

# ***NORTH CAROLINA REGISTER***

**VOLUME 36 • ISSUE 12 • Pages 1000 – 1084**

**December 15, 2021**

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**PUBLISHED BY**

*The Office of Administrative Hearings  
Rules Division  
1711 New Hope Church Road  
Raleigh, NC 27609  
Telephone 984-236-1850  
Fax 984-236-1947*

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

## **Contact List for Rulemaking Questions or Concerns**

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

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

Office of Administrative Hearings

Rules Division

1711 New Hope Church Road

984-236-1850

Raleigh, North Carolina 27609

984-236-1947 FAX

contact: Ashley B. Snyder, Codifier of Rules

ashley.snyder@oah.nc.gov

984-236-1941

Dana McGhee, Publications Coordinator

dana.mcghee@oah.nc.gov

984-236-1937

Cathy Matthews-Thayer, Editorial Assistant

cathy.thayer@oah.nc.gov

984-236-1901

### **Rule Review and Legal Issues**

Rules Review Commission

1711 New Hope Church Road

984-236-1850

Raleigh, North Carolina 27609

984-236-1947 FAX

contact: Amber Cronk May, Commission Counsel

amber.may@oah.nc.gov

984-236-1936

Brian Liebman, Commission Counsel

brian.liebman@oah.nc.gov

984-236-1948

Alexander Burgos, Paralegal

alexander.burgos@oah.nc.gov

984-236-1940

Julie Brincefield, Administrative Assistant

julie.brincefield@oah.nc.gov

984-236-1935

### **Fiscal Notes & Economic Analysis**

Office of State Budget and Management

116 West Jones Street

Raleigh, North Carolina 27603-8005

Contact: Carrie Hollis, Economic Analyst

osbmruleanalysis@osbm.nc.gov

984-236-0689

NC Association of County Commissioners

215 North Dawson Street

919-715-2893

Raleigh, North Carolina 27603

contact: Amy Bason

amy.bason@ncacc.org

NC League of Municipalities

919-715-2925

424 Fayetteville Street, Suite 1900

Raleigh, North Carolina 27601

contact: Monica Jackson

mjackson@ncmlm.org

### **Legislative Process Concerning Rulemaking**

545 Legislative Office Building

300 North Salisbury Street

919-733-2578

Raleigh, North Carolina 27611

919-715-5460 FAX

Jason Moran-Bates, Staff Attorney

Jeremy Ray, Staff Attorney

**NORTH CAROLINA REGISTER**  
 Publication Schedule for January 2021 – December 2021

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 <sup>th</sup> day from publication in the Register
35:13	01/04/21	12/08/20	01/19/21	03/05/21	03/22/21	04/15/21	05/01/21	10/01/21
35:14	01/15/21	12/21/20	01/30/21	03/16/21	03/22/21	04/15/21	05/01/21	10/12/21
35:15	02/01/21	01/08/21	02/16/21	04/05/21	04/20/21	05/20/21	06/01/21	10/29/21
35:16	02/15/21	01/25/21	03/02/21	04/16/21	04/20/21	05/20/21	06/01/21	11/12/21
35:17	03/01/21	02/08/21	03/16/21	04/30/21	05/20/21	06/17/21	07/01/21	11/26/21
35:18	03/15/21	02/22/21	03/30/21	05/14/21	05/20/21	06/17/21	07/01/21	12/10/21
35:19	04/01/21	03/11/21	04/16/21	06/01/21	06/21/21	07/15/21	08/01/21	12/27/21
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35:22	05/17/21	04/26/21	06/01/21	07/16/21	07/20/21	08/19/21	09/01/21	02/11/22
35:23	06/01/21	05/10/21	06/16/21	08/02/21	08/20/21	09/16/21	10/01/21	02/26/22
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36:01	07/01/21	06/10/21	07/16/21	08/30/21	09/20/21	10/21/21	11/01/21	03/28/22
36:02	07/15/21	06/23/21	07/30/21	09/13/21	09/20/21	10/21/21	11/01/21	04/11/22
36:03	08/02/21	07/12/21	08/17/21	10/01/21	10/20/21	11/18/21	12/01/21	04/29/22
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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.

**Notice of Public Hearing**

**Department of Administration**

Notice is hereby given in accordance with N.C.G.S. 150B-21.2, that the Department of Administration will conduct a public comment hearing on Rules 01 NCAC 05A. 0112, 01 NCAC 05B .0301, .0314, .0318, .0319, .0320, .0321, .1604. The Notice of Text was published in N.C. Register Volume 36, Issue 10, pages 855 – 862. The public hearing information is as follows:

**Public Hearing:**

**Date:** Wednesday, January 5, 2022

**Time:** 9:00-11:00 a.m.

**Location:** Via Webex at Meeting link: <https://ncgov.webex.com/meet/shanon.gerger> Meeting number (access code): 1783 46 8640

Join by phone Tap to call in from a mobile device (attendees only) +1-415-655-0003 US Toll +1-904-900-2303 United States Toll (Jacksonville)

All remaining information originally published in the N.C. Register remains the same. This updated information will be posted on the Department's website at <https://ncadmin.nc.gov/about-doa/administrative-rules-review/proposed-rules-and-public-comment>.

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 02 – DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

☒ No fiscal note required

CHAPTER 38 - CONSUMER STANDARDS

SECTION .0700 - STANDARDS FOR STORAGE, HANDLING AND INSTALLATION OF LP GAS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Agriculture intends to amend the rule cited as 02 NCAC 38 .0705.

Link to agency website pursuant to G.S. 150B-19.1(c): http://www.ncagr.gov/AdministrativeRules/ProposedRules/index.htm

Proposed Effective Date: April 1, 2022

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): Submit a written request by email to Rule-Making Coordinator, Anna Hayworth, at Anna.Hayworth@ncagr.gov.

Reason for Proposed Action: This proposed change simply adds email as an option for a company to provide written notification to another company that they will be disconnecting one of their tanks and replacing it with one of theirs.

Comments may be submitted to: Anna Hayworth, 1002 Mail Service Center, Raleigh, NC 27699; phone (984) 236-4509; email rulesreview@ncagr.gov

Comment period ends: February 14, 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 984-236-1850.

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

- State funds affected
Local funds affected
Substantial economic impact (>= \$1,000,000)
Approved by OSBM

02 NCAC 38 .0705 NOTIFICATION FOR DISCONNECTION OF SERVICE

- (a) This Rule contains additional standards relating to the requirements for disconnection of service contained in G.S. 119-58(b).
(b) To "notify the former supplier before disconnecting the former service and connecting the new service," as required by G.S. 119-58(b), means that the new supplier shall provide the former supplier with written notice containing the new supplier's name, address and telephone number, the consumer's name and address, and stating the date and time after which service is to be disconnected. The notice may be sent by mail, overnight mail, facsimile, e-mail or by hand-delivery, so long as it is received prior to the disconnection of the former service.

Authority G.S. 119-55.

\*\*\*\*\*

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Board of Agriculture intends to adopt the rule cited as 02 NCAC 52J .0105, readopt with substantive changes the rules cited as 02 NCAC 52J .0101-.0104, .0201-.0210, .0301-.0304, .0401-.0403, .0406-.0408, .0410-.0419, .0501, .0702-.0705, .0801-.0803, readopt without substantive changes the rules cited as 02 NCAC 52J .0404, .0405, .0701, .0901, .0902, and repeal through readoption the rule cited as 02 NCAC 52J .0409.

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

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

Link to agency website pursuant to G.S. 150B-19.1(c): http://www.ncagr.gov/AdministrativeRules/ProposedRules/index.htm

Proposed Effective Date: April 1, 2022

**Public Hearing:**

**Date:** January 5, 2022

**Time:** 1:30 p.m.

**Location:** NC State Fairgrounds - Martin Building: 4381 Trinity Road, Raleigh, NC 27607

**Reason for Proposed Action:** *The Animal Welfare Act (AWA) rules are undergoing the statute mandated review and revision process. The AWA rule revisions reflect changes in the guidelines and best practices for animal shelters, boarding kennels, pet shops, and euthanasia technicians. Many of the proposed revisions address the changes in these regulated industries. In addition, the AWA statutes were most recently modified in 2013. These proposed revisions address those changes so that the rules will be consistent with the modified statutes.*

**Comments may be submitted to:** Anna Hayworth, 1002 Mail Service Center, Raleigh, NC 27699; phone (984) 236-4509; email rulesreview@ncagr.gov

**Comment period ends:** February 14, 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 984-236-1850.

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

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

**CHAPTER 52 – VETERINARY DIVISION**

**SUBCHAPTER 52J - ANIMAL WELFARE SECTION**

**SECTION .0100 - RECORD KEEPING AND LICENSING**

**02 NCAC 52J .0101 RECORDS; ANIMAL SHELTERS, ETC.**

Operators of all animal shelters, pet shops, public auctions, and dealers shall maintain records on all dogs and cats showing the following:

- (1) origin of animals (including names and addresses of consignors) and date animals were received;
- (2) description of animals including species, estimated age, sex, ~~breed~~, breed or breed type, and color markings;
- (3) location of ~~animal~~ animal, including complete address and contact information, if not kept at the licensed or registered facility;
- (4) disposition of animals including name and address of person to whom animal is sold, ~~traded~~ traded, transferred, or adopted and the date and time of such transaction; name and address of intermediary transporter if used; in the event of death, the record shall show the date, signs of illness, ~~or~~ and cause of death if identified; if euthanized, the record shall show date and type of euthanasia; ~~and~~
- (5) record of veterinary care including medications, treatments, procedures, and immunization, ~~immunizations, and date, time, description of medication (including name and dosage), and initials of person administering any product or procedure~~. The record shall include: diagnosis(es), diagnostic testing and results, date and time of administration or procedure, description of medication and initials of person administering any product, medication or procedure. The description of the medication shall include the name, strength or concentration, dosage, and dosing regimen. The dosage regimen shall include the frequency, duration to include the number of dosages or days to be given and the reason for the administration; and
- (6) all records shall be created and/or updated within 48 hours of the occurrence of procedures, including but not limited to intake, change of location, medication or treatment administration and/or disposition. The record shall be accurate; creation of a misleading record or deliberate or non-incidental falsification of a record including medication administration documentation during or after an investigation or inspection shall be considered a violation of this regulation.

*Authority G.S. 19A-24.*

**02 NCAC 52J .0102 RECORDS; BOARDING KENNELS**

Operators of boarding kennels shall maintain records of all dogs and cats showing the following:

- (1) name and address of owner or person responsible for animal, the date of entry and signature of the person leaving the animal; and the date of release and signature and address of individual to whom animal is released; ~~released and the date of release;~~

- (2) description of animal including ~~breed~~, breed or breed type, sex, age and color marking; ~~and~~
- (3) veterinary care provided while boarded, which shall include date, ~~times~~, times of administration, description of medication (~~including name and dosage~~) and initials of person administering product or procedure. The description of the medication shall include the name, strength or concentration, dosage, and dosing regimen. The dosage regimen shall include the frequency, duration to include the number of dosages or days to be given and the reason for the administration;
- (4) all records shall be created and/or updated at the time of the occurrence such as intake, medication or treatment administration and/or release. The record shall be accurate; creation of a misleading record or deliberate or non-incidental falsification of a record including medication administration during or after an investigation or inspection shall be considered a violation of this Rule;
- (5) an incident file shall be kept within each facility for animals sustaining injury or illness requiring veterinary care; animal death; and/or or any animal escape. Each report must include date of incident, pet's name, breed or breed type/species, age, owner's name and contact information, description of incident and course of action; and
- (6) in the event of either an animal death or escape, the licensee must notify the Animal Welfare Section within 48 hours.

Authority G.S. 19A-24.

**02 NCAC 52J .0103 INSPECTION OF RECORDS**

All operators of animal shelters, pet shops, boarding kennels, public auctions, and persons operating as dealers shall make all required records available to the ~~director~~ Director or his or her authorized representative on request, during the business and cleaning hours listed on the license ~~application~~. application and/or during an inspection of the facility or an investigation. The operator must be able to match each animal to its record upon request. Records shall be maintained for a period of one year after the animal is ~~released~~. released from a boarding kennel or sold from a pet store or public auction. Animal shelters shall maintain records for a period of three years after the disposition of the animal.

Authority G.S. 19A-24; 19A-25.

**02 NCAC 52J .0104 DEFINITIONS**

As used in this Subchapter:

- (1) "Accessories" means any objects used in cleaning and sanitizing primary enclosures, exercise areas, or objects to which an animal may have access, including, but not limited to

- (2) toys, blankets, food and water utensils, and bedding.
- (2) "Adequate" means a condition which, when met, does not jeopardize an animal's comfort, safety or health. Adequate veterinary care means provision of veterinary care sufficient to address the relief of pain and/or suffering experienced by the animal and sufficient to address the medical condition.
- (3) "Behavioral-control device" means any apparatus used to control a pet animal's behavior.
- (3)(4) "Cage" means a primary enclosure which is enclosed on all sides ~~and also on~~ including the top and bottom.
- (5) "Compatible group" means all animals in the group comingle peacefully without the presence of aggressive, harassing, and/or agitating behaviors toward any other member(s) of the group.
- (6) "Common area(s)" means areas of the facility in which multiple animals may have access such as walkway(s), facility lobby(ies), hallway(s), area(s) around primary enclosures and exercise areas, and other such similar areas.
- (7) "Disposition" means the adoption, death, euthanasia, release, sale, trade, or transfer from a facility.
- (8) "Enrichment" means providing objects or activities, appropriate to the needs of the species as well as the age, size, and condition of the animal, that stimulates the pet and promotes the pet's well-being.
- (9) Exercise area means an enclosed space in which an animal(s) is confined, and which is large enough for species-appropriate activity such as walking, running, climbing, jumping, socialization and/or play to occur.
- (4)(10) "Husbandry" means the practice of daily care administered to animals.
- (11) "Impervious to moisture" means a surface that prevents the absorption of fluids and that can be thoroughly and repeatedly sanitized, will not retain odors, and from which fluids bead up and run off or can be removed without being absorbed into the surface material.
- (12) "Infirm" means not physically or mentally strong, especially through age or illness.
- (5)(13) "Isolation" means the setting apart of an animal from all other animals, food, and equipment in the facility for the sole purpose of preventing the spread of disease. separation, for the period of communicability, of infected animals from others in such place and under such conditions to prevent the direct or indirect transmission of the infectious agent from those infected to those that are susceptible or that may spread the agent to others.



- (14) "Isolation area" means a location where animals infected with disease may be placed to contain, control, and limit the spread of the disease.
- ~~(6)~~(15) "License period" means July 1 through June 30.
- ~~(7)~~(16) "Long term care" means the housing of an animal for a period of more than 30 consecutive days.
- (17) "Potable" means suitable for drinking.
- ~~(8)~~(18) "Properly cleaned" means the removal of carcasses, debris, food waste, excrement, urine, dirty or soiled accessories and ~~or~~ other organic material with adequate frequency.
- ~~(9)~~(19) "Social interaction" means friendly physical contact or play between animals of the same species or with a person. Physical contact or play with the caretaker during cage cleaning and/or sanitation is not considered social interaction.
- (20) Special provisions – additional procedures, protocols, and/or equipment used when caring for, housing and/or transporting animals with special needs. Examples of animals with "special needs" include but are not limited to brachycephalic breeds, very young or old animals, animals with a medical condition, infirm animals, and/or animals that are compromised or debilitated.
- ~~(10)~~(21) "Suitable method of drainage" means drainage that allows for the elimination of water and waste products, prevents contamination of animals, allows animals to remain dry, and complies with applicable building codes and local ordinances.
- ~~(11)~~(22) "Supervision of animals" means at least one person (at least 16 years of age) present, at all times, able to constantly, directly view all animals within the entirety of each enclosure or common exercise area.
- (23) "Surgical procedure" for the purposes of this Subchapter means any invasive procedure performed on an animal to include but not be limited to: procedures to spay or neuter, any procedure that invades a body cavity and/or requires suturing or repairing of tissues; and/or any treatment of injuries or disorders of the body by incision, manipulation or alteration of organs or tissues with the hands or with instruments. For the purposes of this Subchapter, insertion of a microchip is not considered to be a surgical procedure.
- (24) "Veterinarian" means a veterinarian who is currently licensed by North Carolina and/or an adjacent state. The license must be valid and be in good standing with the respective state Board of Veterinary Medicine.

Authority G.S. 19A-24.

**02 NCAC 52J .0105 LICENSES AND REGISTRATIONS**

All operators of an animal shelter, pet shop, public auction, dealers, and boarding kennels must have a valid license/registration.

- (1) Licenses and registrations are not transferable.
- (2) In the event of a change of ownership or management of a regulated facility, the facility shall notify the director of AWS in writing within 10 days of the change. Submission of a new license or registration application and a facility inspection by AWS is required in the event of such a change.
- (3) In the event of a change of name, address, phone, email, or point of contact for the facility, the facility shall notify the director by the Change Form located on the AWS website or other written documentation within 10 days of change.
- (4) Renewal applications for license or registration renewal shall be submitted yearly to the AWS office between April 1st and June 15th. Current application forms are located on the AWS website and may change yearly.

Authority G.S. 19A-24.

**SECTION .0200 - FACILITIES AND OPERATING STANDARDS**

**02 NCAC 52J .0201 GENERAL**

- (a) Housing facilities for dogs and cats shall be structurally sound and maintained in good repair to protect the animals from injury, contain the animals and restrict the entrance of other animals and people.
- (b) All light fixtures and electrical outlets in animal areas shall be safe and in compliance with the State Building Code. Electrical appliances, light fixtures, electrical outlets, and electrical cords shall be located or protected in such a way that animals do not have access to them.
- (c) Facilities shall have reliable and safe electric power as necessary to comply with the Animal Welfare Act.
- (d) Supplies of food and bedding shall be stored in facilities which adequately protect such supplies against infestation or contamination by vermin and insects. All open bags of food shall be stored in airtight containers with lids. Refrigeration shall be provided for supplies of perishable food. Storage of food and bedding:
  - (1) food and bedding shall be stored in cabinets and/or sealed containers which adequately protect such supplies against infestation or contamination by vermin and insects;
  - (2) all open bags of food and edible treats shall be stored in airtight containers with lids;
  - (3) refrigeration shall be provided for supplies of perishable food including opened cans of food; clean bedding and laundry shall be: stored in cabinets and/or sealed containers; stored separately from soiled laundry and materials;
  - (4) refrigeration shall be provided for supplies of perishable food including opened cans of food; clean bedding and laundry shall be: stored in cabinets and/or sealed containers; stored separately from soiled laundry and materials;

and stored separately from general housing areas for animals; and

(5) in areas housing animals being observed or treated for contagious disease, bedding shall only be stored in sealed cabinets if that clean laundry is dedicated solely for the use for those specific animals.

(e) Provisions shall be made for the daily removal and disposal of animal and food waste, soiled bedding and debris from the housing facility in accordance with local ordinances, to assure facility will be maintained in a clean and sanitary manner.

(f) Hot and cold running, potable water must be available. Facilities such as washroom, basin or sink shall be provided to maintain cleanliness among animal caretakers, animals, and animal food and water receptacles.

(g) Each facility shall have the ability to confirm ambient ~~temperature.~~ temperature, a functional room thermometer shall be present in each separate area of indoor enclosures, common areas and exercise areas.

(h) A separate five-foot perimeter fence is required if any ~~animals~~ animal(s) has or have unsupervised access to an outdoor primary enclosure, common area, and/or including unsupervised exercise areas area. Supervision of animals is required for any animal(s) within any outdoor enclosure, common area, or exercise area without a separate five-foot perimeter fence.

(i) An adequate drainage system must be provided for the ~~housing~~ facility.

(j) All areas of a facility are subject to review or inspection by North Carolina Department of Agriculture and Consumer Services employees during normal business hours (8:00 a.m. through 5:30 p.m. Monday through Friday).

(k) All animals in a facility are subject to the requirements of the Animal Welfare Act, regardless of ownership.

(l) A licensee or registrant shall comply with all federal, state and local laws, rules and ordinances relating to or affecting the welfare of dogs and cats in its facility.

(m) A licensee or registrant and all agents of the facility shall cooperate fully and truthfully with NCDA&CS employees during all phases of inspections, reviews and/or investigations.

(n) Neither an applicant for a license or registration nor a licensee or registrant or any agent of a facility may interfere with, threaten, abuse (including verbally abuse), or harass any inspector, or state official, while such inspectors or officials are carrying out their duties.

~~(m)~~(o) No dog or cat shall be in a window display except during business hours and then only in compliance with standards set forth in this Section.

(p) Battery operated or electrical behavioral control devices, such as shock collars, shock prods, or electrical fences, as well as pinch-collars and prong-collars, may only be used on an animal in a boarding kennel with the specific written consent of the owner of that animal.

(q) All facilities shall be equipped with an operational smoke alarm and carbon monoxide alarm and shall have a means of fire suppression, such as functional fire extinguishers or a sprinkler system on the premises.

(r) All licensed and registered facilities must develop and maintain a plan of action for the continuity of care and/or

evacuation of animals in the event of a natural or manmade disaster.

(s) For the purposes of G.S. 19A-23(5a), written standards for an "approved foster care provider" shall include but not be limited to: the application process; sanitation protocols; provision of daily observation of the animals; feeding and watering protocols; provision and documentation of veterinary care; provision and documentation of human and same-species daily interaction, exercise, play and environmental enrichment for animals in long term care; requirements for inspection by the shelter; and compliance by the foster care provider with the NC Animal Welfare Act and it rules issued pursuant thereto.

(t) For the purposes of G.S. 19A-23(5b), written standards for an "approved rescue organization" shall include but not be limited to: the application process; sanitation protocols; provision of daily observation of the animals; feeding and watering protocols; provision and documentation of veterinary care of the shelter's animals; provision and documentation of human and same-species daily interaction, exercise, play and environmental enrichment for the shelter's animals in long term care at the rescue; requirements for inspection by the shelter; and compliance by the rescue with the NC Animal Welfare Act and it rules issued pursuant thereto.

Authority G.S. 19A-24.

**02 NCAC 52J .0202 INDOOR FACILITIES**

(a) Heating and cooling of indoor facilities:

(1) indoor ~~housing~~ facilities for dogs and cats shall be adequately heated and cooled ~~when necessary~~ to protect the dogs and cats from cold and ~~excessive~~ heat and provide for their health and ~~comfort.~~ comfort;

(2) the ambient temperature shall not be allowed to fall below 50 degrees F. or exceed 85 degrees F. F; and

(3) Special provisions shall be provided to any animal that cannot maintain its normal body temperature. These special provisions shall be sufficient for the animal to maintain its normal body temperature and shall be documented in the animal's record.

(b) Ventilation of indoor facilities:

(1) ~~Indoor~~ indoor housing facilities for dogs and cats shall be adequately ventilated to provide for the health and comfort of the animals at all ~~times.~~ times; The the facilities shall be provided with fresh air either by means of windows, doors, vents ~~or~~ and/or air conditioning and shall be ventilated so as to minimize ~~drafts.~~ drafts;

(2) air vents and/or air filters shall be cleaned and/or changed as often as necessary to minimize buildup of debris, dust and biological material and as often as necessary to prevent inhibition or restriction of air flow; and

(3) ~~Air~~ air flow shall be ~~adequate~~ sufficient to minimize odors and moisture condensation.

(c) Indoor housing facilities for dogs and cats shall have ~~adequate~~ sufficient illumination to permit routine inspections, maintenance,

cleaning and housekeeping of the facility and observation of the animals. Illumination shall provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the animal facilities.

(d) Interior building surfaces of indoor facilities with which animals come in contact shall be constructed and maintained so that they are impervious to moisture and can be readily sanitized.

(e) Drainage of indoor housing facility:

- (1) ~~A suitable method of drainage~~ drainage shall be provided to rapidly eliminate excess water from an indoor housing ~~facility.~~ facility;
- (2) ~~If~~ if closed drain systems are used, they shall be equipped with traps and installed to prevent odors and backup of ~~sewage.~~ sewage; and
- (3) ~~The~~ the drainage system shall ~~be constructed~~ with barriers sufficient to ~~prevent~~ protect the animals from cross-contamination ~~among animals.~~ with urine and fecal material from animals housed in adjacent and/or nearby enclosures and/or exercise areas.

Authority G.S. 19A-24.

**02 NCAC 52J .0203 OUTDOOR FACILITIES**

(a) In outdoor facilities that are subject to the Animal Welfare Act, primary ~~enclosures~~ enclosures, common areas and walkways with which an animal comes ~~in contact~~ contact:

- (1) shall have flooring or groundcover be constructed of sealed concrete or other surfaces impervious to ~~moisture.~~ moisture; and/or
- (2) may use Gravel gravel ~~may be used for groundcover so long as it is~~ maintained at a minimum depth of six inches and kept in a sanitary manner.

(b) Exercise areas of outdoor facilities:

- (1) shall have flooring or groundcover constructed of sealed concrete or other surfaces impervious to moisture; and/or
- (2) use gravel for groundcover so long as it is maintained at a minimum depth of six inches and kept in a sanitary manner; and/or
- (3) artificial turf may be allowed so long as it is maintained in good repair, is replaced when damaged, and is cleaned and sanitized in accordance with Rule .0207 of this Section; and/or
- (4) may contain established grass so long as the animal(s) do not have access to bare dirt and the grass covered area(s) must be kept clean and sanitary. In the event of a contagious disease outbreak, the sanitation, management and use of the grass area shall be addressed in the veterinarian's written protocol required by 02 NCAC 52J .0210(b) and (c).

(c) Sand and organic materials such as mulch, pine straw, or other similar material shall not be used as ground cover in primary enclosures, common areas, exercise areas and/or walkways.

~~(b)(d)~~ Dogs and cats kept ~~in outdoors~~ outdoor primary enclosures shall be provided housing to allow them to remain dry and comfortable during inclement weather.

- (1) ~~Housing~~ housing shall be constructed of material which is impervious to moisture and which can be ~~disinfected.~~ cleaned and easily sanitized in accordance with Rule .0207 of this Section;
- (2) ~~One~~ one house shall be available for each animal within each primary enclosure. enclosure ~~except for a mother and its unweaned offspring.~~ The house(s) shall be of adequate size for the animal housed in the enclosure. In the case of a mother and her unweaned offspring, one house of adequate size to comfortably house the mother and all the offspring together shall be provided;
- (3) housing structures in outdoor facilities must contain clean, dry bedding or a heat source when the temperature falls below 32 degrees F; special provisions shall be provided to any animal that cannot maintain its normal body temperature when housed outside. These special provisions shall be sufficient for the animal to maintain its normal body temperature and shall be documented in the animal's record. If the animal cannot maintain its normal body temperature even with special provisions, then that animal may not be housed outside. No infirm animal may be housed outdoors; and
- (4) ~~in~~ in addition to housing, the enclosure shall provide protection from excessive sun and inclement weather.

(e) Dogs and cats placed in outdoor exercise areas shall be protected from inclement weather and excessive sun. This protection shall be sufficient to protect all animals simultaneously in the exercise area. If an animal cannot maintain its normal body temperature in an outdoor exercise area, the animal may not be placed in an outside exercise area.

(f) Outdoor common areas used for play, enrichment and elimination shall be maintained in good repair and be cleaned and sanitized as set forth in Rule .0207 of this Section to protect the animals from injury and/or illness.

~~(d)(g)~~ Animal owners shall be advised at the time of reservation and admission at a boarding kennel if the animal will be kept in outside facilities. This shall be documented in the animal's record.

~~(e)(h)~~ ~~A suitable method of drainage~~ Drainage shall be ~~provided.~~ provided so that water is rapidly drained from the primary enclosures, common areas, exercise areas and walkways and so that the animal(s) does/do not have access to standing water.

Authority G.S. 19A-24.

**02 NCAC 52J .0204 PRIMARY ENCLOSURES**

(a) Primary enclosures and exercise areas shall be constructed so as to prevent contamination from waste and wastewater from animals in other enclosures. All surfaces with which an animal comes in contact shall be impervious to ~~moisture.~~ moisture excluding the ground cover options of gravel and grass allowed

for in Rule .0203 of this Section.

(b) For primary enclosures and exercise areas placed into service on or after January 1, 2005, no wood shall be within the animal's reach. For primary enclosures and exercise areas in use in a licensed or registered facility prior to January 1, 2005, any damaged wood must be replaced in a manner that does not permit contact with wood by the animal.

(c) Primary enclosures and exercise areas for dogs and cats shall be structurally sound and maintained in good repair and in a manner to prevent injury to animals and keep other animals out.

(d) Primary enclosures shall be constructed so as to provide space to allow each dog or cat to walk, ~~and~~ turn about freely, and to easily stand with their tails erect, sit, or lie in a natural position within the enclosure or the sides or top covering of the enclosure.

(e) Exercise areas shall be constructed to provide adequate space to allow each dog or cat to run and express natural play behaviors typical of the species.

(f) The height of a primary enclosure or an exercise area other than a cage shall be no less than five feet.

(g) All primary enclosures and exercise areas shall be constructed to prevent the escape of animals.

(h) Each primary enclosure and exercise area shall be provided with a solid resting surface or surfaces adequate to comfortably hold all occupants of the primary enclosure and exercise area at the same time. All resting surfaces must be of a non-porous or easily sanitized material, such as a solid floor, towel, or a disposable material such as newspaper. The resting surface or surfaces shall be elevated in primary enclosures housing two or more cats.

(i) In addition to Paragraph (b) of this Rule, each dog shall be provided a minimum square footage of floor space equal to the mathematical square of the sum of the length of the dog in inches, as measured from the tip of its nose to the base of its tail, plus six inches, then divide the product by 144. The calculation is: (length of dog in inches + 6) x (length of dog in inches + 6) = required floor space in square inches. Required floor space in square inches ÷ 144 = required floor space in square feet. The calculation shall be expressed in square feet.

(j) Not more than four adult dogs shall be housed or confined in the same primary enclosure or exercise area without supervision. Dogs younger than six months of age may not be housed or confined or comingled with adult dogs other than their dams without supervision; this includes any animals owned by the staff or operator of the facility.

(k) If more than four dogs including animals owned by the staff or operator of the facility are housed or confined in an exercise area are housed in a common area or primary enclosure, then there must be at least one person constantly supervising each 10 dogs housed or confined within each primary enclosure or common exercise area. This supervision must be conducted from within the exercise area or primary enclosure such that the person(s) has/have immediate access to the animals in the event of an emergency, aggression or fight between animals.

(l) Pregnant dogs and cats shall be housed singly in a primary enclosure. Nursing dogs and cats shall be housed only with their litter in a primary enclosure until the litter has been weaned. The primary enclosure shall be of sufficient size to allow the dam and all animals in the litter to walk, turn about freely, nurse, and to

easily stand with their tails erect, sit, or lie in a natural position with their limbs extended without touching other animals within the enclosure the sides or top covering of the enclosure and to leave the whelping/queening area for exercise.

(m) In addition to Paragraph (b) Paragraphs (d), (e) and (h) of this Rule, each feline older than six months housed in any primary enclosure or exercise area shall be provided a minimum of four square feet of floor space which may include elevated resting surfaces. Each feline younger than six months shall be provided 1.5 square feet.

(n) Not more than 12 cats shall be housed or confined in the same primary enclosure, enclosure or exercise area.

(o) In all cat primary enclosures and exercise areas, enclosures, a clean receptacle containing clean litter shall be provided for waste. A minimum of one receptacle per three cats is required, required for each primary enclosure and exercise area.

(p) Pools in primary enclosures and/or exercise areas:

- (1) Whenever water in a pool is deeper than the height at the shoulder of the shortest dog in the pool area, an ingress- egress area shall be provided;
- (2) No dog may have access to the pool or pool area other than a typical kiddie wading pool without supervision;
- (3) Facilities must be constructed, maintained, and managed to protect animals from illness, injury, and death resulting from access to pools or pool areas;
- (4) Pools with a capacity of less than 100 gallons must have the water changed and be cleaned and sanitized daily. Pools with a capacity of 100 gallons or more shall have commercially manufactured filtration and cleaning systems installed and the manufacturer recommendations followed for cleaning, sanitation and water quality; and
- (5) Typical kiddie wading pools are to be considered accessories for the purposes of cleaning, sanitation, repair and maintenance.

Authority G.S. 19A-24.

**02 NCAC 52J .0205 FEEDING**

(a) Adult Dogs dogs and cats and puppies and kittens older than six months shall be fed at least once each 24-hour period period, except as otherwise might be required to provide adequate veterinary care. Food shall be commercially prepared food which complies with laws applicable to animal feed or the food shall be provided by the owner. The food shall be free from contamination, wholesome, palatable, and of adequate quality and quantity appropriate for the given size, age, and condition of an animal to meet the daily requirements for nutritional value.

(b) Puppies and kittens less than six months of age shall be fed at least twice in each 24-hour period. An eight-hour interval between feedings is required if only two feedings are offered in a 24-hour period.

(c) Should a veterinarian prescribe a feeding regime different from the ones described in Paragraphs (a) and (b) of this Section for a specific animal, documentation of such veterinary care is

required and shall include:

- (1) the original veterinary directive signed by the veterinarian issuing it;
- (2) the printed name of the veterinarian;
- (3) the reason for the restriction;
- (4) the specific feeding directions;
- (5) the origination and review dates of the directive;
- (6) the facility shall have the veterinarian review and renew the directive every 30 days until it is no longer required;
- (7) the date of the cessation of the directive; and
- (8) documentation by the facility of each feeding as prescribed by the veterinarian.

(d) Food shall be commercially prepared food which complies with laws applicable to animal feed or the food shall be provided by the owner.

(e) The food shall be free from contamination, wholesome, palatable, and of sufficient quality and quantity appropriate of the given size, age, and condition of an animal to meet the daily requirements for nutritional value.

~~(b)~~(f) Food receptacles shall be accessible to all dogs or cats and shall be located so as to minimize contamination by waste.

(g) For every adult animal, there must be at least one food receptacle offered. When multiple animals are housed together, caretakers shall observe each animal feeding to ensure that animals have sufficient access to food.

(h) Food receptacles shall be durable and shall be kept clean and sanitized.

(i) Uneaten food within food receptacles must be discarded after 24 hours or sooner if spoiled or contaminated.

(j) Damaged food receptacles shall be replaced. Disposable food receptacles may be used but must be discarded after each feeding.

~~(e)~~(k) Food and water receptacles in outdoor facilities shall be protected from the elements.

Authority G.S. 19A-24.

**02 NCAC 52J .0206 WATERING**

(a) Animals shall have continuous access to ~~fresh~~ fresh, potable water, except as might otherwise be required to provide adequate veterinary care.

(b) Veterinary care for a specific animal that requires water to be withheld, given in intervals, or any variation other than continuous access by an animal can only be prescribed by a veterinarian and shall be documented in writing by the facility. The documentation shall include:

- (1) the original veterinary directive signed by the veterinarian issuing it;
- (2) the printed name of the veterinarian;
- (3) the reason for the restriction;
- (4) the specific watering directions;
- (5) the origination and review dates of the directive;
- (6) the facility shall have the veterinarian review and renew this directive every 30 days until it is no longer required;
- (7) the date of the cessation of the directive; and

(8) documentation by the facility of each watering as prescribed by the veterinarian.

(c) Water in receptacles shall be changed daily and whenever visibly soiled.

(d) Watering receptacles shall be durable and kept clean and sanitized.

(e) Damaged receptacles shall be replaced.

Authority G.S. 19A-24.

**02 NCAC 52J .0207 SANITATION**

(a) Waste shall be removed from primary ~~enclosures~~ enclosures, and exercise areas and common areas to prevent contamination of the dogs or cats contained therein and to reduce disease hazards and odors. Enclosures and exercise areas for dogs and cats must be properly cleaned a minimum of two times per day. The animal must be able to walk or lie down without coming in contact with any waste or debris.

