (3) Air pump system;
- (4) EGR valve;
- (5) PCV valve;
- (6) Thermostatic air cleaner;
- (7) Evaporative emission system; and
- (8) Oxygen sensor.

History Note: Authority G.S. 20-2; 20-39; 20-183.8A;
Eff. October 1, 1994;
Readopted Eff. October 1, 2021.

19A NCAC 03D .0543 INSPECTION PROCEDURE FOR EMISSIONS EQUIPMENT

(a) In accordance with G.S. 20-183.2, vehicles required to receive a State safety inspection are also subject to an emission inspection if it is propelled or has the ability to be propelled by a gasoline-powered motor vehicle, registered or based in an emission county, and meets the following criteria:

- (1) the vehicle model year is within 20 years of the current year and older than the three most recent model years;
- (2) vehicles of the three most recent model years have more than 70,000 miles on the odometer; and
- (3) vehicle is not a heavy duty vehicle.

(b) The following requirements shall be adhered to by the license inspection station:

- (1) inspections shall be performed only with an analyzer and software that has been certified by the North Carolina Department of Environmental Quality (NCDEQ).
- (2) Requirements for keeping and submitting records are as follows:
 - (A) Copies of the Vehicle Inspection Receipt/Statement shall be removed from the analyzer at the time of download and filed with other business records and kept in sequence

for review by the DMV Inspector during his or her audit. These copies of the Vehicle Inspection Receipt/Statement must be retained for 18 months; and

- (B) Station owners shall maintain the analyzer printer in a condition that produces copies of the Vehicle Inspection Receipt/Statement that are clear and legible. Failure to comply shall result in an immediate lockout as set forth in Rule .0545 of this Section that will remain in effect until the printer has been replaced or corrected.

(c) The procedures for inspection shall be as follows:

- (1) The inspection mechanic shall perform the emission test utilizing an emission analyzer that conforms to the NC Department of Environmental Quality certification standards.
- (2) The inspection mechanic shall conduct the emission inspection by following the prompts of the analyzer and accurately completing all data fields with the applicable information.

(d) The owner or operator of a vehicle that suspects an emission analyzer provided incorrect results, may submit in writing to the Division of Motor Vehicles a request that the Division perform an emissions inspection on the vehicle so the results can be compared. If the test determines the vehicle to be in compliance with Emission Standards, the Division shall issue an exemption to the vehicle, not to exceed 12 months. The Division shall require an examination of the station analyzer in question and take corrective action.

History Note: Authority G.S. 20-2; 20-39; 20-183.3;
Eff. October 1, 1994;
Readopted Eff. October 1, 2021.

19A NCAC 03D .0544 SAFETY INSPECTION OF MOTORCYCLES

(a) Motorcycle brakes shall fail safety inspection if:

- (1) when applying brakes to moving vehicle, there is insufficient force to stop the vehicle;
- (2) brakes are worn in such a manner that there is an uneven braking force;
- (3) there is an audible or visual indication that the brake lining is worn to the extent it is no longer serviceable;
- (4) there is less than one-third reserve in either footbrake or handbrake total possible travel when the brakes are fully applied;
- (5) reservoirs of braking cylinders are not full;
- (6) there is a visible leakage of fluid from any brake line or brake component; or
- (7) handbrake cables are frayed, broken, or frozen or linkage is defective.

(b) Motorcycle headlamps shall fail safety inspection if:

- (1) headlamp does not operate or is a color other than white;

- (2) there are more than two headlamps connected on a single switch;
- (3) headlamp is cracked or has holes which allow entry of water;
- (4) there is standing water in the headlamp; or
- (5) headlamp is out of aim.
- (c) Motorcycle rear lamps shall fail safety inspection if:
 - (1) they do not operate;
 - (2) light is a color other than red;
 - (3) lens is cracked or broken and allows entry of water;
 - (4) there is standing water in the lens;
 - (5) lamp is not mounted; or
 - (6) wiring is broken or frayed.
- (d) A motorcycle stop lamp shall fail safety inspection if:
 - (1) lamp does not operate when brakes are applied;
 - (2) light is a color other than red or amber;
 - (3) lens is cracked or broken and allows entry of water;
 - (4) there is standing water in the lens;
 - (5) lamp is not mounted; or
 - (6) wiring is broken or frayed.
- (e) A motorcycle license plate light shall fail safety inspection if:
 - (1) light does not operate;
 - (2) light does not illuminate the license plate; or
 - (3) light is a color other than white.
- (f) A motorcycle horn shall fail safety inspection if:
 - (1) the horn does not operate;
 - (2) the sound emitted is not audible at 200 feet;
 - (3) the horn is not mounted; or
 - (4) the button is mounted so that it cannot be operated by the driver.
- (g) Motorcycle tires shall fail safety inspection if:
 - (1) there is less than two thirty-seconds of an inch of tread at two or more locations around the circumference of the tire in two adjacent major tread grooves, or if the tread wear indicators are in contact with the roadway at two or more locations around the circumference of the tire;
 - (2) cords are exposed at any location on the tire; or
 - (3) sidewall is cut, bulging, damaged, or is cracked due to dry rotting.
- (h) Motorcycle rear view mirrors shall fail safety inspection if:
 - (1) the mirrors are missing, broken, or cracked;
 - (2) the mirrors are not mounted; or
 - (3) the mirrors will not hold a setting while vehicle is in operation.
- (i) A motorcycle exhaust system shall fail safety inspection if:
 - (1) the motorcycle has no muffler;
 - (2) the muffler, exhaust, or tailpipe have holes, leaking joints, seams, or patches;
 - (3) the tailpipe end is pinched;
 - (4) the exhaust system is equipped with a muffler cut out or bypass; or
 - (5) the muffler baffles have been removed or damaged to create a straight pipe.
- (j) A motorcycle steering mechanism shall fail safety inspection if:
 - (1) front shocks are sagging or broken;

- (2) front end assembly is loose, bent, or there are damaged or twisted bolts; or
- (3) front end nuts, bolts, or rivets are loose or missing.

History Note: Authority G.S. 20-2; 20-39; 20-183.3; Eff. October 1, 1994; Readopted Eff. October 1, 2021.

19A NCAC 03D .0545 INVESTIGATION/AUDIT/SAFETY OR EMISSIONS INSPECTION STATIONS

- (a) Complaints To Be Investigated: All complaints received by the Commissioner about any inspection station shall be investigated for the purpose of determining whether there has been a violation of the Rules of this Section and applicable General Statutes.
- (b) Appropriate Enforcement Action To Be Taken: When it appears from any investigation that the inspection law has been violated by an inspection station or its agents or employees, or by a self-inspector, the Commissioner shall take the appropriate enforcement action, which may include suspension or revocation of the station's license and inspector certifications.
- (c) Report of Undercover Investigation: Periodic checks shall be made by undercover officers of the Division of Motor Vehicles routinely and upon receipt of complaints to determine compliance with inspection laws. If violations are detected, administrative action shall be taken by the Division of Motor Vehicles against the licensed station and the inspection mechanic.
- (d) When an authorized agent of the Division of Motor Vehicles detects a violation, he or she shall require the owner or operator to discontinue all inspections and operations until he or she is in compliance and approved by the Division of Motor Vehicles Inspector.
- (e) Compliance Audit: A DMV Inspector shall audit a station's compliance with the Rules of this Section. Violation of the equipment requirements shall result in lockout of the inspection analyzer. Lockouts shall remain in effect until the issue has been brought into compliance.

History Note: Authority G.S. 20-2; 20-39; 20-183.6A; 20-183.8D; 20-183.8F; Eff. October 1, 1994; Readopted Eff. October 1, 2021.

19A NCAC 03D .0550 WAIVERS FROM EMISSIONS TEST REQUIREMENTS

- (a) The Commissioner of Motor Vehicles, or License and Theft Bureau employees who are designated by the Commissioner, shall issue a written waiver from the applicable emissions test standards for any vehicle, except vehicles listed in Paragraph (g) of this Rule, if the waiver issuance criteria have been met.
- (b) A written waiver shall be issued in accordance with this Rule upon request when all of the following criteria have been met:
 - (1) the vehicle passed the safety portion of the inspection as shown by the vehicle inspection receipt completed by the licensed inspection station that performed the inspection;
 - (2) the vehicle failed the emissions portion of the inspection as shown by the vehicle inspection

- receipt completed by the licensed inspection station that performed the inspection;
- (3) the vehicle is equipped with each emissions control device listed in Rule .0543 of this Section, if such device was equipped on the vehicle by the manufacturer. If the unleaded gas restrictor has been removed or rendered inoperable, the catalytic converter must be replaced;
- (4) qualifying repairs have been completed on the vehicle within 60 days following the initial failed emissions inspection. Proof of repairs must be shown by itemized and dated receipts from the person or business that provided the repair service or parts. Receipts for parts shall name the part and the stock number. For purposes of this Rule, "qualifying repairs" means repairs performed on a vehicle for the purpose of repairing the cause of the emissions inspection failure. A visual inspection of the vehicle shall be made by the designated License and Theft Bureau employee to determine if repairs were actually performed if, given the nature of the repair, this can be visually confirmed. For 1996 and later model year vehicles, qualifying repairs must be performed by a person who is professionally engaged in vehicle repairs or who is employed by a business whose purpose is vehicle repair or who possesses a certification from the National Institute For Automotive Service Excellence for emission-related diagnosis and repair;
- (5) the minimum repair expenditure applicable to the vehicle has been met by having qualifying repairs performed on the vehicle as follows:
- (A) Only the costs of parts are applied toward the minimum repair expenditure, if the repairs are performed by the vehicle owner or by a person who is not professionally engaged in vehicle repairs. In addition, those who are not employed by a business whose purpose is vehicle repair or who does not possess a certification from the National Institute For Automotive Service Excellence for emission-related diagnosis and repair;
- (B) For 1996 and later model year vehicles, the minimum repair expenditure is two hundred dollars (\$200.00), including parts and labor costs;
- (C) The cost of repairs to correct or replace emissions control devices that have been removed, disconnected, or rendered inoperable shall not be applied toward the minimum repair expenditure for any vehicle, regardless of model year.
- (D) The cost of diagnostic testing to determine whether the vehicle meets emissions standards shall not be applied toward the minimum repair expenditure unless associated with actual repairs to the vehicle; and
- (E) Any available warranty coverage on the vehicle must be used to obtain the needed repairs before expenditures may be applied to the minimum repair expenditure.
- (6) the vehicle owner has received a written denial of warranty coverage from the vehicle manufacturer or authorized dealer if the vehicle is within the statutory age and mileage coverage under section 207(b) of the Federal Clean Air Act 42-U.S.C. 7541(b); and
- (7) after qualifying repairs have been completed and within 60 days after failing the initial emissions inspection, the vehicle failed another emissions inspection as shown by the vehicle inspection receipt completed by the licensed inspection station that performed the inspection.
- (c) The vehicle owner or person authorized by the owner must request the waiver and present the vehicle and current registration at the License and Theft Bureau office. The receipts and other documents required by Paragraph (b) of this Rule must be submitted to the designated License and Theft Bureau employee at the time of the request for a waiver.
- (d) The designated License and Theft Bureau employee shall review the receipts and documents submitted in connection with the waiver request and shall make a visual inspection of the vehicle to verify that the criteria listed in Paragraph (b) of this Rule have been met. If the License and Theft Bureau employee is satisfied that the waiver criteria have been met, the Division must issue a written waiver for the vehicle on a form provided by the Division.
- (e) The vehicle owner or person authorized by the owner must present the waiver to the licensed self-inspector or inspection station that performed the initial safety and emissions inspection. The inspection station shall reinspect the vehicle in accordance with the Rules of this Section, except for the emissions portion of the inspection. The waiver authorization number shown on the written waiver must be entered into the emissions analyzer. If the vehicle meets all other requirements of the inspection, the inspection station shall pass the vehicle inspection.
- (f) Each inspection station must maintain a copy of the written waivers for vehicles inspected and approved by the station for at least 18 months in the same manner and under the same conditions as other inspection records which are required to be maintained pursuant to G.S. 20-183.6A(b).
- (g) Waivers shall not be issued for vehicles that are owned, operated, or leased by a licensed self inspector.

*History Note: Authority G.S. 20-39; 20-183.5;
Eff. October 1, 1994;*

Readopted Eff. October 1, 2021.

19A NCAC 03D .0551 WINDOW TINTING

(a) All stations performing window tinting inspections shall have a light meter or photometer which has been tested and approved by the Division of Motor Vehicles and that complies with Rule .0552 of this Section. Stations that do not have an approved light meter shall not inspect vehicles with applications of after-factory window tinting. Stations are not required to maintain a light meter in order to perform safety inspections on vehicles without after-factory window tinting.

(b) Prior to initiating the inspection process, the inspection mechanic shall determine if the vehicle has after-factory window tinting by using an automotive film check card or knowledge of window tinting techniques. If the vehicle has after-factory window tinting but the station does not have a light meter approved by the Division, the mechanic must inform the customer he or she is unable to perform the inspection. The station may not charge for any portion of the inspection.

(c) The inspector mechanic shall test the photometer calibration against a reference sample of glass provided by the manufacturer prior to testing the after factory window tinting. If the photometer's display is not functioning as designed by the manufacturer or the device exceeds the net light transmission calibration test by plus or minus three percentage points, the unit shall not be used until repaired. Guidelines for photometer calibration tests are as follows:

- (1) The reference glass sample must be clean and free of dirt prior to performing the calibration check.
- (2) If a reference glass sample has been broken or is missing, the test shall not be performed and the mechanic shall inform the customer he is unable to perform the inspection.