(b) When a hosing or flushing method is used for cleaning an enclosure, dogs or cats contained therein shall be removed during the cleaning process, and adequate measures shall be taken to protect the animals ~~in other such clean~~ enclosures from being contaminated with water and other wastes.

(c) Cross contamination barriers shall be in place in primary enclosures and be sufficient to prevent feces, urine and cleaning waste water from entering another occupied primary enclosure.

~~(b)~~(d) Sanitation shall be as follows:

(1) Prior to the introduction of dogs or cats into empty primary enclosures previously occupied, enclosures and accessories shall be sanitized in the manner provided in Subparagraph ~~(b)(3)(d)(3)~~ of this Rule.

(2) In addition to primary enclosures being properly cleaned a minimum of two times per day, enclosures and accessories shall be sanitized a minimum of once every seven days in the manner provided in Subparagraph ~~(b)(3)(d)(3)~~ of this Rule if the same animal is housed in the same enclosure ~~more than~~ for seven or more days.

(3) Primary enclosures, ~~Cages,~~ cages, rooms and hard-surfaced exercise areas, pens or runs and exercise areas with artificial turf flooring shall be sanitized by:

(A) washing them with hot water (180 degrees F.) and soap or detergent as in a mechanical cage washer; or

(B) ~~washing all soiled surfaces with a detergent solution to remove all organic matter followed by application of a safe and effective disinfectant;~~ removal of visible organic matter, precleaning all soiled surfaces with a detergent or degreaser solution, followed by the application, at the correct concentration, of an animal-safe disinfectant labeled to be effective against common pathogens. The disinfectant is to be left on the

surfaces for the time indicated by the manufacturer. After such time, all surfaces shall be thoroughly rinsed to remove all residual chemical and then the area dried prior to returning the animal(s) to this area; or

(C) cleaning all soiled surfaces with live steam. The area is to be cooled and dried prior to the return of the animal(s).

(4) Common areas, any area accessible to multiple animals and exercise areas not covered by Subparagraph (d)(3) of this Rule shall be kept clean and sanitary. These areas are to be properly cleaned a minimum of two times per day. Hard and/or impervious surfaces of these areas shall be sanitized a minimum of once every seven days in the manner provided in Subparagraph (d)(3) of this Rule;

(4)(5) Food and water receptacles shall be sanitized daily with hot water, detergent, and disinfectant. The disinfectant shall be used consistent with the manufacturer's directions;

(5)(6) Soiled linens and cloth products shall be mechanically washed with detergent and sanitized.

(6)(7) Any area accessible to multiple animals shall be kept clean and sanitary; and

(8) Fans, including but not limited to floor fans, ceiling fans, wall fans, vent fans, etc. shall be cleaned routinely in intervals sufficient to prevent the accumulation of debris, dust and/or biological material.

~~(e)~~(e) Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this Rule. Premises shall remain free of accumulations of trash, junk, waste products, and discarded matter. Weeds, grasses, and bushes must be controlled so as to facilitate cleaning of the premises and to improve pest control, and to protect the health and well-being of the animals.

~~(d)~~(f) An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.

Authority G.S. 19A-24.

**02 NCAC 52J .0208 EMPLOYEES**

A sufficient number of employees shall be utilized to sufficiently care for the animals in the facility and maintain the prescribed level of husbandry practices set forth in this Rule. Such practices shall be under the supervision of an animal caretaker who ~~has a background in animal husbandry or care.~~ is adequately trained and/or experienced in animal husbandry and care and has read and acknowledged their understanding of these Rules and the NC Animal Welfare Act.

Authority G.S. 19A-24.

**02 NCAC 52J .0209 CLASSIFICATION AND SEPARATION**

Animals housed in the same primary enclosure and/or confined to an exercise area shall be maintained in compatible groups, with the following additional restrictions:

(1) Females in season (estrus) shall not be housed in the same primary enclosure or exercise area with intact or neutered males, except for planned breeding purposes. Breeding shall not be allowed in animal shelters.

(2) In boarding kennels, animals of different owners shall not have contact with other animals, unless written permission is obtained from the animal's owner. The documentation of this written permission shall be kept as part of the animal's record for one year and must be renewed yearly thereafter.

(3) Any dog or cat exhibiting an aggressive disposition shall be housed individually in a primary enclosure. Housing of aggressive animals shall be such that the animals are prevented from biting or injuring another animal or human.

~~(3)~~(4) Puppies or kittens less than ~~four~~ six months of age shall not be housed in the same primary enclosure with adult dogs or cats other than their dams, except when permanently maintained in breeding colonies, or if requested in writing, by the animals' owner, as in a boarding kennel. Puppies or kittens between four and 16 weeks of age shall have daily access to human social interaction in addition to the human interaction during the cleaning and sanitation of the enclosures, excluding animals which pose a danger to humans or other animals.

~~(4)~~(5) Dogs shall not be housed in the same primary enclosure with cats, nor shall dogs or cats be housed in the same primary enclosure with any other species of animals. Exceptions are allowed at boarding kennels, if requested in writing by the animals' owner.

~~(5)~~(6) All facilities shall designate an isolation area for animals being treated or observed for communicable diseases. Dogs or cats in isolation that are being treated for a communicable disease shall be separated from other dogs or cats and other susceptible species of animals in such a manner as to minimize dissemination of such disease. A sign shall be posted at the cage or isolation area when in use, giving notice of a communicable ~~disease.~~ disease, including the identification of the disease. Accessories, cleaning equipment and supplies used in isolation areas shall not be used in other areas of the facility.

~~(6)~~(7) Animals in long term care ~~which are intended for adoption or sale~~ must be provided the following: with human interaction other than

interaction for enclosure cleaning, same species social interaction, opportunity for play and exercise, and environmental enrichment daily. The provision of these daily interactions and enrichment shall be appropriate for the animal's species, age, size and behavior needs. In addition:

- (a) Daily access to both human and same species social interaction. The provision of the daily social interactions and enrichment shall be documented in the animal's records and the records maintained for three years; and
- (b) Daily access to space other than the primary enclosure. Exemptions from these long-term care provisions are allowed only for safety or health reasons and must be approved by a veterinarian. This exemption must be reviewed and renewed every 30 days if the continuation is necessary. Documentation of the exemption must include the reason for the exemption, the name and contact information of the veterinarian authorizing the exemption, the original exemption date and the dates of review and renewal and alternative(s) offered if any.
- (c) A species and size appropriate toy, unless it poses a health threat.

~~(7)~~(8) All animals shall be confined in primary enclosures or exercise areas. Primary enclosures and exercise areas must be inspected by AWS and in compliance with the rules of this Subchapter before an animal can be confined in the enclosure or area.

Authority G.S. 19A-24.

**02 NCAC 52J .0210 VETERINARY CARE**

(a) A written program of veterinary care (PVC) to include disease control and prevention, vaccination, euthanasia (animal shelters only), disposition of diseased, ill, injured, infirm or deformed animals and provision of adequate routine and emergency veterinary care shall be established with the assistance of a licensed veterinarian by any person who is required to be licensed or registered under the Animal Welfare Act, Article 3 of Chapter 19A of the General Statutes. The following is required of each PVC:

- (1) The PVC for animal shelters and pet stores shall be established with the assistance of a veterinarian and the veterinarian's information and signature shall be included in the appropriate section of the license/registration application/renewal application;
- (2) The PVC for boarding kennels shall be submitted as part of the license/registration

- application/renewal and must be approved by the AWS Inspector assigned to the facility;
- (3) The facility shall implement and follow the PVC. Failure to follow the PVC shall be considered a violation; and
- (4) Changes to the PVC shall be submitted for approval to the Animal Welfare Section within 10 days of the effective date.

(b) If there is a disease problem that persists for more than seven days at the facility, the facility operator shall consult with a veterinarian for procedures to mitigate the problem. This consultation shall be documented by the facility.

~~(b)~~(c) If there is a disease problem that persists for more than 30 days at the facility, the facility operator shall obtain and follow a veterinarian's written recommendations for correcting the problem. These recommendations shall include, at a minimum: sanitation of primary enclosures, common areas, exercise areas and accessories, and protocols for animal intake, evaluation, isolation, disease recognition and treatment and euthanasia (in animal shelters).

~~(c)~~(d) Each dog and cat shall be observed daily by the animal caretaker in charge, or by someone under his direct supervision. supervision who has training and/or experience in animal husbandry. Sick or diseased, injured, lame, or blind dogs or cats shall be provided with adequate veterinary care in a timely manner or be euthanized, provided that this the euthanasia shall not affect compliance with any state or local law requiring the holding, for a specified period, of animals suspected of being diseased. If an animal cannot be euthanized due to a required holding period and does not meet the criteria of G.S. 19A-32.1(b)(2), then adequate veterinary care shall be provided to the animal.

(e) If euthanasia is performed at a certified facility, a list of personnel approved to perform euthanasia shall be maintained in a Policy and Procedure Manual as described in 02 NCAC 52J .0800.

(f) ~~Diseased~~ Diseased, injured, infirm or deformed animals shall be sold or adopted only under the policy set forth in the "Program of Veterinary Care." PVC.

(g) Full written disclosure of the medical condition of the animal shall be provided to the new owner, and all veterinary medical treatments provided to the animal shall be provided to the person or organization receiving, adopting, purchasing or otherwise acquiring the animal. Proof of written disclosure signed by the person or organization receiving the animal shall be maintained as part of the animal's record.

~~(d)~~(h) All animals in a licensed or registered facility shall be in compliance with the North Carolina rabies law, G.S. 130A, Article 6, Part 6. However, no shelter shall be disapproved following inspection or otherwise cited for failure to inoculate any dog or cat known to be less than 12 weeks old or until such animals have been in the shelter at least 15 days.

(i) If surgical procedures are performed at the registered/licensed facility, the facility shall:

- (1) only perform surgical procedures on animals owned by the facility. The facility may not perform surgery on animals owned by the public unless the practice of veterinary medicine at that facility falls under the

jurisdiction of the NC Board of Veterinary Medicine;

- (2) appoint a NC licensed veterinarian to be the supervising veterinarian to direct, oversee and be responsible for the performance of all surgical procedures and for the condition of the surgical facility;
- (3) ensure all surgical procedures are performed by a NC licensed veterinarian and performed within the designated surgical area;
- (4) ensure that the designated surgical area meets the minimum standards for surgery in 21 NCAC 66 .0207(b)(9), the drug procedures meet the minimum standards in 21 NCAC 66 .0207(b)(11) and the recordkeeping procedures meet the minimum standards in 21 NCAC 66 .0207(b)(12);
- (5) ensure that the minimum standards for after-hours emergency service in 21 NCAC 66 .0207(b)(19) for the provision of after-hours emergency veterinary care for an animal receiving surgical procedure(s) are met; and
- (6) surgical procedures are not performed until the inspection of the surgical facility and supporting procedures noted in this section has occurred and all deficiencies have been corrected.

(j) Boarding facilities may not administer prescription medications or tranquilizers, sedatives, or any pharmaceutical drug designed to calm an animal unless the medication or drug is administered under the direction of the animal's veterinarian, with a written prescription from the animal's veterinarian, and with written permission from the animal's owner. In the event a boarding facility agrees to administer such medications or substances, the medications must be in the original container issued by a veterinarian or pharmacy and administered according to label directions. The label must include: client name/pet name, dosage, drug name, veterinarian's name, and date issued. The administration of these medications or substances shall be documented as required by 02 NCAC 52J .0102.

*Authority G.S. 19A-24.*

**SECTION .0300 - TRANSPORTATION STANDARDS**

**02 NCAC 52J .0301 VEHICLES**

- (a) Vehicles used in transporting dogs and cats shall be mechanically sound and equipped to provide fresh air to all animals transported. ~~transported without harmful drafts.~~
- (b) The animal cargo space shall be constructed and maintained so as to prevent engine exhaust fumes from ~~getting to the animals.~~ entering the animal holding area.
- (c) The interior of the animal ~~cargo~~ holding space shall be ~~kept clean.~~ cleaned after the transport of each animal. It shall be sanitized daily or between shipments of animals if more than one shipment occurs in a 24-hour period. It shall be sanitized as deemed necessary.

*Authority G.S. 19A-24.*

**02 NCAC 52J .0302 PRIMARY ENCLOSURES USED IN TRANSPORTING DOGS AND CATS**

(a) Primary enclosures such as compartments or transport cages, cartons, or crates used by persons subject to the Animal Welfare Act to transport cats and dogs shall be constructed, ventilated and designed to protect the health and insure the safety of the animals. Such enclosures shall be constructed or positioned in the vehicle in such a manner that:

- (1) Each animal in the vehicle has sufficient fresh air for normal breathing.
- (2) The openings of such enclosures are always easily accessible for emergency removals. ~~removals at all times.~~
- (3) The animals are adequately protected from the elements.
- (4) The ~~ambient~~ temperature within the holding area shall be maintained between 50 degrees F and 85 degrees F. A shelter shall be deemed as being in compliance if its vehicles' animal ~~containment units~~ holding areas are equipped with operable heating and air-conditioning ~~air-conditioning,~~ or forced-air heating and cooling, ~~and heating~~ or other temperature control mechanisms. A functional thermometer shall be present in the animal holding area of the vehicle.

(b) Animals transported in the same primary enclosure shall be of the same species. Puppies or kittens less than four months of age shall not be transported in the same primary enclosure with adult dogs and cats other than their dams.

(c) Primary enclosures used to transport dogs and cats shall be large enough for each animal to turn about freely, and to easily stand, sit, or lie down in a natural position. Primary enclosures used to transport dogs and cats shall be secured to the vehicle to prevent sliding or tipping of the enclosure during transit.

(d) Special provisions during transport shall be provided to any animal that cannot maintain its normal body temperature during the transport. These special provisions shall be sufficient for the animal to maintain its normal body temperature and shall be documented in the animal's record.

~~(d)(e)~~ (e) Animals shall not be placed in primary enclosures over other animals in transit unless such enclosure is constructed ~~so as~~ to prevent animal excreta from entering lower enclosures.

~~(e)(f)~~ (f) All primary enclosures used to transport dogs and cats shall be sanitized between use for shipments.

*Authority G.S. 19A-24.*

**02 NCAC 52J .0303 FOOD AND WATER REQUIREMENTS**

If dogs and cats are transported for a period of more than ~~42~~ six hours:

- (1) The vehicle shall stop at least once every ~~42~~ six hours for a period of one hour. During the one hour stop, potable water shall be continuously provided for dogs and cats. If the transport lasts for six hours or more, the enclosures containing cats shall be equipped with a clean litter box with litter.



- (2) Adult dogs and cats shall be fed at least once during each 24-hour period. Puppies and kittens less than six months of age shall be fed every six hours.
- (3) Dogs shall be removed from the vehicle, given fresh water and given the opportunity for exercise if they have been confined in the vehicle for ~~36 hours~~, six hours or longer.

Authority G.S. 19A-24.

**02 NCAC 52J .0304 CARE IN TRANSIT**

- (a) It shall be the responsibility of the attendant or driver to inspect animals frequently enough to assure health and comfort and to determine if they need emergency care and to obtain it if needed.
- (b) If a transport lasts six hours or longer, the transporter shall log the start and end times of the transport, the species, identification of the transported animal(s), any visible injury, illness or other medical condition, and care provided including but not limited to stops, exercise, watering, feeding and/or veterinary care. This documentation shall be kept for a minimum of one year after the transport.

Authority G.S. 19A-24.

**SECTION .0400 - EUTHANASIA STANDARDS**

**02 NCAC 52J .0401 ADOPTION BY REFERENCE**

A person required to obtain a certificate of registration pursuant to G.S. 19A, Article 3 may use any method of euthanasia approved by the American Veterinary Medical Association (~~AVMA~~)(AVMA), and/or the Humane Society of the United States (~~HSUS~~)(HSUS), or the American Humane Association (~~AHA~~) which are hereby incorporated by reference, including subsequent amendments and editions. Copies of these documents may be obtained as follows:

- (1) AVMA Guidelines on Euthanasia may be accessed at no cost on their website at [www.avma.org](http://www.avma.org).
- (2) The HSUS Euthanasia ~~Training Reference Manual~~ can be ~~purchased through their website at www.hsus.org at a cost of nineteen dollars and ninety five cents (\$19.95).~~ accessed at no cost via the link: <https://humanepro.org/sites/default/files/documents/euthanasia-reference-manual.pdf>.
- (~~3~~) ~~The AHA publication, Euthanasia by Injection, can be purchased through their website at www.americanhumane.org at a cost of ten dollars (\$10.00).~~

Authority G.S. 19A-24.

**02 NCAC 52J .0402 AUTHORIZED PERSONS**

Only a Certified Euthanasia ~~Technician~~ Technician, ~~Probationary Euthanasia Technician~~, or a veterinarian licensed to practice veterinary medicine in North Carolina may euthanize an animal in a certified animal shelter. A Certified Euthanasia Technician

shall not euthanize animals using a method for which he or she is not currently certified except as specified in 02 NCAC 52J .0700.

Authority G.S. 19A-24.

**02 NCAC 52J .0403 DEFINITIONS**

As used in this Subchapter:

- (1) "Certified Euthanasia Technician" means a person employed by a certified facility who has been instructed in the proper methods of humane euthanasia, security and record keeping.
- (2) "Certified facility" means a ~~certified registered animal shelter shelter, kennel or pet shop~~ that employs at least one Certified Euthanasia Technician or NC licensed veterinarian to perform euthanasia on animals at that ~~certified~~ facility.
- (3) "Approved Certified Euthanasia Technician trainer" means ~~a person or organization that an individual~~ who has received permission from the Animal Welfare Section to provide training to applicants or individuals seeking to be Certified Euthanasia Technicians.
- (4) "Chemical Agent" means any chemical approved by the American Veterinary Medical Association ~~Association~~, and/ or the Humane Society of the United States ~~or the American Humane Association~~<sup>2</sup> which is used to induce death.
- (5) "Applicant" means a person seeking certification as a Euthanasia Technician.
- (~~6~~) "Commercially manufactured chamber" means ~~a chamber built with the intention for sale with the purpose of euthanizing animals, and which meets the requirements of 02 NCAC 52J .0600.~~
- (~~7~~)(6) "Conviction of a criminal offense" means being found guilty, convicted, placed on probation or entering a guilty plea that is accepted by the court, forfeiture of bail, bond or collateral deposited to secure one's own appearance in a criminal proceeding or having received a withheld judgment, prayer for judgment continued or suspended sentence by a court of competent jurisdiction in this state, in a federal court or another state of any felony, as described by federal or state law, or any criminal act that in any way is related to practicing as a Certified Euthanasia Technician.
- (7) Euthanasia by injection (EBI) means the injection of an approved commercially-manufactured euthanasia medication via an intravenous, intraperitoneal or intracardiac (subject to additional conditions) injection into an animal to cause the death of that animal.

Authority G.S. 19A-24.

**02 NCAC 52J .0404 CERTIFICATION REQUIREMENTS FOR EUTHANASIA TECHNICIANS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**02 NCAC 52J .0405 CERTIFICATION STANDARDS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**02 NCAC 52J .0406 APPLICATION REQUIREMENTS**

An applicant for certification shall:

- (1) submit a completed and signed application form; and
- (2) provide a document from an approved Certified Euthanasia Technician trainer establishing that the applicant has completed an approved course, passed the course written examination and passed a practical examination in the ~~specific~~ euthanasia by injection (EBI) techniques for which the applicant is seeking certification, or provide separate documentation of having taken an approved course and passed the written examination and having passed a practical examination given by a different approved Certified Euthanasia Technician ~~trainer, trainer; and~~
- (3) ~~specify in the application form the specific euthanasia techniques the applicant is requesting certification.~~

*Authority G.S. 19A-24.*

**02 NCAC 52J .0407 TRAINING AND EXAMINATIONS**

(a) Training and examinations for euthanasia certification shall consist of:

- (1) Classroom lecture covering the entire list of subjects in Paragraph (b) of this Rule;
- (2) Earning a score of 80 percent correct on a written test provided by the Animal Welfare Section, demonstrating knowledge of the subjects listed in Paragraph (b) of this Rule; and
- (3) Passing a practical examination in ~~each of the euthanasia by injection techniques, methods for which the applicant is seeking certification.~~

(b) The Animal Welfare Section shall develop Certified Euthanasia Technician training programs and materials or accredit training programs and materials to be offered by other individuals, schools, agencies or veterinary practices. The programs and materials shall conform to the processes set forth by the American Veterinary Medical ~~Association Association,~~ and/or the Humane Society of the United States ~~or the American Humane Association~~ and shall include the following topics:

- (1) The theory and history of euthanasia methods and practice;
- (2) Relevant Animal animal anatomy;
- (3) Proper animal restraint, handling and methods for controlling animal stress;
- (4) Proper chemical agent dosages, record keeping and usage documentation, chemical agent,

instrument and equipment storage, handling and disposal in accordance with rules and the Code of Federal Regulations;

- (5) Proper injection techniques;
- (6) Proper dosing for the specific route of administration for the EBI;
- (7) Proper and accurate verification of lack of pain perception;
- (6) ~~Proper euthanasia techniques not utilizing injected chemical agents;~~
- (7)(8) Proper and accurate verification of animal death;
- (8)(9) Proper record keeping; keeping including documentation of justification for intracardiac and for early euthanasia;
- (9)(10) Proper disposal of euthanized animals;
- (10)(11) Stress management for euthanasia personnel;
- (11)(12) Proper methods and techniques of euthanasia under extraordinary circumstances;
- (12)(13) Proper methods, techniques and chemicals inducing anesthesia and sedation in animals prior to euthanasia; and
- (13)(14) Proper methods, techniques and chemicals used in the practical examination section for Certified Euthanasia Technician.

(c) The Animal Welfare Section shall prepare written examinations to be given to applicants. Following the classroom training detailed in Paragraph (b) of this Rule, the applicant shall take a written examination provided by the Animal Welfare Section that will be used by the approved trainer. Notes or other assistance are not allowed during the taking of the written examination. Those passing the written examination for that classroom training session are eligible to take for the practical examination ~~of the methods of euthanasia for which the applicant seeks certification.~~ on the EBI techniques. Those failing this written examination shall attend another classroom training session and must pass a different written examination provided by the Animal Welfare Section before they are eligible to take the practical examination.

(d) The applicant must pass a practical examination on ~~each method of euthanasia for which he or she seeks certification.~~ the EBI techniques.

(e) Applicants for certification in Euthanasia by Injection shall demonstrate the following knowledge and competencies:

- (1) Correctly calculate chemical agent dosage based upon the species, age, weight and condition of the ~~animal; animal and the route of administration;~~
- (2) Correctly complete all required ~~documentation;~~ documentation and demonstrate proper technique for scanning an animal for a microchip;
- (3) Correctly draw the properly calculated chemical dosage into a syringe and needle of a type and size appropriate for the ~~animal; animal and for the route of administration;~~
- (4) Correctly administer the chemical agent to the animal;

- (5) Properly perform intravenous ~~and intraperitoneal~~ injections on dogs and intravenous or intraperitoneal injections on cats;
- (6) Knowledge of the current euthanasia guidelines, medical procedures including lack of pain perception verification and drugs necessary for an animal to be euthanized by cardiac injection;
- (7) Demonstrate ability to verify death ~~by:~~ by a combination of the following:
  - (A) lack of respiration;
  - (B) lack of ocular reflexes;
  - (C) lack of a ~~heartbeat;~~ heartbeat verified by the use of a stethoscope;
  - (D) greying of mucous membranes;
  - (E) lack of response to firm toe pinch;
  - (F) rigor mortis.
- (8) Knowledge about the human health risks associated with the use of chemical agents used for euthanasia including signs and symptoms associated with accidental exposure of the Certified Euthanasia Technician; and
- (9) Proper first aid for a person accidentally exposed to chemical agents used for euthanasia.

~~(f) Applicants for certification in Euthanasia by Gas Inhalation shall meet the standards set forth in this Paragraph:~~

- ~~(1) Demonstrate knowledge of the dangers and human health effects of exposure to carbon monoxide gas;~~
- ~~(2) Demonstrate knowledge about which animals Euthanasia by Gas Inhalation is approved and which species, age, medical or physical conditions make it improper to use Euthanasia by Gas Inhalation;~~
- ~~(3) Demonstrate proper techniques in placing animals into the chamber;~~
- ~~(4) Demonstrate knowledge about the maintenance, operation and cleaning of the chamber, fittings, gas cylinder, valves, and other parts of the equipment;~~
- ~~(5) Demonstrate proper operation of the chamber;~~
- ~~(6) Demonstrate ability to verify death by:~~
  - ~~(A) lack of respiration;~~
  - ~~(B) lack of ocular reflexes;~~
  - ~~(C) lack of a heartbeat;~~
- ~~(7) Demonstrate knowledge about the human health risks associated with the use of carbon monoxide when used for euthanasia. Such knowledge shall also include signs and symptoms associated with accidental exposure of the Certified Euthanasia Technician;~~
- ~~(8) Demonstrate knowledge of proper first aid for a person accidentally exposed to carbon monoxide used for euthanasia.~~

*Authority G.S. 19A-24.*

**02 NCAC 52J .0408 TRAINERS**

(a) Certified Euthanasia Technician training shall be provided by the Animal Welfare Section or by companies or individuals meeting the following criteria:

- (1) Possess working knowledge of euthanasia conducted according to this Section;
- (2) Have actual experience in euthanasia of animals;
- (3) Have experience training staff in euthanasia; and
- (4) Provide references from individuals or organizations previously ~~trained.~~ trained or individuals or organizations that can attest to satisfactory euthanasia experience.

(b) Information taught shall conform to this Section and the guidelines set forth by the American Veterinary Medical Association ~~Association,~~ and/or the Humane Society of the United States, ~~States or the American Humane Association.~~

(c) Trainers shall disclose to their students and the Animal Welfare Section any affiliations with suppliers of equipment or supplies used in euthanasia.

(d) The Animal Welfare Section may make unannounced audit of instruction and testing by trainers.

(e) Prior to providing euthanasia training leading to certification as a Euthanasia Technician, the person or company shall obtain approval before each class for its training program from the Animal Welfare Section.

(f) Trainers shall return to the Animal Welfare Section office copies of the written tests, notification of results for the written examinations and notification of results for the practical examinations within 10 days of the date of the tests. These results shall include all examination outcomes for all applicants.

*Authority G.S. 19A-24.*

**02 NCAC 52J .0409 PROBATIONARY EUTHANASIA TECHNICIANS**

*Authority G.S. 19A-24.*

**02 NCAC 52J .0410 EXAM REQUIRED**

An individual who has not passed the written exam and the practical examination may not serve as a Certified Euthanasia Technician. ~~Technician or Probationary Euthanasia Technician.~~

*Authority G.S. 19A-24.*

**02 NCAC 52J .0411 NEW APPLICATION**

If the individual or applicant fails to pass the practical exam a second time and wishes to apply for certification again, the individual shall submit a new application to the Animal Welfare Section, attend a training program, pass the written exam and take and pass a practical examination on euthanasia. The Animal Welfare Section shall cancel the application of any applicant who fails the written examination twice. The Animal Welfare Section shall cancel the application of any applicant who fails the written examination twice and/or the practical examination twice. If the individual wishes to apply for certification again, the individual shall submit a new application to the Animal Welfare Section.

attend a training program, pass the written examination and the practical examination before a certification can be issued.

Authority G.S. 19A-24.

**02 NCAC 52J .0412 ISSUANCE OF CERTIFICATION**

Upon the receipt of materials specified in this Section the Animal Welfare Section shall issue a Euthanasia Technician Certificate.

Authority G.S. 19A-24.

**02 NCAC 52J .0413 LENGTH OF CERTIFICATION**

A Euthanasia Technician Certificate issued by the Animal Welfare Section is valid for five years from the date of issuance unless it is revoked pursuant to this Section or upon termination of employment ~~or volunteer status~~ as described in this Section.

Authority G.S. 19A-24.

**02 NCAC 52J .0414 TERMINATION OF EMPLOYMENT**

Upon termination of employment ~~or volunteer status~~ from a certified facility, a Certified Euthanasia Technician shall not perform animal euthanasia in a certified facility until recertified by the Animal Welfare Section. The Certified Euthanasia Technician's certification shall be canceled effectively upon termination of employment, ~~employment or volunteer status~~. No later than 10 days from the date of the termination of a Certified Euthanasia Technician's employment ~~or volunteer status~~ at that certified facility the Certified Euthanasia Technician shall notify complete a form notifying the Animal Welfare Section of the termination of employment, ~~employment or volunteer status~~ and shall return the form and the Certificate to the Animal Welfare Section.

Authority G.S. 19A-24.

**02 NCAC 52J .0415 NOTICE OF TERMINATION**

A certified facility shall notify the Animal Welfare Section in writing, no later than 10 days from the date of the termination of a Certified Euthanasia Technician's employment ~~or volunteer status~~ at that certified facility.

Authority G.S. 19A-24.

**02 NCAC 52J .0416 RECERTIFICATION**

~~(a)~~ If a former Certified Euthanasia Technician is employed ~~or is accepted as a volunteer~~ at a certified facility before the expiration of his or her certification, the ~~former Certified Euthanasia Technician or employer~~ may request reinstatement of his/her the certification from the Animal Welfare Section. The reinstated Certification shall be good for five years from the date of its initial issue.

~~(b)~~ If a former Certified Euthanasia Technician is employed ~~or is accepted as a volunteer~~ at a certified facility after the expiration of his certification, the former Certified Euthanasia Technician may only euthanize animals under the direct supervision of a licensed veterinarian ~~or currently certified euthanasia technician for three months or until he/she passes practical examination~~

~~whichever is less. The former Certified Euthanasia Technician and the manager of the certified facility shall each notify the Animal Welfare Section within 10 days of the date the former Certified Euthanasia Technician is employed or accepted as a volunteer. The Certified Euthanasia Technician may not euthanize animals until the certification has been reinstated by the Animal Welfare Section.~~

Authority G.S. 19A-24.

**02 NCAC 52J .0417 CERTIFICATION RENEWAL**

(a) Certifications may be renewed every five years provided that:

- (1) ~~within the 12 months immediately preceding the application for certification renewal the Certified Euthanasia Technician has taken and passed a practical examination for each method of euthanasia for which they are seeking certification renewal; in current EBI techniques;~~
- (2) ~~the applicant receives up-to-date information about the method of euthanasia for which the applicant is seeking certification; the current standards and guidelines on EBI; and~~
- (3) ~~the applicant receives training in stress management.~~

(b) The applicant shall submit an application for certification renewal to the Animal Welfare Section. The application shall be on a form created by the Animal Welfare Section and shall include a document from an approved Certified Euthanasia Technician trainer establishing that the applicant has passed a practical examination in the ~~specific euthanasia techniques for which he or she is seeking certification.~~ techniques of EBI.

Authority G.S. 19A-24.

**02 NCAC 52J .0418 DUTIES**

A Certified Euthanasia Technician ~~may~~ shall:

- (1) ~~Prepare animals for euthanasia; euthanasia, including scanning for a microchip and documentation of absence of microchip, or of reasonable but unsuccessful attempts to reach the owners associated with a microchip present in an animal or of emergency circumstances which precluded such attempts;~~
- (2) ~~Accurately Record record~~ the identification number of the animal, its species, sex, breed description and date, dosages and route of administration for drugs that are administered for sedation and euthanasia and amounts for drugs wasted;
- (3) Order euthanasia supplies;
- (4) Maintain the security of all controlled substances and other drugs in accordance with applicable state and federal laws and regulations;
- (5) ~~Directly supervise probationary Euthanasia Technicians;~~

- ~~(6)~~(5) Report to the appropriate government agencies violations or suspicions of a violation of the rules in this Subchapter or any abuse of drugs;
- ~~(7)~~(6) Euthanize animals; animals in accordance with the rules of this Section;
- ~~(8)~~(7) Dispose of euthanized animals and expired or unwanted chemical agent(s) or the containers, instruments and equipment used in the administration of drugs in accordance with all applicable federal, state and local laws and regulations; and
- ~~(9)~~(8) Notify the Animal Welfare Section as required in this Section upon leaving employment ~~or volunteer status at a covered~~ at a certified facility.

*Authority G.S. 19A-24.*

**02 NCAC 52J .0419      GROUNDS FOR DISCIPLINE - CERTIFIED EUTHANASIA TECHNICIANS**

The Department may refuse to issue, renew, or reinstate the certification of a Euthanasia Technician, or may deny, revoke, suspend, sanction, or place on probation, impose other forms of discipline, and enter into consent agreements and negotiated settlements with Certified Euthanasia Technician pursuant to the procedures set forth in G.S. 150B, Article 3, for any of the following reasons:

- (1) Failure to Carry Out Duties. Failure to carry out the duties of a Certified Euthanasia Technician;
- (2) Abuse of Chemical Substances. Abuse of any drug or chemical substance by:
  - (a) Selling, diverting or giving away drugs or chemical substances;
  - (b) Stealing drugs or chemical substances;
  - (c) Misusing chemical substances; or
  - (d) Abetting anyone in the foregoing activities;
- (3) Euthanizing animals without supervision as required by this subchapter;
- (4) Allowing uncertified individuals to euthanize animals;
- ~~(5) Allowing probationary Euthanasia Technicians to euthanize animals outside of the Certified Euthanasia Technician's personal presence;~~
- ~~(6)~~(5) Fraud, misrepresentation, or deception in obtaining certification;
- ~~(7)~~(6) Unethical or Unprofessional Conduct. Unethical or unprofessional conduct means to knowingly engage in conduct of a character likely to deceive or defraud the ~~public.~~ public and/or the Animal Welfare Section. Such conduct includes working in conjunction with any agency or person illegally practicing as a Certified Euthanasia Technician; failing to provide sanitary facilities or apply sanitary procedures for the euthanizing of any animal; euthanizing animals in a manner that endangers the health or welfare of the public; gross ignorance, incompetence or inefficiency in the

euthanizing of animals as determined by the practices generally and currently followed and accepted as approved by the American Veterinary Medical ~~Association~~ Association, ~~and/or the Humane Society of the United States or the American Humane Association;~~ and the rules of this Section; intentionally performing a duty, task or procedure involved in the euthanizing of animals for which the individual is not qualified; and swearing falsely in any testimony or affidavits relating to practicing as a Certified Euthanasia ~~Technician;~~ Technician and/or failing to provide requested information or the provision of inaccurate or misleading information during an investigation or inspection by the Animal Welfare Section;

- ~~(8)~~(7) Conviction of any criminal offense as described in this Section;
- ~~(9)~~(8) Improper Record Keeping. Failure to follow proper record keeping procedures as outlined in the rules in this ~~Subchapter;~~ Subchapter and/or entering of inaccurate or misleading information into the records of a certified facility;
- ~~(10)~~(9) Improper Security and Storage for Chemical Agents. Failure to provide and maintain proper security and storage for euthanasia and restraint drugs as established under applicable United States Drug Enforcement Administration and North Carolina Department of Health and Human Services statutes and rules;
- ~~(11)~~(10) Improper Disposal of Chemical Agents and Equipment. Failure to dispose of drugs and the containers, instruments and equipment in a manner permitted by this Subchapter;
- ~~(12)~~(11) Improper Labeling of Approved Chemical Agents. Failure to properly label approved euthanasia and restraint chemical agents;
- ~~(13)~~(12) Revocation, Suspension or Limitation. The revocation, suspension, limitation, of a license, certificate or registration or any other disciplinary action by another state or United States jurisdiction or voluntary surrender of a license, certificate or registration by virtue of which one is licensed, certified or registered to practice as a Certified Euthanasia Technician in that state or jurisdiction on grounds other than nonpayment of the renewal fee; and
- ~~(14)~~(13) Failure of any applicant or certificate holder to cooperate with the North Carolina Department of Agriculture and Consumer Services during any investigation or inspection.

*Authority G.S. 19A-24.*

**SECTION .0500 – EUTHANASIA BY INJECTION**

**02 NCAC 52J .0501 INTRACARDIAC INJECTION**

~~Intracardiac injection shall only be used on animals that have been anesthetized or heavily sedated.~~

Intracardiac injection for euthanasia may only be administered under the following conditions:

- (1) due to injury or other medical condition, the animal is unconscious, or the animal has been rendered unconscious by administration of a general anesthetic;
- (2) due to medical condition of the animal and/or size of the animal, intravenous or intraperitoneal administration is not practical or humane;
- (3) the absence of a pain response has been verified prior to the administration of the intracardiac injection and this verification is documented in the animal's record; and
- (4) the justification for an intracardiac injection rather than an intravenous or intraperitoneal route of administration has been documented in the animal's record.

*Authority G.S. 19A-24.*

**SECTION .0700 - EXTRAORDINARY CIRCUMSTANCES**

**02 NCAC 52J .0701 METHODS OF EUTHANASIA PERMITTED UNDER EXTRAORDINARY CIRCUMSTANCES AND SITUATIONS (READOPTED WITHOUT SUBSTANTIVE CHANGES)**

**02 NCAC 52J .0702 GUNSHOT OR OTHER METHODS**

Under extraordinary circumstances and situations which occur offsite from the shelter, a shelter employee trained in the euthanasia method for that species may use gunshot or other extreme method of euthanasia as set forth in the American Veterinary Medical ~~Association Association~~, and/or Humane Society of the United States ~~or American Humane Association Guidelines~~ incorporated by reference in 02 NCAC 52J .0401.

*Authority G.S. 19A-24.*

**02 NCAC 52J .0703 METHODS AND STANDARDS**

~~The Methods~~ methods of euthanasia used by a certified facility under an extraordinary circumstance or situation must be a method approved by the American Veterinary Medical ~~Association Association~~, and/or the Humane Society of the United States ~~or the American Humane Association~~ for use on that species of animal and must conform to standards set forth by that organization.

*Authority G.S. 19A-24.*

**02 NCAC 52J .0704 TECHNICIAN NOT REQUIRED**

If an extraordinary circumstance or situation occurs and euthanasia is necessary, the ~~person~~ shelter employee performing the euthanasia is not required to be a Certified Euthanasia Technician at a certified ~~facility.~~ facility so long as the shelter

employee is trained in the euthanasia method for that species that was used in the situation.

*Authority G.S. 19A-24.*

**02 NCAC 52J .0705 REPORTS**

A ~~licensee~~ certified facility or registrant shall prepare a report of any euthanasia performed under extraordinary circumstances or situations, and keep the report on file for at least two years. The report shall include the date, time, identification of the animal, the name of the person performing the final euthanasia, the method of euthanasia and the reason for euthanasia of the animal as permitted by this Section.

*Authority G.S. 19A-24.*

**SECTION .0800 – POLICY AND PROCEDURE MANUAL**

**02 NCAC 52J .0801 MANUAL REQUIRED**

Any ~~animal shelter~~ certified facility performing euthanasia shall have a current policy and procedure manual about euthanasia.

*Authority G.S. 19A-24.*

**02 NCAC 52J .0802 CONTENTS**

The policy and procedure manual shall set forth the shelter's equipment, process, ~~and the procedures for individual separation of animals.~~ and documentation requirements for the euthanasia of animals.

*Authority G.S. 19A-24.*

**02 NCAC 52J .0803 ADDITIONAL CONTENTS**

A certified facility's policy and procedure manual shall be kept consistent with the publications listed below and reflect the current information for each. The manual shall include:

- (1) A copy of the current North Carolina Animal Welfare Act and the rules in this Subchapter;
- (2) A copy of the ~~2000 Report of the American Veterinary Medical Association Panel on Euthanasia~~ most recent AVMA Guidelines for the Euthanasia of Animals and any future revisions, replacements, supplements or changes thereto issued by that organization;
- (3) A ~~current~~ copy of the most recent Euthanasia Training Reference Manual of the Humane Society of the United States;
- (4) ~~A copy of the publication on euthanasia by the American Humane Association;~~
- (5)(4) ~~A list of methods of euthanasia allowed at the shelter and the policy and procedures for each method;~~ A copy of the facility's policies and/or procedures for euthanasia by injection;
- (6)(5) ~~A list of Certified Euthanasia Technicians Technicians, the methods of euthanasia in which they have received training, and the date of training; certification;~~

- (7)(6) The name, address and contact information for the veterinarian responsible for the Annual Program of Veterinary Care;
- (8)(7) The name, address and contact information for veterinarians responsible for the veterinary medical care of the animals. The contact information shall include telephone numbers for working hours, weekends, nights and holidays;
- (9)(8) Euthanasia procedure to use in emergencies, after hours, holidays and weekends;
- (10)(9) Procedures to follow if no Certified Euthanasia Technician is present and euthanasia of an animal is necessary;
- (10) Procedures to follow including the names(s) of shelter manager designee(s) when the shelter manager is not available to make the decisions necessary and complete the required paperwork when an animal is to be euthanized prior to the end of the 72-hour holding period;
- (11) Methods of verifying death of an animal after a euthanasia process is performed;
- (12) The name and contact information of the supplier of materials. It shall include:
  - (a) ~~Bottled gas (if applicable);~~
  - (b) ~~Manufacturer of the chamber used to euthanize animals by inhalant gas (if applicable);~~
  - (c)(a) Injectable euthanasia solution;
  - (d)(b) ~~Tranquilizer, sedation, or and anesthetic solution;~~ medications;
- (13) Original of U.S. Drug Enforcement Administration certification permitting the use of controlled substances;
- (14) ~~A material safety data sheet for any chemical or gas used for euthanasia in that shelter;~~ Original of the NC Health and Human Services certificate permitting the storage and use of controlled substances;
- (15) ~~A material safety data sheets sheet for any anesthetic or tranquilizer, all chemical, anesthetic, tranquilizing, sedation and euthanasia medications used in that facility;~~
- (16) ~~Notice of Information detailing the signs and symptoms associated with human exposure to the agents used for euthanasia at the facility;~~
- (17) Information detailing First Aid for people accidentally exposed to the agents used for euthanasia at the facility; and
- (18) Contact information of the physician or medical facility providing medical treatment to employees of the facility. The information shall include the name of the medical facility, the telephone number for both working and after-hours contact and directions to the medical facility from the certified facility including a map. If the medical facility does not provide service after-hours, on weekends or on holidays, there must be contact information as

described in this item for the nearest medical facility, urgent care clinic or emergency room that does provide care during that time.

Authority G.S. 19A-24.

**SECTION .0900 – ANIMAL SHELTER SUPPORT FUND**

**02 NCAC 52J .0901 ELIGIBLE EXPENSES (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**02 NCAC 52J .0902 APPLICATION GUIDELINES (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

\*\*\*\*\*

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Agriculture intends to amend the rules cited as 02 NCAC 52L .0101, .0102, .0104-.0106, .0109-.0113, .0201, .0301, .0401, and repeal the rule cited as 02 NCAC 52L .0402.*

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

**Link to agency website pursuant to G.S. 150B-19.1(c):** <http://www.ncagr.gov/AdministrativeRules/ProposedRules/index.htm>

**Proposed Effective Date:** April 1, 2022

**Instructions on How to Demand a Public Hearing:** *(must be requested in writing within 15 days of notice): Submit a written request by email to Rule-Making Coordinator, Anna Hayworth, at [Anna.Hayworth@ncagr.gov](mailto:Anna.Hayworth@ncagr.gov).*

**Reason for Proposed Action:** *The farmed cervid rules are proposed to be amended and repealed to align the North Carolina Farmed Cervid Program with the United States Department of Agriculture's Chronic Wasting Disease Program Standards. Currently, the farmed cervid rules require official animal identification, Chronic Wasting Disease testing, herd enrollment, and inventory reporting beyond the requirements of the federal rules for non-Chronic Wasting Disease susceptible cervid species. These amendments and repeal of the rules will relax some of the requirements for non-Chronic Wasting Disease susceptible cervid species.*

**Comments may be submitted to:** Anna Hayworth, 1002 Mail Service Center, Raleigh, NC 27699; phone (984) 236-4509; email [rulesreview@ncagr.gov](mailto:rulesreview@ncagr.gov)

**Comment period ends:** February 14, 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 984-236-1850.

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

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

**CHAPTER 52 – VETERINARY DIVISION**

**SUBCHAPTER 52L – FARMED CERVIDS**

**SECTION .0100 – FARMED CERVID LICENSE AND PERMIT**

**02 NCAC 52L .0101 INCORPORATION BY REFERENCE**

(a) For the purpose of the rules in this Subchapter, the following regulations and standards are hereby incorporated by reference including any subsequent amendments and editions:

- (1) 9 C.F.R. Part 55;
- (2) 9 C.F.R. Part 81;
- (3) 9 C.F.R. Part 86; and
- (4) The United States Department of Agriculture's Chronic Wasting Disease Program Standards (May 2014); 2019).

(b) The regulations and standards incorporated by reference in Paragraph (a) of this Rule are available free of cost at <https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR> and [https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-disease-information/sa\\_alternate\\_livestock/sa\\_cervid\\_health/sa\\_cwd/et\\_cervid\\_health\\_program](https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-disease-information/sa_alternate_livestock/sa_cervid_health/sa_cwd/et_cervid_health_program). <https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-disease-information/cervid/cervids-cwd/cervids-voluntary-hcp>.

*Authority G.S. 106-549.97(a2).*

**02 NCAC 52L .0102 DEFINITIONS**

(a) The definitions in the regulations and standards set forth in 02 NCAC 52L .0101 shall apply to such terms when used in this Subchapter, to the extent that they do not conflict with G.S. 106-549.97(a)(1) or Paragraph (b) of this Rule.

(b) The following definitions apply to this Subchapter:

- (1) "APHIS" means the United States Department of Agriculture Animal and Plant Health Inspection Service.
- (2) "Carcass" means the head, the whole animal, or tissue sample extracted in accordance with the USDA Standards, 9 C.F.R. 55.8 and 9 C.F.R. 55.23(b).
- (3) "Certified Herd" means any herd that has reached Certified status under an Approved State Chronic Wasting Disease Herd Certification Program as determined by the USDA in accordance with 9 C.F.R. 55.23(a) and 9 C.F.R. 55.24(a).
- (4) "CWD Testing" means official Chronic Wasting Disease ("CWD") testing in accordance with the USDA Standards, (6.2) Official CWD Test, and 9 C.F.R. 55.8.
- (5) "Diagnostic Laboratory" means the North Carolina Department of Agriculture and Consumer Services Veterinary Diagnostic Laboratory System.
- (6) "Facility" means a facility for farmed cervids.
- (7) "Fawns" or "Calves" means cervids under one year of age.
- (8) "Herd Certification Program" means the North Carolina Farmed Cervid Herd Certification Program.
- (9) "ICVI" means interstate certificate of veterinary inspection.
- (10) "Licensed Facility" means any facility associated with a farmed cervid license.
- (11) "Licensee" means a person issued a farmed cervid license in accordance with the rules of this Subchapter and includes designees named by the licensee.
- (12) ~~"Monitored Herd" means any herd that has reached Certified status under the North Carolina Monitored Herd Certification Program for CWD non-susceptible species in accordance with 02 NCAC 52L .0402. "Non-susceptible species" means Cervidae that are not known to be naturally susceptible to CWD.~~
- (13) "Officially Identified" means identification in accordance with 9 CFR 55.25. the attachment of a tamper resistant ear tag approved for use by the Veterinary Division on a farmed cervid.
- (14) "State" means the State of North Carolina.
- (15) "Susceptible species" means Cervidae that are known to be naturally susceptible to CWD.
- ~~(15)~~(16) "Temporary Exhibit" means a public display of farmed cervids including animal acts, educational displays, carnivals, circuses, parades, shopping center displays, and zoos, whether operated for profit or not.
- ~~(16)~~(17) "Veterinary Division" means the Veterinary Division of the North Carolina Department of Agriculture and Consumer Services.

(c) Farmed cervids are livestock in accordance with 9 C.F.R. 86.1.



Authority G.S. 106-549.97(a2).

02 NCAC 52L .0104 FARMED CERVID LICENSE

(a) Farmed Cervid License.

- (1) Persons interested in obtaining a farmed cervid license shall apply with the Veterinary Division. The application may be obtained from the Veterinary Division by calling (919) 707-3250 or by emailing farmedcervid@ncagr.gov. The contents of the application shall include the following:
  - (A) The applicant's name;
  - (B) The applicant's address;
  - (C) The applicant's contact information, including telephone numbers and email addresses;
  - (D) The farm's name;
  - (E) The farm's address;
  - (F) The farm's contact information, including telephone numbers and email addresses;
  - (G) A statement of whether the farm is commercial, defined as a farmed cervid facility that is or will be selling ~~deer cervid~~ or ~~deer cervid~~ products as a for-profit business, or private, defined as non-commercial;
  - (H) a statement from the applicant verifying the information provided is accurate;
  - (I) The national premises identification number; and
  - (J) The applicant's signature.

- (2) Both licensees and persons interested in obtaining a farmed cervid license shall comply with 02 NCAC 52L .0401(c)(1) ~~and 02 NCAC 52L .0402(d)(1)~~ by enrolling susceptible species of farmed cervid herds in ~~either the Herd Certification Program, Program or the Monitored Herd Certification Program or both.~~

(b) Terms of License and Inventory Report.

- (1) A farmed cervid license shall be valid from July 1 through June 30 for the year in which it was issued. If the new license is approved after July 1, it shall take effect on the date of issue.
- (2) Licensees may apply for renewal each year during the renewal period of ~~January~~ October 1 through ~~March~~ December 31. If ~~March~~ December 31 falls on a weekend or holiday, then the renewals must be received by the Veterinary Division or postmarked by the next business day. The contents of the renewal application shall include:
  - (A) The licensee's name, address, and contact information, including telephone numbers and email addresses;

- (B) The farm name, address, and contact information, including telephone numbers and email addresses;
  - (C) a statement from the licensee verifying the information provided is accurate; and
  - (D) The licensee's signature.
- (3) Licensees shall submit a written inventory report in spreadsheet form with their license renewal. The inventory report shall include the:
    - (A) licensee's name, mailing address, telephone number, and email address;
    - (B) licensed facility name, address, and national premises identification number;
    - (C) farmed cervid license number;
    - (D) for susceptible species, the species, sex, and birth year of each susceptible species of farmed cervid;
    - (E) for susceptible species, the animal identification numbers for each susceptible species of farmed cervid; ~~and~~
    - (F) for susceptible species, the date of disposition or death of any susceptible species of farmed ~~cervid~~ cervid; and
    - (G) for non-susceptible species, the total number and the type and number of each non-susceptible species of farmed cervid as of the date of the application or renewal.
  - (4) The inventory report shall be accompanied by a statement from the licensee verifying the information provided is accurate.

(c) Renewal of Farmed Cervid License.

- (1) Existing farmed cervid licenses shall be renewed as long as the applicant for renewal continues to meet the licensing requirements of this Subchapter.
- (2) A person whose license has lapsed shall not be eligible for renewal, but may apply for a new license.

(d) Only one license shall be associated with each farmed cervid facility and national premises identification number.

(e) Each quarter, with the first quarter from January 1 to March 31, the second quarter from April 1 to June 30, the third quarter from July 1 to September 30, and the fourth quarter from October 1 to December 31, the licensee shall submit an updated inventory report to the Veterinary Division if susceptible species of fawns and calves were officially identified during that quarter. This update, if applicable, shall be submitted within 30 days of a quarter's end date.

Authority G.S. 106-549.97(a2).

02 NCAC 52L .0105 DENIAL OF FARMED CERVID LICENSE

- (a) Circumstances or purposes for which a farmed cervid license shall not be issued or renewed include the following:

- (1) failing to submit a complete application or renewal;
- (2) submitting falsified information;
- (3) for the purpose of holding non-farmed cervids or farmed cervids that were transported without a valid transportation permit;
- (4) for the purpose of rehabilitating non-farmed cervids;
- (5) for the purpose of commingling farmed and non-farmed cervids;
- (6) keeping any farmed cervid for reasons other than agricultural or commercial purposes, such as buying, selling, and production of farmed cervids, or for scientific, exhibition, and educational purposes;
- (7) to an individual under the age of 18 years of age;
- (8) failing to have susceptible species of farmed cervid herds enrolled in either or both the Herd Certification Program or the Monitored Herd Certification Program with the Veterinary Division; or
- (9) the applicant has violated State or Federal laws or regulations for livestock or non-farmed cervids, and the State Veterinarian determines, in his or her experience, based upon the nature of the violation, the applicant may not comply with the requirements of the farmed cervid license.

(b) Any person whose farmed cervid license or permit has been revoked or suspended shall not be licensed within the period during which the order of revocation or suspension remains in effect.

(c) Any person who has been an officer, agent, or employee of a person whose farmed cervid license or permit has been revoked or suspended and who was responsible for, participated in, or worked for that person during the violation upon which the order of revocation or suspension was based, shall not be licensed for facilities owned by his or her employer or facilities in which he or she worked for at the time of the revocation or suspension within the period during which the order of revocation or suspension remains in effect.

(d) The Department shall not issue a farmed cervid license until a person has:

- (1) constructed or acquired a facility for keeping farmed cervids that complies with 02 NCAC 52L .0201; and
- (2) had the facility inspected and verified by the Veterinary Division.

(e) No farmed cervid license shall be issued to any person in possession of rehabilitative or non-farmed cervid.

*Authority G.S. 106-549.97(a2).*

**02 NCAC 52L .0106 TEMPORARY EXHIBIT PERMIT**

(a) Temporary exhibit permits shall not be issued for the buying, selling, or production of farmed cervids.

(b) A temporary exhibit permit shall only be issued for Reindeer or Caribou.

(c) Temporary exhibit permit applications shall be submitted to the Veterinary Division. The application may be obtained from the Veterinary Division by calling (919) 707-3250 or by emailing [farmedcervid@ncagr.gov](mailto:farmedcervid@ncagr.gov). The contents of the application shall include the following:

- (1) The applicant's name;
- (2) The applicant's address;
- (3) The applicant's contact information, including telephone numbers and email addresses;
- (4) The farm's name;
- (5) The farm's address;
- (6) The farm's contact information, including telephone numbers;
- (7) The date(s) of the exhibit;
- (8) The date of exhibit inspection by the Veterinary Division, unless an exhibit facility plan was previously approved and includes the date of facility plan approval and approval number;
- (9) The purpose of the exhibit;
- (10) The location of the exhibit, including the county;
- (11) The species to be exhibited;
- (12) The sex, date of birth, species, and identification number(s) for each cervid to be exhibited;
- (13) A statement from the applicant verifying the information provided is accurate; and
- (14) The applicant's signature.

(d) Temporary exhibit permits are only valid for the dates and locations specified. Applicants shall apply to the Veterinary Division:

- (1) five business days prior to the date of exhibit if the exhibitor previously submitted a detailed exhibit facility plan that has been pre-approved by the Veterinary Division. The detailed exhibit facility plan shall include descriptions of how the animals will be contained, the type of fencing or containment utilized, whether the public will be able to touch the animals, whether the animals will move from a containment area to a parade, and whether if any physical restraints will be utilized, and includes photographs or sketches of the display and the display area; or
- (2) 60 days prior to the date of exhibit.

(e) The Veterinary Division shall only issue temporary exhibit permits when the temporary exhibit area is inspected by the Veterinary Division and meets the following criteria:

- (1) all farmed cervids to be exhibited are from a certified herd and officially identified in accordance with ~~02 NCAC 52L .0112~~ and 9 C.F.R. 55.25;
- (2) the temporary exhibit enclosure, with the exception for farmed cervids exhibited during parades, shall:
  - (A) be an area of at least 10 feet by 10 feet;

- (B) have fencing at least eight feet in height with a ground clearance of no greater than three inches and sufficient in strength and stability to prevent escape, unless the animals are restrained to prevent escape;
  - (C) have an enclosure large enough to ensure each animal has sufficient room, based on the size and species of the animal, to stand erect and lie naturally; and
  - (D) have no exposed barbed wire, nails, or other protrusions that may cause injury to the animals shall be permitted within the enclosure;
- (3) farmed cervids exhibited shall be secured so that no farmed cervids may escape; and
- (4) the temporary exhibit complies with Aedin's Law, G.S. 106-520.3A, and 02 NCAC 52K when those laws and rules apply.
- (f) All permit holders shall report any cervid escape, entry, or death within 24 hours of discovery to the Veterinary Division in accordance with 02 NCAC 52L .0110.
- (g) Circumstances or purposes for which a temporary exhibit permit shall not be issued include:
- (1) failing to submit a complete application;
  - (2) submitting a falsified application;
  - (3) for the purpose of holding non-farmed cervids or farmed cervids that have been transported without a transportation permit;
  - (4) for the purpose of rehabilitating non-farmed cervids;
  - (5) for the purpose of commingling farmed and non-farmed cervids; and
  - (6) to an individual under the age of 18 years of age.
- (h) Any person whose farmed cervid license or temporary exhibit permit has been revoked or suspended shall not be issued a temporary exhibit permit within the period during which the order of revocation or suspension remains in effect.
- (i) Any person who has been an officer, agent, or employee of a person whose farmed cervid license or permit has been revoked or suspended and who is responsible for, participated in, or worked for that person during the violation upon which the order of revocation or suspension was based, shall not be issued a permit for exhibits owned by his or her employer or exhibits in which he or she worked for at the time of the revocation or suspension within the period during which the order of revocation or suspension remains in effect.
- (j) No temporary exhibit permit shall be issued to any person in possession of rehabilitative or non-farmed cervid.

*Authority G.S. 106-549.97(a2).*

**02 NCAC 52L .0109 RECORDS AND INSPECTION**

- (a) Maintenance of Records.
- (1) Each licensee shall maintain herd records for all susceptible species of farmed cervids, regardless of whether tagged with animal

- (2) identification or not, as required by the USDA Standards and 9 C.F.R. 55.23(b), and maintain a copy of any documents related to susceptible species of farmed cervids submitted to the CWD Diagnostic Laboratory.
  - (2) All records required by this Subchapter and any ICVI as defined and required by 9 C.F.R. Part 86 shall be maintained by the licensee for a period of five years.
- (b) Inspection of Records. The licensee shall make all records required under this Subchapter available for inspection and copying by the Veterinary Division.
- (c) Inspection and Inventory of Licensed Facility and Exhibit. The licensee shall make all enclosures, exhibits, and any susceptible species of farmed cervid available for inspection by the Veterinary Division under conditions where all identification on the animals may be safely read by the ~~inspector~~ inspector within a period of four hours. The licensee shall also make any farmed cervid available for inspection to allow the Veterinary Division to ascertain the species of any farmed cervid under the same conditions. The licensee shall be responsible for all costs incurred to present the animals for inspection and agree that any liability or injury to the animals during handling rests with the licensee.
- (d) Fence Monitoring Requirement. The fence surrounding the enclosure shall be monitored weekly for structural soundness and stability by the licensee to prevent ingress and egress of any cervid.
- (e) Maintenance.
- (1) Any opening or passage resulting from damage or deterioration to the perimeter fence shall be sealed by the licensee within 24 hours upon detection or the animals secured until the fence is repaired to prevent any farmed cervid escape.
  - (2) Any damage to the enclosure fence that threatens its stability shall be repaired by the licensee within seven calendar days of detection, or within 24 hours if there is an imminent threat of farmed cervid escape.

*Authority G.S. 106-549.97(a2).*

**02 NCAC 52L .0110 ESCAPE, DISAPPEARANCE, OR BREACH OF FACILITY**

- (a) When a licensee discovers the escape or disappearance of any farmed cervid, the licensee shall report the escape or disappearance within 24 hours by contacting the Veterinary Division by telephone at (919) 707-3250 or email at [farmedcervid@ncagr.gov](mailto:farmedcervid@ncagr.gov).
- (1) The report shall include for susceptible species the identification numbers, species, sex, and age of the animals involved and the estimated time and date of escape or disappearance, and if deceased, the estimated time and date of death.
  - (2) A recaptured live farmed cervid shall be held in quarantine by itself or with other escapees by the licensee until the Veterinary Division determines the disposition of the farmed cervid, based on the risk of CWD transmission as a

result of this escape. Failure to quarantine the escaped farmed cervid to prevent commingling with the herd shall result in the quarantine of the entire herd.

- (3) The licensee shall be responsible for all costs associated with CWD testing and disposal of any escaped animal.
- (4) If live recapture is not possible, the licensee shall harvest the escaped cervid if possible and submit the deceased cervid to the Diagnostic Laboratory for CWD testing.

(b) When a licensee discovers the entry of any non-farmed cervid into the licensed facility, the licensee shall:

- (1) Report the entry within 24 hours by contacting the Veterinary Division by telephone or email for further action or disposition of the non-farmed cervid;
- (2) Obtain a wildlife depredation permit from the North Carolina Wildlife Resources Commission. Contact information can be found at <http://www.ncwildlife.org/Licensing/Regulations/Nongame-and-Other-Regulations/Wildlife-Depredation#5836327-wildlife-taken-with-a-depredation-permit>;
- (3) Take the non-farmed cervid in accordance with the wildlife depredation permit; and
- (4) Submit the non-farmed cervid for CWD testing. testing at no charge to the licensee.

*Authority G.S. 106-549.97(a2).*

**02 NCAC 52L .0111 REPORTING CWD SYMPTOMS AND FARMED CERVID DEATH**

**(a) CWD Symptom Reporting:**

- ~~(a)~~(1) Each licensee shall notify the Veterinary Division by telephone upon discovery if any farmed cervid exhibits clinical symptoms of CWD, including loss of body condition, behavioral changes, excessive salivation, increased drinking and urination, depression, and eventual death. The Veterinary Division's telephone number is (919) 707-3250.
- ~~(b)~~(2) Farmed cervids that exhibit clinical symptoms of CWD shall not be transported unless directed by the Veterinary Division.

~~(c) Licensees shall report to the Veterinary Division using a form provided by the Veterinary Division within 24 hours upon knowledge of the death of any farmed cervid, including any slaughtered farmed cervid, whether sent to a slaughterhouse or slaughtered at the farm cervid facility for personal use. The report form can be obtained by contacting the Veterinary Division by telephone or email at [farmedcervid@ncagr.gov](mailto:farmedcervid@ncagr.gov). The report shall include the following information:~~

- (1) ~~the licensee's name, mailing address, telephone number, and email address;~~
- (2) ~~the licensee's facility name, address, and national premises identification number;~~
- (3) ~~the farmed cervid license number;~~

- ~~(4) the date of death;~~
- ~~(5) the species and sex of each farmed cervid;~~
- ~~(6) the animal identification for each farmed cervid;~~
- ~~(7) the name and location of the Diagnostic Laboratory where the carcass of the farmed cervid is to be submitted for CWD testing; and~~
- ~~(8) a statement from the licensee verifying the information provided is accurate.~~

~~(d) The carcass of any farmed cervid that was 12 months of age or older that died of any cause shall be submitted by the licensee to the Diagnostic Laboratory for CWD testing unless instructed otherwise by the Veterinary Division due to the condition of the carcass.~~

~~(e)~~(3) Regardless of age, the carcass of all farmed cervids that exhibited clinical symptoms of CWD shall be submitted to the Diagnostic Laboratory for CWD testing unless instructed otherwise by the Veterinary Division due to the condition of the carcass.

~~(f)~~(4) In cases where animals escape or disappear and are not available for tissue sampling and testing, or when the samples are of such poor quality, as determined in accordance with the USDA Standards, including Part A (5.6) Sample Collection: Owner Responsibility, (5.7)(5.3) Sample Collection and Submission Procedures, (5.9) Quality Control, (5.10)(5.4) Consequences of Poor Quality and Missing Samples, (6.4) Test Results, and (6.5) Autolyzed Samples, Rejected Samples, that they cannot be tested for CWD, the Veterinary Division may investigate, in cases of repeated unavailability of tissue sampling and testing, whether the unavailability of animals or usable samples for testing constitutes a failure to comply with program requirements and may affect the herd's status in the Herd Certification Program and the Monitored Herd Certification Program.

~~(g)~~(5) The Veterinary Division may require CWD testing or quarantine, or both, at any facility if the following circumstances or conditions occur:

- (1)(A) any herd or animal tested positive for CWD within the facility;
- (2)(B) the facility received farmed cervid from a facility that tested positive for CWD within five years;
- (3)(C) the facility may have been exposed to any CWD positive or suspect farmed cervid; or
- (4)(D) the facility transferred any farmed cervid that tests positive for CWD within five years of transfer.

**(b) Reporting Death:**

(1) Licensees shall report to the Veterinary Division using a form provided by the Veterinary Division within 24 hours upon

knowledge of the death of any susceptible species of farmed cervid, including any slaughtered susceptible species of farmed cervid, whether sent to a slaughterhouse or slaughtered at the farmed cervid facility for personal use. The report form can be obtained by contacting the Veterinary Division by telephone or email at farmedcervid@ncagr.gov. The report shall include the following information:

- (A) the licensee's name, mailing address, telephone number, and email address;
- (B) the licensee's facility name, address, and national premises identification number;
- (C) the farmed cervid license number;
- (D) the date of death;
- (E) the species and sex of each susceptible species of farmed cervid;
- (F) the animal identification for each susceptible species of farmed cervid;
- (G) the name and location of the Diagnostic Laboratory where the carcass of the susceptible specie of farmed cervid is to be submitted for CWD testing if testing is required; and
- (H) a statement from the licensee verifying the information provided is accurate.

(2) The carcass of any known susceptible species of farmed cervid that was 12 months of age or older that died of any cause shall be submitted by the licensee or the licensee's designee to the Diagnostic Laboratory for CWD testing unless instructed otherwise by the Veterinary Division due to the condition of the carcass. Regardless of whether a farmed cervid is required to be tested or not, all deaths of susceptible species are required to be reported.

Authority G.S. 106-549.97(a2).

**02 NCAC 52L .0112 ANIMAL IDENTIFICATION**

(a) Animal Identification Required.

- (1) Licensees shall identify all susceptible species of farmed cervid ~~with two forms of animal identification~~ in accordance with the USDA Standards and 9 C.F.R. 55.25.
- ~~(2) As one form of animal identification, licensees shall use USDA official tamper resistant ear tags approved for use by the Veterinary Division. The ear tags shall be affixed upon one ear of the farmed cervid by itself. Licensees shall inform the Veterinary Division the type of the second form of animal identification before affixing upon the farmed cervid.~~
- ~~(3)~~(2) Susceptible species of farmed cervid ~~Farmed eervids~~ born within a licensed facility shall be officially identified on or before 12 months of age. Fawns and calves of susceptible species

shall be deemed a year old for purposes of the rules in this Subchapter and shall be officially identified by the first July 1 following their birth, unless the farmed cervid licensee maintains a record of the month and year the calf or fawn was born.

~~(4)~~(3) All farmed cervids ~~eervids, regardless of age,~~ shall be officially identified before being transported.

~~(5)~~(4) All susceptible species of farmed cervids shall be identified and included in the inventory report and records as required by 02 NCAC 52L .0104(b) and 02 NCAC 52L .0109(a).

(b) Application for Animal Identification Tags.

(1) Applicants may request animal identification tags from the Veterinary Division using a form provided by the Veterinary Division, which can be obtained by calling (919) 707-3250 or by emailing farmedcervid@ncagr.gov, by providing the following information:

- (A) the applicant's name, mailing address, telephone number, and email address;
- (B) the licensed facility name, address, and national premises identification number;
- (C) the farmed cervid license number; and
- (D) the species, sex, and birth year of the farmed cervids.

(2) The application shall be accompanied by a statement from the licensee verifying that the information provided is accurate.

(3) The Veterinary Division may provide animal identification tags, based on availability of supplies, upon receipt of the completed application.

(c) Replacement of Animal Identification Tags.

(1) Lost Tags. The loss of a tag shall be reported to the Veterinary Division by the licensee.

(2) Unusable Tags. Tags that cannot be affixed to the ear of a farmed cervid or unreadable because of malformation or damage to the tags shall be reported to the Veterinary Division by the licensee.

(3) Licensees may request replacement tags using the same form as provided pursuant to Paragraph (b) of this Rule and shall include the information required by Paragraph (b) of this Rule. The Department may provide replacement tags, based on availability of supplies, upon receipt of the application.

(4) Licensees shall update their records to reflect any replacement of tags and notify the Veterinary Division of the update when submitting records during the license renewal period.

(5) If an animal identification is lost for any reason, the licensee shall comply with the identification requirements as soon as possible, but no later

than the next annual inspection or prior to transport, whichever is earlier.

Authority G.S. 106-549.97(a2).

**02 NCAC 52L .0113 TRANSPORTATION PERMIT**

(a) No person shall transport any farmed cervid within the State unless that person first obtains a transportation permit from the Veterinary Division.

(b) A transportation permit shall only be issued by the Veterinary Division to an applicant to transport farmed cervids:

- (1) from a Certified Herd;
- (2) ~~not known to be susceptible to CWD; from a herd enrolled in the Monitored Herd Certification Program;~~
- (3) to and from a veterinary medical facility for medical diagnosis or treatment;
- (4) to a slaughterhouse for slaughter;
- (5) for export out of North Carolina, subject to 9 C.F.R. 81.3; and
- (6) for import into North Carolina, subject to 02 NCAC 52B .0213.

(c) All transportation permit applications shall be submitted to the Veterinary Division using a form provided by the Veterinary Division, which can be obtained by calling (919) 707-3250 or emailing [farmedcervid@ncagr.gov](mailto:farmedcervid@ncagr.gov), except for transportation for emergency veterinary treatment purposes in accordance with Paragraph (h) of this Rule, and shall include the following information:

- (1) the applicant's name, mailing address, telephone number, and email address;
- (2) the licensed facility or out-of-state facility name, address, and national premises identification number;
- (3) the farmed cervid license number or out-of-state CWD Herd Certification Program identification number;
- (4) the species and sex of each farmed cervid;
- (5) the animal identification for each farmed cervid;
- (6) the destination name, address, telephone number, and email address; and
- (7) the reason for the movement.

(d) Transportation permit applications shall include the following information when applicable:

- (1) for any susceptible species of farmed cervid to be moved for slaughter, the name and location of the Diagnostic Laboratory where the carcass of the farmed cervid is to be submitted for CWD testing;
- (2) for transporting farmed cervids to an exhibit, the exhibit permit number;
- (3) for importing farmed cervid into the State, a copy of the ICVI as required by 9 C.F.R. Part 86; and
- (4) for importing into the State any CWD susceptible farmed cervid, as identified by the Veterinary Division or the USDA, a copy of the

negative antemortem CWD test result using a method approved by the USDA.

(e) The transportation permit application shall be accompanied by a statement from the applicant verifying that the information provided is accurate.

(f) No ~~CWD~~ susceptible species of farmed cervids shall be exported out of State unless the animals have reached Certified status.

(g) Transportation permits shall be valid for 30 calendar days unless otherwise stated on the permit.

(h) Emergency Veterinary Treatment. An applicant seeking to transport any farmed cervid for veterinary treatment shall first contact the Veterinary Division by telephone or email to seek authorization. The telephone number is (919) 707-3250 and email address is [farmedcervid@ncagr.gov](mailto:farmedcervid@ncagr.gov). At the time of the request, the applicant shall provide to the Veterinary Division information listed under Paragraph (c) of this Rule.

(i) No approval shall be issued for transportation of a susceptible species of farmed cervid to a veterinary medical facility out-of-state.

(j) Any verbal authorization from the Veterinary Division shall only allow transportation of the farmed cervid to the specified veterinary medical facility and directly back to the licensed facility, and shall not be construed to permit intervening destinations.

(k) Licensees shall notify the Veterinary Division in writing, including the identification numbers of any farmed cervid not transported in accordance with the transportation permit, within seven calendar days after the expiration of the permit.

(l) Any person transporting any farmed cervid shall present the transportation permit to any law enforcement officer or any representative of the Department upon request, except that a person transporting a farmed cervid by verbal authorization for emergency veterinary treatment shall provide the Veterinary Division's telephone number that the person contacted.