(d) The inspection mechanic shall perform all tests according to the photometer manufacturer's recommendations. Window tint shall fail safety inspection if:

- (1) Any window on the vehicle with after-factory tint has a light transmittance of less than 32 percent;
- (2) The tint on any window is red, yellow, or amber;
- (3) The tint on the windshield extends more than five inches below the top of the windshield or is below the AS1 line of the windshield, whichever measurement is longer; and
- (4) The light reflectance of a tinted window is not 20% or less.

(e) Window tinting on vehicles with after-factory window tint shall not be inspected if the vehicle is exempt from the window tinting restrictions under G.S. 20-127(c).

(f) The fee as specified in G.S. 20-183.7(a) for inspecting window tinting shall be charged for vehicles with after factory tint, unless the light transmission exceeds 65 percent.

History Note: Authority G.S. 20-2; 20-39; 20-127; 20-183.7(a);

Temporary Adoption Eff. November 1, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Eff. February 1, 1996;

Readopted Eff. October 1, 2021.

19A NCAC 03D .0552 PHOTOMETER DESIGN AND PERFORMANCE REQUIREMENTS

(a) Multi-piece photometers shall be designed to be operated by one person on front windows, roll-down and non-roll-down side windows, and rear windows with up to 1/4-inch glass thickness. The multi-piece photometer shall have a three-digit digital readout capable of displaying from 00.0% to 99.9% transmittance with a resolution to the nearest 1/10 of 1%.

(b) The multi-piece photometer shall incorporate an automatic alignment feature or positive alignment indication such that the alignment of the transmitter and receiver are accomplished either automatically by respective devices or through an electronic noise indicating proper alignment, a light indicating alignment, or a feature that prevents readings being taken without the device being aligned. The automatic field of view of the transmitter and receiver shall be large enough to provide an accurate reading of the true net transmittance of the measured window.

(c) All photometric devices shall maintain unit accuracy within plus or minus three percentage points of reference samples between ten and seventy percent net light transmission.

(d) All photometric devices shall have a repeatability of plus or minus one percentage point from reading to reading.

(e) If the unit's supply voltage falls below the usable operating range, the device shall produce a low battery indication or fail to perform testing. Accurate readings must not be affected by the unit's supply voltage. The unit's power supply shall be capable of producing a minimum of 200 readings before replacement or recharge.

(f) Photometric devices shall fail the Division's certification if it is affected by outside stray or ambient light sources. In addition to physical light barriers, such as felt covers and rubber gaskets, the photometer shall include some form of electronic filtration or cancellation of any stray or ambient light sources.

(g) Photometric devices shall not be affected by interference generated by electric equipment, tools, or lighting devices. Readings shall not fluctuate when close to operating electric motors or lighting sources.

(h) Operating humidity range shall be 0-100% non-condensing. Operating temperature range shall be zero to 110 degrees F.

(i) Photometric devices shall incorporate a means of compensating for temperature and humidity changes within the stated ranges of this Rule. Acceptable units shall be capable of demonstrating both accuracy and repeatability of transmittance readings throughout the operating temperature and humidity ranges under Paragraph (h) of this Rule.

(j) The multi-piece photometer's transmitter shall have a light source capable of providing a uniform intensity beam that can accommodate the alignment capabilities of the receiver. Multi-piece photometers shall incorporate a means of self-alignment or positive alignment indication that shall be accomplished when the source and detector units are placed on their respective surfaces of the glazing to be measured as described in Paragraph (a) of this Rule. The alignment shall be accurate enough to position the

detector unit within the uniform beam of the source. The result of this alignment feature shall be data that meets the accuracy and repeatability requirements of this Rule.

(k) Reference samples shall be glass with a warranted transmittance stability of at least one year. Reference samples shall provide a uniform surface reading at four points with a variation not to exceed one percentage point as measured by a calibrated spectrophotometer over an indicated range within 560nm with a variance of no more than 20nm. Reference samples shall be labeled or inscribed with the manufacturer's name, address, and date of calibration. Manufacturers shall ensure replacement reference samples are available to the consumer within two working days in the event of damage or breakage.

(l) Photometric devices shall include an all segments display option for testing the unit's LCD display segments. This test may be performed prior to each reading or through a separate test button.

(m) Photometric units shall incorporate devices that shall protect the light source and detector from direct contact with environmental elements, dust, grease, and other products associated with automotive repair shops. These devices shall also prevent the user from touching either the light source or detector.

History Note: Authority G.S. 20-2; 20-39; 20-127; 20-183.7(a);

Temporary Adoption Eff. November 1, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Eff. February 1, 1996;

Readopted Eff. October 1, 2021.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 34 – BOARD OF FUNERAL SERVICE

21 NCAC 34A .0119 FINAL DECISION IN CONTESTED CASE

(a) Immediately upon the conclusion of a disciplinary proceeding conducted pursuant to G.S. 150B-38 and upon an adopted motion by the Board, the Board shall deliberate on whether an applicant, licensee, or permit holder involved has violated a statute or rule for which the Board has the authority to enforce, and what disciplinary action, if any, should be taken against the applicant, licensee, or permit holder.

(b) If the Board reaches a decision on the issues set forth in Paragraph (a) of this Rule immediately upon the conclusion of the disciplinary proceeding, the Board shall announce the decision but shall provide the parties with an opportunity to submit proposed findings of fact and exceptions to the decision to the Board's office within 15 days, unless additional time is allowed by the Board for good cause shown or upon mutual agreement by the parties. For purposes of this Rule, "good cause" shall mean the length of the hearing, the complexity of the issues involved, and the availability of the parties.

(c) If the Board does not reach a decision on the issues set forth in Paragraph (a) of this Rule immediately upon the conclusion of the disciplinary proceeding, the Board shall provide the parties an

opportunity to submit proposed findings of fact and conclusions of law to the Board's office within 15 days, unless additional time is allowed by the Board for good cause shown or upon mutual agreement by the parties. The Board shall deliberate on the issues set forth in Paragraph (a) of this Rule at its next Board meeting following the parties' deadline to submit the proposed findings of fact and conclusions of law.

(d) Following the expiration of the time allowed for the parties to submit proposed findings and exceptions, the Board shall make a written final agency decision in accordance with G.S. 150B-42.

(e) Disciplinary costs shall be assessed against an applicant, licensee, or permit holder in a written final agency decision that results in disciplinary action following a show cause hearing, as set forth in G.S. 90-210.23(d1). For purposes of this Rule, "disciplinary costs" are actual costs incurred by the Board to prosecute the case, including per diems and expenses paid to Board members and witnesses, costs for a court reporter and transcripts, and costs associated with preparing exhibits.

History Note: Authority G.S. 90-210.23(a), (d); 90-210.23(d1); 150B-38(h); 150B-42;

Eff. February 1, 1976;

Readopted Eff. September 27, 1977;

Repealed Eff. July 1, 1988;

Eff. October 1, 2021 (Codifier approved request from agency to reuse rule number).

21 NCAC 34B .0707 REFRIGERATION

(a) Any refrigeration unit procured and maintained by a funeral establishment must satisfy the following requirements:

- (1) be capable of storing at least three adult human bodies, each measuring up to seven feet in length and three hundred pounds in weight, in the holding facility;
- (2) be capable of maintaining an interior temperature of 40 degrees Fahrenheit while loaded with the maximum number of bodies for which it is designed;
- (3) shall have sealed concrete, stainless steel, galvanized, aluminum, or other flooring in walk-in units;
- (4) shall have stainless steel, aluminum, or other non-corrosive materials for the remainder of all units; and
- (5) be subject to inspection by Board inspectors at all times.

(b) The Board shall allow funeral establishments to procure and maintain one or more temporary refrigeration units. Any such temporary refrigeration unit must satisfy the requirements set forth in Subparagraphs (a)(2)-(5) of this Rule. Any such temporary refrigeration unit not located inside the funeral establishment shall be kept locked at all times when human remains are stored inside.

(c) Human remains stored in a refrigeration unit, as set forth in Paragraphs (a) and (b) of this Rule, must be kept in a container that complies with G.S. 90-210.121(9)(b)-(f).

(d) Prior to using a refrigeration unit that is not located on its premises, a funeral establishment shall provide the Board with a written document that sets forth the following:

- | | | | |
|---|--|---|--|
| <p>(1) the name, contact information, and license number, if applicable, of the entity that owns the property on which the refrigeration unit is located;</p> <p>(2) the physical address of the property on which the refrigeration unit is located;</p> <p>(3) the name, contact information, and license number, if applicable, of the entity responsible for maintaining the refrigeration unit that meets the requirements of Paragraphs (a) and (b) of this Rule;</p> <p>(4) certification from both the licensed manager of the funeral establishment and an officer, owner, member, or partner of the entity responsible for maintaining the refrigeration unit in compliance with Paragraphs (a) and (b) of this Rule, acknowledging that:</p> <p style="padding-left: 20px;">(A) the funeral establishment shall use the refrigeration unit for the storage of human remains;</p> <p style="padding-left: 20px;">(B) the refrigeration unit complies with Paragraphs (a) and (b) of this Rule;</p> <p style="padding-left: 20px;">(C) a log documenting the chain of possession of human remains shall be maintained, which sets forth the name of the decedent, the funeral establishment or other entity for whom the human remains are being stored, and the date and time that human remains are placed inside and removed from the refrigeration unit;</p> <p style="padding-left: 20px;">(D) the Board inspectors shall have access to the refrigeration unit at all times; and</p> <p style="padding-left: 20px;">(E) any licensee or permit holder that uses or maintains a refrigeration unit that is not compliant with this Rule is subject to disciplinary action pursuant to G.S. 210.25(d)(4) and 90-210.25(e)(1)(j).</p> | <p>(4) has stainless steel, aluminum, or other non-corrosive materials for the remainder of all units.</p> <p>(b) A refrigeration unit in compliance with Subparagraphs (a)(1)-(4) of this Rule shall satisfy a crematory or hydrolysis licensee's compliance with Paragraph (a) of this Rule if the refrigeration unit is housed in a funeral establishment, crematory, or hydrolysis licensee sharing common ownership with, and located on the same contiguous piece of property as, the crematory or hydrolysis licensee.</p> <p>(c) Unembalmed human remains retained in the custody of a crematory or hydrolysis licensee for more than 24 hours prior to cremation or hydrolysis shall be kept in a refrigeration unit. Human remains stored in a refrigeration unit, as set forth in Paragraphs (a) and (c) of this Rule, must be kept in a container that complies with G.S. 90-210.121(9)(a)-(f). The Board shall allow a crematory or hydrolysis licensee to procure and maintain one or more temporary refrigeration units. Any such temporary refrigeration unit must satisfy the requirements set forth in Subparagraphs (a)(1)-(4) of this Rule. Any such temporary refrigeration unit not located inside the crematory shall be kept locked at all times when human remains are stored inside.</p> <p>(d) Prior to using a refrigeration unit that is not located on its premises, a crematory or hydrolysis licensee shall provide the Board with a written document that sets forth the following:</p> <table border="0"> <tr> <td style="vertical-align: top; width: 50%;"> <p>(1) the name, contact information, and license number, if applicable, of the entity that owns the property on which the refrigeration unit is located;</p> <p>(2) the physical address of the property on which the refrigeration unit is located;</p> <p>(3) the name, contact information, and license number, if applicable, of the entity responsible for maintaining the refrigeration unit that meets the requirements of Subparagraphs (a)(1)-(4) of this Rule;</p> <p>(4) certification from both the manager of the crematory and an officer, owner, member, or partner of the entity responsible for maintaining the refrigeration unit in compliance with Subparagraphs (a)(1)-(4) of this Rule, acknowledging that:</p> <p style="padding-left: 20px;">(A) the crematory or hydrolysis licensee shall use the refrigeration unit for the storage of human remains;</p> <p style="padding-left: 20px;">(B) the refrigeration unit complies with Subparagraphs (a)(1)-(4) of this Rule;</p> <p style="padding-left: 20px;">(C) a log documenting the chain of possession of human remains shall be maintained, which sets forth the name of the decedent, the funeral establishment or other entity for whom the human remains are being stored, and the date and time that human remains are placed inside and removed from the refrigeration unit;</p> <p style="padding-left: 20px;">(D) the Board inspectors shall have access to the refrigeration unit at all times; and</p> </td> <td style="vertical-align: top; width: 50%;"></td> </tr> </table> | <p>(1) the name, contact information, and license number, if applicable, of the entity that owns the property on which the refrigeration unit is located;</p> <p>(2) the physical address of the property on which the refrigeration unit is located;</p> <p>(3) the name, contact information, and license number, if applicable, of the entity responsible for maintaining the refrigeration unit that meets the requirements of Subparagraphs (a)(1)-(4) of this Rule;</p> <p>(4) certification from both the manager of the crematory and an officer, owner, member, or partner of the entity responsible for maintaining the refrigeration unit in compliance with Subparagraphs (a)(1)-(4) of this Rule, acknowledging that:</p> <p style="padding-left: 20px;">(A) the crematory or hydrolysis licensee shall use the refrigeration unit for the storage of human remains;</p> <p style="padding-left: 20px;">(B) the refrigeration unit complies with Subparagraphs (a)(1)-(4) of this Rule;</p> <p style="padding-left: 20px;">(C) a log documenting the chain of possession of human remains shall be maintained, which sets forth the name of the decedent, the funeral establishment or other entity for whom the human remains are being stored, and the date and time that human remains are placed inside and removed from the refrigeration unit;</p> <p style="padding-left: 20px;">(D) the Board inspectors shall have access to the refrigeration unit at all times; and</p> | |
| <p>(1) the name, contact information, and license number, if applicable, of the entity that owns the property on which the refrigeration unit is located;</p> <p>(2) the physical address of the property on which the refrigeration unit is located;</p> <p>(3) the name, contact information, and license number, if applicable, of the entity responsible for maintaining the refrigeration unit that meets the requirements of Subparagraphs (a)(1)-(4) of this Rule;</p> <p>(4) certification from both the manager of the crematory and an officer, owner, member, or partner of the entity responsible for maintaining the refrigeration unit in compliance with Subparagraphs (a)(1)-(4) of this Rule, acknowledging that:</p> <p style="padding-left: 20px;">(A) the crematory or hydrolysis licensee shall use the refrigeration unit for the storage of human remains;</p> <p style="padding-left: 20px;">(B) the refrigeration unit complies with Subparagraphs (a)(1)-(4) of this Rule;</p> <p style="padding-left: 20px;">(C) a log documenting the chain of possession of human remains shall be maintained, which sets forth the name of the decedent, the funeral establishment or other entity for whom the human remains are being stored, and the date and time that human remains are placed inside and removed from the refrigeration unit;</p> <p style="padding-left: 20px;">(D) the Board inspectors shall have access to the refrigeration unit at all times; and</p> | | | |