(m) The licensee shall be responsible for securing all farmed cervids during transport so as to prevent escape.

Authority G.S. 106-307.5; 106-549.97(a2).

**SECTION .0200 – ENCLOSURE REQUIREMENTS**

**02 NCAC 52L .0201 ENCLOSURE REQUIREMENTS**

(a) The enclosure size for any farmed cervid, including any fawn or calf, shall be at least half of one acre.

~~(b) Pen density requirements shall be as follows:~~

- ~~(1) three or less animals, excluding fawns or calves, for the first half of one acre;~~
- ~~(2) each additional animal, excluding fawns or calves, requires an additional one fourth acre until the enclosure reaches two acres; and~~
- ~~(3) a facility larger than two acres may have more than nine animals, provided animal husbandry practices are utilized to prevent dietary, environmental, behavioral, or other stresses.~~

~~(e)~~(b) Bodies of water and impassible areas shall not be counted towards the minimum enclosure size or the area for pen density.

~~(d)~~(c) The enclosure shall be surrounded by a fence:

- (1) of sufficient strength and design to prevent ingress or egress of both farmed and non-farmed cervids under any circumstances;
- (2) be at least eight feet high; and
- (3) have a ground clearance of no greater than three inches.

~~(e)~~(d) Farmed cervids shall not be contained within or be allowed to enter a place of residence, except for fawns or calves on a temporary basis in the course of emergency veterinary treatment in accordance with guidance from a licensed veterinarian. Licensees shall be responsible for securing all farmed cervids so as to prevent escape during transport or at the residence.

~~(f)~~(e) No exposed barbed wire, nails, or other protrusions that may cause injury to the animals shall be permitted within the enclosure.

~~(g)~~(f) If a person intends to maintain two or more separate herds, that person shall maintain separate herd inventories, records, working facilities, water sources, equipment, and land use. There shall be a buffer zone of at least 30 feet between the perimeter fencing around separate herds, and no commingling of animals shall occur. Movement of animals between herds shall be recorded as if they were separately owned herds.

(g) All additional farmed cervid enclosures added after a farmed cervid license has been issued shall first be inspected by NCDA&CS and comply with the enclosure requirements of this Section prior to the housing of any farmed cervids.

Authority G.S. 106-549.97(a2).

**SECTION .0300 – ENFORCEMENT**

**02 NCAC 52L .0301 LICENSE OR PERMIT REVOCATION, FORFEITURE, AND DEPOPULATION**

(a) The Veterinary Division may take one or more of the following actions based on the nature of the violation against any person for failure to comply with the requirements of G.S. 106-549.97, 9 C.F.R. Part 55, 9 C.F.R. Part 81, the USDA Standards, or this Subchapter:

- (1) issue warnings;
- (2) revoke any license or permit issued under this Subchapter;
- (3) cancel the enrollment in the Herd Certification Program or the Monitored Herd Certification Program; or
- (4) reduce the status of a herd in accordance with 02 NCAC 52L .0401(g).

(b) In addition to Paragraph (a) of this Rule, the Veterinary Division may direct the disposition of any farmed cervid in possession by a person without a valid farmed cervid license or permit in accordance with Paragraph (e) of this Rule and may order any farmed cervid brought into this State illegally be quarantined, tested for CWD, or terminated, or any combination thereof.

(c) Violations of this Subchapter include the following circumstances or conditions:

- (1) providing inaccurate or false information to the Veterinary Division;
- (2) failing to comply with animal identification requirements;

- (3) failing to comply with facility enclosure and maintenance requirements;
- (4) failing to comply with monitoring or record-keeping requirements;
- (5) failing to allow the Veterinary Division to inspect any facility, farmed cervid, or record;
- (6) failing to report the death, escape, or disappearance, of any farmed cervid; or
- (7) failing to submit deceased farmed cervid for CWD testing.

(d) The Veterinary Division may revoke a farmed cervid license or temporary exhibit permit, or both, under any of the following circumstances or conditions:

- (1) The farmed cervid licensee or temporary exhibit permit holder fails to report symptoms of chronic wasting disease in a farmed cervid to the Veterinary Division as required by 02 NCAC 52L .0111;
- (2) The farmed cervid licensee or temporary exhibit permit holder fails to transport and submit a farmed cervid carcass to a Diagnostic Laboratory for CWD testing as required by 02 NCAC 52L .0111; or
- (3) The farmed cervid licensee or temporary exhibit permit holder has transported any farmed cervid without a permit in accordance with 02 NCAC 52L .0113.

(e) Disposition of Farmed Cervid.

- (1) In the event of decommissioning a facility, all farmed cervids shall be disposed of by the owner in one or more of the following manners:
  - (A) sell or otherwise transfer ownership and possession of any farmed cervid;
  - (B) export out of state any farmed cervid; or
  - (C) terminate any remaining farmed cervid.
- (2) In the event the Veterinary Division directed the disposition of any farmed cervid and the owner refuses to comply, the Veterinary Division may terminate the farmed cervid, with costs to be paid by the owner.
- (3) The release of any farmed cervid to the wild by any person without authorization by the Veterinary Division shall is be prohibited.

(f) Disposal of Dead Farmed Cervids.

- (1) Licensees shall be responsible for the disposal of any dead farmed cervid carcass in accordance with applicable laws and regulations and the costs associated with disposal.
- (2) The carcass of farmed cervids that have been designated by the Department as CWD-positive, exposed, or suspect shall be disposed of in accordance with the USDA Standards, Part B (4.1) Suitable Disposal Methods, (7) Carcass Disposal, and using one of options provided under the USDA Standards, Appendix

~~V: Carcass Disposal of CWD Positive Animals or Animals of Unknown Status. Standards.~~

- (3) The carcass of farmed cervids that have not been designated by the Department as CWD-positive, exposed, or suspect may be disposed of in accordance with 02 NCAC 52C .0102.

Authority G.S. 106-549.97(a2).

**SECTION .0400 – HERD CERTIFICATION PROGRAMS**

**02 NCAC 52L .0401 NORTH CAROLINA FARMED CERVID HERD CERTIFICATION PROGRAM**

(a) Scope. This Rule shall only apply to ~~CWD-susceptible~~ susceptible species of farmed cervids.

(b) Enrollment Qualifications.

- (1) Only applicants that have a valid farmed cervid license or have applied for one shall be eligible to have herds enrolled in the Herd Certification Program.
- (2) Applicants shall comply with all farmed cervid license requirements and rules in this Subchapter in order to have herds enrolled and remain in the Herd Certification Program.

(c) Enrollment Application.

- (1) Persons who possess any ~~CWD-susceptible~~ susceptible species of farmed cervid in the State shall apply with the Veterinary Division to have herds enrolled in the Herd Certification Program, if not already enrolled.
- (2) The Veterinary Division shall determine the herd's enrollment eligibility and compliance with all farmed cervid license rules, and may request additional information regarding the herd animals and operations, such as laboratory reports, movement permits, animal species, and slaughter records to verify the origination of the animals and their status.

(3) The Veterinary Division shall deny enrollment if:

- (A) the applicant submits an incomplete farmed cervid license application;
- (B) the applicant has provided false information;
- (C) the applicant fails to provide additional information requested by the Veterinary Division;
- (D) the applicant previously violated State or Federal laws or regulations for livestock or non-farmed cervids, and the State Veterinarian determines, based on his or her experience, that the nature of the violation indicates that the applicant may not comply with the requirements of the Herd Certification Program;
- (E) the herd to be enrolled has been designated as CWD-positive, exposed, or suspect by the Veterinary Division

or by an APHIS employee, and has not yet entered into a valid herd plan;

- (F) any pending or outstanding citation exists against the applicant;
- (G) the applicant has failed to comply with any farmed cervid license requirement; or
- (H) the applicant refuses inspection by the Veterinary Division in accordance with Paragraph (i) of this Rule.

(4)(3) Upon determining that a herd is eligible to participate in the Herd Certification Program in accordance with Paragraphs (b) and (c) of this Rule, the Veterinary Division shall send the applicant a notice of enrollment of the herd's enrollment date.

(d) Enrollment Dates. The enrollment date for a herd that joins the North Carolina Herd Certification Program after August 13, 2012, shall be the date the herd is approved for participation upon inspection except:

- (1) For new herds that were formed from and contain only animals from herds enrolled in an Approved State CWD Herd Certification Program, the enrollment date shall be the latest enrollment date for any source herd for the animals;
- (2) The first day that the herd participated in any state program that APHIS at a later date determines qualifies as an Approved State CWD Herd Certification Program; or
- (3) ~~If the herd was enrolled in the Monitored Herd Certification Program, then the enrollment date shall be the same as the Monitored Herd Certification Program enrollment date, subject to 9 C.F.R. 55.22(b)(1)(i); or~~
- (4) Any other exception provided under 9 C.F.R. 55.22(b).

(e) Initial and Subsequent Herd Status.

- (1) When a herd is first enrolled in the Herd Certification Program, it shall be placed in the First Year status, unless the herd is composed only of animals ~~animals~~:
  - (A) obtained from herds already enrolled in the Herd Certification Program, or another USDA approved state CWD herd certification program, the newly enrolled herd shall have the same status as the lowest status of any herd that provided animals for the new herd; ~~herd~~; or
  - (B) ~~enrolled in the Monitored Herd Certification Program, the newly enrolled herd shall have its status transferred, subject to 9 C.F.R. 55.22(b)(1)(i).~~
- (2) If the herd continues to meet the requirements of this Subchapter, each year, on the anniversary of the enrollment date, the herd status shall be upgraded by one year as follows:



- (A) First Year – starts on enrollment date of the herd in the CWD Herd Certification Program.
- (B) Second Year – starts on the anniversary date of the First Year.
- (C) Third Year – starts on the anniversary date of the Second Year.
- (D) Fourth Year – starts on the anniversary date of the Third Year.
- (E) Fifth Year – starts on the anniversary date of the Fourth Year.
- (3) One year from the date a herd is placed in Fifth Year status, the herd status shall be changed to Certified, and the herd shall remain in Certified status as long as it is enrolled in the program, provided its status is not lost or suspended.

(f) Loss or Suspension of Herd Status.

- (1) If the Veterinary Division determines that animals from a herd enrolled in the Herd Certification Program have commingled with animals from a herd with a lower program status, ~~including CWD non-susceptible farmed cervids~~, the herd with the higher program status shall be reduced to the status of the herd with which its animals commingled.
- (2) If a herd is designated a CWD-positive herd or a CWD-exposed herd by the Veterinary Division, it shall upon designation lose its program status and may only reenroll after entering into a herd plan.
- (3) If a herd is designated a CWD-suspect herd, a trace back herd, or a trace forward herd by the Veterinary Division, it shall upon designation be placed in Suspended status pending an epidemiologic investigation by the Veterinary Division in accordance with the USDA Standards. If the epidemiologic investigation:
  - (A) determines that the herd was not commingled with a CWD-positive animal, the herd shall be reinstated to its former program status, and the time spent in Suspended status shall count toward its promotion to the next herd status level;
  - (B) determines that the herd was commingled with a CWD-positive animal, the herd shall lose its program status and shall be designated a CWD-exposed herd;
  - (C) is unable to make a determination regarding the exposure of the herd, because the necessary animal or animals are no longer available for testing (i.e., a trace animal from a known positive herd died and was not tested) or for other reasons, the herd status shall continue as Suspended until a herd plan is developed for the herd in accordance with its definition

under 9 C.F.R. 55.1 and the USDA Standards, Part B. Guidance on Responding to CWD Affected Herds. If a herd plan is developed and implemented, the herd shall be reinstated to its former program status, and the time spent in Suspended status shall count toward its promotion to the next herd status level. If the epidemiological investigation finds that the licensee of the herd has not complied with the rules of this Subchapter for animal identification, animal testing, and recordkeeping, the herd shall be reinstated into the Herd Certification Program at the First Year status level, with a new enrollment date set at the date the herd entered into Suspended status. Any herd reinstated after being placed in Suspended status shall then comply with the requirements of the herd plan as well as the requirements of the Herd Certification Program. The herd plan shall require testing of all animals that die in the herd for any reason, regardless of the age of the animal; whenever it is required by federal law, may require movement restrictions for animals in the herd based on epidemiologic evidence regarding the risk posed by the animals in question; and whenever it is required by federal law, may include other requirements found necessary to control the risk of spreading CWD.

(g) Cancellation of Enrollment and Reduction of Herd Status.

- (1) A licensee may cancel participation of any herd in the Herd Certification Program by surrendering the licensee's farmed cervid license in accordance with 02 NCAC 52L .0108 and by decommissioning the facility in accordance with 02 NCAC 52L .0301(e)(1).
- (2) The Veterinary Division may cancel the enrollment or reduce the herd status of an enrolled herd after determining that the licensee failed to comply with any rule of this Subchapter, by giving written notice to the licensee of the reasons for the cancellation or reduction in status.
- (3) To appeal the designation of an animal as CWD-positive, cancellation of enrollment of a herd, or loss or suspension of herd status, the procedures set forth under 9 CFR 55.24(c) shall govern.

(h) Adding Animals to Existing Herd.

- (1) A herd may add animals from herds with the same or a higher herd status with no negative

impact on the certification status of the receiving herd.

- (2) If animals are acquired from a herd with a lower herd status, ~~including CWD non-susceptible species~~, the receiving herd shall revert to the program status of the sending herd.
- (3) If a herd participating in the Herd Certification Program acquires animals from a nonparticipating herd, the receiving herd shall revert to First Year status with a new enrollment date as the date of acquisition of the animal.

(i) Inspection. If an inspection of any farmed cervid is needed as a part of enrollment, including reinstating a suspended status, the licensee shall be responsible for assembling, handling, and restraining the farmed cervids. The licensee shall be responsible for all costs incurred to present the animals for inspection and agree that any liability or injury to the animals during handling rests with the licensee in accordance with the USDA Standards, ~~(2.4)~~(2.1) Participating Herd: Requirements for Enrollment.

(j) A licensee may commingle non-susceptible species of farmed cervid with susceptible species of farmed cervid without effecting the herd status of the susceptible species. This exception shall not apply to non-farmed cervids or to non-susceptible species that are later determined by the Department to be CWD susceptible.

Authority G.S. 106-549.97(a2).

**02 NCAC 52L .0402 NORTH CAROLINA MONITORED HERD CERTIFICATION PROGRAM**

Authority G.S. 106-549.97(a2).

**TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES**

*Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Medical Care Commission intends to readopt with substantive changes the rules cited as 10A NCAC 13B .3801, .3903, .4103, .4104, .5408, readopt without substantive changes the rules cited as 10A NCAC 13B .4106, .4305, .4603, .4801, .4805, .5102, .5105, .5406, and repeal through readoption the rule cited as 10A NCAC 13B .5411.*

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

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

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

**Proposed Effective Date:** July 1, 2022

**Public Hearing:**

**Date:** January 5, 2022

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

**Location:** By teleconference using telephone number 1-877-848-7030; Access code: 5133201

**Reason for Proposed Action:** Pursuant to G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules, all rules are reviewed at least every 10 years, or they shall expire. As a result of the periodic review of Subchapter 10A NCAC 13B, Licensing of Hospitals, these 14 proposed readoption rules were part of the 40 rules determined as “Necessary With Substantive Public Interest,” requiring readoption. Five rules are proposed for readoption with substantive changes to update standard of practice, revise requirements and clarify language, address Rules Review Commission historical objections, add references to General Statutes, add and update references to NC Administrative Code rules, and address technical changes. Eight rules are proposed for readoption without substantive changes to address technical changes and clarify language, reorganize format of rule text, update agency names and NC Administrative Code rule references in the rules. One rule is proposed for repeal due to requirements being addressed in another rule in the Subchapter, therefore the rule is no longer necessary.

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

**Comment period ends:** February 14, 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 984-236-1850.

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

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

**CHAPTER 13 - NC MEDICAL CARE COMMISSION**

**SUBCHAPTER 13B – LICENSING OF HOSPITALS**

SECTION .3800 - NURSING SERVICES

10A NCAC 13B .3801 NURSE EXECUTIVE

- (a) Whether the facility utilizes a centralized or decentralized organizational structure, a nurse executive shall be responsible for the coordination of nursing organizational functions.
- (b) A nurse executive shall develop facility wide patient care programs, ~~polieies~~ policies, and procedures that describe how the nursing care needs of patients are assessed, ~~met~~ met, and evaluated.
- (c) The nurse executive shall develop and adopt, subject to the approval of the facility, a set of administrative policies and procedures to establish a framework to accomplish required functions.
- (d) There shall be scheduled ~~meetings~~, meetings at least every 60 ~~days~~, days of the members of the nursing staff to evaluate the quality and efficiency of nursing services. Minutes of these meetings shall be maintained.
- (e) The nurse executive shall be responsible for:
  - (1) the development of a written organizational plan which describes the levels of accountability and responsibility within the nursing organization;
  - (2) identification of standards and policies and procedures related to the delivery of nursing care;
  - (3) planning for and the evaluation of the delivery of nursing care delivery system;
  - (4) establishment of a mechanism to validate qualifications, knowledge, and skills of nursing personnel;
  - (5) provision of orientation and educational opportunities related to expected nursing ~~performance~~, performance and maintenance of records pertaining thereto;
  - (6) implementation of a system for performance evaluation;
  - (7) provision of nursing care services in conformance with ~~the North Carolina Nursing Practice Act~~; G.S. 90-171.20(7) and G.S. 90-171.20(8);
  - (8) assignment of nursing staff to clinical or managerial responsibilities based upon educational preparation, in conformance with licensing laws and an assessment of current competence; and
  - (9) staffing nursing units with sufficient personnel in accordance with a written ~~plan~~, plan of care to meet the needs of the patients.

Authority G.S. 131E-75(b); 131E-79.

SECTION .3900 - MEDICAL RECORD SERVICES

10A NCAC 13B .3903 PRESERVATION OF MEDICAL RECORDS

- (a) The manager of medical records service shall maintain medical records, whether original, computer media, or microfilm,

for a ~~minimum~~ of 11 years following the discharge of an adult patient.

(b) The manager of medical records shall maintain medical records of a patient who is a minor until the patient's 30th birthday.

(c) If a hospital discontinues operation, its management shall make known to the Division where its records are stored. Records shall be stored in a business offering retrieval services for ~~at least~~ 11 years after the closure date.

~~(d) The hospital shall give public notice prior to destruction of its records, to permit former patients or representatives of former patients to claim the record of the former patient. Public notice shall be in at least two forms: written notice to the former patient or their representative and display of an advertisement in a newspaper of general circulation in the area of the facility.~~

~~(e)~~(d) The manager of medical records may authorize the microfilming of medical records. Microfilming may be done on or off the premises. If done off the premises, the facility shall provide for the confidentiality and safekeeping of the records. The original of microfilmed medical records shall not be destroyed until the medical records department has had an opportunity to review the processed film for content.

~~(f)~~(e) Nothing in this Section shall be construed to prohibit the use of automation in the medical records service, provided that all of the provisions in this Rule are met and the information is readily available for use in patient care.

~~(g)~~(f) Only personnel authorized by ~~state~~ State laws and Health Insurance Portability and Accountability Act (HIPAA) regulations shall have access to medical records. Where the written authorization of a patient is required for the release or disclosure of health information, the written authorization of the patient or authorized representative shall be maintained in the original record as authority for the release or disclosure.

~~(h)~~(g) Medical records are the property of the hospital, and they shall not be removed from the facility jurisdiction except through a court order. Copies shall be made available for authorized purposes such as insurance claims and physician review.

Authority G.S. 90-21.20B; 131E-75(b); 131E-79; 131E-97.

SECTION .4100 - EMERGENCY SERVICES

10A NCAC 13B .4103 PROVISION OF EMERGENCY SERVICES

(a) Any ~~of any~~ facility providing emergency services shall establish and maintain policies requiring appropriate medical screening, treatment and transfer services for any individual who presents to the facility emergency department and on whose behalf treatment is requested regardless of that person's ability to pay for medical services and without delay to inquire about the individual's method of payment.

(b) Any facility providing emergency services under the rules of this Section shall install, ~~operate~~ operate, and maintain, on a 24-hour per day basis, an emergency two-way radio ~~licensed by the Federal Communications Commission in the Public Safety Radio Service~~ capable of establishing accessing the North Carolina Voice Interoperability Plan for Emergency Responders (VIPER) radio network for voice radio communication with ~~ambulance units~~ EMS providers transporting patients to ~~said~~ the facility or

~~having any written procedure or agreement for handling emergency services with the local ambulance service, rescue squad or other trained medical or provide on-line medical direction for EMS personnel.~~

(c) All communication equipment shall be in compliance with ~~current~~ the rules established by North Carolina Rules for Basic Life Support/Ambulance Service (10 NCAC 3D .1100) adopted by reference with all subsequent amendments. Referenced rules are available at no charge from the Office of Emergency Medical Services, 2707 Mail Service Center, Raleigh, N.C. 27699 2707. set forth in 10A NCAC 13P, Emergency Medical Services and Trauma Rules.

Authority G.S. 131E-75(b); 131E-79.

**10A NCAC 13B .4104 MEDICAL DIRECTOR**

(a) The governing body shall establish the qualifications, duties, and authority of the director of emergency services. Appointments shall be recommended by the medical staff and approved by the governing body.

(b) The medical staff credentials committee shall approve the mechanism for emergency privileges for physicians employed for brief periods of time such as evenings, ~~weekends~~ weekends, or holidays.

(c) Level I and II emergency services shall be directed and supervised by a ~~physician with experience in emergency care.~~ physician.

(d) Level III services shall be directed and supervised by a ~~physician with experience in emergency care or through a multi-disciplinary medical staff committee. The chairman of this committee shall serve as director of emergency medical services.~~ physician.

Authority G.S. 131E-75(b); 131E-79; 131E-85(a).

**10A NCAC 13B .4106 POLICIES AND PROCEDURES (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .4300 - MATERNAL - NEONATAL SERVICES**

**10A NCAC 13B .4305 ORGANIZATION OF NEONATAL SERVICES (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .4600 - SURGICAL AND ANESTHESIA SERVICES**

**10A NCAC 13B .4603 SURGICAL AND ANESTHESIA STAFF (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .4800 - DIAGNOSTIC IMAGING**

**10A NCAC 13B .4801 ORGANIZATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**10A NCAC 13B .4805 SAFETY (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .5100 - INFECTION CONTROL**

**10A NCAC 13B .5102 POLICY AND PROCEDURES (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**10A NCAC 13B .5105 STERILE SUPPLY SERVICES (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .5400 - COMPREHENSIVE INPATIENT REHABILITATION**

**10A NCAC 13B .5406 DISCHARGE CRITERIA FOR INPATIENT REHABILITATION FACILITIES OR UNITS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**10A NCAC 13B .5408 COMPREHENSIVE INPATIENT REHABILITATION PROGRAM STAFFING REQUIREMENTS**

(a) The staff of the inpatient rehabilitation facility or unit shall ~~include at a minimum:~~ include:

- (1) the inpatient rehabilitation facility or unit shall be supervised by a rehabilitation ~~nurse.~~ nurse as defined in Rule .5401 of this Section. The facility shall ~~identify the nursing skills necessary to meet the needs of the rehabilitation patients in the unit and~~ assign staff qualified to meet those needs;
- (2) the minimum nursing hours per patient in the rehabilitation unit shall be 5.5 nursing hours per patient day. At no time shall direct care nursing staff be less than two full-time equivalents, one of which must be a registered nurse;
- (3) the inpatient rehabilitation unit shall employ or provide by contractual agreements ~~sufficient~~ therapist to provide ~~a minimum of~~ three hours of specific (physical, occupational or speech) or combined rehabilitation therapy services per patient day;
- (4) physical therapy assistants and occupational therapy assistants shall be supervised on-site by physical therapists or occupational therapists;
- (5) rehabilitation aides shall have documented training appropriate to the activities to be performed and the occupational licensure laws of his or her supervisor. The overall responsibility for the on-going supervision and evaluation of the rehabilitation aide remains with the registered nurse as identified in Subparagraph (a)(1) of this Rule. Supervision by the physical therapist or by the occupational therapist is limited to that time when the therapist is on-site and directing the rehabilitation activities of the aide; and
- (6) hours of service by the rehabilitation aide are counted toward the required nursing hours when the aide is working under the supervision of the nurse. Hours of service by the rehabilitation aide are counted toward therapy hours during that time the aide works under the

immediate, on-site supervision of the physical therapist or occupational therapist. Hours of service shall not be dually counted for both services. Hours of service by rehabilitation aides in performing nurse-aide duties in areas of the facility other than the rehabilitation unit shall not be counted toward the 5.5 hour minimum nursing requirement described for the rehabilitation unit.

(b) Additional personnel shall be provided as required to meet the needs of the patient, as defined in the comprehensive inpatient rehabilitation evaluation.

Authority G.S. 131E-75(b); 131E-79.

10A NCAC 13B .5411 PHYSICAL FACILITY REQUIREMENTS/INPATIENT REHABILITATION FACILITIES OR UNIT

Authority G.S. 131E-79.

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education and Training Standards Commission intends to amend the rules cited as 12 NCAC 09B .0202, .0209-.0214, .0226, .0232, .0233, .0237, .0238, .0242, .0244, .0404, .0417; 09G .0414-.0416.

Link to agency website pursuant to G.S. 150B-19.1(c): https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/

Proposed Effective Date: April 1, 2022

Public Hearing:

Date: February 14, 2022

Time: 10:00 a.m.

Location: Teleconference 1-888-808-6929 Access code: 4508949

Reason for Proposed Action: To allow the Criminal Justice Standards Division, Director the ability to allow breaks in Commission course training during a State of Emergency when considering specific factors.

Comments may be submitted to: Charminique D. Williams, 1700 Tryon Park Drive, Raleigh, NC 27602; phone (919) 779-8206; email cdwilliams@ncdoj.gov

Comment period ends: February 14, 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 984-236-1850.

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

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

CHAPTER 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SUBCHAPTER 09B - STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT: EDUCATION: AND TRAINING

SECTION .0200 – MINIMUM STANDARDS FOR CRIMINAL JUSTICE SCHOOLS AND CRIMINAL JUSTICE TRAINING PROGRAMS OR COURSES OF INSTRUCTION

12 NCAC 09B .0202 RESPONSIBILITIES OF THE SCHOOL DIRECTOR

(a) In planning, developing, coordinating, and delivering each Commission-certified criminal justice training course, the School Director shall:

- (1) Formalize and schedule the course curriculum in accordance with the curriculum standards established in this Subchapter;
(2) Select and schedule instructors who are certified by the Commission;
(3) Provide each instructor with a current Commission course outline and all necessary additional information concerning the instructor's duties and responsibilities;
(4) Notify each instructor that he or she shall comply with the Basic Law Enforcement Training Course Management Guide and provide him or her access to the most current version of the Course Management Guide;
(5) Ensure each instructor utilizes Commission approved lesson plans and instructional materials;
(6) Arrange for the availability of appropriate audiovisual aids and materials, publications, facilities, and equipment for training in all topic areas;
(7) Develop, adopt, reproduce, and distribute any supplemental rules and requirements

determined by the school to be necessary or appropriate for:

- (A) effective course delivery;
- (B) establishing responsibilities and obligations of agencies or departments employing or sponsoring course trainees; and
- (C) regulating trainee participation and demeanor, ensuring trainee attendance, and maintaining performance records;

- (8) If appropriate, recommend housing and dining facilities for trainees;
- (9) Administer the course delivery in accordance with Commission approved lesson plans and course management guides;
- (10) Maintain direct supervision, direction, and control over the performance of all persons to whom any portion of the planning, development, presentation, or administration of a course has been delegated. The comprehensive final examination shall be administered by the Criminal Justice Education and Training Standards Commission; and
- (11) Report the completion of each presentation of a Commission-certified criminal justice training course to the Commission, utilizing forms required for submission, which are located on the Agency's website: <https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/>.

(b) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-certified Basic Law Enforcement Training Course, the School Director shall:

- (1) Deliver training in accordance with the most current version of the Basic Law Enforcement Training Course Management Guide as published by the North Carolina Justice Academy;
- (2) Schedule course presentation to include 12 hours of instruction each week during consecutive calendar weeks, except that there may be as many as three one-week breaks until course requirements are completed; if the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:
  - (A) Whether instruction has begun in the course or whether course initiation may be postponed;
  - (B) The risk of harm to students which may be caused by continuation of the course;

- (C) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (D) The specific need for the waiver; and
- (E) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waiver granted pursuant to this Section shall only apply to courses which began during the effective period of the State of Emergency.

- (3) Schedule only specialized instructors certified by the Commission to teach those high-liability areas as specified in Rule .0304(a) of this Subchapter as either the lead instructor or as assistant instructors or role players;
- (4) With the exception of the First Responder, Physical Fitness, Explosives and Hazardous Materials, and topical areas outlined in Rule .0304(a) of this Subchapter, schedule one specialized instructor certified by the Commission for every six trainees while engaged in a practical performance exercise;
- (5) Schedule one specialized instructor certified by the Commission for every eight trainees while engaged in a practical performance exercise in the topical area "Subject Control Arrest Techniques"
- (6) Schedule no single individual to instruct more than 35 percent of the total hours of the curriculum during any one delivery of the Basic Law Enforcement Training Course presentation;
- (7) Not less than 30 days before commencing delivery of the Basic Law Enforcement Training Course, submit to the Commission a Pre-Delivery Report of Training Course Presentation pursuant to 12 NCAC 09C .0211. The Pre-Delivery Report (Form F-10A) shall indicate a requested date and location for the administration of the State comprehensive exam, and include the following attachments:
  - (A) a course schedule showing the arrangement of topical presentations and proposed instructional assignments; and
  - (B) a copy of any rules and requirements for the school. A copy of those rules shall also be given to each trainee and to the executive officer of each trainee's employing or sponsoring agency or department at the time the trainee enrolls in the course;
- (8) Monitor, or designate an instructor certified by the Commission to monitor, a presentation of each instructor once during each three year

certification period in each topic taught by the instructor and prepare a written evaluation on the instructor's performance and suitability for subsequent instructional assignments. The observations shall be of sufficient duration to ensure that the instructor is using the Instructional System Design model, and that the delivery is objective-based, documented by, and consistent with a Commission-approved lesson plan. For each topic area, the School Director's evaluation shall be based upon the course delivery observations, the instructor's use of the approved lesson plan, and the results of the student evaluations of the instructor. For probationary instructors, the evaluations conducted by another instructor shall be prepared on the Criminal Justice Instructor Evaluation (Form F-16) and forwarded to the Commission. Based on this evaluation, the School Director shall recommend approval or denial of requests for General Instructor Certification. For all other instructors, these evaluations shall be prepared on the Criminal Justice Instructor Evaluation (Form F-16), be kept on file by the school for a period of three years, and shall be made available for inspection by a representative of the Commission upon request. In the event the evaluation of an instructor indicates that his or her performance was less than acceptable, the School Director shall forward a copy of the evaluation to the Commission. Any instructor who is evaluating the instructional presentation of another instructor shall hold certification in the same instructional topic area as that for which the instructor is being evaluated;

- (9) Administer or designate a staff person to administer course specific tests during course delivery:
  - (A) to determine and record the level of trainee comprehension and retention of instructional subject matter;
  - (B) to provide a basis for a final determination or recommendation regarding the minimum degree of knowledge and skill of each trainee to function as an inexperienced law enforcement officer; and
  - (C) to determine subject or topic areas of deficiency for the application of Rule .0405(a)(3) of this Subchapter; and
- (10) Not more than 10 days after the conclusion of a school's offering of Basic Law Enforcement Training, submit to the Commission a Post-Delivery Report of Training Course Presentation (Form F-10B) that shall include:
  - (A) a "Student Course Completion" form for each individual enrolled on the day of orientation;

- (B) a "Certification and Test Score Release" form;
  - (C) the "Police Officer Physical Ability Test (POPAT) Post-Course" final form; and
  - (D) the orientation class enrollment roster.
- (c) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-certified "Criminal Justice Instructor Training Course," the School Director shall:
- (1) Schedule course presentation pursuant to Rule .0209 of this Subchapter;
  - (2) Schedule evaluators as follows:
    - (A) each evaluator, as well as the instructors, shall have completed a Commission-certified instructor training course or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise; and
    - (B) each instructor and evaluator shall document successful participation in a program presented by the North Carolina Justice Academy for purposes of familiarization and supplementation relevant to delivery of the instructor training course and trainee evaluation;
  - (3) Not fewer than 30 days before commencing delivery of the course, submit to the Commission a Pre-Delivery Report of Training Course Presentation [Form F-10A(ITC)] with the following attachments:
    - (A) a course schedule showing the arrangement of topical presentations and proposed instructional assignments;
    - (B) the names and last four digits of the social security numbers of all instructors and evaluators; and
    - (C) a copy of any rules and requirements for the school; and
  - (4) Not more than 10 days after course completion, submit to the Commission a Post-Delivery Report [Form F-10B(ITC)] containing the following:
    - (A) class enrollment roster;
    - (B) a course schedule with the designation of instructors and evaluators utilized in delivery;
    - (C) scores recorded for each trainee on the 70 minute skill presentation; and
    - (D) designation of trainees who completed the course in its entirety and whom the School Director finds to be competent to instruct.

(d) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-certified RADAR, RADAR and Time-Distance, Time-Distance, or LIDAR speed measurement operator training course or recertification course, the School Director shall:

- (1) select and schedule speed measurement instrument instructors who are certified by the Commission as instructors for the specific speed measurement instruments in which the trainees are to receive instruction as follows:
  - (A) provide to the instructor the Commission form(s) for motor skill examination on each trainee;
  - (B) require the instructor to complete the motor skill examination form on each trainee indicating the level of proficiency obtained on each specific instrument; and
  - (C) require each instructor to sign each individual form and submit the original to the School Director;
- (2) not fewer than 30 days before the scheduled starting date, submit to the Director of the Standards Division a Pre-Delivery Report of Speed Measuring Instrument Course Presentation [Form F-10A (SMD)] that shall contain a period of course delivery including the proposed starting date, course location, requested date and location for the administration of the State exam, and the number of trainees to be trained on each type of approved speed measurement instrument. The Director of the Standards Division shall review the request and notify the School Director within thirty business days if the request is approved or denied; and
- (3) upon completing delivery of the Commission-certified course, and not more than 10 days after the conclusion of a school's offering of a certified RADAR, RADAR and Time-Distance, Time-Distance, or LIDAR speed measurement operator training course or recertification course, the School Director shall notify the Commission regarding the progress and achievements of each trainee by submitting a Post-Delivery Report of Training Course Presentation [Form F-10B (SMD)]. This report shall include the original motor-skill examination form(s) completed and signed by the certified instructor responsible for administering the motor-skill examination to the respective trainee.

*Authority G.S. 17C-6.*

**12 NCAC 09B .0209 CRIMINAL JUSTICE INSTRUCTOR TRAINING**

(a) The Instructor Training course required for General Instructor certification shall consist of a minimum of 40 hours of classroom

instruction, plus the time required to conduct practical exercises, student presentations, and post testing presented during a period of no more than 15 business days. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students which may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called on action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waiver granted pursuant to this Section shall only apply to courses which began during the effective period of the State of Emergency.

(b) Each Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform the functions of a criminal justice instructor.

(c) Each Instructor Training course shall include the following identified topic areas and minimum instructional hours for each area:

- |      |   |         |
|------|---|---------|
| (1)  | Orientation and Pre-Test  | 1 Hour  |
| (2)  | Instructional Systems Design (ISD)  | 5 Hours |
| (3)  | Law Enforcement Instructor Liabilities and Legal Responsibilities   | 2 Hours |
| (4)  | Criminal Justice Instructional Leadership   | 4 Hours |
| (5)  | Lesson Plan Preparation: Professional Resources   | 2 Hours |
| (6)  | Lesson Plan Development and Formatting  | 3 Hours |
| (7)  | Adult Learning  | 2 Hours |
| (8)  | Instructional Styles and Platform Skills  | 5 Hours |
| (9)  | Classroom Management  | 3 Hours |
| (10) | Active Learning: Demonstration and Practical Exercises  | 3 Hours |
| (11) | The Evaluation Process of Learning  | 4 Hours |
| (12) | Audio Visual Aids   | 5 Hours |
| (13) | Course Closing and Post-test  | 1 Hour  |
| (14) | Completion of tasks associated with practical exercises, student presentations, and post testing; the number of hours required to complete this portion of the curriculum shall be based on the number of enrolled students, available facilities, and number of instructors. |         |

(d) The "Instructor Training" manual published by the North Carolina Justice Academy shall be the curriculum for instructor



training courses. Copies of this publication may be inspected at the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1700 Tryon Park Drive  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be purchased at the cost of printing and postage from the Academy at the following address:

North Carolina Justice Academy  
Post Office Drawer 99  
Salemberg, North Carolina 28385

Authority G.S. 17C-6.

**12 NCAC 09B .0210 RADAR INSTRUCTOR TRAINING COURSE**

(a) The radar instructor training course shall be designed to provide the trainee with the skills and knowledge to proficiently perform the function of a criminal justice radar instructor. This course shall be for a period not to exceed six consecutive weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students which may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waiver granted pursuant to this Section shall only apply to courses which began during the effective period of the State of Emergency.

(b) The radar instructor training course required for radar instructor certification shall include the topic areas and minimum number of hours as outlined in the Radar Instructor Training Course. To qualify for radar instructor certification, an applicant shall meet the requirements as outlined in the Radar Instructor Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(c) Each applicant for radar instructor training shall:

- (1) Present the endorsement of a Commission-recognized school director or agency executive officer or his designee.
- (2) Possess full criminal justice general instructor certification as required in 12 NCAC 09B .0302.
- (3) Possess a current and valid radar operator certification.

(d) The "Radar Instructor Training Course" as published by the North Carolina Justice Academy shall be applied as basic

curriculum for the radar instructor training course for radar instructors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Old Education Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

(e) Commission-certified schools that are certified to offer the "Radar Instructor Training Course" are: The North Carolina Justice Academy.

Authority G.S. 17C-6.

**12 NCAC 09B .0211 TIME-DISTANCE INSTRUCTOR TRAINING COURSE**

(a) The time-distance instructor training course shall be designed to provide the trainee with the skills and knowledge to proficiently perform the function of a time-distance instructor. This course shall be for a period not to exceed eight consecutive weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students which may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waiver granted pursuant to this Section shall only apply to courses which began during the effective period of the State of Emergency.

(b) Each applicant for the time-distance speed measurement instrument instructor training course shall meet the requirements of 12 NCAC 09B .0210(c)(1) and (2) and 12 NCAC 09B .0309. The time-distance instructor training course required for time-distance instructor certification shall include the topic areas and minimum number of hours as outlined in the Time-Distance Instructor Training Course. To qualify for time-distance instructor certification, an applicant shall meet the requirements as outlined in the Time-Distance Instructor Training Course and meet the requirement of 12 NCAC 09B .0408 and .0409.

(c) The "Time-Distance Instructor Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the criminal justice time-distance speed

measurement instrument instructor training course for time-distance speed measurement instructors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Old Education Building  
Post Office Drawer 149

Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

(d) Commission-certified schools that are certified to offer the "Time Distance Instructor Training Course" are: The North Carolina Justice Academy.

Authority G.S. 17C-6.

**12 NCAC 09B .0212 CERTIFICATION TRAINING FOR RADAR OPERATORS**

(a) The radar operator training course for law enforcement officers shall be designed to provide the trainee with the skills and knowledge to proficiently perform the function of a law enforcement radar operator. This course shall be for a period not to exceed four consecutive weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students which may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waiver granted pursuant to this Section shall only apply to courses which began during the effective period of the State of Emergency.

(b) Only employed or appointed personnel of a law enforcement agency shall be enrolled in the radar operator training course. Such a trainee shall not be certified as a radar operator until the basic law enforcement training course has been successfully completed and probationary or general law enforcement certification has been granted. Sheriffs, deputy sheriffs and federal law enforcement personnel, including but not limited to armed forces personnel, shall be allowed to participate in the radar operator training courses on a space available basis at the discretion of the school director without having enrolled in or having successfully completed the basic law enforcement training

course and without being currently certified in a probationary status or hold general law enforcement certification. The radar operator training course required for radar operator certification shall include but not be limited to the topic areas and minimum number of hours as outlined in the Radar Operator Training Course. To qualify for radar operator certification, an applicant shall meet the minimum requirements as outlined in the Radar Operator Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(c) The "Radar Operator Training Course" as published by the North Carolina Justice Academy is to be applied as basic curriculum for the radar operator training course for radar operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Old Education Building  
Post Office Drawer 149

Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

Authority G.S. 17C-6.

**12 NCAC 09B .0213 CERTIFICATION TRAINING FOR RADAR/TIME-DISTANCE OPERATORS**

(a) The radar/time-distance operator training course for law enforcement officers shall be designed to provide the trainee with the skills and knowledge to proficiently perform the function of a radar/time-distance operator. This course shall be for a period not to exceed four consecutive weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students which may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waiver granted pursuant to this Section shall only apply to courses which began during the effective period of the State of Emergency.

(b) Only employed or appointed personnel of a law enforcement agency may be enrolled in the radar and time-distance speed measurement instrument operator training course. Such a trainee shall not be certified as a radar and time-distance speed

measurement instrument operator until the basic law enforcement training course has been successfully completed and probationary or general law enforcement certification has been granted. Sheriffs, deputy sheriffs, and federal law enforcement personnel, including but not limited to armed forces personnel, shall be allowed to participate in radar and time-distance speed measurement instrument operator training courses on a space available basis at the discretion of the school director without having enrolled in or having successfully completed the basic law enforcement training course and without being currently certified in a probationary status or holding general law enforcement certification. The radar/time-distance operator training course required for radar/time-distance operator certification shall include but not be limited to the topic areas and minimum number of hours as outlined in the Radar/Time-Distance Operator Training Course. To qualify for radar/time-distance operator certification, an applicant shall meet the minimum requirements as outlined in the Radar/Time-Distance Operator Training Course and meet the requirements of 12 NCAC 9B .0408 and .0409.

(c) The "Radar/Time-Distance Operator Training Course" as published by the North Carolina Justice Academy is to be applied as basic curriculum for the radar/time-distance operator training course for radar/time-distance instrument operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Old Education Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

Authority G.S. 17C-6.

**12 NCAC 09B .0214 CERTIFICATION TRAINING FOR TIME-DISTANCE OPERATORS**

(a) The time-distance operator training course for law enforcement officers shall be designed to provide the trainee with the skills and knowledge to proficiently perform the function of a time-distance operator. This course shall not exceed four consecutive weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students which may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and

- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waiver granted pursuant to this Section shall only apply to courses which began during the effective period of the State of Emergency.

(b) Only employed or appointed personnel of a law enforcement agency may be enrolled in the time-distance speed measurement operator training course. Such a trainee shall not be certified as a time-distance speed measurement operator until the basic law enforcement training course has been successfully completed and probationary or general law enforcement certification has been granted. Sheriffs, deputy sheriffs, and federal law enforcement personnel, including but not limited to armed forces personnel, shall be allowed to participate in time-distance speed measurement operator training courses on a space available basis at the discretion of the school director without having enrolled in or having successfully completed the basic law enforcement training course and without being currently certified in a probationary status or holding general law enforcement certification. The time-distance operator training course required for time-distance operator certification shall include but not be limited to the topic areas and minimum number of hours as outlined in the Time-Distance Operator Training Course. To qualify for time-distance operator certification, an applicant shall meet the minimum requirements as outlined in the Time-Distance Operator Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(c) The "Time-Distance Operator Training Course" as published by the North Carolina Justice Academy is to be applied as basic curriculum for the time-distance operator training course for time-distance operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Old Education Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

Authority G.S. 17C-6.

**12 NCAC 09B .0226 SPECIALIZED FIREARMS INSTRUCTOR TRAINING**

(a) The instructor training course for Specialized Firearms Instructor Training Certification shall consist of a minimum of 50 hours of classroom and range instruction plus time required to complete the tasks associated with Range Operations presented during a continuous period of not more than two weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when

the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students which may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waiver granted pursuant to this Section shall only apply to courses which began during the effective period of the State of Emergency.

(b) Each Specialized Firearms Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice firearms instructor in a Basic Law Enforcement Training (BLET) Course or a law enforcement officer in-service firearms training program.

(c) Each applicant for specialized firearms instructor training shall:

- (1) have completed the criminal justice instructor training course;
- (2) present a written endorsement by either
  - (A) a certified school director indicating the student may be utilized to instruct firearms in the Basic Law Enforcement Training Course; or
  - (B) a department head, certified school director, or in-service training coordinator, indicating the student may be utilized to instruct firearms in a law enforcement officer in-service firearms training program; and
- (3) Once within 365 days prior to enrollment each prospective student shall demonstrate proficiency during a qualification administered by the North Carolina Justice Academy. To successfully complete this qualification each prospective student shall achieve a minimum score of 92 percent 2 out of 3 times on both the BLET Day and Night Courses of Fire while using a 'Sam Browne' type belt and security holster and agency-issued duty or ballistic-equivalent ammunition,

(d) Each Specialized Firearms Instructor Training course shall include the following identified topic areas and minimum instructional hours for each area:

- |     |                                     |         |
|-----|-------------------------------------|---------|
| (1) | Orientation/Pretest                 | 2 Hours |
| (2) | Range Operations                    | 2 Hours |
| (3) | Civil Liability                     | 4 Hours |
| (4) | Night Firing                        | 2 Hours |
| (5) | Combat Shooting Classroom and Range | 8 Hours |
| (6) | Mental Conditioning                 | 1 Hours |
| (7) | Shotgun Operation and Firing        | 4 Hours |

- (8) Service Handgun - Operation and Use 8 Hours
- (9) Rifle - Operation and Maintenance 4 Hours
- (10) Service Handgun - Maintenance and Cleaning 2 Hours
- (11) Range Medical Emergencies 2 Hours
- (12) In-Service Firearms Requirements 2 Hours
- (13) BLET Lesson Plan Review 1 Hour
- (14) Range Drills as defined in the Specialized Firearms Instructor Training Manual and the Specialized Firearms Instructor Training Course Management Guide 8 Hours
- (15) Completion of tasks associated with Range Operations. Completion of tasks associated with Instructor Practicums hours determined by number of students and instructors:
  - (A) Conduct a BLET Day Course of Fire
  - (B) Conduct a BLET Night Course of Fire
  - (C) Conduct a Long Gun Course of Fire
  - (D) Develop a Combat Course of Fire

(e) The "Specialized Firearms Instructor Training Manual" published by the North Carolina Justice Academy shall be the curriculum for the Specialized Firearms Instructor Training course. Copies of this publication may be inspected at the:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1700 Tryon Park Drive  
Post Office Drawer 149  
Raleigh, North Carolina 27610

and may be obtained at the cost of printing and postage from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

(f) The Commission-certified school that is certified to offer the "Specialized Firearms Instructor Training" course is the North Carolina Justice Academy.

*Authority G.S. 17C-6.*

**12 NCAC 09B .0232 SPECIALIZED SUBJECT CONTROL ARREST TECHNIQUES INSTRUCTOR TRAINING**

(a) The instructor training course required for Specialized Subject Control Arrest Techniques Instructor Certification shall consist of a minimum of 29 hours of classroom instruction plus time required to complete the tasks associated with Subject Control Arrest Techniques Instructional Methods and Demonstration presented during a continuous period of not more than two weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students which may be caused by continuation of the course;

- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

- (6) Practical Skills Enhancement 4 Hours
- (7) Student Instructional Practicum 6 Hours
- (8) BLET Lesson Plan Review 4 Hours
- (9) Completion of tasks associated with Subject Control Arrest Techniques Instructional Methods and Demonstrations. The number of hours required to complete this portion of the curriculum shall be based on the number of enrolled students, available facilities, and number of instructors.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waiver granted pursuant to this Section shall only apply to courses which began during the effective period of the State of Emergency.

(b) Each Specialized Subject Control Arrest Techniques Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice Specialized Subject Control Arrest Techniques Instructor in a Basic Law Enforcement Training Course or a Law Enforcement Officers' Annual In-Service Training Program.

(c) Each applicant for Specialized Subject Control Arrest Techniques Instructor Training shall:

- (1) have completed the Criminal Justice Instructor Training course;
- (2) present a letter from a licensed physician stating the applicant's physical fitness to participate in the course;
- (3) present a written endorsement by either
  - (A) a certified School Director indicating the student is qualified to instruct subject control arrest techniques in Basic Law Enforcement Training Courses; or
  - (B) a Department Head, certified School Director, or In-Service Training Coordinator indicating the student may be utilized to instruct subject control arrest techniques for the Law Enforcement Officers' Annual In-Service Training program; and
- (4) Within 365 days prior to enrollment in the Subject Control Arrest Techniques Instructor Training course the prospective student shall complete the following assessments administered by the North Carolina Justice Academy:
  - (A) a qualification requiring the individual to demonstrate 100 percent proficiency on the Basic Law Enforcement Training Subject Control Arrest Techniques; and
  - (B) achieve at least the 60<sup>th</sup> percentile on a physical fitness assessment.

(d) Each Specialized Subject Control Arrest Techniques Instructor Training course shall include the following identified topic areas and minimum instructional hours for each area:

- (1) Orientation 1 Hour
- (2) Response to Injury 4 Hours
- (3) Combat Conditioning 4 Hours
- (4) Safety Guidelines/Rules 2 Hours
- (5) Fundamentals of Professional Liability 4 Hours

(e) The "Specialized Subject Control Arrest Techniques Instructor Training Manual" as published by the North Carolina Justice Academy shall be the curriculum for the Specialized Subject Control Arrest Techniques Instructor Training course. Copies of this publication may be inspected at the:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1700 Tryon Park Drive  
Post Office Drawer 149  
Raleigh, North Carolina 27610

and may be obtained at the cost of printing and postage from the Academy at the following address:  
North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

(f) The Commission-certified school that is certified to offer the "Specialized Subject Control Arrest Techniques Instructor Training" course is the North Carolina Justice Academy.

*Authority G.S. 17C-6.*

**12 NCAC 09B .0233 SPECIALIZED PHYSICAL FITNESS INSTRUCTOR TRAINING**

(a) The instructor training course required for Specialized Physical Fitness Instructor Certification shall consist of a minimum of 47 hours of classroom and field instruction, plus the tasks associated with Physical Fitness Assessments, Exercise Programs, and Instructional Methods, presented during a continuous period of not more than two weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students which may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waiver granted pursuant to this Section shall only apply to courses which began during the effective period of the State of Emergency.

(b) Each Specialized Physical Fitness Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice physical fitness instructor in a Basic Law Enforcement Training Course or a Law Enforcement Officers' Annual In-Service Training Program.

- (c) Each applicant for specialized physical fitness training shall:
- (1) qualify through one of the following three options:
    - (A) have completed the criminal justice general instructor training course;
    - (B) hold a current and valid North Carolina Teacher's Certificate, hold a baccalaureate degree in physical education, and be teaching in physical education topics; or
    - (C) be presently instructing physical education topics in a community college, college, or university and possess a baccalaureate degree in physical education;
  - (2) present a written endorsement by either:
    - (A) a certified School Director indicating the student may be utilized to instruct physical fitness in Basic Law Enforcement Training Courses; or
    - (B) a certified School Director, or In-Service Training Coordinator indicating the student may be utilized to instruct physical fitness for the Law Enforcement Officers' In-Service Training Program;
  - (3) present a letter from a physician stating fitness to participate in the course; and
  - (4) Within 365 days prior to enrollment complete a qualification administered by the North Carolina Justice Academy requiring the individual to:
    - (A) complete Scenario #1 of the Police Officer Physical Abilities Test (POPAT) in no more than six minutes;
    - (B) complete Scenario #2 of the POPAT in no more than three minutes; and
    - (C) complete a physical fitness assessment achieve at a minimum percentile score of 60.

(d) Each Specialized Physical Fitness Instructor Training course shall include the following identified topic areas and minimum instructional hours for each area:

(1)	Orientation	1 Hour
(2)	Physical Fitness Sessions	6 Hours
(3)	Physical Fitness Assessments, Exercise Programs, and Instructional Methods	14 Hours
(4)	Injury Care and Prevention	4 Hours
(5)	Nutrition	7 Hours
(6)	Civil Liability	3 Hours
(7)	CVD Risk Factors	3 Hours
(8)	Developing In-Service Wellness Programs and Validating Fitness Standards	4 Hours

- |      |   |         |
|------|---|---------|
| (9)  | Lesson Plan Review  | 2 Hours |
| (10) | Exercise Leadership   | 3 Hours |
| (11) | Completion of tasks associated with Physical Fitness Assessments, Exercise Programs, and Instructional Methods. The number of hours required to complete this portion of the curriculum shall be determined by number of students, number of instructors, and available facilities. |         |

(e) The "Physical Fitness Instructor Training Manual" as published by the North Carolina Justice Academy shall be the curriculum for specialized physical fitness instructor training courses. Copies of this publication may be inspected at the:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1700 Tryon Park Drive  
Post Office Drawer 149  
Raleigh, North Carolina 27610

and may be obtained at the cost of printing and postage from the Academy at the following address:  
North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

(f) The Commission-certified school that is certified to offer the "Specialized Physical Fitness Instructor Training" course is the North Carolina Justice Academy.

*Authority G.S. 17C-6.*

**12 NCAC 09B .0237 LIDAR INSTRUCTOR TRAINING COURSE**

(a) The Lidar Instructor Training Course shall be designed to provide the trainee with the skills and knowledge to proficiently perform the function of a lidar instructor. This course shall be for a period not to exceed six consecutive weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students which may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waiver granted pursuant to this Section shall only apply to courses which began during the effective period of the State of Emergency.

(b) The Lidar Instructor Training Course required for lidar instructor certification shall include the topic areas and number of hours as outlined in the Lidar Instructor Training Course. To qualify for lidar instructor certification, an applicant shall meet

the requirements as outlined in The Lidar Instructor Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

- (c) Each applicant for lidar instructor training shall:
  - (1) Present the endorsement of a Commission-recognized school director or agency executive officer or his designee.
  - (2) Possess full criminal justice General Instructor Certification as required in 12 NCAC 09B .0302.
  - (3) Possess a current and valid lidar operator certification.

(d) The "Lidar Instructor Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the lidar instructor training course for lidar instructors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Old Education Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

(e) Commission-certified schools that are certified to offer the ~~Lidar~~ LIDAR Instructor Training Course are: The North Carolina Justice Academy.

Authority G.S. 17C-6.

**12 NCAC 09B .0238 CERTIFICATION TRAINING FOR LIDAR OPERATORS**

(a) The Lidar Operator Training Course for law enforcement officers shall be designed to provide the trainee with the skills and knowledge to proficiently perform the function of a law enforcement lidar operator. This course shall be for a period not to exceed four consecutive weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students which may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waiver granted pursuant to this

Section shall only apply to courses which began during the effective period of the State of Emergency.

(b) Only employed or appointed personnel of a law enforcement agency shall be enrolled in the Lidar Operator Training Course. Such a trainee shall not be certified as a lidar operator until the Basic Law Enforcement Training Course has been successfully completed and probationary or general law enforcement certification has been granted. Sheriffs, deputy sheriffs and federal law enforcement personnel, including armed forces personnel, shall be allowed to participate in the lidar operator training courses on a space available basis at the discretion of the school director without having enrolled in or having successfully completed the Basic Law Enforcement Training Course and without being currently certified in a probationary status or holding general law enforcement certification. The Lidar Operator Training Course required for lidar operator certification shall include the topic areas and number of hours as outlined in the Lidar Operator Training Course. To qualify for lidar operator certification, an applicant shall meet the requirements as outlined in the Lidar Operator Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(c) The "Lidar Operator Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the Lidar Operator Training Course for lidar operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Old Education Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

Authority G.S. 17C-6.

**12 NCAC 09B .0242 CERTIFICATION TRAINING FOR RADAR/LIDAR OPERATORS**

(a) The radar/lidar operator training course for law enforcement officers shall be designed to provide the trainee with the skills and knowledge to proficiently perform the function of a radar and lidar operator. This course shall be for a period not to exceed four consecutive weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students which may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and

(5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waiver granted pursuant to this Section shall only apply to courses which began during the effective period of the State of Emergency.

(b) Only employed or appointed personnel of a law enforcement agency may be enrolled in the radar/lidar speed measurement instrument operator training course. Such a trainee shall not be certified as a radar and lidar speed measurement instrument operator until the basic law enforcement training course has been successfully completed and probationary or general law enforcement certification has been granted. Sheriffs, deputy sheriffs, and federal law enforcement personnel, including armed forces personnel, shall be allowed to participate in a radar/lidar speed measurement instrument operator training courses on a space available basis at the discretion of the school director without having enrolled in or having successfully completed the basic law enforcement training course and without being currently certified in a probationary status or holding general law enforcement certification. The radar/lidar operator training course required for radar and lidar operator certification shall include the topic areas and number of hours as outlined in the Radar/Lidar Operator Training Course. To qualify for radar and lidar operator certification, an applicant shall meet the requirements as outlined in the Radar/Lidar Operator Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(c) The "Radar/Lidar Operator Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the radar/lidar operator training course for radar and lidar instrument operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Old Education Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

Authority G.S. 17C-6.

**12 NCAC 09B .0244 CERTIFICATION TRAINING FOR RADAR/TIME-DISTANCE/LIDAR OPERATORS**

(a) The radar/time-distance/lidar operator training course for law enforcement officers shall be designed to provide the trainee with the skills and knowledge to proficiently perform the function of a radar, time-distance, and lidar operator. This course shall be for a period not to exceed four consecutive weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director

determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students which may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waiver granted pursuant to this Section shall only apply to courses which began during the effective period of the State of Emergency.

(b) Only employed or appointed personnel of a law enforcement agency may be enrolled in the radar/time-distance/lidar speed measurement instrument operator training course. Such a trainee shall not be certified as a radar, time-distance, and lidar speed measurement instrument operator until the basic law enforcement training course has been successfully completed and probationary or general law enforcement certification has been granted. Sheriffs, deputy sheriffs, and federal law enforcement personnel, including armed forces personnel, shall be allowed to participate in radar, time-distance, and lidar speed measurement instrument operator training courses the on a space available basis at the discretion of the school director without having enrolled in or having successfully completed the basic law enforcement training course and without being currently certified in a probationary status or holding general law enforcement certification. The radar/time-distance/lidar operator training course required for radar, time-distance, and lidar operator certification shall include the topic areas and number of hours as outlined in The Radar/Time-Distance/Lidar Operator Training Course. To qualify for radar, time-distance, and lidar operator certification, an applicant shall meet the requirements as outlined in The Radar/Time-Distance/Lidar Operator Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(c) The "Radar/Time-Distance/Lidar Operator Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the radar/time-distance/lidar operator training course for radar, time-distance, and lidar instrument operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Old Education Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385



Authority G.S. 17C-6.

SECTION .0400 - MINIMUM STANDARDS FOR COMPLETION OF TRAINING

12 NCAC 09B .0404 TRAINEE ATTENDANCE

(a) Each trainee enrolled in a certified Basic Law Enforcement Training Course shall attend all class sessions. The school director shall monitor the trainee's attendance at criminal justice training courses in which the trainee is enrolled.

(b) The school director may excuse a trainee from attendance at specific class sessions. However, in no case may excused absences exceed five percent of the total class hours for the course offering. A trainee shall not be eligible for administration of the State comprehensive examination and shall be dismissed from the course if the cumulative total of class absences exceeds five percent regardless of the prior completion of make-up work.

(c) If the school director grants an excused absence from a class session, he or she shall schedule make-up work and ensure the completion of such work during the current course presentation. The school director shall schedule instructors and reimburse those instructors for the purpose of completion of the make-up work. Absences that occur during the last 40 hours of the training course may be made up in a subsequent delivery; however, the school director shall notify the Standards Division prior to scheduling the make-up work.

(d) If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in instruction for an individual trainee in a specific course delivery, not to exceed 90 hours, when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
(2) The risk of harm to students which may be caused by continuation of the course;
(3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
(4) The specific need for the waiver; and
(5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to this Section shall be posted on the CJETS website at https://ncdoj.gov/law-enforcement-training/criminal-justice/. The waivers granted pursuant to this Section shall only apply to courses which began during the effective period of the State of Emergency.

(e) The School Director shall provide the following information to the Director of the Criminal Justice Standards Division for consideration:

- (1) a memorandum justifying the absence waiver;
(2) specific documentation related to the trainee's request; and
(3) a training completion plan pursuant to Paragraph (c) of this Rule.

(f)(d) A school director may terminate a trainee from course participation or may deny certification of successful course completion where the trainee is tardy to or departs early from class meetings or field exercises.

(g)(e) Where a trainee is enrolled in a program as required in 12 NCAC 09B .0212, .0213, .0214, .0215, .0218, .0219, .0220, .0221, .0222, .0237, .0238, .0239, or .0240, and the scheduled course hours exceed the requirements of the Commission, the trainee, upon the authorization of the school director, may be deemed to have satisfactorily completed the required number of hours for attendance provided the trainee's attendance is not less than 100 percent of the instructional hours as required by the Commission.

(h)(f) A trainee enrolled in a presentation of the "Criminal Justice Instructor Training Course" under Rule .0209 of this Subchapter shall not be absent from class attendance for more than 10 percent of the total scheduled delivery period in order to receive successful course completion.

(i)(g) A trainee, enrolled in a presentation of the "Specialized Firearms Instructor Training" course under Rule .0226 of this Subchapter, the "Specialized Driver Instructor Training" course under Rule .0227 of this Subchapter, the "Specialized Subject Control Arrest Techniques Instructor Training" course under Rule .0232 of this Subchapter, or the "Specialized Physical Fitness Instructor Training" course under Rule .0233 of this Subchapter, shall not be absent from class attendance for more than 10 percent of the total scheduled delivery period in order to receive successful course completion. Make-up work must be completed during the current course presentation for all absenteeism. The Director of the Criminal Justice Standards Division may grant a waiver for completion of course requirements in a course delivery scheduled within 12 months, for just cause based upon the circumstances that created the need for the absence. For the purposes of this Rule, "just cause" includes an accident, illness, emergency, or course cancellation that precluded the student from completing the entire course in one continuous course delivery.

(j)(h) A trainee, enrolled in a presentation of the "RADAR Instructor Training Course" under Rule .0210 of this Subchapter, the "Time-Distance Instructor Training Course" under Rule .0211 of this Subchapter, or the "LIDAR Instructor Training Course" under Rule .0237 of this Subchapter shall not be absent from class attendance for more than 10 percent of the total scheduled delivery period in order to receive successful course completion. Make-up work must be completed during the current course presentation for all absenteeism.

Authority G.S. 17C-6; 17C-10.

12 NCAC 09B .0417 SPECIALIZED EXPLOSIVES AND HAZARDOUS MATERIALS INSTRUCTOR TRAINING

(a) The instructor training course required for Specialized Explosives and Hazardous Materials Instructor Certification shall consist of a minimum of 59 hours of classroom instruction plus time required to complete Instructor Practicums presented during a continuous period of not more than two weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;

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- (2) The risk of harm to students which may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waiver granted pursuant to this Section shall only apply to courses which began during the effective period of the State of Emergency.

(b) Each Specialized Explosives and Hazardous Materials Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice explosives and hazardous materials instructor in a Basic Law Enforcement Training Course or a Law Enforcement Officers' Annual In-Service Training Program.

(c) Each applicant for Specialized Explosives and Hazardous Materials Instructor Training shall:

- (1) have completed either:
  - (A) the criminal justice instructor training course; or
  - (B) the Fire Service Instructor Methodology Course or the equivalent utilizing the Instructional Systems Design model, an international model with application in education, military training, and private enterprise;
- (2) present a written endorsement by either:
  - (A) a certified school director indicating the student will be utilized to instruct explosives and hazardous materials in Basic Law Enforcement Training Courses; or
  - (B) a department head, certified school director, or in-service training coordinator, indicating the student will be utilized to instruct explosives and hazardous materials training in the Law Enforcement Officer's Annual In-Service Training Program; and
- (3) present a completed OSHA Respirator Medical Evaluation Questionnaire, accompanied by a statement from a licensed medical professional stating the applicant is physically fit to participate in the course.

(d) Each Specialized Explosives and Hazardous Materials Instructor Training course shall include the following identified topic areas and minimum instructional hours for each area:

- (1) Orientation 2 Hours
- (2) Introduction to Hazardous Materials 1 Hour
- (3) Hazardous Materials Identification 2.5 Hours
- (4) Awareness Level Actions at Hazardous Materials Incidents 1.5 Hours

- (5) Chemical Properties and Hazardous Materials Behavior 3 Hours
- (6) Incident Management 3 Hours
- (7) Strategic Goals and Tactical Objectives 3.5 Hours
- (8) Terrorist and Other Criminal Activity 5 Hours
- (9) Personal Protective Equipment 5 Hours
- (10) Decontamination 5 Hours
- (11) Product Control 4 Hours
- (12) Air Monitoring and Sampling 1.5 Hours
- (13) Victim Rescue and Recovery 4 Hours
- (14) Evidence Preservation and Sampling 3 Hours
- (15) Illicit Laboratories 2 Hours
- (16) Introduction to Explosive Devices 1 Hour
- (17) Improvised Explosive Device Anatomy 2 Hours
- (18) Packaged Improvised Explosive Devices 1 Hour
- (19) Suicide/Homicide Improvised Explosive Devices 1 Hour
- (20) Vehicle Borne Improvised Explosive Devices 1 Hour
- (21) Radio Controlled Improvised Explosive Devices with Live Demonstration 5 Hours
- (22) Improvised Explosive Device Threat Response 1 Hour
- (23) Explosives and Hazardous Materials Emergencies and BLET Lesson Plan Review 1 Hour
- (24) Completion of tasks associated with Instructor Practicums. The number of required hours to complete this portion of the curriculum shall be based on the number of students and instructors.

(e) The basic curriculum for delivery of the Specialized Explosives and Hazardous Materials Instructor Training course shall be the Specialized Explosives and Hazardous Materials Instructor Training Manual," as published by the North Carolina Justice Academy. Copies of these publications may be inspected at the agency:

Criminal Justice Standards Division  
 North Carolina Department of Justice  
 1700 Tryon Park Drive  
 Raleigh, North Carolina 27610

and may be obtained at no cost to the student from the Academy at the following address:

North Carolina Justice Academy  
 Post Office Box 99  
 Salemburg, North Carolina 28385

(f) The North Carolina Justice Academy is certified to offer the Specialized Explosives and Hazardous Materials Instructor Training course.

*Authority G.S. 17C-6; 17C-10.*

**SUBCHAPTER 09G - STANDARDS FOR CORRECTIONS  
EMPLOYMENT, TRAINING, AND CERTIFICATION**

**SECTION .0400 – MINIMUM STANDARDS FOR  
TRAINING OF CORRECTIONAL OFFICERS,  
PROBATION/PAROLE OFFICER, AND  
PROBATION/PAROLE OFFICERS-SURVEILLANCE**

**12 NCAC 09G .0414 INSTRUCTOR TRAINING**

(a) The Instructor Training course required for General Instructor certification shall consist of at least the minimum number of hours of instruction as defined in 12 NCAC 09B .0209 to be completed within 15 business days. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students which may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waiver granted pursuant to this Section shall only apply to courses which began during the effective period of the State of Emergency.

(b) Each Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform the functions of a criminal justice instructor.

(c) The "Instructor Training Manual" published by the North Carolina Justice Academy shall be applied as the curriculum for instructor training courses. Copies of this publication may be inspected at the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1700 Tryon Park Drive  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be purchased at the cost of printing and postage from the North Carolina Justice Academy at the following address:

North Carolina Justice Academy  
Post Office Drawer 99  
Salemberg, North Carolina 28385

*Authority G.S. 17C-6.*

**12 NCAC 09G .0415 CORRECTIONS SPECIALIZED  
INSTRUCTOR TRAINING – FIREARMS**

(a) The instructor training course requirement for Corrections Specialized Instructor Training – Firearms certification shall consist of at least 80 hours of instruction presented during a period of not more than two consecutive weeks. If the Governor declares

a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students which may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waiver granted pursuant to this Section shall only apply to courses which began during the effective period of the State of Emergency.

(b) Each Corrections Specialized Instructor Training – Firearms course shall be designed to provide the trainee with the skills and knowledge to perform the function of a corrections firearms instructor in the "Basic Training – Correctional Officer" course, "Basic Training - Probation/Parole Officer" course, and in-service training courses for correctional officers and probation/parole officers.

(c) Each Corrections Specialized Firearms Instructor Training course shall include the following topical areas:

- (1) Course Overview;
- (2) Legal Considerations for Firearm Instructors;
- (3) Department of Public Safety, Division of Adult Correction Firearms Training Courses;
- (4) Firearms Safety;
- (5) Range Operations;
- (6) Medical Emergencies on the Range;
- (7) Handgun – Operation, Use and Maintenance:
  - (A) Handgun Training – Classroom and Range;
  - (B) Handgun Low/Limited Light Fire; and
  - (C) Handgun Care and Maintenance;
- (8) Advanced Handgun Training – Classroom and Range;
- (9) Shotgun Operation, Use and Maintenance:
  - (A) Shotgun Training – Classroom and Range;
  - (B) Shotgun Low/Limited Light Fire – Range; and
  - (C) Shotgun Care and Maintenance;
- (10) Special Techniques, Training Aids, and Methods;
- (11) Situational Use of Firearms:
  - (A) The Shooting Decision;
  - (B) Situational Use of Firearms;
  - (C) Situational Exercises – Day; and
  - (D) Situational Exercises – Low/Limited Light; and
- (12) Administrative Matters, Testing, and Evaluation.

(d) The Commission certified school that is certified to offer the "Corrections Specialized Instructor Training - Firearms" course is the Office of Staff Development and Training of the North Carolina Department of Public Safety.

Authority G.S. 17C-6.

**12 NCAC 09G .0416 CORRECTIONS SPECIALIZED INSTRUCTOR TRAINING - CONTROLS, RESTRAINTS, AND DEFENSIVE TECHNIQUES**

(a) The instructor training course requirement for corrections specialized controls, restraints, and defensive techniques (CRDT) instructor certification shall consist of at least 80 hours of instruction presented during a period of not more than two consecutive weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students which may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waiver granted pursuant to this Section shall only apply to courses which began during the effective period of the State of Emergency.

(b) Each corrections specialized controls, restraints, and defensive techniques instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a corrections controls, restraints, and defensive techniques instructor in the "Basic Training - Correctional Officer" course, "Basic Training - Probation/Parole Officer" course, and in-service training courses for correctional officers and probation/parole officers.

(c) Each corrections specialized controls, restraints, and defensive techniques instructor training course shall include the following topical areas:

- (1) Introduction to Controls, Restraints, and Defensive Techniques;
- (2) Physical Fitness/Warm-up and Stretching;
- (3) Response to Injury;
- (4) Basic Controls and Techniques;
- (5) Advanced Controls and Techniques;
- (6) Restraint Applications; and
- (7) CRDT Program Student Evaluations and Testing.

(d) The Commission-certified school that is certified to offer the "Corrections Specialized Instructor Training/Controls, Restraints, and Defensive Techniques" course is the Office of Staff Development and Training of the North Carolina Department of Public Safety.

Authority G.S. 17C-6.