*History Note: Authority G.S. 90-210.23; 90-210.27A(h), (l);
Emergency Adoption Eff. February 19, 2021;
Temporary Adoption Eff. May 28, 2021;
Eff. October 1, 2021.*

21 NCAC 34C .0202 REFRIGERATION

(a) Crematory and hydrolysis licensees shall have located on its premises a refrigeration unit that:

- (1) is capable of storing at least three adult human bodies, each measuring up to seven feet in length and three hundred pounds in weight, in the holding facility;
- (2) is capable of maintaining an interior temperature of 40 degrees Fahrenheit while loaded with the maximum number of bodies for which it is designed;
- (3) has sealed concrete, stainless steel, galvanized, aluminum, or other flooring in walk-in units; and

- (E) any licensee or permit holder that uses or maintains a refrigeration unit that is not compliant with this Rule is subject to disciplinary action pursuant to G.S. 210.25(d)(4) and 90-210.25(e)(1)(j).

*History Note: Authority G.S. 90-210.121(9),(12); 90-210.123(g); 90-210.134(a); 90-210.136(d),(h); Eff. July 1, 1991;
Recodified from Rule .0201 Eff. July 7, 1992;
Amended Eff. July 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;
Temporary Amendment Eff. May 24, 2019;
Temporary Amendment Expired Eff. March 13, 2020;
Amended Eff. January 1, 2021;
Emergency Amendment Eff. February 19, 2021;
Temporary Amendment Eff. May 28, 2021;
Amended Eff. October 1, 2021.*

21 NCAC 34D .0302 ANNUAL REPORT

Each preneed funeral establishment licensee shall file an annual report with the Board. The report shall include the following:

- (1) the total number of standard and inflation-proof trust-funded and insurance-funded preneed funeral contracts maintained by the licensee;
- (2) the number of contracts sold in the reporting period;
- (3) the number of contracts that expired, including contracts performed, revoked and transferred, in the reporting period;
- (4) the total year-end balance of all preneed trust accounts maintained at each financial institution;
- (5) the total year-end balance of all insurance-funded preneed contracts written with each insurance company;
- (6) for each preneed contract sold, whether the preneed contract is active, performed, cancelled, or lapsed; and
- (7) for each active preneed contract, the current insurance policy value or trust account balance.

The annual report shall be certified as correct by the location manager registered under G.S. 90-210.25(d)(2)a. or by a corporate officer of the preneed establishment licensee. The annual report shall be filed not later than March 31 each year by each firm holding a preneed establishment license at any time during the preceding year ending December 31.

*History Note: Authority G.S. 90-210.69(a); 90-210.68(a); Eff. May 1, 1993;
Amended Eff. September 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;
Amended Eff. October 1, 2021.*

CHAPTER 63 - SOCIAL WORK CERTIFICATION AND LICENSURE BOARD

21 NCAC 63 .0202 APPLICATION PROCESS

(a) Pursuant to G.S. 90B-7, any person desiring to obtain a certificate or license from the Board shall make application to the Board. Applications not completed within two years of submission to the Board shall be denied. Application forms and instructions may be found on the Board's website at <https://www.ncswboard.org>.

(b) All applications for certification or licensure shall contain the following:

- (1) the applicant's contact information;
- (2) the social security number of the applicant;
- (3) the requested designation of licensure or certification type;
- (4) educational history and degree attainment;
- (5) the names and contact information of three persons supplying professional reference forms in support of the applicant's application, as well as the length of time that the persons have known the applicant;
- (6) employment history;
- (7) whether the applicant has ever been certified, licensed, or registered to practice social work by the Board, by another occupational Board, or in another state/jurisdiction and, if so:
 - (A) what credential was held;
 - (B) in what state/jurisdiction;
 - (C) the issuance date and expiration date; and
 - (D) what examinations were taken to obtain said certification, licensure, or registration;
- (8) whether the applicant has ever had a credential denied, limited, reprimanded, suspended, or revoked;
- (9) whether the applicant has ever been convicted of a felony or misdemeanor under any laws;
- (10) whether any criminal charges are pending against the applicant;
- (11) whether any court, board, agency, or professional organization has found the applicant guilty of misconduct, unprofessional conduct, dishonest or fraudulent practice, or incompetent practice;
- (12) whether any charges are pending against the applicant before any court, board, agency, or professional organization for unprofessional conduct, dishonest or fraudulent practice, or incompetent practice;
- (13) three professional references, as prescribed in 21 NCAC 63 .0204, provided in a sealed envelope with the signature of the reference over the sealed closure;
- (14) official score reports showing passage of the required examination, as prescribed herein and in 21 NCAC 63 .0301, provided from the examination testing provider;

- (15) official transcripts, as prescribed in 21 NCAC 63 .0203, provided either from the institution directly to the Board or from the applicant to the Board in an envelope that is sealed by the institution;
- (16) the applicant's affirmation that:
 - (A) the applicant has read the North Carolina General Statute 90B Social Work Certification and Licensure Act, including the Board's rules, ethical guidelines, and disciplinary procedures, which are available on the Board's website at <https://www.ncswboard.org>;
 - (B) the information provided by the applicant in the application is true;
 - (C) the applicant consents to a criminal history record check; and
 - (D) the applicant has read and understands the public notice statement on employee misclassification that is set forth in the application and has disclosed any investigations for employee misclassification, and its results, over the preceding 12-month period, as prescribed by G.S. 143-789; and
- (17) the application fee, as prescribed in 21 NCAC 63 .0208.

(c) In addition to the items set forth in Paragraph (b) of this Rule, applicants for certification as a certified social work manager shall provide a completed CSWM Administrative Supervision Form, as prescribed in Paragraph (e) of this Rule, and an Employment Verification Form, as prescribed in Paragraph (f) of this Rule, to demonstrate supervised administrative experience attained in the preceding six years.

(d) Applicants for licensure as a licensed clinical social worker who are licensed by the Board as licensed clinical social worker associates at the time of application shall provide to the Board the LCSW Short-Form Application, which contains the following:

- (1) the applicant's name, the number of the applicant's licensed clinical social worker associate license, and contact information;
- (2) the signature of the applicant and the applicant's LCSW supervisor;
- (3) whether the LCSW supervisor recommends that the applicant continue supervised clinical practice at the LCSWA level or recommends the applicant for LCSW licensure;
- (4) the applicant's certification that:
 - (A) the applicant has completed the requirements to obtain licensure in North Carolina as a LCSW as set forth in G.S. 90B-7(d);
 - (B) the applicant has read the North Carolina General Statute 90B Social Work Certification and Licensure Act, and the Board's rules, ethical guidelines, and disciplinary

procedures, which are available on the Board's website at <https://www.ncswboard.org>, and agrees to comply with them;

- (C) the information provided by the applicant in the application is true;
 - (D) the applicant has not violated any of the Board's governing statutes or rules; and
 - (E) the applicant has not been convicted of a misdemeanor or felony crime since submitting his or her initial application for associate licensure;
- (5) the application fee, as prescribed in 21 NCAC 63 .0208; and
 - (6) a list of all continuing education hours taken since the applicant was licensed as a LCSWA or since renewal of LCSWA licensure that provides the name of the course taken, the date on which the course was taken, the length of the course taken, and whether the course taken was distance learning or for ethics.

(e) A CSWM Administrative Supervision Form shall contain the following:

- (1) the name of the applicant and his or her supervisor;
- (2) the applicant's position;
- (3) a description of the applicant's administrative duties and responsibilities for the employer;
- (4) where the applicant worked during the time that supervision was provided to the applicant;
- (5) dates during which the applicant was employed;
- (6) total number of hours during which the applicant was employed;
- (7) dates during which the supervisor provided administrative supervision;
- (8) total number of hours during which the supervisor provided individual administrative supervision to the applicant;
- (9) total number of hours during which the supervisor provided group administrative supervision to the applicant;
- (10) total combined hours of individual and group hours provided to the applicant; and
- (11) the supervisor's certification that the information set forth in the CSWM Administrative Supervision Form is correct and that the supervisor is certified with the Board on at least one level and has a minimum of two years of administrative experience in a social work or mental health setting.

(f) An Employment Verification Form shall be completed for each place of employment where the applicant has worked over the preceding six years and shall contain the following:

- (1) the applicant's name and contact information;
- (2) the applicant's license number, if a license is held;
- (3) the name and contact information of the applicant's place of employment;

- (4) the title of the applicant's position;
- (5) whether the applicant is authorized to provide clinical services on behalf of the employer;
- (6) the applicant's duties for the employer, as documented in a job description on the employer's letterhead;
- (7) the name and license number of the applicant's clinical supervisor;
- (8) whether the applicant's supervisor provided supervision to the applicant in person or remotely;
- (9) the date of the applicant's employment;
- (10) whether the applicant was employed full-time, part-time, or pro re nata;
- (11) whether the applicant is paid a fee or salary for services performed; and
- (12) the employer's signature, contact information, and the date completed.

On the Employment Verification Form, the applicant shall provide the information requested in Subparagraphs (f)(1)-(2) of this Rule and the applicant's employer shall provide the information requested in Subparagraphs (f)(3)-(12) of this Rule.

History Note: Authority G.S. 90B-6; 90B-7; 93B-8.1(c); Eff. August 1, 1987;
Temporary Amendment Eff. October 1, 1999;
Amended Eff. July 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;
Amended Eff. October 1, 2021.

21 NCAC 63 .0203 TRANSCRIPTS

Applicants must have official transcripts sent from institutions where their highest social work degrees have been conferred. If transcript course titles do not convey the content of the courses, the applicant shall provide clarifying documentation from the institution.

History Note: Authority G.S. 90B-7;
Eff. August 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;
Amended Eff. October 1, 2021.

21 NCAC 63 .0204 REFERENCES

- (a) Applicants for all classifications shall have a minimum of three references related to the applicant's social work experience. The Board shall not accept references by relatives, clients, or subordinates of applicants. A current Board member shall not submit a reference for an applicant unless the Board member is the applicant's current or only social work supervisor. In such a case the Board member may submit a reference, but the Board member shall recuse from review of that applicant.
- (b) All references shall come from individuals who have or had a professional association with the applicant and have knowledge of the applicant's professional experience in the practice of social work.

- (c) For applicants for LCSWA licensure, at least one reference shall be from a person who has been or is currently supervising the applicant in a social work setting.
- (d) For applicants from other jurisdictions seeking certification or licensure in accordance with G.S. 90B-8, at least one reference shall be from a registered, certified, or licensed social worker who has been or is currently practicing in a social work setting.
- (e) All references shall be on a form prescribed by the Board, which is available on the Board's website at ncswboard.org, and shall contain the following:

- (1) the name of the applicant and the classification for which the applicant is applying;
- (2) the name of the person completing the reference;
- (3) the applicant's signature and applicant's indication as to whether or not the applicant waives the right to access the information provided by the person completing the reference;
- (4) the profession of the person completing the reference;
- (5) the position of the person completing the reference;
- (6) the relationship between the applicant and the person completing the reference;
- (7) how long the person completing the reference has known the applicant;
- (8) whether the person completing the reference believes that he or she has limited, moderate, or thorough knowledge of the applicant's professional qualifications;
- (9) whether the applicant has ever been guilty of unprofessional conduct, dishonest practice, incompetence, or fraud, if known by the person completing the reference;
- (10) if the person completing the reference is aware of any issues such as substance abuse or emotional disorders that would impair the applicant's ability to practice;
- (11) if the person completing the reference has any concerns about the applicant that he or she would like to bring to the Board's attention and if so, a description;
- (12) a rating of poor, good, superior, or unknown for the applicant's professional judgement, ethical conduct, competence and skill, ability to convey concern and empathy, record keeping, client relationships, written communication, verbal communication, and social work knowledge base;
- (13) whether the person completing the reference, in his or her discretion, would recommend the applicant highly without reservation; recommend the applicant as qualified and competent; recommend the applicant with some reservation and if so, to explain accordingly; or would not recommend the applicant and if not, to explain accordingly;

- (14) a narrative of the applicant's strengths, weaknesses, special skills, reservations, or other information related to the applicant's suitability for certification or licensure, including any reservations held by the person completing the reference regarding the applicant; and
- (15) the signature and contact information of the person completing the reference.

History Note: Authority G.S. 90B-6; 90B-7; 90B-8; Eff. August 1, 1987; Temporary Amendment Eff. October 1, 1999; Amended Eff. January 1, 2009; April 1, 2001; Readopted Eff. February 1, 2017; Amended Eff. October 1, 2021.