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

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to amend the rule cited as 15A NCAC 13B .0832.*

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

**Proposed Effective Date:** *Pending Legislative Review*

**Public Hearing:**

**Date:** *January 20, 2022*

**Time:** *4:30 p.m.*

**Location:** *A virtual public hearing will be held by webinar as follows:*

*WebEx Event Meeting Link:*

*<https://ncdenrits.webex.com/ncdenrits/j.php?MTID=m8d8e13db4c07e1775d3a3094a7a544fa>*

*Event number: 2437 299 9427*

*Event password: 1234*

*To join by phone: Call +1-415-655-0003 US TOLL, enter access code*

*If you wish to attend the hearing, you must register before 5:00 p.m. on Wednesday, January 19, 2022.*

*The registration form can be found at the following link: <https://forms.office.com/g/W0q1wxabEQ>*

**Reason for Proposed Action:** *The proposed amendment changes the permit length for subsequent septage land application sites and septage detention and treatment facility permits from five years to ten years. This amendment was required by S.L. 2021-83, s. 3. The Session Law also implemented the change to the permit length directly, beginning July 1, 2021.*

**Comments may be submitted to:** *Adam Ulishney, 1646 M.S.C., Raleigh, NC 27699-1646; email [dwm.publiccomments@ncdenr.gov](mailto:dwm.publiccomments@ncdenr.gov)*

**Comment period ends:** *February 14, 2022*

**Rule is automatically subject to legislative review:** *S.L. 2021-83, s. 3.(d)*

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

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

**CHAPTER 13 - SOLID WASTE MANAGEMENT**

SUBCHAPTER 13B - SOLID WASTE MANAGEMENT

SECTION .0800 - SEPTAGE MANAGEMENT

15A NCAC 13B .0832 GENERAL PROVISIONS

(a) General permitting requirements.

- (1) No person shall manage septage, or any part of septage, or operate a Septage Management Firm without first obtaining a permit from the Division as required under G.S. 130A-291.1(c);
- (2) The permit requirement of G.S. 130A-291.1(c) applies to persons who remove septage, and other waste materials or spent media from wastewater systems permitted by the Department of Health and Human Services, under the authority of Article 11, Chapter 130A of the North Carolina General Statutes;
- (3) The permit requirement of G.S. 130A-291.1(c) applies to persons who manage septage generated from properties that they own, lease, or manage as part of a business, such as mobile homes, mobile home parks, restaurants, and other residential and commercial property;
- (4) The Division may deny a permit application in accordance with G.S. 130A-295.3(c);
- (5) The Division may require an applicant to demonstrate substantial compliance in accordance with G.S. 130A-294(b2)(2);
- (6) Permits issued in accordance with this Section shall be followed;
- (7) Where specified in this Section, permit applications or specific portions of applications shall be prepared in accordance with Rule .0202(a)(3) of this Subchapter; and
- (8) Initial septage land application site and detention and treatment facility permits shall be valid for one year. Subsequent permits shall be valid for ~~five~~ 10 years. The Division may issue a subsequent permit for less than ~~five~~ 10 years based on any of the following factors:
  - (A) the duration of the landowner authorization or wastewater treatment plant authorization;
  - (B) the compliance history of the operator;
  - (C) if any of the information for the permit application was received after the due date; or
  - (D) to allow the due date for a subsequent permit application to be the same date as the septage firm permit application due date.

(b) Portable sanitation permitting provisions.

- (1) A mobile or modular office that meets the criteria of G.S. 130A-291.2 shall be considered a chemical or portable toilet as defined in G.S. 130A-290(a)(1c). A storage tank at a mobile or modular office shall not release septage onto the ground. The owner and the lessee of the mobile or modular office shall be considered to

be the responsible parties and shall be subject to the requirements of Paragraph (a) of this Rule.

- (2) No person shall rent or lease portable toilet(s) or contract or subcontract to rent or lease portable toilet(s) to another person or manage or dispose of waste from portable toilet(s), regardless of ownership of the toilet(s), unless that person is permitted to operate a septage management firm.

- (3) Placement of a chemical or portable toilet as defined in G.S. 130A-290(a)(1c) for potential use in North Carolina shall be considered operation of a septage management firm that requires a permit.

(c) Recreational vehicle waste provisions.

- (1) Domestic septage from a recreational vehicle shall be managed in accordance with this Section or shall flow directly into a wastewater treatment system permitted by the Department of Environmental Quality.

- (2) Wastewater from recreational vehicles that are tied down, blocked up, or that are not relocated, and that are not connected to an approved wastewater system shall be managed in accordance with Article 11, Chapter 130A of the NC General Statutes.

- (3) Recreational vehicle dump stations that do not discharge directly to a wastewater treatment system permitted by the Department of Environmental Quality shall be permitted as a septage detention and treatment facility in accordance with Rule .0837 of this Section.

(d) Alternate septage management method limitations.

- (1) Grease septage, or any part of grease septage, shall not be introduced or reintroduced into a grease trap, interceptor, separator, or other appurtenance used for the purpose of removing cooking oils, fats, grease, and food debris from the waste flow generated from food handling, preparation, and cleanup unless the Division has received written approval from the wastewater treatment plant operator or the onsite wastewater system permitting authority that reintroduction is acceptable.

- (2) Septage, or any part of septage, shall not be reintroduced into an onsite wastewater system unless approved pursuant to G.S. 130A-343(c).

- (3) Septage, or any part of septage, shall not be placed in containers at restaurants designated for yellow grease.

- (4) Septage, or any part of septage, shall not be disposed of in a municipal solid waste landfill unless the waste passes the Paint Filter Liquids Test as defined by EPA S.W. 846 Test Method 9095B which can be accessed at no cost at <https://www.epa.gov/hw-sw846>, and the landfill receiving the waste has provided the Division written documentation that the specific material will be accepted.

- (5) Septage, or any part of septage, shall not be disposed of in a dumpster unless the waste passes the Paint Filter Liquids Test and the landfill receiving the waste is a permitted municipal solid waste landfill, in accordance with Section .1600 of this Subchapter.
- (6) Septage, or any part of septage, managed through subsurface disposal shall be considered a treatment facility and shall require a permit in accordance with this Section and G.S. 130A-343.
- (7) Facilities receiving septage, or any part of septage, for composting shall be permitted in accordance with Section .1400 of this Subchapter.

(e) All training to meet the requirements of G.S. 130A-291.3(a) and (b) shall be pre-approved by the Division. Approval by the Division shall be based on whether the training is in accordance with the rules in this Section.

(f) Waste from holding tanks not otherwise addressed in this Section, and from wastewater systems pumped more often than every 30 days, shall not be considered domestic septage and shall not be land applied at a permitted septage land application site.

(g) Inspection and entry. The permit holder of a septage management firm or facility shall allow a representative of the Division to:

- (1) enter the permit holder's premises where a regulated facility or activity is located or conducted;
- (2) access and copy any records required in accordance with this Section or conditions of the permit;
- (3) inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated by the Division;
- (4) sample or monitor for the purposes of assuring permit compliance or as otherwise authorized by the Federal Clean Water Act or the North Carolina Solid Waste Management Act, any substances, parameters, or soils at any location; and
- (5) photograph for the purpose of documenting times of compliance or noncompliance at septage management facilities or to require the permit holder to make such photos for the Division.

(h) Washings from the interior of septage handling containers such as pump trucks shall be managed as septage.

*Authority G.S. 130A-291.1; 130A-291.2; 130A-295.3(c); 130A-335.*

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

**CHAPTER 46 – BOARD OF PHARMACY**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Pharmacy intends to amend the rules cited as 21 NCAC 46 .1503, .1612, .1613, and .1615.*

**Link to agency website pursuant to G.S. 150B-19.1(c):** [www.ncbop.org/rulemakings.htm](http://www.ncbop.org/rulemakings.htm)

**Proposed Effective Date:** April 1, 2022

**Public Hearing:**

**Date:** February 8, 2022

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

**Location:** *The public hearing will be held remotely. The public can participate on Teams at <https://tinyurl.com/jsuk4bjk> or may call 336-604-5350, conference ID 903 191 899#.*

**Reason for Proposed Action:** *The Pharmacy Practice Act requires all applicants for initial licensure and certain reinstatement and reciprocity candidates to complete practical experience in order to be licensed, and further requires the Board of Pharmacy to adopt regulations to "assure that the person successfully completing the program will have gained practical experience that will enable him to safely and properly practice pharmacy." NCGS 90-85.14. Those gaining practical experience are regularly and collectively referred to as "pharmacy interns." The Board has proposed to amend Rule .1503 to provide for a uniform system by which those gaining practical experience can sign up with the Board and can easily document and verify their practical experience hours through an on-line system. Moreover, in recent years, a handful of individuals have falsely claimed to be pharmacy students or recent graduates who were entitled to work as pharmacy interns, who are allowed to engage in all acts constituting the practice of pharmacy under the supervision of pharmacists. These individuals who lacked pharmacy educational training thereby created a risk of harm to the public safety, health and welfare in order to defraud their employers. This was made easier because, previously, in order to verify whether an individual was entitled to work as a pharmacy intern, that individual's prospective employer would have to contact pharmacy schools directly. The new uniform system will make it easier to ensure that only those who are entitled to work as pharmacy interns are able to do so. In addition to amending Rule .1503, the Board has proposed to adopt conforming amendments to other rules to appropriately reference and account for the changes to Rule .1503.*

**Comments may be submitted to:** Jay Campbell, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517; fax (919) 246-1056; email [ncboprulemaking@ncbop.org](mailto:ncboprulemaking@ncbop.org)

**Comment period ends:** February 14, 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 984-236-1850.

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

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

**SECTION .1500 - ADMISSION REQUIREMENTS: EXAMINATIONS**

**21 NCAC 46 .1503 EXPERIENCE IN PHARMACY AND PHARMACY INTERNSHIP**

(a) An applicant for license must show that ~~he~~ the applicant has received 1500 hours of practical experience under the supervision of a licensed pharmacist which has been acquired while enrolled in a school of pharmacy accredited by the Accreditation Council for Pharmacy Education, after the satisfactory completion of two years of college work. The Board shall accept hours of experience certified by the school from which the applicant has graduated.

(b) All practical pharmacy experience gained within the State of North Carolina to be acceptable must be acquired under the general conditions approved by the Board as follows:

- (1) All practical pharmacy experience must be validated through registration in the internship program administered by the Board. A person does not receive credit for any practical experience unless and until that person is registered with the Board as a pharmacy intern.
- (2) ~~Persons working under the supervision of registered pharmacists and expecting to qualify for the registered pharmacist examination must notify the Board within five days of the beginning and the ending of such employment.~~ Practical experience shall be credited only when it has been obtained in a location holding a pharmacy permit, or a location approved by the Board for that purpose, and only after the pharmacy intern notifies the Board of the location of the practical experience. If the pharmacy intern's location of employment changes, the pharmacy intern must notify the Board of the change before commencing an internship at the new location.
- (3) The person acquiring practical experience shall at all times comply with the Board's rules and the laws governing the practice of pharmacy and the distribution of drugs. Failure of the pharmacist intern to do so is grounds to

disqualify the experience from counting toward the minimum requirements.

~~(3)~~(4) The Board shall accept hours of experience certified by the school from which the applicant has graduated, provided that the applicant has satisfied the foregoing Subparagraphs of Paragraph (b). The Board shall not allow credit for claims of practical experience required under the pharmacy laws, unless such claims can be corroborated by records on file in the Board's office showing the beginning and the ending of the practical experience claimed as supplied by the applicant during this training period.

(4) ~~Practical experience shall be credited only when it has been obtained in a location holding a pharmacy permit, or a location approved by the Board for that purpose.~~

(c) A person is eligible to register or renew and be employed as a pharmacy intern only if, and so long as, the person is:

- (1) Currently enrolled in a pharmacy school accredited by the Accreditation Council for Pharmacy Education. In order to qualify as "enrolled" in a pharmacy school, the student must be attending pharmacy school at the time, or on a break between academic terms;
- (2) A graduate of a foreign school of pharmacy who has successfully completed the Foreign Pharmacy Graduate Equivalency Examination offered by the National Association of Boards of Pharmacy and the Test of English as a Foreign Language and who is acquiring the practical experience required for licensure;
- (3) A pharmacist licensed in another state who is gaining practical experience required for a license by reciprocity under Rule .1602 of this Chapter;
- (4) A pharmacist with an inactive North Carolina license who is gaining practical experience required for reinstatement of a license under Rule .1612 of this Chapter;
- (5) A graduate of a school of pharmacy who has not been licensed in any State, who has not been denied a license in any State, who has an active application for licensure to practice pharmacy in North Carolina and who has met all requirements for licensure other than taking and passing the North American Pharmacist Licensure Examination and the Multistate Pharmacy Jurisprudence Examination, and who is gaining practical experience to prepare for the examination in order to achieve licensure.

(d) In order to register or renew as a pharmacy intern, an applicant must submit proof of eligibility under Paragraph (c) of this Rule. The applicant further must provide releases for the Board to verify the applicant's eligibility, including confirming enrollment in or graduation from pharmacy school.

(e) Pharmacy intern registrations are valid until the September 1 immediately following registration. If the person remains eligible

for registration as a pharmacy intern, the registration must be renewed during the month prior to the September 1 on which the registration expires. If the registration expires for a pharmacy intern, that person is not eligible to work as a pharmacy intern in the State of North Carolina unless and until the registration is reinstated after a new application.

(f) If a pharmacy intern ceases to be eligible to be registered and employed as a pharmacy intern under Paragraph (c) of this Rule, that person must immediately cease working as a pharmacy intern, and must notify the Board within five calendar days of a change in status and request that the person's registration be made inactive.

~~(e) The pharmacist intern, or student, and the pharmacist preceptor, or supervising pharmacist, shall at all times comply with the Board's rules and the laws governing the practice of pharmacy and the distribution of drugs. Failure of the pharmacist intern to do so is grounds to disqualify the period of experience from counting toward the minimum requirements. A pharmacist preceptor who causes or permits a pharmacist intern to violate the Board's rules or the laws governing the practice of pharmacy and the distribution of drugs forfeits his right to supervise such experience for a period of time determined by the Board. A pharmacist who has been found in violation of laws, rules, or regulations governing the practice of pharmacy and the distribution of drugs cannot serve as a preceptor without the approval by the Board.~~

~~(d)(g)~~ The Board may accept training in pharmacy gained in another state pursuant to internship registration in this or another state if the Board is satisfied that such training is equivalent.

(h) A registered pharmacy intern working under a pharmacist preceptor or supervising pharmacist may, while under supervision of that pharmacist, perform all acts constituting the practice of pharmacy. Because the pharmacy intern may perform all acts constituting the practice of pharmacy under supervision under this provision, doing so without being registered with the Board is the unlicensed practice of pharmacy.

(i) A pharmacist preceptor or pharmacist-manager who causes or permits a pharmacy intern to violate any laws, rules or regulations applicable to the practice of pharmacy or the distribution of drugs forfeits his or her right to supervise pharmacy interns for a period of time determined by the Board and is subject to additional disciplinary action. A pharmacist preceptor or pharmacist-manager who violates any laws, rules or regulations applicable to the supervision of pharmacy interns forfeits his or her right to supervise pharmacy interns for a period of time determined by the Board and is subject to additional disciplinary action. This includes, but is not limited to, making false representations or withholding material information about the pharmacy intern's practical experience or employing a pharmacy intern who is not registered with the Board. A pharmacist who has been found in violation of laws, rules, or regulations governing the practice of pharmacy and the distribution of drugs cannot serve as a preceptor without the approval by the Board.

(j) The Board may consider any of the acts set forth in G.S. 90-85.38(a) that are committed by a pharmacy intern in considering whether to grant that person a license to practice pharmacy or what conditions are appropriate to ensure that the person can practice pharmacy safely.

(k) The practical experience hours gained prior to the effective date of any amendment to this Rule are governed by the requirements of this Rule in effect at the time the hours were obtained.

*Authority G.S. 90-85.6; 90-85.14; 90-85.15; 90-85.38.*

## SECTION .1600 - LICENSES AND PERMITS

### 21 NCAC 46 .1612 REINSTATEMENT OF LICENSES AND PERMITS

(a) All licenses and registrations issued to individuals ~~Pharmacist licenses, pharmacy technician registrations, dispensing physician registrations, dispensing physician assistant registrations, and dispensing nurse practitioner registrations~~ that are not renewed by March 1 of the succeeding year, lapse and are subject to the maximum reinstatement and renewal fees set out in G.S. 90-85.24 in order to be reinstated.

(b) All pharmacy permits and device and medical equipment permits and registrations issued to locations that are reinstated after March 1 and prior to April 1 of the succeeding year are subject to the maximum reinstatement and renewal fees set out in G.S. 90-85.21A and 90-85.24. After March 31, ~~permits and registrations issued to locations~~ holders of lapsed permits shall submit new applications and are subject to the maximum original registration fees. ~~This Rule also applies to licenses, registrations, and permits reinstated following voluntary surrender or disciplinary action by the Board.~~

~~(b) All applicants shall submit to the Board a signed release form, completed Fingerprint Record Card, and such other form(s) required to perform a criminal history check at the time of application.~~

(c) Pharmacy intern registrations are governed by Rule .1503 of this Chapter.

(d) In order to apply to have a license, permit or registration reinstated following a voluntary surrender or disciplinary action, the applicant must complete a reinstatement application and pay the maximum reinstatement fee allowed by G.S. 90-85.24.

~~(e)(e)~~ The Board shall require applicants for reinstatement of a lapsed license who have not practiced pharmacy within two years prior to application for reinstatement to obtain continuing education in addition to that required by Rule .2201 of this Chapter, practical pharmacy experience, successfully complete one or more parts of the Board's licensure examination, or a combination of the foregoing, as the Board deems necessary to ensure that the applicant can safely and properly practice pharmacy.

~~(d)(f)~~ The Board shall also restrict licenses reinstated pursuant to G.S. 90-85.19 for such period of time as the Board deems necessary to ensure that the applicant can safely and properly practice pharmacy.

(g) All applicants for reinstatement of a license shall submit to the Board a signed release form, completed Fingerprint Record Card, and such other form(s) required to perform a criminal history check at the time of application. If the applicant withdraws the reinstatement application or the Board denies it, no fees will be refunded to the applicant.



Authority G.S. 90-85.6; 90-85.15A; 90-85.17; 90-85.19; 90-85.21; 90-85.21A; 90-85.22; 90-85.24.

21 NCAC 46 .1613 EXTENSION PERIOD FOR CERTAIN MEMBERS OF THE ARMED FORCES

(a) Definitions:

- (1) "Eligible licensee" means a pharmacist who holds a license in good standing from the Board of Pharmacy, who serves the armed forces of the United States, and who is eligible for an extension of time in which to file a tax return pursuant to G.S. 105-249.2. "Eligible licensee" includes a pharmacist who holds a Clinical Pharmacist Practitioner credential or who is a pharmacist vaccinator.
(2) "Eligible registrant" means a pharmacy intern, pharmacy technician, dispensing physician, dispensing nurse practitioner or dispensing physician assistant who holds a registration in good standing from the Board of Pharmacy, who serves the armed forces of the United States, and who is eligible for an extension of time in which to file a tax return pursuant to G.S. 105-249.2.
(3) "Extension period" means the time period specified in 26 U.S. Code 7508.
(4) "Good standing" means a license or registration that is not suspended, revoked or subject to a current disciplinary order.

(b) Extension of time to pay license or registration renewal fee and waiver of continuing education requirements:

- (1) An eligible licensee or registrant shall notify the Board of eligibility for the extension period before his or her current license or registration expires. Upon such notification, the Board shall maintain the license or registration in active status through the extension period.
(2) If an eligible licensee or registrant fails to notify the Board of eligibility for the extension period before his or her current license or registration expires, upon receipt and acceptance of a renewal application within the extension period and presentation of proof that the licensee or registrant was an eligible licensee or registrant on the date that is the deadline for renewal, the expired license or registration shall be deemed retroactively to have not expired.
(3) Notwithstanding 21 NCAC 46 .1612(a) and .3301(a), an eligible licensee or registrant who submits a renewal application and pays the renewal fee required by the Board within the extension period shall not be deemed to hold a lapsed license or registration subject to reinstatement fees.
(4) Notwithstanding 21 NCAC 46 .2201, .3101(d) and .2507(d), an eligible licensee may renew his or her license within the extension period despite failing to complete the specified continuing education requirements.

- (5) A licensee or registrant shall provide proof of eligibility for the extension period when the licensee or registrant submits the renewal application.

Authority G.S. 90-18.1; 90-18.2; 90-85.6; 90-85.15A; 90-85.17; 90-85.21(b); 90-85.24; 90-85.26A; 93B-15.

21 NCAC 46 .1615 E-PROFILE NUMBER REQUIRED FOR LICENSE, PERMIT, OR REGISTRATION

- (a) As part of the application for issuance or renewal of any in-state or out-of-state pharmacy permit, device and medical equipment permit, license to practice pharmacy, pharmacy intern registration, or pharmacy technician registration issued by the Board, the permittee, licensee, or registrant must report an e-Profile number to the Board.
(b) An e-Profile number is a unique identifier for permittees, licensees, and registrants that allows for the accurate identification and collection of licensure, disciplinary, inspection, and other information in a secured electronic profile.
(c) An applicant, permittee, licensee, or registrant may obtain an e-Profile number at no cost by contacting the National Association of Boards of Pharmacy by phone at (847) 391-4406; by mail at 1600 Feehanville Drive, Mount Prospect, Illinois 60056; or electronically at www.nabp.pharmacy.
(d) Any person or entity holding a permit, license, or registration as of the effective date of this rule must obtain an e-Profile number prior to renewal of the permit, license, or registration for 2018.

Authority G.S. 90-85.6; 90-85.14; 90-85.15; 90-85.15A; 90-85.17; 90-85.20; 90-85.21; 90-85.21A; 90-85.22.

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Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Pharmacy intends to amend the rules cited as 21 NCAC 46 .1606 and .1607.

Link to agency website pursuant to G.S. 150B-19.1(c): www.ncbop.org/rulemakings.htm

Proposed Effective Date: April 1, 2022

Public Hearing:

Date: February 8, 2022

Time: 10:00 a.m.

Location: The public hearing will be held remotely. The public can participate on Teams at https://tinyurl.com/jsuk4bjk or may call 336-604-5350, conference ID 903 191 899#.

Reason for Proposed Action: The current rules require the pharmacist-manager for each permit applicant to meet personally with Board staff before the Board will grant a permit. These meetings have traditionally been a means of imparting knowledge about North Carolina pharmacy law and Board procedures. These meetings are an inefficient way to provide that information, and the result of that burden has been that out-of-state permit applicants often have not named their actual pharmacist-manager

as the pharmacist-manager on their North Carolina applications, thereby creating a disconnect between the person who is legally responsible for their compliance with North Carolina law and the person who actually supervises the pharmacy. The principal purposes of the proposed changes are to substitute an on-line educational module in place of the in-person meeting, and to require that the pharmacist-manager on the North Carolina permit match the pharmacist-manager in the pharmacy's home state. In addition, Rule .1607 concerning out-of-state pharmacy permits has not been revised in 15 years. The Board has proposed general updates to that Rule largely in order to (a) clarify and emphasize certain matters that have been subject to periodic questions from the regulated entities, (b) more accurately reflect modern Board procedures and practices, (c) remove repetitive requirements contained elsewhere, and (d) refer to other laws and rules covering certain matters, rather than attempting to restate them, which has resulted in incomplete, inconsistent and confusing descriptions of those laws.

Comments may be submitted to: Jay Campbell, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517; fax (919) 246-1056; email ncboprulmaking@ncbop.org

Comment period ends: February 14, 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 984-236-1850.

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

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

**SECTION .1600 - LICENSES AND PERMITS**

**21 NCAC 46 .1606 REQUIREMENT OF PERSONAL APPEARANCE NORTH CAROLINA-SPECIFIC EDUCATION FOR PERMIT APPLICANTS**

Prior to issuance of any original pharmacy permit or device and medical equipment permit, the following persons must appear personally at the Board office on the first Monday of the month,

~~the Monday before the monthly Board meeting, or such other time as scheduled with the Board's staff:~~

- ~~(1) the pharmacist-manager for the applicant pharmacy or pharmacy; and~~
- ~~(2) the person in charge of the facility applying for the device and medical equipment permit.~~ permit shall complete an educational module on the North Carolina Pharmacy Practice Act and its regulations that govern the operation of permits. That educational module is available in the on-line permit application section of the Board's Licensure Gateway. The pharmacist-manager or person in charge must personally complete the educational module and may not delegate this responsibility to any other person.

Authority G.S. 90-18.1; 90-18.2; ~~90-85.3(a),(r);~~ 90-85.6; 90-85.21; 90-85.21A; 90-85.22.

**21 NCAC 46 .1607 OUT-OF-STATE PHARMACIES**

(a) In order to protect the public health and safety and implement G.S. 90-85.21A, the following provisions apply to out-of-state pharmacies that ship, mail, or deliver in any manner a dispensed legend ~~drug drug, device, or medical equipment~~ into this State.

(b) An out-of-state pharmacy may not ship, mail, or deliver in any manner even a single dispensed legend drug, device, or medical equipment into this State unless and until it receives a permit from this Board. All unpermitted dispensing must be disclosed on any permit application, and any permit applicant must update any application within 24 hours of any dispensing that occurs while a permit application is pending. The Board may deny a permit based on that dispensing or on a failure to disclose it.

(c) Pursuant to G.S. 90-85.21A, an out-of-state pharmacy must comply with the provisions of the Pharmacy Practice Act and its regulations, as well as the provisions of the laws of the state in which the pharmacy is located. In addition, these Such pharmacies shall:

- ~~(1) Maintain, in readily retrievable form, records of prescription drugs dispensed to North Carolina residents;~~
- ~~(2)(1) Supply all information requested by the Board in carrying out the Board's responsibilities under the statutes and rules pertaining to out-of-state pharmacies;~~
- ~~(3)(2) During the pharmacy's regular hours of operation but not less than six days per week, for a minimum of 40 hours per week, provide a toll-free telephone service to facilitate communication between patients and pharmacists at the pharmacy who have access to the patient's records. This toll-free number must be disclosed on the label for each dispensed drug, device, or medical equipment; affixed to each container of dispensed drugs;~~
- ~~(4)(3) Comply with all USP and FDA requirements regarding the storage, packaging, and shipping of drugs, devices and medical equipment; prescription medications;~~

- (5)(4) Develop policies governing:
  - (A) normal delivery protocols and times;
  - (B) the procedure to be followed if the patient's ~~medication~~ drug, device, or medical equipment is not available at the out-of-state pharmacy, or if delivery will be delayed beyond the normal delivery time;
  - (C) the procedure to be followed upon receipt of a prescription for an acute illness, which shall include a procedure for delivery of the drug, device, or medical equipment ~~medication~~ to the patient from the out-of-state pharmacy at the earliest possible time (such as courier delivery), or an alternative that assures the patient the opportunity to obtain the drug, device, or medical equipment ~~medication~~ at the earliest possible time; and
  - (D) the procedure to be followed when the out-of-state pharmacy is advised that the patient's ~~medication~~ drug, device, or medical equipment has not been received within the normal delivery time and that the patient is out of ~~medication~~ the drug, device, or medical equipment and requires interim dosage until the pharmacy can provide the drug, device, or medical equipment; ~~mail prescription drugs become available~~;
- (6)(5) Disclose the location, names, and titles, of all ~~officers principal corporate officers, if incorporated, and if unincorporated, partners, or owners~~ (whether direct or indirect) of the pharmacy. Disclose the names and license numbers of all pharmacists dispensing drugs, devices, or medical equipment ~~prescription legend drugs~~ to an ultimate user in this State, the names and, if available, license or registration numbers of all supportive pharmacy personnel employed by the out-of-state pharmacy who assist such pharmacists in such dispensing. The pharmacist-manager for the out-of-state permit issued by this Board must be the same person as the pharmacist-manager (whether called a pharmacist-manager, a person-in-charge or otherwise) of the pharmacy on the permit issued by the pharmacy's home state. A report containing this information shall be made on an annual basis and within 30 days of each change of any ~~principal office, pharmacist manager of any location dispensing prescription legend drugs to an ultimate user in this State, principal corporate officer if incorporated, and if unincorporated, partner pharmacist-manager,~~

officer, or owner (whether direct or indirect) of the pharmacy. A new ~~registration permit~~ shall be required under the circumstances set out in Rule .1603 of this Section, and a new permit must be secured before any legend drugs, devices or medical equipment may be dispensed into the State of North Carolina following any of the enumerated changes in circumstances. The existing permit becomes void upon one of the events in Rule .1603 of this Section, and any dispensing into the State of North Carolina following one of those events is unlawful and grounds for denial of a new permit; for a change of ownership of an established pharmacy to a successor business entity which results in a change in the controlling interest in the pharmacy;

(7)(6) Submit evidence of possession of a valid license, permit, or registration as a pharmacy in compliance with the laws of the state in which the pharmacy is ~~located~~; located. Such evidence shall consist of one of the following:

- (A) ~~a copy of the current license, permit, or registration certificate issued by the regulatory or licensing agency of the state in which the pharmacy is located;~~ or
- (B) ~~a letter from the regulatory or licensing agency of the state in which the pharmacy is located certifying the pharmacy's compliance with the pharmacy laws of that state;~~

(8)(7) Designate a ~~resident registered office and registered agent in North Carolina for service of process. process pursuant to Article 4 of Chapter 55D of the North Carolina General Statutes. The Board may serve or deliver any notice or other document provided for under the Pharmacy Practice Act or these Rules on that registered agent. The Board may further serve or deliver any notice or other document provided for under the Pharmacy Practice Act or these Rules on the Secretary of State when the Secretary of State becomes an agent of the entity pursuant to Article 4 of Chapter 55D of the North Carolina General Statutes; Any such out-of-state pharmacy that does not so designate a resident agent shall be deemed to have appointed the Secretary of State of the State of North Carolina to be its true and lawful attorney upon whom process may be served. All legal process in any action or proceeding against such pharmacy arising from shipping, mailing or delivering prescription drugs in North Carolina shall be served on the resident agent. In addition, a copy of such service of process shall be mailed to the out of state pharmacy by certified mail, return receipt requested, at the address of the out of state~~

pharmacy as designated on the registration form filed with the Board. Any out-of-state pharmacy which does not register in this State, shall be deemed to have consented to service of process on the Secretary of State as sufficient service.

- (8) Notify the Board within five days of receipt of any order or decision by a Board of Pharmacy or other state or federal agency imposing discipline of any sort on the pharmacy, or receipt of any warning letter from the Food and Drug Administration; and
- (9) Within five days of receipt, provide the Board with any inspection report from any other state's board of pharmacy or other agency that regulates the pharmacy, the Food and Drug Administration, or the National Association of Boards of Pharmacy.

~~(e)~~(d) The facilities and records of an out-of-state pharmacy shall be subject to inspection by the Board; provided however, the Board may accept in lieu thereof satisfactory inspection reports by the licensing entity of the state in which the pharmacy is located. located or records transmitted by the pharmacy to the Board offices.

~~(d)~~ An out-of-state pharmacy shall comply with the statutes and regulations of the state in which the pharmacy is located.

(e) Any person who ships, mails, or delivers prescription drugs to North Carolina residents from more than one out-of-state pharmacy location shall register each pharmacy separately.

(f) An out-of-state permit holder may be disciplined pursuant to G.S. 90-85.38(b) based on the conduct of its pharmacy personnel, even if those pharmacy personnel are not licensed or registered with the Board. The suspension or revocation of the pharmacy's home state permit will result in the immediate suspension or revocation of the out-of-state permit issued by this Board. Prior to original registration, a pharmacist who is an authorized representative of the pharmacy's owner must appear personally at the Board office on the first Monday of the month, the Monday before the monthly Board meeting, or such other time as scheduled with the Board's staff. Such authorized pharmacist may represent all pharmacies having the same ownership.

(g) An out-of-state pharmacy shall report to the Board information that reasonably suggests that there is a probability that a prescription drug or device dispensed from such out-of-state pharmacy has caused or contributed to the death of any patient. The report shall be filed in writing on a form provided by the Board within 14 days of the pharmacy becoming aware of the death. The Board may not disclose the identity of any person or entity making the report, except when it is necessary to protect life or health of any person. No such report in possession of the Board shall be discoverable or admissible into evidence or otherwise used in any civil action involving private parties, except as otherwise required by law.

~~(h)~~ The Board may, in accordance with Chapter 150B of the General Statutes, issue a letter of reprimand or suspend, restrict, revoke, or refuse to grant or renew registration to an out-of-state pharmacy if such pharmacy has:

- ~~(1) made false representations or withheld material information in connection with obtaining registration;~~
- ~~(2) been found guilty of or plead guilty or nolo contendere to any felony in connection with the practice of pharmacy or the distribution of drugs;~~
- ~~(3) made false representations in connection with the practice of pharmacy that endanger or are likely to endanger the health or safety of the public, or that defraud any person;~~
- ~~(4) failed to comply with this Rule;~~
- ~~(5) been the subject of a negligence complaint resulting from the dispensing of prescription drugs to a resident of North Carolina and based on an investigation of such complaint been found to be negligent:~~

~~(A) by the Board of Pharmacy of the state in which the pharmacy is located;~~

~~(B) by the North Carolina Board of Pharmacy if the Board of Pharmacy of the state where the pharmacy is located failed to initiate an investigation of such complaint within 45 days after referral of the complaint from the North Carolina Board of Pharmacy; or~~

~~(C) by the North Carolina Board of Pharmacy if the Board of Pharmacy of the state where the pharmacy is located initiates an investigation of such complaint within 45 days, but later advises the North Carolina Board that it will not make a determination of negligence or that it has made no determination of the issue of negligence within one year after referral of the complaint and has discontinued any active investigation or proceeding for such determination. In any disciplinary proceeding based on negligence, the standard of practice shall be that applicable in the state in which the pharmacy is located. In disciplinary proceedings pursuant to Part (h)(5)(A) of this Rule, the Board shall adopt the findings of negligence by the Board of Pharmacy of the state in which the pharmacy is located as part of the Board's final decision without producing its own evidence of negligence.~~

~~(i) An out-of-state pharmacy shall notify the Board within five days of receipt of any order or decision by a Board of Pharmacy imposing disciplinary action on the pharmacy. Notwithstanding the provisions of Paragraph (h) of this Rule, if the permit or registration in the state where the pharmacy is located is suspended or revoked, then the pharmacy's registration in North~~

~~Carolina will be immediately suspended or revoked for the same period of time.~~

~~(j)(g)~~ An out-of-state pharmacy registration permit shall expire on December 31 of each year.

~~(k)(h)~~ The fees provided for in G.S. 90-85.21A as maximum fees which the Board is entitled to charge and collect are hereby established as the fees for each original registration permit and for annual renewal of each permit. registration.

Authority G.S. 90-85.6; ~~90-85.15A~~; 90-85.21A; ~~90-85.22~~; 90-85.26; ~~90-85.28~~; ~~90-85.29~~; 90-85.30; 90-85.32.

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Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Pharmacy intends to adopt the rule cited as 21 NCAC 46 .2515.

Link to agency website pursuant to G.S. 150B-19.1(c): [www.ncbop.org/rulemakings.htm](http://www.ncbop.org/rulemakings.htm)

Proposed Effective Date: April 1, 2022

**Public Hearing:**

Date: February 8, 2022

Time: 10:00 a.m.

Location: The public hearing will be held remotely. The public can participate on Teams at <https://tinyurl.com/jsuk4bjk> or may call 336-604-5350, conference ID 903 191 899#.

**Reason for Proposed Action:** During the COVID public health emergency, North Carolina pharmacy personnel have been able to perform certain work outside the pharmacy under a Board of Pharmacy Emergency Services Waiver. Further, some other states' laws permit pharmacy personnel to perform remote work. During a recent notice and comment period for other Board rules, many commenters requested that the Board adopt the proposed rule, in order to provide for permitted pharmacy locations in North Carolina to allow remote work (other than physical acts in the dispensing process) on a permanent basis and to approve out-of-state permitted pharmacy locations to provide similar services for North Carolina patients to the extent permitted by their home states. The Board believes that the proposed rule will permit alternative work environments while ensuring processes and systems for patient safety.