21 NCAC 63 .0207 SUBSTANTIAL EQUIVALENCY

(a) In addition to the items set forth in 21 NCAC 63 .0202(b), applicants for certification as a certified social worker pursuant to G.S. 90B-8 shall provide verification of current certification, license, or registration in good standing to practice social work in another jurisdiction and certified proof of having passed the ASWB Bachelors Level Examination.

(b) In addition to the items set in 21 NCAC 63 .0202(b), applicants for certification as a certified master social worker pursuant to G.S. 90B-8 shall provide verification of current certification, license, or registration and certified proof of having passed the ASWB Masters Level Examination or ACSW exam.

(c) In addition to the items set forth in 21 NCAC 63 .0202(b), applicants for certification as a certified social work manager pursuant to G.S. 90B-8 shall provide:

- (1) verification of current licensure in good standing to practice social work in another jurisdiction;
- (2) a copy of the state or jurisdiction law determining the qualifications under which the applicant was certified in the other state or jurisdiction; and
- (3) certified proof that the applicant has passed the ASWB Advanced Generalist Exam.

(d) In addition to the items set forth in 21 NCAC 63 .0202(b), applicants for licensure as a licensed clinical social worker pursuant to G.S. 90B-8 shall provide verification of a current and active license in good standing to practice social work in another jurisdiction and certified proof of having passed the ASWB Clinical Level Examination. If the applicant has not passed the ASWB Clinical Level Examination at the time of application, the applicant must provide a copy of the state/jurisdiction law determining the qualifications under which the applicant was licensed to practice social work in the other state or jurisdiction so that the Board can determine the applicant's eligibility to take the ASWB Clinical Examination.

(e) In addition to the items set forth in 21 NCAC 63 .0202(b), applicants for licensure as a licensed clinical social worker associate pursuant to G.S. 90B-8 shall provide:

- (1) verification of current and active licensure in good standing to practice social work in another jurisdiction;

- (2) an Employment Verification Form, as prescribed in 21 NCAC 63 .0202(f), that sets forth the total number of hours and dates of paid supervised post-MSW practice in a clinical setting from each employer for which the applicant has practiced clinical social work in the preceding six years, provided in a sealed envelope with the employer's signature on the envelope's sealed closure; and
- (3) a Clinical Social Work Supervision Form, as described in Paragraph (f) of this Rule, from each person who previously has provided clinical supervision to the applicant during the four years preceding the application, provided in a sealed envelope with the signature of the applicant's clinical supervisor on the envelope's sealed closure.

(f) A Clinical Social Work Supervision Form shall be on a form prescribed by the Board, which is available on the Board's website at ncswboard.org, and shall contain the following:

- (1) the name of the applicant and his or her clinical supervisor;
- (2) the applicant's position;
- (3) a description of the applicant's clinical social work duties and responsibilities with information about the population served by applicant, problems addressed, assessment, and treatment modalities used for treatment and diagnosis of mental and emotional disorders;
- (4) where the applicant worked;
- (5) dates during which the applicant was employed;
- (6) total number of hours during which the applicant was employed;
- (7) dates during which the clinical supervisor provided supervision to the applicant;
- (8) total number of hours during which the clinical supervisor provided individual supervision to the applicant;
- (9) total number of hours during which the clinical supervisor provided group supervision to the applicant;
- (10) total combined hours of individual and group supervision that clinical supervisor provided to the applicant; and
- (11) the clinical supervisor's certification that the information set forth in the Clinical Social Work Supervision Form is correct; that the clinical supervisor is certified, licensed, or registered as a clinical social worker with a graduate degree in social work from a program accredited by the Council on Social Work Education and has at least two years of clinical social work experience post-licensure.

History Note: Authority G.S. 90B-6; 90B-7; 90B-8; Eff. August 1, 1987; Temporary Repeal Eff. October 1, 1999; Repealed Eff. July 1, 2000;

Eff. October 1, 2021 (Codifier approved agency request to reuse rule number).

21 NCAC 63 .0208 APPLICATION FEE

Each applicant for certification or licensure by the Board shall submit an initial application fee of one hundred and forty-five dollars (\$145.00) with the application, unless otherwise exempt under G.S. 93B-15.1. An applicant applying for multiple levels of certification or licensure within one application must submit an application fee of one hundred and forty-five dollars (\$145.00) per each level for which the applicant applies. Application fees shall not be paid by personal check or cash.

History Note: Authority G.S. 90B-6; 90B-6.2;

Eff. August 1, 1987;

Temporary Amendment Eff. October 1, 1999;

Amended Eff. August 1, 2012; July 1, 2000;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;

Amended Eff. October 1, 2021.

21 NCAC 63 .0209 EXAM ELIGIBILITY

(a) The Board shall review each application submitted pursuant to 21 NCAC 63 .0202 and .0207 to determine whether an applicant possesses the educational, supervision, and examination qualifications for eligibility for a particular level of certification or licensure, pursuant to G.S. 90B-7. To be considered eligible to take the Clinical examination, an applicant must have two years of experience in a clinical social work setting documented with the Board and a MSW. To be considered eligible to take the Advanced Generalist examination, an applicant must have two years of experience in an administrative social work setting.

(b) An applicant shall be notified in writing if found to be ineligible for the requested level of certification. If an applicant is found ineligible for the particular level of certification or licensure for which the applicant has applied, the applicant may request in writing to the Board that the applicant be considered for eligibility for another level of certification or licensure for which the applicant possesses the minimum education, supervision, and examination qualifications. Such request must be made no later than 30 days following the date on which the applicant received written notification of ineligibility, as set forth in Paragraph (a) of this Rule. If an applicant is found to be ineligible for any level of certification or licensure, the applicant shall not be allowed to sit for any examination.

(c) If an applicant is found eligible for the particular level of certification or licensure for which the applicant has applied, the Board shall issue the applicant notification of exam candidacy approval. Upon receipt, the applicant shall submit to the Board an Exam Request Form or Clinical Exam Request Form, as described in Paragraph (e) and (f) of this Rule, and the fee set forth in 21 NCAC 63 .0306 to initiate the exam process.

(d) Upon receipt of the applicant's Exam Request Form and the fee set forth in 21 NCAC 63 .0306, the Board shall forward to the applicant instructions for registering to sit for the examination and the deadline by which the exam eligibility shall expire, which is determined in accordance with the ASWB Examination Candidate Handbook that is available at <http://aswb.org>. If the applicant fails to take the examination before the deadline by

which the exam eligibility shall expire, the applicant must submit another Exam Request Form and the fee set forth in 21 NCAC 63 .0306 in order to take the examination. If the applicant takes but fails the examination, the applicant must submit another Exam Request Form and the fee set forth in 21 NCAC 63 .0303 in order to re-take the examination, even if the expiration date has not yet occurred. An applicant must wait at least 90 days from the date on which the applicant took the examination before re-taking the examination.

(e) An applicant desiring to take an examination other than the ASWB Clinical level examination shall submit to the Board an Exam Request Form, which is available on the Board's website at <https://www.ncswboard.org>, that shall contain the following:

- (1) the applicant's name and address;
- (2) the applicant's social security number; and
- (3) the type of examination for which the applicant is approved to sit.

(f) An applicant desiring to take the ASWB Clinical level examination shall submit to the Board a Clinical Exam Request Form, which is available on the Board's website at <https://www.ncswboard.org>, only after completing two years of clinical practice. The Clinical Exam Request Form shall contain the following:

- (1) the name and license number of the applicant;
- (2) the contact information, date of birth, and signature of the applicant;
- (3) the name, license number, and signature of the applicant's clinical supervisor; and
- (4) the attestation of the applicant's clinical supervisor that the applicant has completed two years of clinical practice and is qualified to take the ASWB Clinical level examination.

History Note: Authority G.S. 90B-6; 90B-6.2;

Eff. August 1, 1987;

Temporary Amendment Eff. October 1, 1999;

Amended Eff. July 1, 2000;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;

Amended Eff. October 1, 2021.

21 NCAC 63 .0210 ASSOCIATE LICENSES

(a) Applicants for licensure as a LCSWA shall provide an application to the Board, as set forth in 21 NCAC 63 .0202(b), and shall comply with the requirements of this Rule.

(b) Prior to practicing clinical social work, associates must demonstrate in writing through an emergency crisis plan that, in the event of a clinical emergency, they have immediate access to at least one licensed mental health professional who has agreed to provide to them emergency clinical consultation to assure that compliance with the North Carolina statutes and rules governing clinical social work practice are maintained. For purposes of this Rule, "immediate" shall mean within one hour. The emergency crisis plan shall be submitted on a form prescribed by the Board that is available on the Board's website. The emergency crisis plan outline must be submitted for each location where the associate practices and shall provide the following:

- (1) the name, address, and contact information for the LCSWA practice;

- (2) a description of the practice setting that provides whether the practice is in a home, an office setting, and whether the LCSWA practices with other practitioners;
- (3) a hierarchy of initial contact persons, if more than one contact person is identified; where each person is located; and his or her estimated response time;
- (4) a plan for follow-up consultations with the LCSWA's clinical supervisor if an alternate emergency contact was consulted at the time of need; and
- (5) signatures and license numbers of the LCSWA, the LCSW supervisor, and the emergency consultant back-up provider.

Each licensed clinical social worker associate shall notify the Board in writing within seven days of any change in such access by resubmission of an emergency crisis plan outline form.

(c) Prior to practicing clinical social work, associates shall provide to the Board an Employment Verification for LCSWA form that contains the following:

- (1) the associate's name, address, contact information, license number, and license issuance and expiration dates;
- (2) the name and address of the agency for which the associate intends to work;
- (3) the associate's current position title and a copy of the job description;
- (4) whether the associate is authorized by the employer to provide clinical services;
- (5) the name of the associate's LCSW clinical supervisor and whether the supervisor is located on-site or off-site;
- (6) whether the associate is being paid a fee or salary;
- (7) dates during which the associate is working full-time, part-time, or as needed; and
- (8) the name and signature of the person completing the form on behalf of the employer.

(d) Each associate licensee must be supervised as set forth in G.S. 90B-7(f) and receive on-going appropriate supervision as defined in Rule .0211(a)(2) of this Chapter until the qualifying examination has been passed and the Licensed Clinical Social Worker license is issued.

(e) All associate licensees shall submit reports of their clinical social work experience and supervision on a form prescribed by the Board and made available on the Board's website every six months for review and evaluation by the Board. This six-month review form shall contain the following:

- (1) the associate's name, LCSWA license number, and contact information for the associate;
- (2) the associate's place of employment and an employment verification form, as prescribed in 21 NCAC 63 .0202(f), if not previously provided to the Board;
- (3) the associate's signature and date submitted;
- (4) an acknowledgment from the associate's LCSW supervisor as to whether:

- (A) a position statement on clinical supervision, available on the Board's website at <https://www.ncswboard.org>, has been signed and submitted to the Board;
- (B) an emergency crisis plan, as set forth in Paragraph (b) of this Rule, has been submitted to the Board;
- (C) a supervisory log has been maintained and is available upon request to verify documented supervision; and
- (D) a case narrative summarizing one case treated during this review period has been prepared, reviewed, and is on file and available for Board review, if needed;

(5) a rating of the associate by the associate's LCSW supervisor in all the following categories:

- (A) ethical standards of social work practice;
- (B) effective use of supervision;
- (C) competence in social work practice;
- (D) professional growth and development;
- (E) consistency of performance effort;
- (F) knowledge of social work principles and practices;
- (G) ability to formulate a treatment plan appropriate to the clients' needs;
- (H) ability to implement interventions consistent with the treatment plan;
- (I) supervisee's ability to assess his or her own capacities and skills;
- (J) ability to correctly diagnose mental and emotional disorders in accordance with professional judgment and training; and
- (K) ability to plan treatment and carry out clinical interventions related to mental and emotional disorders;

- (6) a narrative summary regarding the associate's growth as a clinical practitioner and participation in clinical supervision;
- (7) the period during which the associate received supervision from the LCSW supervisor;
- (8) the number of in-person hours of individual supervision that the associate received;
- (9) the number of in-person hours of group supervision that the associate received;
- (10) the number of hours provided through technology that the associate received in a group setting;
- (11) the number of hours provided through technology that the associate received in an individual setting;
- (12) the number of clinical practice hours that the associate attained during the review period; and

- (13) the name, phone number, signature, and license number with expiration date of the associate's LCSW supervisor.

(f) To prevent a lapse in licensure, associate licensees who desire to become Licensed Clinical Social Workers shall renew the LCSWA or complete the application process for the Licensed Clinical Social Worker classification and submit the application fee as set in Rule .0208 of this Chapter at least 30 days prior to the expiration of the associate's license.

History Note: Authority G.S. 90B-6; 90B-7; Eff. August 1, 1993;

Temporary Amendment Eff. October 1, 1999;

Amended Eff. October 1, 2012; August 1, 2012; September 1, 2005; April 1, 2001;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;

Amended Eff. October 1, 2021.

21 NCAC 63 .0213 TEMPORARY LICENSES

(a) Pursuant to G.S. 90B-8(b), any nonresident clinical social worker certified, registered, or licensed in another jurisdiction desiring to obtain a temporary license from the Board shall make application to the Board. Applications not completed within two years of submission to the Board shall be denied. Application forms and instructions may be found on the Board's website at <https://www.ncswboard.org>. A temporary license shall expire six months following the date of issuance and is not eligible for renewal. No individual shall hold more than one temporary license within a five-year period.

(b) An applicant pursuant to this Rule shall provide the following information on the application set forth in Paragraph (a) of this Rule:

- (1) the applicant's name, contact information, signature, and date of signature;
- (2) the social security number of the applicant;
- (3) the requested designation of licensure type;
- (4) the applicant's place of employment, the name of the applicant's supervisor, and the license number of the applicant's supervisor, if the supervisor holds a license to practice clinical social work;
- (5) educational history and degree attainment;
- (6) whether the applicant has ever been certified, licensed, or registered to practice social work by the Board, by another occupational board or agency, or in another state/jurisdiction and, if so:
 - (A) what credential was held;
 - (B) in what state/jurisdiction;
 - (C) the issuance date and expiration date; and
 - (D) what examinations were taken to obtain said certification, licensure, or registration;
- (7) whether the applicant ever has had a credential denied, limited, reprimanded, suspended, or revoked;

- (8) whether the applicant ever has been convicted of a felony or misdemeanor under any laws;
- (9) whether any criminal charges are pending against the applicant;
- (10) whether any court, board, agency, or professional organization has found the applicant guilty of misconduct, unprofessional conduct, dishonest or fraudulent practice, or incompetent practice;
- (11) whether any charges are pending against the applicant before any court, board, agency, or professional organization for unprofessional conduct, dishonest or fraudulent practice, or incompetent practice;
- (12) the applicant's certification that:

- (A) the applicant has read the North Carolina General Statute 90B Social Worker Certification and Licensure Act, and the Board's rules, ethical guidelines, and disciplinary procedures, which are available on the Board's website at <https://www.ncswboard.org>, and agrees to comply with them;
- (B) the information provided by the applicant in the application is true;
- (C) the applicant consents to a criminal history record check;
- (D) the applicant's consent for the jurisdiction in which the applicant is licensed to release information to the Board related to the applicant's licensure status and practice of social work;
- (E) the applicant has read and understands the public notice statement on employee misclassification that is set forth in the application and has disclosed any investigations for employee misclassification, and its results, over the preceding 12-month period, as prescribed by G.S. 143-789; and

- (13) an application fee of twenty-five (\$25.00) dollars.

(c) An applicant pursuant to this Rule shall provide a copy of the completed application set forth in Paragraph (b) of this Rule to the occupational board or agency in which the applicant is certified, licensed, or registered to practice social work. The applicant shall request that the occupational board or agency in which the applicant is certified, licensed, or registered to practice social work submit a form to the Board that contains the following:

- (1) confirmation that the applicant's completed application as set forth in Paragraph (b) of this Rule is accurate, if known;
- (2) whether the applicant obtained original licensure from the responding board or agency and, if not, the jurisdiction from which the applicant obtained original licensure;

- (3) whether the responding board or agency has official transcripts, as prescribed in 21 NCAC 63 .0203, in its records for the applicant;
- (4) whether the applicant graduated from an education program that is accredited by the Council on Social Work Education (CSWE), for which accreditation standards are available at www.cswe.org;
- (5) whether the applicant was exempt from the jurisdiction's licensure requirements at the time the applicant received his or her certification, licensure, or registration to practice social work;
- (6) whether the applicant took an ASWB examination to obtain licensure in the responding board or agency's jurisdiction and, if so, which examination;
- (7) whether the applicant's licensure in the responding board or agency's jurisdiction is in good standing and, if not, the reason for which the licensure is not;
- (8) whether the responding board or agency, any state agency, or any professional organization ever has found the applicant guilty of misconduct, unprofessional conduct, dishonest or fraudulent practice, or incompetent practice and, if so, a copy of the documents adjudicating the applicant;
- (9) whether any charges are pending against the applicant before the responding board or agency, any state agency, or any professional organization for unprofessional conduct, dishonest or fraudulent practice, or incompetent practice;
- (10) whether the applicant completed any supervision of clinical practice that was approved by the responding board or agency and, if so:
 - (A) the dates of supervision;
 - (B) the total number of supervision hours recorded;
 - (C) the total number of practice hours recorded; and
 - (D) the name and license number of the applicant's supervisor;
- (11) whether the responding agency or board has any additional comments regarding the applicant's fitness to practice clinical social work or licensure status; and
- (12) the name, signature, date of signature, and contact information of the representative completing the information set forth in Paragraph (c) of this Rule, with the responding board or agency's seal affixed.

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015; Amended Eff. October 1, 2021.

21 NCAC 63 .0214 CERTIFICATION AND LICENSURE FOR MILITARY PERSONNEL AND MILITARY SPOUSES

(a) Upon receipt of a request for certification or licensure pursuant to G.S. 93B-15.1 from an applicant with military training and experience, the Board shall issue a certificate or license upon submission of the following to the Board:

- (1) an application containing the information as described in 21 NCAC 63 .0202(b)(1) – (3), (6) – (12), and (16);
- (2) written documentation to satisfy conditions set out in G.S. 93B-15.1(a); or
- (3) written documentation to satisfy conditions set out in G.S. 93B-15.1(a2).

(b) Upon receipt of a request for certification or licensure pursuant to G.S. 93B-15.1 from a military spouse, the Board shall issue a certificate or license upon submission of the following to the Board:

- (1) application information as described in 21 NCAC 63 .0202(b)(1) – (16); and
- (2) written documentation to satisfy conditions set out in G.S. 93B-15.1(b).

(c) Military trained applicants and military spouse applicants may apply for a temporary license by submitting to the Board an application containing the information set forth in 21 NCAC 63 .0213(b)(1) – (12). Military spouse applicants seeking temporary licensure also must comply with 21 NCAC 63 .0213(c). A temporary license shall apply only to clinical licensure.

History Note: Authority G.S. 90B-6(h); 93B-15.1; Eff. February 1, 2017; Amended Eff. October 1, 2021.

21 NCAC 63 .0301 QUALIFYING EXAMINATIONS

(a) Any national examination selected by the Board shall serve to evaluate the qualifications of each applicant for certification or licensure. Any such examination shall be administered at least once a year.

(b) The Board examination required by G.S. 90B-7(b)(2) for the Certified Social Worker credential is the Association of Social Work Board ("ASWB") Bachelor level examination. The Board examination required by G.S. 90B-7(c)(2) for the Certified Master Social Worker credential is the ASWB Master level examination or the Academy of Certified Social Workers ("ACSW") examination. The Board examination required by G.S. 90B-7(d)(3) for the Licensed Clinical Social Worker credential is the ASWB Clinical level examination. The Board examination required by G.S. 90B-7(e)(3) for the Certified Social Worker Manager credential is the ASWB Advanced Generalist level examination if the applicant holds a Master's degree, or the ASWB Bachelor level examination if the applicant holds a Bachelor's degree.

History Note: Authority G.S. 90B-6; 90B-7; 90B-8; Eff. August 1, 1987;

History Note: Authority G.S. 90B-6; 90B-6.2; 90B-8; Temporary Adoption Eff. October 1, 1999; Eff. July 1, 2000; Amended Eff. January 1, 2009;

*Amended Eff. August 1, 1990;
Temporary Amendment Eff. October 1, 1999;
Amended Eff. April 1, 2001;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. September 19, 2015;
Amended Eff. October 1, 2021.*

21 NCAC 63 .0304 CANCELLATION

*History Note: Authority G.S. 90B-6;
Eff. August 1, 1987;
Temporary Amendment Eff. October 1, 1999;
Amended Eff. July 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. September 19, 2015;
Repealed Eff. October 1, 2021.*

21 NCAC 63 .0306 EXAMINATION FEES

An examination fee of forty dollars (\$40.00) plus the cost of the examination to the Board shall be assessed for administration and processing of any written examination. Examination fees are nonrefundable.

*History Note: Authority G.S. 90B-6; 90B-6.2;
Eff. August 1, 1987;
Amended Eff. September 1, 1993;
Temporary Amendment Eff. January 1, 1996;
Amended Eff. April 1, 1997;
Temporary Amendment Eff. October 1, 1999;
Amended Eff. July 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. September 19, 2015;
Amended Eff. October 1, 2021.*

21 NCAC 63 .0401 CONTINUING EDUCATION REQUIREMENTS

(a) Continuing education for certification or licensure renewal shall be required to maintain professional knowledge and technical competency. Social workers shall obtain 40 contact hours of Board-approved continuing education credits in accordance with this Rule within each two-year renewal cycle. For purposes of this Rule, a "contact hour" is defined as time spent actually receiving education, excluding breaks. If a certification or licensure is for less than a full two-year period, then social workers shall obtain 30 contact hours of Board-approved continuing education credits in accordance with this Rule. Continuing education credits shall be awarded as follows:

- (1) continuing education units awarded that do not reflect contact hours or clock hours of instruction shall be awarded at the rate of one contact hour of credit for each continuing education unit;
- (2) one academic course hour of credit shall be equal to 15 contact hours; and
- (3) credit for auditing an academic course shall be for clock hours of instruction attended with one clock hour equal to one contact hour of credit.

(b) During each renewal period, all certified and licensed social workers shall engage in a minimum of four contact hours of

continuing education focused on ethics related to social work practice and ethical decision-making.

(c) The following activities shall be approved for continuing education:

- (1) academic social work courses taken for credit or audit;
- (2) agency-based staff development, seminars, institutes, workshops, mini-courses or conferences oriented to social work practice, values, skills, and knowledge;
- (3) cross-disciplinary offerings from medicine, law, and the behavioral/social sciences or other disciplines, if such offerings are related to social work practice, values, skills, and knowledge;
- (4) distance learning activities, including online courses and home study courses that have been pre-approved by the Association of Social Work Boards (ASWB) or the National Association of Social Workers (NASW) and its associated state chapters. The maximum continuing education credit granted for distance learning activities is one-half of the required hours, up to a maximum of 20 contact hours per renewal period. Synchronous audio-video broadcasts allowing for real time interaction between the instructor and participants shall not be considered distance learning activities but as a face-to-face offering; and
- (5) a group of professionals within the health and human services or related fields organized to come together to study a particular topic focusing on social work practice, provided the following can be documented:
 - (A) study topics;
 - (B) study materials;
 - (C) facilitator(s); and
 - (D) date(s) and hours of attendance.

(d) Continuing education focusing on practitioner self-care and well-being shall not exceed six contact hours of credit during a single renewal cycle.

(e) Up to five contact hours of credit shall be granted per renewal cycle for presenting a training focused on social work practice provided that:

- (1) the Board receives confirmation from the organization for which the licensee presented that identifies the licensee as the presenter, confirms the title and date of the presentation, the length of the presentation, and number of attendees; and
- (2) the dates of the presentation occur within the renewal cycle.

(f) Credit shall not be granted for:

- (1) identical programs completed within the same renewal period;
- (2) job orientation or training directed at procedural mandates such as health and safety practices, new hire training, and compliance training; or
- (3) supervision and case consultation.

*History Note: Authority G.S. 90B-6; 90B-9;
Eff. August 1, 1987;
Amended Eff. September 1, 1993;
Temporary Amendment Eff. October 1, 1999;
Amended Eff. January 1, 2009; September 1, 2005; April 1, 2001;
Readopted Eff. February 1, 2017;
Amended Eff. October 1, 2021.*

21 NCAC 63 .0403 RENEWAL APPLICATION AND FEES

(a) To renew a certificate or license, a person must submit the following to the Board on or before the expiration of his or her certification or licensure:

- (1) all fees as required in Paragraphs (b) and (c) of this Rule; and
- (2) a Renewal Affidavit, as described in Paragraph (d) of this Rule.

(b) Fees for renewal of certificates or licenses are as follows:

- (1) for Certified Social Workers (CSWs), the renewal fee is seventy dollars (\$70.00).
- (2) for Certified Master Social Workers (CMSWs), the renewal fee is ninety dollars (\$90.00).
- (3) for Licensed Clinical Social Workers (LCSWs), the renewal fee is one hundred and fifty dollars (\$150.00).
- (4) for Licensed Clinical Social Worker Associates (LCSWAs), the renewal fee is one hundred and forty dollars (\$140.00).
- (5) for Certified Social Work Managers (CSWMs), the renewal fee is one hundred and fifty dollars (\$150.00).

(c) Persons whose applications for renewal are received by the Board after the renewal date of their certificate or license, but no later than 60 days after the renewal date, shall pay a late renewal fee of fifty dollars (\$50.00) in addition to any other applicable fees. Renewal fees are nonrefundable.

(d) A Renewal Affidavit shall contain the following:

- (1) the person's printed name, signature, and date;
- (2) the person's contact information;
- (3) the last four digits of the person's social security number and license number;
- (4) whether the person's contact information has changed since the previous renewal;
- (5) whether the person is requesting a duplicate license;
- (6) a list of all continuing education hours taken since the last renewal application that provides the name of the course taken, the date on which the course was taken, the length of the course taken, and whether the course taken was distance learning or for ethics;
- (7) the person's affirmation or certification that:
 - (A) he or she has engaged in at least 40 hours of continuing education activities, as described in 21 NCAC 63 .0401, in the preceding 24 months or in at least 30 hours of continuing education activities if the renewal term is less than 2 years;

- (B) he or she has engaged in at least four hours of continuing education focused on ethics related to social work practice and ethical decision making in the preceding certificate or license cycle;
- (C) his or her ability to perform his or her professional responsibilities is not impaired in any way or by the use of alcohol, prescription or non-prescription drugs, or other controlled substances;
- (D) he or she has not been convicted of a misdemeanor or felony crime since his or her last renewal or, if he or she has, an explanation of the conviction is provided, and that the person consents to a criminal background check by the Board;
- (E) he or she has reviewed and agree to comply with the Social Work Certification and Licensure Act and Title 21, Chapter 63 of the North Carolina Administrative Code;
- (F) he or she has not violated Section .0500 of this Chapter of the North Carolina Administrative Code;
- (G) he or she understands that renewal of his or her certification or license is subject to a Continuing Education audit and he or she agree to comply with an audit request from the Board;
- (H) the information in the Renewal Affidavit is accurate, that the Board may verify and investigate such information, and that any material omission or misrepresentation is grounds for the Board's refusal to renew a license or certification; and
- (I) he or she has read and understands the public notice statement on employee misclassification that is set forth in the Renewal Affidavit and has disclosed any investigations for employee misclassification, and its results, over the preceding 12-month period, as prescribed by G.S. 143-789.