Comments may be submitted to: Jay Campbell, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517; fax (919) 246-1056; email [ncboprulemaking@ncbop.org](mailto:ncboprulemaking@ncbop.org)

Comment period ends: February 14, 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 984-236-1850.

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

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

**SECTION .2500 - MISCELLANEOUS PROVISIONS**

**21 NCAC 46 .2515 REMOTE WORK BY PHARMACY PERSONNEL**

(a) Pharmacy personnel may perform pharmacy practice (other than any physical acts in the dispensing process) remotely with respect to drugs, devices, or medical equipment dispensed by the permitted pharmacy location by which they are employed. The pharmacist-manager must ensure that pharmacy personnel are able to perform at the same level of competence, attention, and proficiency as if the personnel were physically present in the pharmacy, including having secure access to the pharmacy's information system, and that all applicable state and federal laws and regulations are followed.

(b) Out-of-state permit holders may permit remote pharmacy practice by their own employees with respect to drugs, devices, or medical equipment dispensed by those pharmacy locations only to the extent permitted by the laws of the states in which they are located.

(c) This Rule does not include services provided by someone who is not an employee of the permitted pharmacy location that is dispensing the drug, device or medical equipment. Any such remote medication order entry services are governed by Rule .1816 of this Chapter.

Authority G.S. 90-85.6; 90-85.21; 90-85.21A; 90-85.26; 90-85.32; 90-85.34.

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**CHAPTER 65 – BOARD OF RECREATIONAL THERAPY LICENSURE**

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Recreational Therapy Licensure intends to amend the rules cited as 21 NCAC 65 .0301 and .0701.

Link to agency website pursuant to G.S. 150B-19.1(c): [www.ncbrtl.org](http://www.ncbrtl.org)

Proposed Effective Date: April 1, 2022

**Public Hearing:**

**Date:** January 14, 2022

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

**Location:** Virtual Zoom Meeting

<https://us06web.zoom.us/j/82499667864?pwd=NnpTTFBTejdOYWlDc3FJZWhoNzhtZz09C>

**Reason for Proposed Action:**

**21 NCAC 65 .0301** Professional standards have increased as well as content and number of courses have increased in universities therefore NCBRTL sees the need to also require additional coursework for basic competencies to six Recreational therapy content courses.

-NCBRTL is clarifying education and training is a part of recreational therapy practice so all recreational therapy content courses must be taught by a licensed recreational therapist.

-Update process for applying when internship supervisor cannot be located and remove outdate date.

-Clarify internship supervisor must be licensed throughout the entire internship. A person with an expired license can not supervise a recreational therapy intern.

**21 NCAC 65 .0701**-Clarification of reasons for a lapsed license due to nonpayment of Maintenance fees or non submission of Renewal requirements since there is no "Late Fee" or late forgiveness in the statute.

**Comments may be submitted to:** Becky Garrett, PO Box 2655, Durham, NC 27715; phone (336) 212-1133; email [becky@ncbrtl.org](mailto:becky@ncbrtl.org)

**Comment period ends:** February 14, 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 984-236-1850.

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

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

**SECTION .0300 – REQUIREMENTS FOR LICENSURE**

**21 NCAC 65 .0301 MINIMUM LEVEL OF EDUCATION AND COMPETENCY FOR LICENSED RECREATIONAL THERAPIST**

(a) For the purposes of G.S. 90C-27(a), a candidate for licensure as a recreational therapist shall have graduated from an accredited college or university with a baccalaureate degree or higher and with a major or specialization in recreational therapy or therapeutic recreation. The academic major or specialization shall be verified by an official transcript.

(b) For the purposes of this Rule, the following terms mean:

- (1) An "academic major" is defined as a degree in recreational therapy or therapeutic recreation.
- (2) A "specialization in recreational therapy or therapeutic recreation" is defined as a degree in recreation and leisure studies, or recreation, or health and physical education, or health and human performance with a specialization, also known as an option, emphasis, or concentration, in therapeutic recreation or recreational therapy.
- (3) An "accredited college or university" is defined as a college or university accredited by an accreditation body recognized by the United States Department of Education or by the Committee on Accreditation of Recreational Therapy Education (CARTE) under the Commission of Accreditation of Allied Health Education (CAAHEP).

(c) An academic major or specialization is defined by the following components:

- (1) Coursework for a degree or specialization in recreational therapy or therapeutic recreation shall reflect six courses, three hours per course in which the title, course description, and course outline reflects recreational therapy or therapeutic recreation content related to the "APIE(D) Process". Course titles may include Introduction or Foundations, Assessment, Planning, Implementation, Evaluation, Research, and Advancement of the Profession. Topics that should be addressed in classes should include Ethics, Standards of Practice, documentation. Recreational Therapy/Therapeutic Recreation coursework offered in North Carolina must be taught by a licensed recreational therapist (LRT) or out of state by a Certified Therapeutic Recreation Specialist (CTRS). For candidates for licensure who have passed the NCTRC examination and were certified by the National Council for Therapeutic Recreation Certification, a therapeutic recreation or recreational therapy content course taught is considered the same as a therapeutic recreation or recreational therapy content course taken.
- (2) "Supportive coursework" are courses, not including the recreational therapy or therapeutic recreation content courses, that provide knowledge necessary to develop the

ability to practice recreational therapy or therapeutic recreation and are required for the major or specialization in recreational therapy or therapeutic recreation. Supportive courses provide knowledge about human development, human functioning, health, health care and human services, illness and disabling conditions. Supportive courses for a degree or specialization in recreational therapy or therapeutic recreation shall include three semester hours of anatomy and physiology, three semester hours of abnormal psychology, three semester hours of human growth and development across the lifespan, and nine semester hours in the area of health and human services. Health and human services coursework may include content in the areas of education, ethics, and other supportive courses related to the practice of recreational therapy.

(3) In addition to the coursework required in Subparagraphs (c)(1) and (2) of this Rule, a field placement course shall be required for an academic major or specialization in therapeutic recreation or recreational therapy.

(A) A "field placement course," sometimes called an "internship course," is a course taken for college or university credit and shall require clinical education in an agency providing therapeutic recreation services to clients. The field placement or internship course shall meet the criteria for a field placement set forth by the NCTRC in the NCTRC Standards publication herein incorporated by reference including any subsequent amendments and editions. A copy of the NCTRC field placement requirements may be obtained at no cost on the National Council for Therapeutic Recreation Certification (NCTRC) website at: <http://www.nctrc.org>.

(B) A "university supervisor" of a field placement course is defined as the university faculty assigned to supervise the student and course from the university. If the university is in North Carolina, University supervisors shall be licensed by the North Carolina Board of Recreational Therapy Licensure (NCBRTL) throughout the entire internship experience.

(C) An "agency supervisor" is the recreational therapist or therapeutic recreation specialist, in an agency providing therapeutic recreation or recreational therapy services to

patients or clients, assigned to provide clinical supervision to the field placement student from the agency. Supervisors of students completing field placements in North Carolina shall be licensed by the North Carolina Board of Recreational Therapy Licensure (NCBRTL) throughout the entire internship experience.

(D) "Successful performance" in a field placement course is defined as a grade of D or Pass awarded by the university supervisor. "Successful performance from the agency supervisor" is defined by an overall rating of "Achieves Expectations" documented on the Clinical Performance Appraisal and Summary Reference Form, (CPASRF) that may be accessed at the Board's website, [www.ncbrtl.org](http://www.ncbrtl.org) or by contacting the Board. The CPASRF includes the content and performance criteria from the ATRA SOP, as set forth in Rule .0203 of this Chapter. The CPASRF is provided by the Board or at the Board's website [www.ncbrtl.org](http://www.ncbrtl.org)

(d) Candidates for licensure who have been certified as a Certified Therapeutic Recreation Specialist, (CTRS™) by the National Council for Therapeutic Recreation Certification (NCTRC) since 1990 and have completed all recreational therapy or therapeutic recreation content courses, and all support content course requirements, but have not completed an internship or field placement course cannot locate their internship supervisor, shall file an Internship Supervisor Location Appeals Form and shall be issued a license to practice as a recreational therapist if they verify a minimum of one year of successful performance as a recreational therapist or therapeutic recreation specialist during which time they were a "CTRS™" by the NCTRC. Successful work performance shall be verified to the NCBRTL on a CPASRF provided by NCBRTL. "Successful performance" is defined as an overall rating completed by the agency supervisor of "Achieves Expectations" on the CPASRF provided by the NCBRTL.

(e) Successful passage of the NCTRC examination shall be determined by the NCTRC. Applicants for licensure shall submit evidence of successful passage of the NCTRC examination to the NCBRTL. Evidence of successful passage of the NCTRC examination shall be copy of his or her NCTRC certificate or a successful passage notification letter from NCTRC.

Authority G.S. 90C-22(2)(i); 90C-22(7); 90C-24(13); 90C-27(a).

**SECTION .0700 – REINSTATEMENT  
21 NCAC 65 .0701 REINSTATEMENT OF LAPSED  
LICENSE**

(a) A recreational therapist or a recreational therapy assistant whose license has lapsed and who desires reinstatement of that license shall:

- (1) Complete a reinstatement application form with current contact and employment information provided by the Board within 60 days of ~~expiration~~; expiration or missed submissions of Record Maintenance Fee or Renewal fee and application with continuing education;
- (2) Submit evidence of satisfaction of all court conditions resulting from any misdemeanor or felony conviction(s), if applicable;
- (3) Submit evidence of meeting education and competency requirements pursuant to Rule .0301 or Rule .0302 as applicable at the time of reinstatement;
- (4) Submit evidence of meeting continuing education requirements in accordance with Rule .0601; and
- (5) Submit payment of application fee and any missed Renewal or Maintenance licensure fees.

(b) Persons whose license is suspended for failure to renew must not practice recreational therapy and must not hold themselves out as licensed by the Board until they apply for and receive reinstatement of their license by the Board.

(c) The Board shall inform the applicant in writing of the Board's decision within 30 days after the application deadline and the Board finds the complete application shows the requirements have been met.

Authority G.S. 90C-24(a)(3); 90C-28; 90C-30.

\*\*\*\*\*

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Recreational Therapy Licensure intends to amend the rule cited as 21 NCAC 65 .0501.

Link to agency website pursuant to G.S. 150B-19.1(c): [www.ncbrtl.org](http://www.ncbrtl.org)

Proposed Effective Date: July 1, 2022

**Public Hearing:**

Date: January 14, 2022

Time: 10:00 a.m.

Location: Virtual Zoom Meeting

<https://us06web.zoom.us/j/82499667864?pwd=NnpTTFBTejdOYWtDc3FJZWhoNzhtZz09C>

Reason for Proposed Action: NCBRTL has not raised fees since 2005 and needs to maintain even budget and meet expenses.

Comments may be submitted to: Becky Garrett, PO Box 2655, Durham, NC 27715; phone (336) 212-1133; email [becky@ncbrtl.org](mailto:becky@ncbrtl.org)

Comment period ends: February 14, 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 984-236-1850.

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

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

**SECTION .0500 – LICENSURE FEES**

**21 NCAC 65 .0501 LICENSURE FEES**

(a) A cashier's check, money order, certified check, an employer's check, or online payment is acceptable for the initial application licensure fees.

(b) Fees are nonrefundable and payable to the North Carolina Board of Recreational Therapy Licensure. A cashier's check, money order, certified check, an employer's check, personal checks, or online payment shall be accepted for payment of renewal fee and record maintenance fee. The processing fee for returned checks shall be the maximum allowed by law.

(c) The Board shall collect the following fees:

- (1) Initial Application for Licensure Fee
  - (A) Licensed Recreational Therapist \$100.00
  - (B) Licensed Recreational Therapy Assistant \$50.00
- (2) Licensure renewal fees (due every two years)
  - (A) Licensed Recreational Therapist ~~\$75.00~~ \$85.00
  - (B) Licensed Recreational Therapy Assistant ~~\$35.00~~ \$40.00
- (3) Inactive status ~~\$35.00~~ \$45.00
- (4) Record Maintenance fee (due non-renewal year)
  - (A) Licensed Recreational Therapist ~~\$75.00~~ \$80.00
  - (B) Licensed Recreational Therapy Assistant ~~\$35.00~~ \$40.00

Authority G.S. 90C-24(a)(3); 90C-24(a)(10); 90C-28.



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

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

**Rule-making Agency:** *Wildlife Resources Commission*

**Rule Citation:** *15A NCAC 10C .0314*

**Effective Date:** *November 30, 2021*

**Date Approved by the Rules Review Commission:** *November 18, 2021*

**Reason for Action:** *G.S. 150B-21.1(a)(7)c. The estimated pounds of Striped Bass harvested in the Roanoke River Management Area in 2021 exceeded the Roanoke River Total Allowable Landings (TAL), despite an 80 percent reduction in the harvest season length. Reducing the daily creel limit for Striped Bass from two fish to one fish in the Roanoke River Management Area in combination with a shortened harvest season will decrease the likelihood of exceeding the TAL in 2022.*

**CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY**

**SUBCHAPTER 10C - INLAND FISHING REGULATIONS**

**SECTION .0300 - GAME FISH**

**15A NCAC 10C .0314 STRIPED BASS**

(a) The daily creel limit for Striped Bass and its hybrids is four fish in the aggregate, except in waters identified in Paragraphs (b), (e), (f), (g), (h), (i), and (j) of this Rule. The minimum size limit for these fish is 20 inches, except in waters identified in Paragraphs (b), (c), (d), (e), (f), (g), (h), (i), and (j) of this Rule. There is no closed season, except for waters identified in Paragraphs (g), (h), (i), (j), and (k) of this Rule.

(b) In the Dan River upstream from its confluence with Bannister River to the dam at Union Street in Danville, VA and in John H. Kerr Reservoir, the daily creel limit on Striped Bass and its hybrids is two in the aggregate and the minimum size limit is 20 inches from October 1 through May 31. From June 1 through September 30, the daily creel limit on Striped Bass and its hybrids is four in the aggregate with no minimum size limit.

(c) In Lake Gaston and Roanoke Rapids Reservoir, the minimum size limit for Striped Bass and its hybrids is 20 inches from October 1 through May 31. There is no minimum size limit for these fish from June 1 through September 30.

(d) In Lake Norman, Hyco Lake, Moss Lake, Mountain Island Reservoir, Oak Hollow Lake, Lake Thom-A-Lex, Lake Townsend, and Salem Lake the minimum size limit for Striped Bass and its hybrids is 16 inches.

(e) In Lake Chatuge in Clay County, the daily creel limit is 15 in the aggregate. There is no minimum size limit, but only two may be greater than 22 inches.

(f) In Lake Mattamuskeet, and in the Pee Dee River and its tributaries downstream from the Blewett Falls Dam to the South Carolina state line, the daily creel limit for Striped Bass and its hybrids is three fish in the aggregate, and the minimum size limit is 18 inches.

(g) In the inland fishing waters of Neuse, Pungo, and Tar Pamlico rivers and their tributaries extending upstream to the first impoundment of the main course on the river or its tributaries, and in all other inland fishing waters east of Interstate 95 not specified in Paragraphs (f), (h), (i), and (j) of this Rule, the daily creel limit for Striped Bass and its hybrids is two fish in the aggregate. The minimum size limit is 26 inches. In these waters, the season for taking and possessing Striped Bass is closed from May 1 through September 30.

(h) In the inland fishing waters of the Cape Fear River and its tributaries downstream of Buckhorn Dam and in the ponds associated with Martin Marietta Park in Craven County, the season for taking and possessing Striped Bass is closed year-round.

(i) In the inland and joint fishing waters of the Roanoke River Striped Bass Management Area, as established in 15A NCAC 03R .0201 and identified in 15A NCAC 10C .0110, which includes the Roanoke, Cashie, Middle, and Eastmost rivers and their tributaries, the open season for taking and possessing Striped Bass and its hybrids is March 1 through April 30 from the joint-coastal fishing waters boundary at Albemarle Sound upstream to Roanoke Rapids Lake dam. During the open season, the daily creel limit for Striped Bass and its hybrids is ~~two~~ one fish ~~in the aggregate,~~ and the minimum size limit is 18 inches. No fish between 22 inches and 27 inches in length shall be possessed in the daily creel limit. ~~Only one fish larger than 27 inches may be possessed in the daily creel limit.~~

(j) In designated inland fishing waters of Roanoke Sound, Croatan Sound, Albemarle Sound, Chowan River, Currituck Sound, Alligator River, Scuppernong River, and their tributaries (excluding the Roanoke River and Cashie River and their tributaries), the Striped Bass fishing season, size limits, and creel limits are the same as those established by rules or proclamations of the Marine Fisheries Commission in adjacent joint or coastal fishing waters.

(k) In accordance with G.S. 113-292, the Executive Director may, by proclamation, suspend, or extend the hook-and-line season for Striped Bass in the inland and joint waters of coastal rivers and their tributaries. It is unlawful to violate the provisions of any proclamation issued under this authority.

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

*Amended Eff. June 1, 2018; August 1, 2016; August 1, 2015; August 1, 2014;*  
*Readopted Eff. August 1, 2019;*  
*Amended Eff. August 1, 2021; August 1, 2020;*  
*Temporary Amendment Eff. November 30, 2021.*

~~the lack of authentication of any document issued by the Board. The official seal adopted by the Board is the Great Seal of the State of North Carolina with the inscription of the Board name on the perimeter.~~

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

**Rule-making Agency:** *Board of Architecture and Registered Interior Designers*

*History Note: Authority G.S. 83-5; 83A-6; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. May 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Temporary Amendment Eff. November 30, 2021.*

**Rule Citation:** *21 NCAC 02 .0102, .0106, .0108, .0109, .0201-.0205, .0208-.0210, .0212-.0215, .0217, .0218, .0302, .0303, .0306, .0901, .0903-.0910*

**21 NCAC 02 .0108 FEES**

The fees required by the ~~Board~~ Board, are payable in advance and are set forth below:

**Effective Date:** *November 30, 2021, except 21 NCAC 02 .0108 is pending consultation pursuant to G.S. 12-3.1*

<u>Initial Registration Application by Exam</u>	
<u>Residents and Non-Residents</u>	\$ 50.00
<u>Firm Registration</u>	\$ 75.00
<u>Annual license renewal</u>	
<u>Individual</u>	\$ 50.00
<u>Firm</u>	\$100.00
<u>Late renewal Penalty</u>	\$ 50.00
<u>Reciprocal registration</u>	\$150.00
<u>License to Practice Architecture:</u>	
<u>By Exam</u>	\$50.00
<u>By Reciprocity</u>	\$150.00
<u>Firm License</u>	\$75.00

**Date Approved by the Rules Review Commission:** *November 18, 2021*

<u>Annual License to Practice Architecture Renewal:</u>	
<u>Individual</u>	\$50.00
<u>Firm</u>	\$100.00

**Reason for Action:** *The effective date of a recent act of the General Assembly. S.L. 2021-81 went into effect June 30, 2021 and required NCBA/RIO to register interior designers by December 31, 2021.*

<u>Late Renewal Penalty for Individual Architects and Firms:</u>	
<u>Up-to-30 days</u>	\$50.00
<u>30 days to 1 year</u>	\$100.00

**CHAPTER 02 - ARCHITECTURE AND REGISTERED INTERIOR DESIGNERS**

**SECTION .0100 – GENERAL PROVISIONS**

**21 NCAC 02 .0102 ORGANIZATION OF BOARD AND OFFICERS**

In addition to the annual meeting as prescribed in G.S. 83A-2, other meetings of the Board may be called by the president or any ~~three~~ four Board members. The officers of the Board shall be elected at the annual meeting for terms of one year and until a successor is elected. Vacancies in the officers' terms, occurring from death, resignation, disability or expiration of Board service, shall be filled by election at the next Board meeting following the vacancy.

<u>Reinstatement of Expired License:</u>	
<u>Architect</u>	\$250.00
<u>Firm</u>	\$250.00

*History Note: Authority G.S. 83A-2; 83A-6; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. May 1, 1989; November 1, 1979; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Temporary Amendment Eff. November 30, 2021.*

<u>Registration to Practice Interior Design:</u>	
<u>Individual Registration</u>	\$150.00 \$100.00
<u>Firm Registration</u>	\$75.00

**21 NCAC 02 .0106 SEAL OF BOARD**

~~The Board has adopted a seal, which is circular in shape and contains the words, "North Carolina Board of Architecture." The seal is maintained in the Board's office under the care, custody and charge of the Executive Director. The seal shall be used at the direction of the Board to authenticate any official action or report of the Board. The absence of the seal shall not automatically imply~~

<u>Annual Registration to Practice Interior Design Renewal:</u>	
<u>Individual</u>	\$50.00
<u>Firm</u>	\$50.00

<u>Late Renewal Penalty for Interior Designers and Interior Design Firms:</u>	
<u>Up-to-30 days</u>	\$50.00
<u>30 days to 1 year</u>	\$100.00

<u>Reinstatement of Expired Registration</u>	
<u>Interior Designer</u>	\$250.00
<u>Interior Design Firm</u>	\$250.00

~~Individual or Firm Reinstatement shall be the fee as described in G.S. 83A-11 and G.S. 55B-10. All fees paid to the Board are non-refundable. Other publications and services provided by the Board are available on the Board web site at www.nebarch.org.~~

*History Note: Authority G.S. 55B-10; 83A-4; 83A-11; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. July 1, 2014; December 1, 2010; June 1, 1995; December 1, 1992; May 1, 1991; May 1, 1989; July 1, 1987; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Amended Eff. November 1, 2017; Temporary Amendment Eff. Pending consultation pursuant to G.S. 12-3.1.*

**21 NCAC 02 .0109 DEFINITIONS**

In addition to the statutory definitions in G.S. 83A-1, as used in these Rules, the following terms shall have the following meanings:

- (1) "Delinquent" is the status of a license or registration that has not been renewed in accordance with 21 NCAC 02 .0213(b) for individuals and ~~21 NCAC 02 .0214(d)~~ 21 NCAC 02 .0214(c) for firms.
- (2) "Licensed" means holding a license to practice architecture in the State of North Carolina as defined by North Carolina General Statute Chapter 83A. ~~"Registered" has the same meaning as licensed. "Registered" means holding a registration to practice interior design as defined by~~ has the same meaning as 'registered interior designer' as set forth in G.S. Chapter 83A.
- (3) "Fictitious name" is any assumed name, style or designation other than the proper name of the entity using such name. The surname of a person, standing alone or coupled with words that describe the business, is not a fictitious business name. The inclusion of words that suggest additional owners, such as "Company," "& Company," "& Sons," "& Associates," makes the name an assumed or fictitious name. For partnerships, the last name of all partners must be ~~listed~~ listed, or the fictitious name definition applies.
- (4) ~~"Responsible control" has the meaning described in Rule .0206(d).~~
- (5)(4) ~~"Firm" or "Architectural Firm" means any Professional Corporation or Professional Limited Liability Company approved by the Board and engaged in the practice of architecture. "Registered Interior Design Firm" means any Business Corporation or Limited Liability Company approved by the Board and engaged in registered interior design services.~~
- (6)(5) "Procurement" means purchasing or pricing of materials to construct a building or structure.

- (7)(6) ~~Direct Supervision as used in North Carolina General Statute 83A means responsible control. Direct Supervision~~ "Direct Supervision" as used in G.S. 83A means responsible control as defined in 21 NCAC 02 .0203.
- (8)(7) "Continuing Competency" as used in North Carolina General Statute 83A-6(a)(5) means continuing education obtained post licensure or registration that enables ~~a registered~~ an architect or registered interior designer to increase or update knowledge of and competence in technical and professional subjects related to the practice of architecture and interior design to safeguard the public's health, safety and welfare.
- (9)(8) "Health, safety and welfare" (HSW) as used in North Carolina General Statute 83A-6 (a)(5) means technical and professional subjects that according to these rules safeguard the public and that are necessary for the proper evaluation, design, construction and utilization of buildings and the built environment.
- (9) "Architect-of-record" or "Designer-of-record" means persons or entities whose seals appear on plans, specifications, and contract documents.

*History Note: Authority G.S. 83A-6; Eff. November 1, 2010; Amended Eff. October 1, 2012; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Temporary Amendment Eff. November 30, 2021.*

**SECTION .0200 – PRACTICE OF ARCHITECTURE**

**21 NCAC 02 .0201 ARCHITECT, REGISTERED INTERIOR DESIGNER, FIRM OR PARTNERSHIP CONTACT INFORMATION AS ON FILE WITH THE BOARD**

- (a) Every individual licensee and registrant shall keep the Board advised of ~~his/her~~ their preferred current contact information, including physical mailing address, email and phone numbers, principle place of business and electronic mail address and the name of the firm or partnership where ~~he/she is~~ they are employed.
- (b) Each firm or partnership shall within 30 days notify the Board of all changes in ownership, of association, contact information, electronic email or physical address. Upon the dissolution of a firm, the architect or registered interior designer in responsible control of the firm at the time of dissolution shall within 30 days notify the Board concerning such dissolution, and of the succeeding status and addresses of the firm. This requirement is in addition to registration, listing and renewal requirements set out elsewhere in rules of this Chapter.

*History Note: Authority G.S. 83A-5; 83A-6; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. November 1, 2010; June 1, 1995;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Temporary Amendment Eff. November 30, 2021.*

**21 NCAC 02 .0202      APPLICABILITY OF BOARD RULES**

The Executive Director shall make available on the Board web site at [www.ncbarch.org](http://www.ncbarch.org) Chapter 83A of the North Carolina General Statutes and the rules of the Board adopted hereunder. Rules adopted and published by the Board under the provisions of Chapter 83A and Chapter 150B shall be binding upon every individual holding a license or registration from the Board, and upon all ~~professional corporations~~ firms legally authorized to offer or to perform architectural or registered interior design services in this state. ~~All licensees of the Board are charged with having knowledge of the existence of the Board rules and shall be deemed to be familiar with and have an understanding of their provisions. Each licensed person and entity shall affirm in their renewals that they have read the current architectural laws and rules.~~

*History Note: Authority G.S. 83A-6; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. July 1, 2014; June 1, 1995; May 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Temporary Amendment Eff. November 30, 2021.*

**21 NCAC 02 .0203      GENERAL OBLIGATIONS OF PRACTICE RULES OF PROFESSIONAL CONDUCT**

As a primary obligation and responsibility, the architect shall conduct his office and all aspects of his practice in such manner as to "safeguard life, health and property" as provided in G.S. 83A-12. In order to safeguard the life, health, property and welfare of the public and to establish and maintain a high standard of integrity, skills, and practice in the practice of architecture and registered interior design, the Rules of Professional Conduct in this Rule are adopted in accordance with G.S. 83A and are binding upon every person holding a license to practice architecture (licensee) or registered interior designer (registrant), and on all firms authorized to offer or render architectural or registered interior design services in this state. All persons licensed or registered under the provisions of G.S. 83A are charged with having knowledge of the Board Rules and are deemed to be familiar with their provisions and to understand them. Each licensed or registered person and entity shall affirm in their renewals that they have read and understand the current laws and rules.

- (1) Licensees and registrants shall conduct their practice in order to protect the public health, safety and welfare. The licensee or registrant shall always recognize the primary obligation to protect the public in the performance of the professional duties. The architect or registered interior designer acts as a professional adviser to their client and their advice must be unprejudiced. If the licensee or registrant's professional judgment is overruled under

circumstances where the safety, health and welfare of the public are endangered, the licensee or registrant shall inform the employer, the client, the contractor, other affected parties, and any appropriate regulatory agency of the possible consequences of the situation.

- (2) In designing a project, the licensee or registrant shall consider all applicable federal, state and municipal building laws and rules. A licensee or registrant shall undertake to perform professional services only when they, together with those whom the licensee or registrant may engage as consultants, are qualified by education, training and experience in the specific technical areas involved. While a licensee or registrant may rely on the advice of other professionals (e.g., attorneys, engineers and other qualified persons) as to the intent and meaning of such laws and rules, once having obtained such advice, a licensee or registrant shall not design a project in violation of such laws and rules.
- (3) In practicing architecture or interior design, the licensee or registrant shall act with reasonable care and competence and shall apply the technical knowledge and skill which is ordinarily applied by architects or interior designers of good standing, practicing in the same locality.

~~In addition, an architect is also charged with the following personal and professional obligations of good practice:~~

- (1) ~~The concern and purpose of the profession of architecture are the creation of a physical environment of use, order, and beauty through the resources of design, economics, technology, and management. The physical environment includes a spectrum of elements serving man, from the artifact and the building to the community and the region.~~
- (2) ~~The profession of architecture calls for individuals of the highest integrity, judgment, business capacity and artistic and technical ability. An architect's honesty of purpose must be above suspicion. An architect acts as professional adviser to his client and his advice must be unprejudiced.~~
- (4) Responsible Control. No architect or registered interior designer shall affix their seal and signature to contract documents developed by others not under the architect's or registered interior designer's responsible control. "Responsible control" means that amount of control over and professional knowledge of the content of technical submissions during their preparation as is exercised by an architect or registered interior designer applying the required professional standard of care, including:

- (a) Dissemination of programmatic requirements;
  - (b) Ongoing coordination and correlation of services with other aspects of the total design of the project;
  - (c) Verification with consultant that owner's requirements are being met;
  - (d) Authority over the services of those who assisted in the preparation of the documents;
  - (e) Assumption of responsibility for the services;
  - (f) Incorporation of services and technical submissions into design documents to be issued for permitting purposes; and
  - (g) Incorporation and integration of information from manufacturers, suppliers, installers, the architect's or registered interior designer's consultants, owners, contractors, or other sources the architect or registered interior designer trusts that is incidental to and intended to be incorporated into the architect's or registered interior designer's technical submissions if the architect or registered interior designer has coordinated and reviewed such information.
- (5) An architect or registered interior designer shall not deliberately make a materially false statement or deliberately fail to disclose a material fact requested in connection with their application for license or registration renewal.
- (6) An architect or registered interior designer shall not assist the application for licensure or registration of a person known by the architect or registered interior designer to be unqualified with respect to education, training, experience, or character.
- (7) An architect or registered interior designer shall issue public statements only in an objective and truthful manner and:
- (a) Shall be objective and truthful in all professional reports, statements, or testimony. The architect or registered interior designer shall include all relevant and pertinent information in such reports, statements or testimony;
  - (b) When serving as an expert or technical witness before any court, commission, or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of the individual's testimony;
  - (c) Shall issue no statements, criticisms, or arguments on architectural or interior design matters connected with public policy which are inspired or paid for by an interested party, or parties, unless the architect or registered interior designer has prefaced the comment by explicitly identifying their name, by disclosing the identities of the party or parties on whose behalf the architect or registered interior designer is speaking, and by revealing the existence of any pecuniary interest the architect or registered interior designer may have in the matters; and
  - (d) Shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another architect or registered interior designer, nor indiscriminately criticize another architect's or registered interior designer's work in public. Indiscriminate criticism includes statements without valid basis or cause or that are not objective and truthful or that fail to include all relevant and pertinent information. If the architect or registered interior designer believes that another architect or registered interior designer is guilty of misconduct or illegal practice, such information shall be presented to the North Carolina Board of Architecture and Registered Interior Designers in the form of a complaint.
- (8) An architect or registered interior designer shall avoid conflicts of interest and:
- (a) Shall inform the employer or client, and any reviewing agency, of any business association, interests, or circumstances which could influence judgment or the quality of services;
  - (b) Shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are disclosed to, and agreed to, in writing, by all interested parties;
  - (c) Shall not solicit or accept financial or other valuable considerations from material, furniture, fixtures, or equipment suppliers for specifying their products unless disclosed to the client;

- (d) An architect or registered interior designer shall not pay or offer to pay, either directly or indirectly, any commission, political contribution, gift, or other consideration in order to secure work. Gifts of nominal value (including, reasonable entertainment and hospitality) and securing salaried positions through employment agencies are permitted;
- (e) When in public service as a member, advisor, or employee of a governmental body or department, shall not participate in considerations or actions with respect to services provided by the licensee or registrant or the licensee's or registrant's firm in private architectural or registered interior design practices;
- (f) Shall not engage in any false, deceptive, fraudulent, or misleading advertising; and
- (g) Shall not attempt to supplant another architect or registered interior designer in a particular employment after becoming aware that the other has been selected for the employment.
- (h) When acting as the interpreter of building contract documents and the judge of contract performance, an architect or interior designer shall render decisions impartially, favoring neither party to the contract.
- (i) If, in the course of their work on a project, an architect or registered interior designer becomes aware of a decision taken by their employer or client, against their advice, which violates applicable state or municipal building laws and regulations and which will, in their judgment, materially affect adversely the safety to the public of the finished project, the architect or registered interior designer shall:
  - (i) report the decision to the local building inspector or other public official charged with the enforcement of the applicable state or municipal building laws and regulations;
  - (ii) refuse to consent to the decision;
  - (iii) in circumstances where the architect or registered interior designer reasonably believes that other such decisions will be taken notwithstanding his objection, terminate their services with reference to the project; and
- (iv) in the case of termination in accordance with clause in Sub-Item (i)(iii) of this Rule, the architect or registered interior designer shall have no liability to their client or employer on account of such termination.
- (j) If an architect or registered interior designer has any business association or direct or indirect financial interest which is substantial enough to influence their judgment in connection with the performance of professional services, they shall fully disclose in writing to their client or employer the nature of the business association or financial interest, and if the client or employer objects to such association or financial interest, they will either terminate such association or interest or offer to give up the commission or employment.
- (k) An architect making public statements on architectural questions shall disclose when they are being compensated for making such statements.
- (l) A registered interior designer making statements on interior design questions shall disclose when they are being compensated for such statements.
- (9) A licensee or registrant shall solicit or accept work on the basis of qualifications and:
  - (a) Shall not offer to pay, either directly or indirectly, any commission, political contribution, gift, or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies;
  - (b) The licensee or registrant shall not solicit or submit proposals for professional services containing a false, fraudulent, misleading, deceptive or unfair statement or claim regarding the cost, quality or extent of services to be rendered;
  - (c) Shall, with regard to fee bidding on public projects, comply with the provisions of G.S. 143-64.31 et seq., (or for federal projects, the Brooks Act, 40 U.S. Code 541 et seq.) and shall not knowingly cooperate in a

- violation of any provision of G.S. 143-64.31 et seq. (or of 40 U.S. Code 541 et seq.); and
- (d) Shall not falsify or permit misrepresentation of academic or professional qualifications and shall only report educational qualifications when a degree or certificate was awarded unless it is stated that no degree or certificate was awarded.
  - (e) An architect or registered interior designer shall represent to a prospective or existing client or employer their qualifications and the scope of their responsibility in connection with work for which they are claiming credit. Misrepresentation shall be found if the following is not complied with:
    - (i) Each licensee or registrant shall state their prior professional experience and the firm they are representing while presenting qualifications to all prospective clients. If the licensee or registrant uses visual representations of prior projects or experience, all designers or architects of record shall be identified.
    - (ii) An architect or registered interior designer who has been an employee of another firm may not claim credit for projects contracted for in the name of the previous employer. They shall indicate, next to the listing for each project, that individual experience gained in connection with the project was acquired as an employee and identify the previous firm. The architect or registered interior designer shall also describe the nature and extent of their participation in the project.
    - (iii) An architect or registered interior designer who presents a project that has received awards or public recognition shall comply with the requirements in this Item with regard to project presentation to the public and prospective clients.
- (iv) Projects that remain unconstructed and are listed as credits in presentation items shall be listed as "unbuilt" or a similar designation, as determined by the architect or registered interior designer.
- (10) A licensee or registrant shall perform services in an ethical manner, as required by this Rule, and in a lawful manner and:
- (a) Shall not knowingly associate with or permit the use of the licensee's or registrant's name or firm name in a business venture by any person or firm which the licensee or registrant knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature or is not properly licensed; and
  - (b) If the licensee or registrant has knowledge or reason to believe that another person or firm may be in violation of the Board Rules (21 NCAC 02) or of the North Carolina Architectural and Registered Interior Design Practice Act (G.S. 83A), they shall present such information to the Board in writing in the form of a complaint and shall cooperate with the Board in furnishing such further information or assistance as may be required by the Board.
  - (c) An architect or registered interior designer shall cooperate with the Board in connection with any inquiry it shall make. Cooperation includes responding to all inquiries from the Board or its representative and claiming correspondence from the U. S. Postal Service, or other delivery service, sent to the licensee or registrant from the Board in a timely manner. The Board shall utilize electronic mail as its primary method of communication with licensees and registrants. Timely is defined as within the time specified in the correspondence, or if no time is specified, within 30 days of receipt.
- (11) An architect or registered interior designer who has received a reprimand or civil penalty or whose professional license or registration is revoked, suspended, denied, refused renewal, refused reinstatement, put on probation, restricted, or surrendered as a result of disciplinary action by another jurisdiction is subject to discipline by the Board if the licensee's or registrant's action constitutes a

- violation of G.S. 83A or the rules adopted by the Board.
- (12) In addition to the grounds stated in G.S. 83A-14 and G.S. 83A-15(3), the following acts or omissions may be deemed to be "unprofessional conduct" and to be cause for the levy of a civil penalty or for denial, suspension, or revocation of a license or registration or firm certificate of licensure or registration to practice architecture or registered interior design:
- (a) An architect or registered interior designer shall not, in the conduct of their professional practice, knowingly violate any state or federal criminal law. A criminal conviction shall be deemed prima facie evidence of knowingly violating the law.
- (b) Evasion.
- (i) An architect or registered interior designer shall not, through employment by contractors (whether or not the contractors are licensed under G.S. 87), or by another individual or entity not holding an individual or firm registration from the Board, to enable the employer to offer or perform architectural services or registered interior design services, except as provided in G.S. 83A-13. In design/build arrangements, the architect or registered interior designer shall not be an employee of a person or firm not holding a license to practice architecture or registered interior design in North Carolina.
- (ii) An architect or registered interior designer shall not furnish limited services in such manner as to enable owners, draftsmen, or others to evade the public health and safety requirements of G.S. 83A, G.S. 133-2, G.S. 153A, G.S. 153A-357, G.S. 160A-412, or G.S. 160A-417.
- (iii) When building plans are begun or contracted for by persons not licensed or registered and qualified, an architect or registered interior designer shall not take over, review, revise, or sign or seal such drawings or

revisions thereof for such persons or do any act to enable either such persons or the project owners to evade the requirements of G.S. 83A, G.S. 133-2, G.S. 153A-357, or G.S. 160A-417.