*History Note: Authority G.S. 90B-6; 90B-6.2; 90B-9(b); 90B-11;
Eff. August 1, 1987;
Amended Eff. August 1, 1990;
Temporary Amendment Eff. October 1, 1999;
Amended Eff. January 1, 2014; August 1, 2012; January 1, 2009;
March 1, 2006; July 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;
Amended Eff. October 1, 2021.*

21 NCAC 63 .0404 REINSTATEMENT

(a) Persons who apply for reinstatement after their certificate or license was suspended for failure to renew shall submit the following to the Board:

- (1) a reinstatement fee of one hundred and fifty-five dollars (\$155.00) in addition to any renewal fee or late renewal fee owed pursuant to G.S. 90B-6.2;
- (2) a Renewal Affidavit, as described in 21 NCAC 63 .0403(d);
- (3) a current application for certification or licensure, as described in 21 NCAC 63 .0202; and
- (4) three professional reference forms, as described in 21 NCAC 63 .0204.

(b) Persons who apply for reinstatement after temporary retirement from the practice of social work pursuant to G.S. 90B-9.1 shall submit the following to the Board:

- (1) a renewal fee pursuant to G.S. 90B-6.2; and
- (2) a Renewal Affidavit, as described in 21 NCAC 63 .0403(d).

(c) Applicants desiring to reinstate LCSWA shall comply with G.S. 90B-7(f) by completing all requirements for full licensure as LCSW within six years, inclusive of any time spent on nonpracticing status pursuant to G.S. 90B-9.1 or suspension for failure to renew.

History Note: Authority G.S. 90B-6; 90B-6.2; 90B-9; 90B-9.1;
Temporary Adoption Eff. October 1, 1999;
Eff. July 1, 2000;
Amendment Eff. August 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;
Amended Eff. October 1, 2021.

21 NCAC 63 .0405 REQUIRED REPORTING BY LICENSEE OR CERTIFICATE HOLDER OF CHANGES TO BOARD

(a) Each licensee or certificate holder shall notify the Board in writing of any of the following changes within 30 days of the effective date of the change:

- (1) change of the licensee's or certificate holder's name, which shall be accompanied by documentation such as a certified marriage certificate or driver's license;
- (2) change in the licensee's or certificate holder's residence or business address, including street and mailing address;
- (3) change in the licensee's or certificate holder's residence or business telephone number; and
- (4) any adverse action or disciplinary action against a licensee or certificate holder from a licensing board, professional certifying body, or professional organization for any conduct described in G.S. 90B-11(a).

(b) Within 30 days of the effective date of a disposition in a criminal matter in which the licensee or certificate holder is a defendant, including driving under the influence, each licensee or

certificate holder shall send to the Board a certified copy of any plea of guilty, finding of guilty, plea of nolo contendere, or deferred judgment.

(c) The licensee's or certificate holder's failure to report to the Board the dispositions addressed by Subparagraph (a)(4) or Paragraph (b) of this Rule shall be considered a violation of the Ethical Guidelines as set forth in Section .0500 of this Chapter.

History Note: Authority G.S. 90B-6; 90B-11;
Eff. September 1, 2005;
Amended Eff. January 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;
Amended Eff. October 1, 2021.

21 NCAC 63 .0406 MILITARY WAIVER OR EXTENSION OF TIME FOR RENEWAL OF CERTIFICATION OR LICENSURE

(a) To request an extension of time to pay a license renewal fee pursuant to G.S. 93B-15, the licensee or certificate holder shall submit a written request for extension to the Board with a copy of the social worker's military orders and the extension approval granted by the Internal Revenue Service or the State Department of Revenue to file a tax return prior to the expiration of the license or certificate.

(b) Licensees and certificate holders that have qualified for military waiver or extension are not required to take continuing education courses during any period of extension granted by the Board under this Rule. If the licensee or certificate holder chooses to take continuing education courses during a Board-approved period of extension, any continuing education credits approved during the extended time period shall not be utilized for future renewal periods.

History Note: Authority G.S. 90B-6; 90B-6.2; 93B-15;
Eff. July 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;
Amended Eff. October 1, 2021.

21 NCAC 63 .0503 GENERAL PROFESSIONAL RESPONSIBILITIES

(a) Social workers shall engage in practice only in accordance with their training and experience. They shall represent to clients, colleagues, and the general public their abilities, education, training, credentials, and experience. They shall engage in continuing professional education prior to engaging in a new area of practice.

(b) In the event that the employment policies or practices of social workers' employers are contrary to the Ethical Guidelines set forth in Section .0500 of this Chapter, social workers shall comply with the Ethical Guidelines.

(c) Social workers shall not practice or facilitate any form of discrimination on the basis of race, sex, sexual orientation, gender, age, religion, socioeconomic status, medical diagnoses, or national origin while practicing social work or while holding themselves out as social workers to the public.

- (d) Social workers shall practice their profession in compliance with federal, State, or local laws impacting the practice of social work.
- (e) Social workers shall not engage in settlement agreements that preclude reporting of ethical misconduct to the Board.

*History Note: Authority G.S. 90B-6; 90B-11;
Eff. March 1, 1994;
Temporary Amendment Eff. October 1, 1999;
Amended Eff. April 1, 2001;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. September 19, 2015;
Amended Eff. October 1, 2021.*

**21 NCAC 63 .0504 RESPONSIBILITIES IN
PROFESSIONAL RELATIONSHIPS**

- (a) Social workers shall not misuse their professional relationships sexually, financially, or for any other personal advantage. They shall maintain this standard of conduct toward all who are professionally associated with them such as clients, colleagues, supervisees, employees, students, and research participants.
- (b) Social workers shall inform clients of the extent and nature of services available to them as well as the limits, rights, opportunities, and obligations associated with service that might affect the client's decision to enter into or continue the relationship.
- (c) Social workers shall obtain consent to participate in social work intervention from all clients or their legally authorized representative except when judicial orders require intervention to ensure the client's and community's safety and protection.
- (d) Social workers shall terminate a professional relationship with a client when it is determined by the social worker, the client, or any entity with legal authority over client's care that the client is not likely to benefit from continued services or the services are no longer needed. The social worker who anticipates the termination or interruption of services shall give prior notice to the client as soon as possible. The social worker shall provide referrals as needed or upon the request of the client. A social worker shall not terminate a professional relationship for the purpose of beginning a personal or business relationship with a client.
- (e) Social workers shall respect the integrity, protect the welfare, and maximize self-determination of clients they serve, in accordance with the level and type of care that a competent social worker would provide under the circumstances. They shall avoid entering treatment relationships in which their professional judgment will be compromised by the prior association with or knowledge of a client. Examples include treatment of one's family members, friends, associates, employees, or others whose welfare could be jeopardized by such a dual relationship.
- (f) Social workers shall not initiate, and shall avoid personal relationships or dual roles with current clients, or with any former clients whose feelings toward the social worker may be derived from or influenced by the former professional relationship. When a social worker may not avoid a personal relationship with a client or former client, the social worker shall take appropriate precautions, such as documented discussion with the client or former client about the relationship, consultation, or supervision to ensure that the social worker's objectivity and professional

judgment are not impaired. In instances when dual or multiple relationships are unavoidable, social workers shall set boundaries that take into consideration the client's age, race, sex, gender, sexual orientation, religion, socioeconomic status, national origin, and medical diagnoses.

(g) Social workers shall not engage in sexual activities with clients or former clients. A social worker shall not engage in or request electronic, verbal, or physical sexual contact with a client or former client under any circumstances. For the purposes of this Rule, "sexual contact" means behavior relating to sexual activities including intentional touching, either directly or through the clothing.

(h) Social workers shall act in accordance with G.S. 90B and these Rules in regard to relationships with clients or former clients. A client's or former client's initiation of a personal, sexual, or business relationship shall not be a defense by the social worker for failing to act in accordance with G.S. 90B and these Rules.

*History Note: Authority G.S. 90B-6; 90B-11;
Eff. March 1, 1994;
Amended Eff. April 1, 2001;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. September 19, 2015;
Amended Eff. October 1, 2021.*

**21 NCAC 63 .0505 RELATIONSHIPS WITH
COLLEAGUES**

Social workers shall act with integrity in their relationships with colleagues and other professionals. They shall consider the practice areas and knowledge or expertise of other professionals to whom they make referrals and with whom they collaborate in serving clients.

- (1) When expressing judgment on the views, qualifications and findings of colleagues, social workers shall not misrepresent the colleague's license level, degree, or other professional qualification in any written or oral communication and shall avoid the use of demeaning or derogatory language.
- (2) Social workers shall maintain knowledge of the professional and community resources available to the client population they serve and when referring clients, social workers shall refer to professionals and community resources that are able to provide the services required.
- (3) If a social worker's services are sought by an individual who is already receiving similar services from another professional, the client's welfare shall be the primary consideration before agreeing to provide services. To minimize confusion and conflict, social workers shall discuss with the prospective client the nature of the existing professional relationship, the client's needs, the therapeutic issues involved, and the benefits and risks associated with entering into a relationship with a new service provider.
- (4) Social workers shall provide competent professional guidance to colleagues,

employees, supervisees, and students. They shall foster working conditions that provide fairness, privacy and protection from physical or mental harm. Social workers supervising associate licensees shall evaluate without bias, the work performance of those under their supervision, and share evaluations with supervisees. Social workers shall not engage in sexual relationships with supervisees, students, trainees, or other colleagues over whom they exercise professional authority. They shall not abuse the power inherent in their supervisory position for personal or financial gain.

- (5) A social worker certified or licensed under this Chapter who has knowledge of conduct that would constitute grounds for disciplinary action under this Chapter, or the Chapter governing the practice of another licensed healthcare provider, shall report the conduct to the licensing authority that oversees the healthcare provider believed to be engaged in misconduct. Social workers shall provide information to assist colleagues defending themselves against allegations of unethical or incompetent practice.

*History Note: Authority G.S. 90B-6; 90B-11;
Eff. March 1, 1994;
Readopted Eff. February 1, 2017;
Amended Eff. October 1, 2021.*

21 NCAC 63 .0508 PURSUIT OF RESEARCH AND SCHOLARLY ACTIVITIES

In planning, conducting, and reporting a study with human subjects, the social worker acting as an investigator shall evaluate the ethical acceptability in accordance with this Rule. To the extent that this evaluation, weighing scientific and humane values, suggests a compromise of ethical principles, the investigator shall protect the rights of the research participants.

- (1) Social workers shall obtain authorization from administrative superiors and clients who agree to be subjects in the study. Social workers shall also acknowledge any other persons who contribute in a scholarly manner to their research in any reports concerning their research, whether published or unpublished.
- (2) The social worker acting as an investigator shall establish with the research participant an agreement clarifying each person's roles and responsibilities.
- (3) The rights of an individual to decline to participate in or withdraw from the research shall be respected and the participant shall not be penalized for such action.
- (4) The social worker acting as an investigator shall give the individual information about the manner in which the research may affect the individual, in order for the individual to give his

or her informed consent for participation in the study.

- (5) Identifying information obtained about the participant during the course of the study shall be confidential unless informed consent for release of information is obtained in advance.
- (6) Research findings shall be presented accurately. Social workers shall not distort or misrepresent research.

*History Note: Authority G.S. 90B-6; 90B-11;
Eff. March 1, 1994;
Temporary Amendment Eff. October 1, 1999;
Amended Eff. April 1, 2001;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;
Amended Eff. October 1, 2021.*

21 NCAC 63 .0509 PUBLIC STATEMENTS

(a) Social workers shall state without misrepresentation their professional qualifications, affiliations, and functions, as well as those of the institutions or organizations with which they or their statement may be associated. When social workers are made aware of misrepresentations by others with respect to these matters, social workers shall make efforts to correct the misrepresentations.

(b) In announcing availability for professional services, a social worker shall use the licensee or certificate holder's name, type, and level(s) of certification and licensure; and may use highest academic degree related to the field of social work from an accredited institution; specialized post-graduate training; address and telephone number; office hours; type of services provided; accurate fee information; foreign languages spoken; and policy with regard to third-party payments.

(c) Social workers shall not offer to perform any service beyond the scope permitted by law or beyond the scope of their competence. They shall not engage in any form of advertising that is false, fraudulent, deceptive, or misleading. They shall neither solicit nor use recommendations or testimonials from clients.

(d) Social workers shall respect the rights and reputations of professional organizations with which they are affiliated. They shall not falsely imply sponsorship or certification by such organizations. When making public statements, the social worker shall distinguish personal opinions from authorized statements on behalf of an organization.

(e) Social workers shall display their license or certificate at the social worker's primary place of practice as required by G.S. 90B-15.

*History Note: Authority G.S. 90B-6; 90B-11; 90B-15;
Eff. March 1, 1994;
Temporary Amendment Eff. October 1, 1999;
Amended Eff. January 1, 2009; July 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;
Amended Eff. October 1, 2021.*

21 NCAC 63 .0601 GROUNDS FOR DISCIPLINARY PROCEDURES

The following conduct constitutes a violation of G.S. 90B-11:

- (1) offering a check to the Board in payment of required fees that is returned unpaid as a result of non-payment attributable to the payor;
- (2) obtaining or attempting to obtain compensation by fraud or deceit;
- (3) submitting false documents to the Board, such as those related to continuing education audits or submitted as a part of the application or renewal process; and
- (4) violating any order of the Board.

History Note: Authority G.S. 90B-2; 90B-6; 90B-11; Eff. August 1, 1987;

Temporary Amendment Eff. October 1, 1999;

Amended Eff. April 1, 2001;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;

Amended Eff. October 1, 2021.

21 NCAC 63 .0602 INVESTIGATION

(a) Any person who has reason to believe that a social worker has violated the laws governing the practice of social work may file a complaint with the Board. Anyone wishing to file a complaint shall file a form with the Board office that contains the following information:

- (1) the complainant's name and contact information;
- (2) the name, contact information, and license number of the social worker about whom the complainant wishes to file the complaint;
- (3) a narrative of the facts about which the complaint relies;
- (4) identification of the statutes or rules that were allegedly violated, if known;
- (5) identification of the individuals and their contact information who may have information to support the complaint;
- (6) identification of any documents that may support the complaint; and
- (7) the complainant's affirmation that:
 - (A) the complainant has read and understands the ethics standards and disciplinary procedures of the Board, which are available on the Board's website at <https://www.ncswboard.org>;
 - (B) the information provided by the complainant is true, based on the complainant's personal knowledge, or based upon information that the complainant believes to be true; and
 - (C) the complainant is aware that the social worker about whom the complaint is filed shall be made aware of the complaint and when the

complaint may be disclosed as a public record; and

- (8) the complainant's signature and the date when the complaint is made.

(b) Upon receipt of a complaint, the Board shall notify the social worker against whom the complaint was filed, noting the report of a violation and the specific rule or statute brought into question.

(c) Upon receipt of a complaint, the Board, its staff, or designee(s) shall determine whether more information or evidence is needed to show whether a person certified or licensed by the Board has violated any provision of G.S. 90B or the rules of this Chapter. If more information or evidence is deemed necessary, the Board, its staff, or designee(s) shall conduct an investigation.

(d) The complainant and social worker against whom a complaint was filed shall be notified in writing of the Board's decision as to whether an investigation is warranted.

(e) The Board may initiate its own complaint and conduct an investigation of a suspected violation if the Board obtains information tending to show that a violation of G.S. 90B or the rules of this Chapter has occurred.

(f) Any Board member who conducts the investigation of a specific case shall not participate in the Board's adjudication of that case.

History Note: Authority G.S. 90B-6; 90B-11; Eff. September 1, 1989;

Temporary Amendment Eff. October 1, 1999;

Amended Eff. July 1, 2000;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;

Amended Eff. October 1, 2021.

21 NCAC 63 .0603 NOTICE OF CHARGES AND HEARING

(a) If an investigation conducted in accordance with Rule .0602 of this Section produces any evidence tending to show a violation of G.S. 90B or these Rules, the Board shall initiate disciplinary proceedings. Disciplinary proceedings conducted by the Board are governed by Article 3A of Chapter 150B of the NC General Statutes. Prior to any Board action, written notice containing the information required by G.S. 150B-38(b) shall be sent to the social worker involved and the complainant, if the disciplinary proceeding was initiated by a complainant.

(b) Nothing in this Rule shall prevent the Board from summarily suspending a certificate or license in accordance with G.S. 150B-3(c) if the Board determines that the public health, safety, or welfare requires emergency action.

History Note: Authority G.S. 90B-6; 90B-11; 150B-38; Eff. September 1, 1989;

Temporary Amendment Eff. October 1, 1999;

Amended Eff. July 1, 2000;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;

Amended Eff. October 1, 2021.

21 NCAC 63 .0607 CONDUCT OF HEARING

(a) The Chairperson shall serve as presiding officer unless the Chairperson is absent or disqualified in accordance with Paragraph (b) of this Rule, in which case the Vice-chairperson shall preside.

(b) An affidavit seeking disqualification of any Board member, if filed in good faith and in a timely manner, will be ruled on by the remaining members of the Board. An affidavit is considered timely if it is filed:

- (1) prior to the hearing; or
- (2) as soon after the commencement of the hearing as the affiant becomes aware of the facts that give rise to the belief that a Board member should be disqualified.

History Note: Authority G.S. 90B-6(h); 150B-40;

Eff. September 1, 1989;

Temporary Amendment Eff. October 1, 1999;

Amended Eff. July 1, 2000;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;

Amended Eff. October 1, 2021.

21 NCAC 63 .0608 DECISION OF BOARD

(a) Upon the conclusion of a disciplinary proceeding noticed pursuant to 21 NCAC 63 .0603 and if so moved by two Board members, the Board shall deliberate on whether an applicant, certificate holder, or licensee involved has violated a statute or rule the Board has the authority to enforce, and what appropriate disciplinary action, if any, should be taken against the applicant, certificate holder, or licensee involved.

(b) If the Board reaches a decision on the issues set forth in Paragraph (a) of this Rule immediately upon the conclusion of the disciplinary proceeding, the Board shall announce the decision but shall provide the parties with an opportunity to submit proposed findings of fact and exceptions to the decision to the Board's office within 15 days. The Board may allow additional time for good cause shown or upon mutual agreement by the parties. For purposes of this Rule, "good cause" shall be determined by the length of the hearing, the complexity of the issues involved, and the availability of the parties.

(c) If the Board does not reach a decision on the issues set forth in Paragraph (a) of this Rule immediately upon the conclusion of the disciplinary proceeding, the Board shall provide the parties an opportunity to submit proposed findings of fact and conclusions of law to the Board's office within fifteen days, unless additional time is allowed by the Board for good cause shown or upon mutual agreement by the parties. The Board shall deliberate on the issues set forth in Paragraph (a) of this Rule at its next Board meeting following the parties' deadline to submit the proposed findings of fact and conclusions of law.

(d) Following the expiration of the time allowed for the parties to submit proposed findings and exceptions, the Board shall make a written final agency decision in accordance with G.S. 150B-42.

(e) Disciplinary costs shall be assessed against an applicant, certificate holder, or licensee in a written final agency decision as set forth in G.S. 90B-11 when:

- (1) the licensee previously has rejected a consent order offered by the Board to resolve the disciplinary matter;
- (2) the licensee previously has been disciplined by the Board pursuant to G.S. 90B-11, previously received a non-disciplinary letter of caution, or previously received a non-disciplinary Consent Order from the Board for the same conduct at issue in disciplinary proceeding;
- (3) the Board finds that the licensee's conduct or defense at hearing was dilatory or not asserted in good faith; or
- (4) the Board denies, suspends, or revokes an application, certificate, or license.

Disciplinary costs shall equal three hundred dollars (\$300.00) per hour for time spent by the Board conducting a hearing that results in disciplinary action and for time spent by the Board deliberating on a disciplinary proceeding, with a minimum charge of three hundred dollars (\$300.00) for the first hour or portion thereof, and then prorated thereafter for each half-hour

History Note: Authority G.S. 90B-6(h); 90B-11; 150B-38; 150-42;

Eff. September 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;

Amended Eff. October 1, 2021.

21 NCAC 63 .0609 REPORTING OF DISCIPLINARY ACTIONS

(a) In accordance with 45 CFR 60.9, the Board shall report disciplinary actions specified in G.S. 90B-11 to the National Practitioner Data Bank. 45 CFR 60.9 is hereby incorporated by reference, including subsequent amendments and additions, and can be found at <https://www.govinfo.gov/content/pkg/CFR-2007-title45-vol1/pdf/CFR-2007-title45-vol1-sec60-9.pdf> at no cost.

(b) For purposes of this Rule and G.S. 90B-11, the following matters constitute disciplinary actions:

- (1) injunctions for unlicensed practice;
- (2) issuance of a cease and desist order;
- (3) revocation;
- (4) suspension;
- (5) censure;
- (6) reprimand;
- (7) probation;
- (8) withdrawal or denial of initial applications or reapplications proximate to an ethics matter;
- (9) surrender of certification or license during an investigation;
- (10) practice limitations connected to the delivery of health care services as defined by 45 CFR 60.3; and
- (11) limitations on the right of a licensee or certificate holder to supervise.

(c) For purposes of this Rule, the following matters shall not constitute disciplinary actions:

- (1) monitoring independent of restrictions or discipline;
- (2) letters of concern; and

- (3) complaints.

History Note: Authority G.S. 90B-6(h); 90B-11;
Temporary Adoption Eff. October 1, 1999;
Eff. July 1, 2000;
Amended Eff. July 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;
Amended Eff. October 1, 2021.

21 NCAC 63 .0610 CONTINUANCES

- (a) Motions for a continuance of a hearing shall be reviewed in accordance with the North Carolina Rules of Civil Procedure as set forth in G.S. 1A-1, Rule 40(b). The Board is not required to grant a motion to continue. All motions for continuance shall be addressed to the presiding officer.
- (b) In determining whether good cause exists as set forth in G.S. 1A-1, Rule 40, the presiding officer shall consider the ability of the party requesting a continuance to proceed without a continuance.
- (c) Motions for a continuance shall be in writing and shall be received in the office of the Board no less than seven calendar days before the hearing date.
- (d) A motion for a continuance shall be denied if a continuance has been previously granted unless the reason for the motion could not have been ascertained earlier.

History Note: Authority G.S. 90B-6(h); 150B-38(h);
Eff. February 1, 2017;
Amended Eff. October 1, 2021.

21 NCAC 63 .0701 PETITIONS FOR ADOPTION OF RULES

Rule-making petitions shall be sent to the executive director of the Board. The rule-making petition shall state the petitioner's name and address and shall contain the information required by G.S. 150B-20(a). The petitioner also may submit the following additional information:

- (1) the reason for the proposal;
- (2) data supporting the proposed rule;
- (3) practices likely to be affected by the proposed rule; and
- (4) persons likely to be affected by the proposed rule.

History Note: Authority G.S. 90B-6(h); 150B-20;
Eff. September 1, 1989;
Temporary Amendment Eff. October 1, 1999;
Amended Eff. January 1, 2014; July 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;
Amended Eff. October 1, 2021.

21 NCAC 63 .0703 TEMPORARY RULES

History Note: Authority G.S. 90B-6(h); 150B-21.1;
Eff. September 1, 1989;
Temporary Amendment Eff. October 1, 1999;
Amendment Eff. July 1, 2000;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;
Repealed Eff. October 1, 2021.

21 NCAC 63 .0704 DECLARATORY RULINGS

- (a) General. The Board shall respond to requests for declaratory rulings in accordance with G.S. 150B-4.
- (b) Contents of a Request for Declaratory Ruling. A request for a declaratory ruling shall be in writing and addressed to the executive director of the Board. The request shall contain the following information:

- (1) the name and address of the person making the request;
- (2) the statute, rule, or order to which the request relates;
- (3) a statement of the need for a declaratory ruling as set forth in G.S. 150B-4(a); and
- (4) a statement as to whether a hearing is desired, and if desired, the reason therefore.

- (c) Refusal to Issue Ruling. The Board shall refuse to issue a declaratory ruling under the following circumstances:

- (1) when the Board has already made a controlling decision on similar facts in a contested case;
- (2) when the facts underlying the request for a ruling were considered at the time of the adoption of the Rule in question; or
- (3) when the subject matter of the request is involved in any pending litigation in North Carolina.

History Note: Authority G.S. 90B-6(h); 150B-4;
Eff. September 1, 1989;
Temporary Amendment Eff. October 1, 1999;
Amended Eff. January 1, 2014; July 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;
Amended Eff. October 1, 2021.

21 NCAC 63 .0705 INSUFFICIENT FEES

- (a) The Board shall charge the maximum processing fee allowed by G.S. 25-3-506 if a check submitted to the Board is returned by a financial institution because of insufficient funds or because the drawer did not have an account at that bank.

- (b) Until such time as the drawer of the bad check has paid the prescribed fee, the drawer shall not be eligible to take an examination, obtain a license, or have the license renewed. For the purpose of this Rule, "prescribed fee" shall mean the sum of:

- (1) the maximum processing fee allowed by G.S. 25-3-506;
- (2) the renewal or application fee, whichever is applicable; and
- (3) any late fee, as set forth in Rule .0403 of this Chapter.

- (c) Any license that has been issued or renewed based on a check that is returned to the Board shall be invalid until such time as the drawer has paid the prescribed fee. The invalidity of the license or renewal shall commence on the date of the issuance of the license or renewal.

(d) Payment of the prescribed fee to the Board shall not be paid by personal check or cash.

History Note: Authority G.S. 90B-6(g); 90B-6.2(b); Eff. October 1, 2021.

21 NCAC 63 .0901 APPLICATIONS FOR A CERTIFICATE OF REGISTRATION

(a) Licensed clinical social workers who wish to form a Professional Corporation or Professional Limited Liability Company must apply to the Board for a Certificate of Registration in accordance with this Rule, pursuant to Chapter 55B of the North Carolina General Statutes.

(b) All applications for a Certificate of Registration for Professional Corporation shall include the fee described in Paragraph (d) of this Rule and provide the following:

- (1) the name and address of the proposed business;
- (2) the purpose of the proposed business;
- (3) the name, address, profession, and license number of each proposed stock owner;
- (4) the percentage of shares to be owned by each proposed stock owner;
- (5) the name, address, profession, and license number of each proposed director;
- (6) the name, address, profession, and license number of each proposed corporate officer;
- (7) the name, address, profession, and license number of each proposed professional employee;
- (8) the contact information of the person completing the application; and
- (9) notarized signatures from the business's incorporators and an attestation that:
 - (A) they have read the Board's governing statutes and rules;
 - (B) there are no disciplinary actions pending against any of the business's incorporators, officers, directors, stockholders, or employees;
 - (C) the business is being incorporated under the provisions of Chapter 55B of the North Carolina General Statutes; and
 - (D) the business will be conducted in compliance with the Professional Corporation Act and the laws governing licensees of the Board.

(c) All applications for a Certificate of Registration for Professional Limited Liability Company shall include the fee described in Paragraph (d) of this Rule and provide the following:

- (1) the name and address of the proposed business;
- (2) the purpose of the proposed business;
- (3) the name, address, profession, and license number of each proposed shareholder;
- (4) the percentage of shares to be owned by each proposed shareholder;
- (5) the name, address, profession, and license number of each proposed director;

- (6) the name, address, profession, and license number of each proposed member;
- (7) the name, address, profession, and license number of each proposed professional employee;
- (8) the contact information of the person completing the application; and
- (9) notarized signatures from the business's organizers and an attestation that:
 - (A) they have read the Board's governing statutes and rules;
 - (B) there are no disciplinary actions pending against any of the business's organizers, members, managers, or employees;
 - (C) the business is being organized under the provisions of Chapter 57D of the North Carolina General Statutes; and
 - (D) the business will be conducted in compliance with Chapter 57D of the North Carolina General Statutes and the laws governing licensees of the Board.

(d) The following non-refundable fees apply:

- (1) fifty dollars (\$50.00) – application fee for a certificate of registration for a professional corporation or limited liability company; and
- (2) twenty-five dollars (\$25.00) – annual renewal fee for the certificate of registration for a professional corporation or limited liability company.

History Note: Authority G.S. 55B-10; 55B-11; 55B-12; 57D-2-02; 90B-6; 90B-11; Eff. January 1, 2009; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015; Amended Eff. October 1, 2021.

21 NCAC 63 .0902 RENEWAL OF CERTIFICATE OF REGISTRATION

(a) Social workers who have registered their business with the Board in accordance with 21 NCAC 63 .0901 shall renew annually their Certificate of Registration issued by the Board on or before January 1 of each year. Applications for Renewal of Certificates of Registration shall provide the following:

- (1) whether there has been any change to the business since the last renewal of the Certificate of Registration;
- (2) identification of changes to the business since its last submission to the Board office, if any were made;
- (3) whether the business has ceased operation and, if so, a copy of the articles of dissolution;
- (4) the name, contact information, and license number of the licensees who are owners, members, or shareholders of the business;
- (5) the name, address, and certificate of registration number of the business;

APPROVED RULES

- (6) applicant's signature and the date signed; and
- (7) a non-refundable fee of twenty-five dollars (\$25.00).

(b) A Certificate of Registration shall be suspended for failure to renew within 30 days after the expiration date and shall be reported to the Office of the Secretary of State.

History Note: Authority G.S. 55B-11; 55B-12; 57D-2-02; 90B-6; 90B-11;
Eff. January 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;
Amended Eff October 1, 2021.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission November 18, 2021 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 984-236-1850. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 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. (2nd Vice Chair)
Margaret Currin
Jeff Hyde
Robert A. Rucho

Appointed by House

Andrew P. Atkins (1st Vice Chair)
Wayne R. Boyles, III
Barbara A. Jackson
Randy Overton
Paul Powell

COMMISSION COUNSEL

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

RULES REVIEW COMMISSION MEETING DATES

November 18, 2021 January 20, 2022
December 16, 2021 February 17, 2022

AGENDA

RULES REVIEW COMMISSION

THURSDAY, NOVEMBER 18, 2021, 9:00 A.M.
1711 New Hope Church Rd., Raleigh, NC 27609

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
 - A. Department of Insurance - 11 NCAC 04 .0115, .0120, .0314, .0315, .0316, .0317, .0318, .0319, .0415, .0427, .0429, .0432, .0433, .0501, .0502, .0503, .0504, .0505, .0506, .0507, .0508, .0509 (Reeder)
 - B. Department of Insurance - 11 NCAC 05B .0301 (May)
- IV. Review of Log of Filings (Permanent Rules) for rules filed between September 21, 2021 through October 20, 2021
 - Medical Care Commission (Reeder)
 - Commission for Mental Health/DD/SAS (May)
 - Code Officials Qualification Board (Reeder)
 - Coastal Resources Commission (Reeder)
 - Department of Environmental Quality (May)
 - Department of State Treasurer (Reeder)
 - State Human Resources Commission (Reeder)
 - 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: December 16, 2021

**Commission Review
Log of Permanent Rule Filings
September 21, 2021 through October 20, 2021**

MEDICAL CARE COMMISSION

The rules in Subchapter 13F concern licensing of homes for the aged and infirm and include definitions (.0100); licensing (.0200); physical plant (.0300); staff qualification (.0400); staff orientation training, competency and continuing education (.0500); staffing (.0600); admission and discharge (.0700); resident assessment and care plan (.0800); resident care and services (.0900); medication (.1000); Resident's funds and refunds (.1100); policies; records and reports (.1200); special care units for alzheimer and related disorders (.1300); special care units for mental health disorders (.1400); use of physical restraints and alternatives (.1500); rated certificates (.1600); administrator certification and renewal (.1700); and infection prevention and control (.1800).

Infection Prevention and Control Program 10A NCAC 13F .1801
Adopt*

Reporting and Notification of a Suspected or Confirmed Co... 10A NCAC 13F .1802
Adopt*

The rules in Subchapter 13G concern licensing of family care homes including definitions (.0100); licensing (.0200); the building (.0300); staff qualifications (.0400); staffing orientation, training, competency and continuing education (.0500); staffing of the home (.0600); admission and discharge (.0700); resident assessment and care plan (.0800); resident care and services (.0900); medications (.1000); management and resident's funds and refunds (.1100); policies, records and reports (.1200); use of physical restraints and alternatives (.1300); rated certificates (.1600); and infection prevention and control (.1700)..

Infection Prevention and Control Program 10A NCAC 13G .1701
Adopt*

Reporting and Notification of a Suspected or Confirmed Co... 10A NCAC 13G .1702
Adopt*

MENTAL HEALTH/DD/SAS, COMMISSION FOR

The rules in Chapter 26 are from the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services.

The rules in Subchapter 26F concern controlled substances including schedules of controlled substances (.0100).

Schedule I 10A NCAC 26F .0102
Amend*

Schedule II 10A NCAC 26F .0103
Amend*

Schedule IV 10A NCAC 26F .0105
Amend*

Schedule V 10A NCAC 26F .0106
Amend*

CODE OFFICIALS QUALIFICATION BOARD

The rules in Chapter 8 are the engineering and building codes including the approval of school maintenance electricians (.0400); qualification board-limited certificate (.0500); qualification board-probationary certificate (.0600); qualification board-standard certificate (.0700); disciplinary actions and other contested matters (.0800); manufactured housing board (.0900); NC Home Inspector Licensure Board (.1000); home inspector standards of practice and code of ethics (.1100); disciplinary actions (.1200); home inspector continuing education (.1300); Manufactured Housing Board continuing education (.1400); and alternate designs and construction appeals (.1500).

Residential Changeout Inspector 11 NCAC 08 .0734

Amend*

COASTAL RESOURCES COMMISSION

The rules in Subchapter 7H are the state guidelines for areas of environmental concern (AECs) including introduction and general comments (.0100); the estuarine system (.0200); ocean hazard areas (.0300); public water supplies (.0400); natural and cultural resource areas (.0500); development standards (.0600); general permits for construction or maintenance of bulkheads and the placement of riprap for shoreline protection in estuarine and public trust waters (.1100); piers, docks and boat houses in estuarine and public trust waters (.1200); general permit to construct boat ramps along estuarine and public trust shorelines and into estuarine and public trust waters (.1300); groins in estuarine and public trust waters (.1400); excavation within or connecting to existing canals, channels, basins, or ditches in estuarine waters, public trust waters, and estuarine shoreline AECs (.1500); aerial and subaqueous utility lines with attendant structures in coastal wetlands, estuarine waters, public trust waters and estuarine shorelines (.1600); emergency work requiring a CAMA or a dredge and fill permit (.1700); beach bulldozing landward of the mean high-water mark in the ocean hazard AEC (.1800); temporary structures within the estuarine and ocean hazard AECs (.1900); authorizing minor modifications and repair to existing pier/mooring facilities in estuarine and public trust waters and ocean hazard areas (.2000); construction of sheetpile sill for shoreline protection in estuarine and public trust waters (.2100); construction of freestanding moorings in established waters and public trust areas (.2200); replacement of existing bridges and culverts in estuarine waters, estuarine shorelines, public trust areas and coastal wetlands (.2300); placement of riprap for wetland protection in estuarine and public trust waters (.2400); replacement of structures; the reconstruction of primary or frontal dune systems; and the maintenance excavation of existing canals, basins, channels, or ditches, damaged, destroyed, or filled in by hurricanes or tropical storms (.2500); construction of wetland, stream and buffer mitigation sites by the North Carolina Ecosystem Enhancement Program or the North Carolina Wetlands Restoration Program (.2600); and the construction of riprap sills for wetland enhancement in estuarine and public trust waters (.2700).

<u>General Use Standards for Ocean Hazard Areas</u>	15A	NCAC	07H	.0306
Amend*				
<u>Specific Use Standards for Ocean Hazard Areas</u>	15A	NCAC	07H	.0308
Amend*				
<u>Purpose</u>	15A	NCAC	07H	.1201
Readopt without Changes*				
<u>Approval Procedures</u>	15A	NCAC	07H	.1202
Readopt without Changes*				
<u>Permit Fee</u>	15A	NCAC	07H	.1203
Readopt without Changes*				
<u>General Conditions</u>	15A	NCAC	07H	.1204
Readopt without Changes*				
<u>Specific Conditions</u>	15A	NCAC	07H	.1205
Readopt without Changes*				

The rules in Subchapter 7J concern procedures for handling major development permits, variance requests, appeals from minor development permit decisions and declaratory rulings. They include definitions (.0100); permit application and procedures (.0200); hearing procedures (.0300); final approval and enforcement (.0400); general permits (.0500); declaratory rulings and petitions for rulemaking (.0600); procedures for considering variance petitions (.0700); general permit procedure (.1100); static vegetation line exception procedures (.1200); and development line procedures (.1300).

<u>Application Procedures</u>	15A	NCAC	07J	.1105
Readopt without Changes*				
<u>Permit Conditions</u>	15A	NCAC	07J	.1106
Readopt without Changes*				
<u>Permit Compliance</u>	15A	NCAC	07J	.1107
Readopt without Changes*				
<u>Requesting the Development Line</u>	15A	NCAC	07J	.1301
Amend*				

The rules in Subchapter 7K set out activities in areas of environmental concern (AECs) which do not require a Coastal Area Management Act (CAMA) permit. These include activities that are not considered development (.0100); exempt minor maintenance and improvement (.0200); and exempt federal agency activities (.0400).

Structural Accessways Over Frontal Dunes Exempted 15A NCAC 07K .0207
Amend*

ENVIRONMENTAL QUALITY, DEPARTMENT OF

The rules in Subchapter 7O cover the NC Coastal Reserve Program including general provisions (.0100); and management, use, and protection of the NC Coastal Preserve (.0200).

Statement of Purpose 15A NCAC 07O .0101
Readopt with Changes*

Definitions as used in this Subchapter 15A NCAC 07O .0102
Amend*

Responsibilities: Duties of The Coastal Reserve Program 15A NCAC 07O .0103
Readopt with Changes*

State and Local Coastal Reserve Advisory Committees 15A NCAC 07O .0104
Readopt with Changes*

Reserve Components 15A NCAC 07O .0105
Amend*

Management Plan 15A NCAC 07O .0201
Readopt with Changes*

Reserve Use Requirements 15A NCAC 07O .0202
Readopt with Changes*

Special Activity Authorization 15A NCAC 07O .0203
Adopt*

TREASURER, DEPARTMENT OF STATE

The rules in Chapter 1 are departmental rules.

The rules in Subchapter 1F concern procedural rights including rule-making procedures (.0100); and declaratory rulings (.0200).

Correspondence 20 NCAC 01F .0102
Repeal*

Petition for Rulemaking 20 NCAC 01F .0111
Adopt*

Form of Requests 20 NCAC 01F .0203
Repeal*

Who Makes Ruling 20 NCAC 01F .0204
Repeal*

Ruling Procedures 20 NCAC 01F .0207
Repeal*

Declaratory Rulings 20 NCAC 01F .0208
Adopt*

STATE HUMAN RESOURCES COMMISSION

The rules in Subchapter 1C concern personnel administration including employment (.0100); general employment policies (.0200); personnel records and reports (.0300); appointment (.0400); work schedule (.0500); competitive service

(.0600); secondary employment (.0700); requirements for teleworking programs (.0800); employee recognition programs (.0900); and separation (.1000).

<u>Temporary Appointment</u> Amend*	25	NCAC	01C	.0405
<u>Temporary Part-time Appointment</u> Repeal*	25	NCAC	01C	.0407

BUILDING CODE COUNCIL

<u>2018 NC Existing Building Code/Repairs to Structural Conc...</u> Adopt*	606.1.1
<u>2018 NC Building Code and NC Fire Code/Increased Occupant...</u> Amend*	1004.2
<u>2018 NC Fire Code/Permits</u> Amend*	3103.4