- (13) An architect, registered interior designer or firm shall not maintain or represent by sign, listing, or other manner that they have a physical presence in North Carolina unless such office employs a licensed architect or registered interior designer who is a resident in North Carolina whose principal place of business is in that office. This Item does not apply to on-site project offices during construction of a project.
- (14) It is unprofessional conduct for an architect or registered interior designer to be found by a court to have infringed upon the copyrighted works of other architects, registered interior designers or other design professionals.
- (15) An architect or registered interior designer shall not knowingly continue to offer or render architectural or registered interior design services as set forth in G.S. 83A after their license or registration expires, is placed on delinquent status, is revoked, or suspended for failure to renew.
- (16) Architects or registered interior designers preparing plans for building permits shall submit plans that are complete and buildable. Such plans shall conform with the State Building Code and local plan submission requirements. Professional judgment shall be exercised to reflect sufficient documentation necessary for plan approval. Provided, however, this Rule does not alter any standard of liability applicable to licensees or registrants.

*History Note: Authority G.S. 83A-6; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. May 1, 1989; November 1, 1979; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Temporary Amendment Eff. November 30, 2021.*

**21 NCAC 02 .0204 FORMS OF PRACTICE**

- (a) The practice of architecture shall be carried out by one of the following types of entities:
- (1) sole practitioners;
  - (2) professional limited liability companies that are established under the provisions of ~~G.S. 57D~~; G.S. 57D-2-02;
  - (3) limited liability partnerships that are established under the provisions of G.S. 59-84.2;
  - (4) professional corporations that are established under the provisions of G.S. 55B; or



- (5) general partnerships.
- (b) The practice of registered interior design shall be carried out by one of the following types of entities:
- (1) sole practitioners;
  - (2) limited liability companies that are established under the provisions of G.S. 57D;
  - (3) limited liability partnerships that are established under the provisions of G.S. 59-84.2;
  - (4) business corporations that are established under the provisions of G.S. 55; or
  - (5) general partnerships.

Each limited liability partnership and each general partnership engaged in the practice of architecture or registered interior design in North Carolina shall keep a current list of all resident and non-resident partners of the partnership. One annual listing by a representative of the partnership shall satisfy the requirement of this Paragraph for all partners in the firm; however, each partner shall remain responsible for compliance with the rules. Changes in the information required by this Paragraph shall be filed with the Board office within 30 days after the change occurs.

~~(b)(c)~~ All individuals who practice architecture through entities described in Subparagraphs (a)(1) through (a)(4) of this Rule shall be licensed to practice architecture.

(d) All individuals who practice registered interior design through entities described in Subparagraphs (b)(1) through (b)(4) of this Rule shall be registered to practice interior design.

*History Note: Authority G.S. 55B; 57C; 59-84.2; 83A-4; 83A-6; 83A-8; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. October 1, 2012; December 1, 2010; June 1, 1995; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Temporary Amendment Eff. November 30, 2021.*

**21 NCAC 02 .0205 NAME OF FIRM**

(a) A licensee or registrant shall not engage in the practice of architecture or registered interior design under a firm name which is misleading or deceptive in any way as to the legal form of the firm or the persons who are partners, officers, members, or shareholders in the firm. The Board shall approve all firm names to be used in this State. Examples of misleading or deceptive firm names include the following:

- (1) Use of "architects" or "registered interior designers" when the number of architects or registered interior designers in a firm does not warrant such use;
- (2) Use of the name of an employee unless that employee is a licensed or registered partner, licensed or registered officer, licensed or registered member or licensed or registered shareholder;
- (3) Use of the name of a deceased architect or registered interior designer in order to benefit from his their reputation, when that architect or registered interior designer was not a former

- partner, officer, member or shareholder in the present firm;
  - (4) Use of a name which is deceptively similar to that of existing firm name; and
  - (5) Use of a fictitious name by a sole proprietor.
- (b) Failure of the firm to register a fictitious name shall be prima facie evidence of the name being misleading or deceptive.

*History Note: Authority G.S. 55B-5; 83A-6; 83A-9; 83A-12; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. November 1, 2010; July 1, 2006; June 1, 1995, April 1, 1991; May 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Temporary Amendment Eff. November 30, 2021.*

**21 NCAC 02 .0208 DISHONEST CONDUCT**

*History Note: Authority G.S. 14-353; 83A-6; 83A-14; 83A-15; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. November 1, 2010; July 1, 2006; December 1, 1995; June 1, 1995; October 1, 1989; May 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Temporary Repeal Eff. December 13, 2021.*

**21 NCAC 02 .0209 UNPROFESSIONAL CONDUCT**

*History Note: Authority G.S. 83A-6; 83A-14; 83A-15; Eff. February 1, 1976; Amended Eff. February 24, 1976; Readopted September 29, 1977; Amended Eff. November 1, 2010; July 1, 2006; June 1, 1995; July 1, 1992; October 1, 1989; May 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Amended Eff. November 1, 2017. Temporary Repeal Eff. November 30, 2021.*

**21 NCAC 02 .0210 INCOMPETENCE**

- ~~(a) In practicing architecture, an architect shall act with reasonable care and competence and shall apply the technical knowledge and skill which is ordinarily applied by architects of good standing, practicing in the same locality.~~
- ~~(b) In designing a project, an architect shall take into account all applicable state and municipal building laws and rules. While an architect may rely on the advice of other professionals (e.g., attorneys, engineers and other qualified persons) as to the intent and meaning of such laws and rules, once having obtained such advice, an architect shall not design a project in violation of such laws and rules.~~
- ~~(c) An architect shall undertake to perform professional services only when he, together with those whom the architect may engage as consultants, are qualified by education, training and experience in the specific technical areas involved.~~

~~(d) No person shall be permitted to practice architecture or registered interior design if such person's professional competence is substantially impaired by physical or mental disabilities, such person has been declared insane or incompetent by a court of law.~~

~~(e) Architects preparing plans for building permits for projects not exempt under G.S. 83A-13 shall submit plans that are complete and buildable. Such plans shall conform with the State Building Code and local plan submission requirements. Professional judgment shall be exercised to reflect sufficient documentation necessary for plan approval. Provided, however, this Rule does not alter any standard of liability applicable to licensees.~~

*History Note: Authority G.S. 83A-6; 83A-14; 83A-15; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. July 1, 2006; June 1, 1995; May 1, 1989; November 1, 1979; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Temporary Amendment Eff. November 30, 2021.*

**21 NCAC 02 .0212 INDEPENDENT JUDGMENT AND DISCLOSURE**

*History Note: Authority G.S. 83A-6; 83A-16; 83A-17; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. June 1, 1995; May 1, 1989; November 1, 1979; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Temporary Repeal Eff. November 30, 2021.*

**21 NCAC 02 .0213 INDIVIDUAL LICENSES AND REGISTRATIONS**

(a) ~~Renewal. License registration~~ The license to practice architecture or interior design registration must be renewed on or before the first day in July each year. No less than 30 days prior to the renewal date, the Board shall send a notice of renewal to each individual licensee or registrant via electronic mail. It shall be the professional responsibility of the licensee or registrant to renew the license or registration on or before the 30th day of July each year. Continued practice after such date shall constitute unlawful practice as set forth in G.S. 83A-12 and may be grounds for disciplinary action. The licensee or registrant shall complete the current ~~license~~ renewal documentation required by the Board. The licensee or registrant shall submit to the Board the completed license or registration renewal documentation, along with the annual license or registration renewal fee. The Board shall not accept incomplete renewal documentation. If the accompanying payment in the amount of the renewal fee is dishonored by the ~~architect's licensee or registrant's~~ drawee bank for any reason, the Board shall suspend the license or registration until the renewal fees and check charges are paid. When the annual renewal has been completed according to the provisions of G.S. 83A-11, as well as Section .0900 of this Chapter, the Executive Director shall approve renewal of the license or registration for the current license renewal year. Renewal fees are non-refundable.

(b) Late Renewal. If the Board has not received the annual renewal fee and completed renewal documentation on or before the first day of July, each year the license or registration shall expire and be placed on delinquent status. For the purpose of this Rule, "delinquent status" means an administrative revocation and is not considered discipline. The license or registration may be renewed at any time within one year of being deemed delinquent, upon the return of the completed renewal documentation, the annual renewal fee, and the late renewal penalty and demonstration of compliance with Section .0900 of this Chapter.

(c) Reinstatement. After one year from the date of expiration, the Board shall revoke the license or registration for failure to renew. Reinstatement shall occur pursuant to G.S. 83A-11 and Sections .0300 and .0900 of this Chapter.

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

*History Note: Authority G.S. 83A-6; 83A-11; 93B-15(b); Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. December 1, 2010; July 1, 2006; July 1, 1999; May 1, 1989; November 1, 1979; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Amended Eff. November 1, 2017; Temporary Amendment Eff. November 30, 2021.*

**21 NCAC 02 .0214 FIRM PRACTICE OF ARCHITECTURE AND REGISTERED INTERIOR DESIGN**

(a) ~~Registration.~~ Prior to offering and rendering architectural or registered interior design services as set forth in G.S. 83A and 21 NCAC 02 .0204(a) and 21 NCAC 02 .0204(c), all firms shall submit an application for firm licensure or registration and be granted licensure or registration by the Board. Application for firm licensure or registration to practice of architecture or registered interior design within the State of North Carolina shall be made upon forms provided on the Board web site at www.ncbarch.org and include the required application fee as set forth in Rule .0108 of this Chapter. Certificates Licensure for firm practice of architecture shall be issued only under the provisions of the Professional Corporation Act, G.S. 55B, except as provided in Subsection (b) of this Rule 55B and G.S 57D-2-02. 57C. Registration for firm practice of interior design shall be issued only under the provisions of the Business Corporation G.S. 55 and G.S 57D.

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

- (1) ~~The corporation must have been incorporated prior to June 5, 1969 as a business corporation;~~
- (2) ~~Prior to and since June 5, 1969, the corporation must have been a bona fide architectural or architectural-engineering firm with services limited to the practice of architecture or architecture engineering and ancillary services within the State of North Carolina; and~~
- (3) ~~The corporation must have applied to be an exempt corporation before October 1, 1979.~~

~~(e)(b) Renewal of Certificate. Architecture firm Firm registration licensure and interior design firm registration shall be renewed on or before December 31st each year. If the Board has not received the annual renewal fee and completed application on or before December 31st each year, the architecture firm license or interior design firm registration shall expire. No less than 30 days prior to the renewal date, the Board shall send a notice of renewal to each licensed and registered firm. Renewal documentation shall be accompanied by the renewal fee. If the accompanying draft or check in the amount of the renewal fee is dishonored by the firm's drawee bank for any reason, the Board shall suspend the firm license or registration until the renewal fees and returned check charges are paid. When the annual renewal has been complete according to the provision of G.S. 83A-11, the Executive Director shall approve renewal for the firm for the current renewal year. Upon completion of the firm annual renewal, the Board may randomly audit the compliance of firm licenses and registrations and require proof in the form of corporate records maintained pursuant to North Carolina General Statute ~~55B~~. 55B or 57D. Such records must be maintained for a period of seven years after the renewal is submitted. Renewal fees are non-refundable.~~

~~(4)(c) Failure to Renew and Reinstatement. Within one year of the expiration, the firm license or registration may be renewed at any time, upon the return of the completed renewal documents, the annual renewal fee, and the late renewal fees. After one year from the date of expiration for non-payment of the annual renewal fee the licensee or registrant shall seek reinstatement, as allowed by G.S. 83A-11. The Board may reinstate the firms' license or certificate of registration, as allowed by G.S. 83A-11.~~

~~(e)(d) Seal. Each licensed or registered corporation firm shall adopt a seal pursuant to ~~21 NCAC 02 .0206(a)(3)~~. 21 NCAC 02 .0206.~~

~~(f)(e) Approval of Name. In addition to the requirements and limitations of G.S. 55 and 55B, the firm name used by an architectural or registered interior design corporation firm shall conform with Rule .0205 and be approved by the Board before being used. This Rule shall not prohibit the continued use of any firm name adopted in conformity with the General Statutes of North Carolina and Board Rules in effect at the date of such adoption.~~

*History Note: Authority G.S. 55B-5; 55B-10; 55B-15; 83A-6; 83A-8; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. July 1, 2014; December 1, 2010; July 1, 1993; May 1, 1989; November 1, 1979; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015*

Temporary Amendment Eff. November 30, 2021.

**21 NCAC 02 .0215 OUT OF STATE FIRMS**

(a) ~~Incorporation in Other States. Architectural and registered interior design firms from other states may be granted firm certificates of licensure or registration for practice in this State upon receipt by the Board of a completed application, fees, the submission of a certified copy of their firm charter, or other corresponding documents, amended as may be necessary to insure ensure compliance with all requirements of Chapter 55B, the Professional Corporation Act for architectural firms and G.S. 55, the Business Corporation Act for registered interior design firms, of the State of North Carolina, and the payment of the firm application fee.~~ In addition to the other requirements as set out in G.S. 83A-8, ~~foreign out of state interior design firms must, prior to registration, receive from the Secretary of State of North Carolina a certificate of authority to do business within the state. A Architectural firms must obtain a certificate for filing for a certificate of authority must be obtained by the from the Board prior to submitting application to the Secretary of State. State for a Certificate of Authority.~~

(b) ~~Designated Individuals. Foreign entities may be permitted to practice architecture within the State of North Carolina provided that it complies with G.S. Chapter 55B. If a foreign an out of state entity offers both architectural and engineering services, then it must comply with requirements set forth in G.S. 89C. A foreign An out of state entity must have at least one officer, director and shareholder licensed as an individual architect in this state. Two-thirds of the issued and outstanding shares of the foreign corporations must be owned by licensed architects or engineers who are licensed to practice their profession in a jurisdiction of the United States. However, the firm must designate at least one architect who is licensed in the State of North Carolina to be in responsible charge control for the firm practice of architecture within the State of North Carolina. Notwithstanding the requirements of this Rule, an individual architect who is licensed under G.S. Chapter 83A-7 may practice as an individual. A registered interior design firm must designate one registered interior designer to be in responsible control of all interior design work offered and performed by that firm in this State.~~

(c) ~~Partnerships. An out of state architectural or registered interior design partnership may practice architecture, architecture or registered interior design, if every partner in the firm is licensed or registered as an individual in this state under Rule .0213 and the partnership complies with Paragraph (f) this Rule.~~

(d) ~~Limited Liability Companies. An out of state Limited Liability Company may practice architecture, architecture or registered interior design if the Limited Liability Company complies with G.S. 57C 57D and at least one member and one owner are licensed or registered as in individuals an individual under Rule .0213 and comply with Paragraph (a) of this Rule.~~

(e) ~~Limited Liability Partnerships. An out of state Limited Liability Partnership may practice architecture, architecture or registered interior design, if the Limited Liability Partnership complies with G.S. 59, and at least one partner is licensed or registered as an individual under Rule .0213.~~

(f) ~~Failure to Renew and Reinstatement. If the Board has not received the annual firm renewal fee and completed application on or before December 31st each year the firm license or~~

registration shall expire and be deemed delinquent. The firm registration may be renewed at any time within one year, upon the return of the completed application, the annual renewal fee and the late renewal fees. After one year from the date of expiration for non-payment of the annual renewal fee, the license or registration shall be automatically revoked. The Board may reinstate the firm's ~~certificate of~~ license or registration, as allowed by G.S. 83A-11.

*History Note: Authority G.S. 55B-6; 83A-6; 83A-8; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. December 1, 2010; June 1, 1995; July 1, 1993; May 1, 1989; November 1, 1979; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Temporary Amendment Eff. November 30, 2021.*

**21 NCAC 02 .0217 ARCHITECT EMERITUS**

Resident architects who have been registered in this state who are retired from active practice or other related professional activities in any jurisdictions whatsoever, may apply for "Emeritus Status" by submitting a form provided by the Board showing compliance with the requirements of this Section. "Retired" means that the architect no longer practices architecture ~~in that he/she no longer seals and certifies documents with his/her seal or otherwise offers to practice or practices architecture~~ as defined in G.S. 83A-1 as amended. Nonresident architects who have been continuously certified by NCARB who are retired from active practice [or other related professional activities] in any jurisdictions whatsoever, and who are "emeritus", inactive or retired in every other jurisdiction in which they are licensed may also apply for "Emeritus Status" by submitting a form provided by the Board showing compliance with the requirements of this Section. ~~Any such "architect emeritus" must renew that status on forms provided by the Board on or before the first day of July in each year.~~ Any reference to an architect on "Emeritus Status" on any letter, title, sign, card or device shall list such architect as "Architect Emeritus".

*History Note: Authority G.S. 83A-4; 83A-6; 83A-11; 83A-12; Eff. November 1, 1991; Amended Eff. July 1, 2006; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Temporary Amendment Eff. November 30, 2021.*

**21 NCAC 02 .0218 LIMITED LIABILITY COMPANIES**

Architects may practice in this state through duly authorized limited liability companies only as provided under ~~G.S. 57C-2-04(e)~~. G.S. 57D. Registered interior designers may practice in this state through duly authorized limited liability companies only as provided under G.S. 57D. Any limited liability company that offers to practice or practices architecture or registered interior design in this state must comply with the same requirements applicable to professional corporations or business corporations under Rules .0201, .0202, .0204, .0205, .0214, and .0215 of this Chapter.

*History Note: Authority G.S. 57C-2-01; 83A-6; Eff. June 1, 1995; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Temporary Amendment Eff. November 30, 2021.*

**SECTION .0300 - EXAMINATION PROCEDURES**

**21 NCAC 02 .0302 ARCHITECTURAL LICENSURE BY EXAMINATION**

~~(a) The Board became a Direct Registration State with the National Council of Architecture Registration Boards (NCARB) on July 25, 2016.~~ Those individuals who wish to take the Architectural Registration Exam (ARE) must contact NCARB directly to obtain exam eligibility to take the ARE. Upon completion of all requirements set forth in the NCARB Architecture Experience Program (AXP), a candidate seeking ~~license registration~~ licensure by exam in North Carolina must direct NCARB to transmit a completed AXP record to the North Carolina Board of ~~Architecture~~. Architecture and Registered Interior Designers.

(b) Upon passing all sections of the ~~NCARB ARE NCARB~~, fulfillment of all NCARB AXP requirements, and completion of the National Architectural Accrediting Board (NAAB) accredited degree, NCARB, as directed by the candidate, will transmit a completed AXP file to the Board for review. ~~Upon notification of receipt of a completed AXP file from the Board, an individual may submit the application for Candidate Record Review to determine compliance with G.S. 83A-7(a)(1)a. G.S. 83A-7(a)(1)a. shall be deemed satisfied through completion of the requirements set forth in Subparagraphs (1) through (5) of this Paragraph. The Board shall grant licensure by exam to those individuals who:~~

- (1) are of good moral character as defined in G.S. 83A-1(5);
- (2) are at least 18 years of age;
- (3) have completed a NAAB accredited professional degree in architecture or who have completed a NAAB accredited degree program that is identified as an NCARB endorsed Integrated Path To Architectural Licensure Degree Program;
- (4) have completed the NCARB AXP; and
- (5) submits the Application for Licensure by Exam and fee.

(c) Retention of credit for purposes of licensure by examination in North Carolina.

- (1) Passing scores received after July 1, 2006 on any part of the ARE remain valid for a period of time established by the exam provider, NCARB.
- (2) Scores received on any part of the ARE prior to July 1, 2006 are invalid.

(d) Practical training pursuant to G.S. 83A-7(a)(2) means practical experience and diversified training as defined by the Architectural Experience Program through the NCARB.

(e) During the application process, Board members, in order to augment the evidence submitted in an application may interview the applicant regarding qualifications required in Paragraph (b) of

this Rule. The Board shall determine whether an interview is needed on a case-by-case basis, based upon information in the application, including any academic or professional discipline.

(f) To complete the ARE, an exam candidate shall receive a passing grade in each division of the ARE. Information regarding NCARB grading methods and procedures can be found on their web site at [www.ncarb.org](http://www.ncarb.org).

(g) A person currently employed under the responsible control of an architect, who holds a Professional Degree from a NAAB accredited program, and who maintains an active NCARB AXP record or has completed the NCARB AXP may use the title "Architectural Intern" or "Intern Architect" in conjunction with ~~his or her~~ their current employment.

(h) The fees for examination, or parts thereof, are set and collected by the NCARB. Fee information is available on the NCARB web site [www.ncarb.org](http://www.ncarb.org).

(i) The standards of the National Council of Architecture Registration Boards and its components are hereby incorporated by reference including subsequent amendments and editions, and can be accessed at no charge at [www.ncarb.org](http://www.ncarb.org).

*History Note: Authority G.S. 83A-1; 83A-6; 83A-7; 83A-12; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. March 1, 2016; July 1, 2014; November 1, 2010; July 1, 2006; July 1, 2000; July 1, 1996; June 1, 1995; December 1, 1992; July 1, 1991; Amended Eff. November 1, 2017; Temporary Amendment Eff. November 30, 2021.*

**21 NCAC 02 .0303 ARCHITECTURE LICENSURE BY RECIPROCITY**

(a) An individual who holds a current license in good standing from a National Council of Architecture Registration Boards (NCARB) recognized jurisdiction and a Certified Council Certificate (~~also known as "Blue Cover"~~) issued by NCARB ~~may~~ shall qualify for licensure by ~~reciprocity~~. ~~Upon reciprocity upon receipt of a certified record from NCARB and the Board application for licensure by reciprocity and fee fee, the Board may issue a license to an applicant as provided in G.S. 83A-7(b).~~ Revocation of the certificate by NCARB shall automatically suspend the architect's license to practice in North Carolina until such time as the certificate is reinstated by NCARB.

(b) ~~In order to supplement or clarify the contents of a record or application, The the~~ Board may interview with the applicant to satisfy the Board, or its designee that the applicant has had ~~sufficient recent~~ architectural practice experience to be able to ~~competently~~ practice architecture in this state.

*History Note: Authority G.S. 83A-6; 83A-7; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. July 1, 2014; November 1, 2010; July 1, 2006; July 1, 2000; October 1, 1995; May 1, 1989; October 1, 1984; September 1, 1982; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Temporary Amendment Eff. November 30, 2021.*

**21 NCAC 02 .0306 INTERIOR DESIGN REGISTRATION**

(a) Those individuals who wish to become registered to practice as a registered interior designer in North Carolina, shall demonstrate that they have satisfied the educational and professional experience eligibility requirements adopted by the Council for Interior Design Qualification (CIDQ) to sit for the Council for Interior Design Qualification Examination (NCIDQ), shall successfully complete the NCIDQ Examination and submit the Board application for registration and fee. Revocation of the certificate by NCIDQ shall automatically suspend the interior designer's registration to practice in North Carolina until such time as the certificate is reinstated by NCIDQ.

(b) An architect may be granted registration to practice interior design so long as they are currently licensed and in good standing in the state State of North Carolina and submit the Board application for registration and fee.

(c) The Board in order to augment the evidence submitted in an application may interview with the applicant to satisfy the Board, or its designee that the applicant has had sufficient recent interior design practice experience to be able to competently practice registered interior design in this state.

(d) The standards of the CIDQ and NCIDQ and its components are hereby incorporated by reference including subsequent amendments and editions, and can be accessed at no charge at [www.cidq.org](http://www.cidq.org).

*History Note: Authority G.S. 83A-7; Temporary Adoption Eff. date November 30, 2021.*

**SECTION .0900 - CONTINUING EDUCATION**

**21 NCAC 02 .0901 SCOPE**

The rules in this Section set forth the continuing education requirements to be complied with by licensees or registrants.

*History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11; Eff. July 1, 1998; Amended Eff. July 1, 2006; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Temporary Amendment Eff. November 30, 2021.*

**21 NCAC 02 .0903 REQUIREMENTS**

(a) Every licensee and registrant shall obtain 12 contact hours of continuing education for each calendar year. "Contact Hour" means a minimum of 50 minutes contact.

(b) The contact hours shall be obtained in structured educational activities intended to increase or update the architect's and registered interior designer's knowledge and competence in technical and professional architectural and interior design subjects ~~directly~~ related to safeguarding public health, safety and welfare("HSW"). "Structured educational activities" are activities in which at least 75 percent of an activity's content and instructional time is devoted to HSW subjects related to the practice of architecture, including courses of study or other activities under the areas identified as HSW by individuals or

organizations, whether delivered by direct contact or distance learning methods.

(c) ~~Registrants~~ Licenses and registrants shall not carry forward any contact hours into the subsequent period.

(d) ~~Registrants~~ Licenses and registrants shall certify completion of the contact hours for the previous calendar year with annual ~~registration~~ renewal.

*History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11; Eff. July 1, 1998; Amended Eff. October 1, 2012; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Temporary Amendment Eff. November 30, 2021.*

**21 NCAC 02 .0904 DETERMINATION OF CREDIT**

(a) ~~The Board has final authority with respect to approval of courses, programs, and contact hours.~~

(b) The Board may randomly audit the compliance of individual licensees and registrants and require proof in the form of records maintained pursuant to Rule .0905 of this Section of participation in courses or programs that conform with the content and contact hours calculation requirements contained in G.S. 83A-6(a) and these Rules.

*History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11; Eff. July 1, 1998; Amended Eff. October 1, 2012; July 1, 2006; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Temporary Amendment Eff. November 30, 2021.*

**21 NCAC 02 .0905 RECORD KEEPING**

(a) The licensee or registrant shall maintain records to support credits claimed. Records required include:

- (1) A log showing the type of activity claimed, sponsoring organization, location, duration, the name of the instructor or speaker and contact hours earned; or
- (2) Attendance certificates or other evidence of participation; or
- (3) Records maintained by the American Institute of Architects Continuing Education System(AIA/CES) or the International Design Continuing Education Council (IDCEC).

(b) Records shall be retained by the licensee or registrant for a period of six years after the credit is claimed and provided to the Board upon request.

*History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11; Eff. July 1, 1998; Amended Eff. October 1, 2012; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Temporary Amendment Eff. November 30, 2021.*

**21 NCAC 02 .0906 EXCEPTIONS**

A licensee or registrant shall be exempt from the continuing education requirements for any of the following reasons:

- (1) New licensees or registrants ~~by way of examination or reciprocity~~ for the calendar year in which they become licensed or registered;
- (2) A licensee or registrant serving on temporary active duty in the armed forces of the United States for a period of time ~~exceeding 90 consecutive days in a year or as provided by statute, whichever is greater;~~ Architects currently licensed by and in good standing with the Board (whose license is not suspended or revoked) who are serving in the armed forces of the United States and who are eligible for an extension of time to file a tax return pursuant to G.S. 105-249.2 are granted a waiver of their mandatory continuing education requirements for the time period disregarded pursuant to the Internal Revenue Code 26 U.S.C. 7508.
- (3) ~~Registrants Licensees or~~ registrants experiencing physical disability or illness if supporting documentation is approved by the Board. Such documentation shall be in the form of a statement by the licensee or registrant, a statement from a physician, or medical records which show that the disability or illness prevented licensee or registrant's participation in a course which the registrant had enrolled, or prevented licensee or registrant's participation in the continuing education program for at least 90 consecutive days in a year; and The Board shall exempt a licensee or registrant if the Board determines that the licensee or registrant is experiencing physical disability, illness, or other extenuating circumstances that prevent the licensee or registrant from continuing education. Supporting documentation must be furnished to the Board.
- (4) ~~Registrants Licensees~~ who receive emeritus status from the Board. In order to return to active practice, licensees registrants shall complete continuing education requirements for each exempted year not to exceed two years.

*History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11; Eff. July 1, 1998; Amended Eff. October 1, 2012; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Temporary Amendment Eff. November 30, 2021.*

**21 NCAC 02 .0907 REINSTATEMENT**

A former licensee or registrant may only apply for reinstatement pursuant to G.S. 83A-11 if ~~he has~~ they have earned all delinquent contact hours within the 12 months preceding the application. However, if the total number of contact hours required to become

current exceeds 24, then 24 shall be the maximum number required.

*History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11; Eff. July 1, 1998; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Temporary Amendment Eff. November 30, 2021.*

**21 NCAC 02 .0908 RECIPROCITY**

The requirements of North Carolina shall be deemed satisfied by a non-resident licensee or registrant provided:

- (1) ~~Registrant's~~ Licensee or registrant's resident jurisdiction has a ~~comparable~~ similar continuing education program; and
- (2) The same jurisdiction accepts the North Carolina continuing education requirements as satisfying their requirements.

*History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11; Eff. July 1, 1998; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Temporary Amendment Eff. November 30, 2021.*

**21 NCAC 02 .0909 FORMS**

All renewal applications shall require the completion of a continuing education certification provided by the Board documenting the contact hours claimed for the renewal period. The licensee or registrant shall supply sufficient detail to permit audit verification and shall certify and sign the continuing education certification with the renewal application and fee.

*History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11; Eff. July 1, 1998; Amended Eff. October 1, 2012; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Temporary Amendment Eff. November 30, 2021.*

**21 NCAC 02 .0910 NON-COMPLIANCE**

(a) If any credits are disallowed by the Board, then the licensee or registrant shall have 60 calendar days after notification to substantiate the original claim or obtain other contact hours to meet the minimum requirements.

(b) Licensees or registrants who fail to complete the continuing education requirement by the end of the previous calendar year shall have ~~his or her~~ their license placed on probation and shall complete the outstanding continuing education by December 31<sup>st</sup> of the current calendar year. If the licensee or registrant fails to complete the outstanding continuing education requirements ~~his or her~~ their license shall be suspended for 60 days or until such time as compliance is demonstrated if prior to 60 days. If the licensee or registrant fails to complete the outstanding continuing education within the 60 days suspension period, ~~his or her~~ their license or registration shall be revoked.

*History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11; 83A-15; Eff. July 1, 1998; Amended Eff. October 1, 2012; July 1, 2006; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Temporary Amendment Eff. November 30, 2021.*

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**RULES REVIEW COMMISSION**

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*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 2<sup>nd</sup> business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.*

**RULES REVIEW COMMISSION MEMBERS**

**Appointed by Senate**

Jeanette Doran (Chair)  
Robert A. Bryan, Jr. (2<sup>nd</sup> 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  
Brian Liebman      984-236-1948

**RULES REVIEW COMMISSION MEETING DATES**

December 16, 2021      February 17, 2022  
January 20, 2022      March 17, 2022

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**RULES REVIEW COMMISSION MEETING  
MINUTES**

**November 18, 2021**

The Rules Review Commission met on Thursday, November 18, 2021, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx.

Commissioners Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeanette Doran, Margaret Currin, Randy Overton, and Bob Rucho were present in the Commission Room. Commissioners present via WebEx were Jeff Hyde, Barbara Jackson, and Paul Powell.

Staff members present were Alexander Burgos; Commission Counsel Brian Liebman, Amber May, and Amanda Reeder. The meeting was called to order at 9:00 a.m. with Chair Doran presiding.

Chair Doran introduced OAH incoming Commission Counsel Brian Liebman to the Commission.

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

The Chair notified the Commissioners that the following item on the agenda would be taken up out of order at the end of the agenda: Temporary rules for Criminal Justice Education and Training Standards Commission.

**APPROVAL OF MINUTES**

The Chair asked for any discussion, comments, or corrections concerning the minutes of the October 21, 2021 meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the minutes were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

**FOLLOW UP MATTERS**

**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, and .0509 – Upon the call of the Chair, the rules were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

**Department of Insurance**

11 NCAC 05B .0301 was returned at the request of the agency. No action was required by the Commission.

**LOG OF FILINGS (PERMANENT RULES)**

**Medical Care Commission**

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

**Commission for Mental Health/DD/SAS**

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

**Code Officials Qualification Board**

Upon the call of the Chair, 11 NCAC 08 .0734 was approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

**Coastal Resources Commission**

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

**Department of Environmental Quality**

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

**Department of State Treasurer**

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

**State Human Resources Commission**

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

**Building Code Council**

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

**LOG OF FILINGS (TEMPORARY RULES)**

**Wildlife Resources Commission**

Upon the call of the Chair, 15A NCAC 10C .0314 was approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

**Criminal Justice Education and Training Standards Commission**

Upon the call of the Chair, the Commission objected to 12 NCAC 09B .0202, .0209, .0210, .0211, .0212, .0213, .0214, .0226, .0232, .0233, .0237, .0238, .0242, .0244, .0417; 09G .0414, .0415, and .0416 in accordance with G.S. 150B-21.1(b). Specifically, the Commission found the Criminal Justice Education and Training Standards Commission (CJETS) did not

meet the requirements for temporary rules as set forth in G.S. 150B-21.1(a)(1). Specifically, the Commission found that CJETS had not shown that COVID was “unforeseen” at this time, which is required by that subsection to engage in temporary rulemaking. Voting in the affirmative: Wayne R. Boyles III, Margaret Currin, Jeanette Doran, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: Andrew Atkins, Bobby Bryan, Barbara Jackson, and Paul Powell - 4. Leslie Cooley-Dismukes, with the Attorney General's Office and representing the agency, addressed the Commission.

**Board of Architecture & Registered Interior Designers**

Upon the call of the Chair, 21 NCAC 02. 0102, .0106, .0108, .0109, .0201, .0202, .0203, .0204, .0205, .0208, .0209, .0210, .0212, .0213, .0214, .0215, .0217, .0218, .0302, .0303, .0306, .0901, .0903, .0904, .0905, .0906, .0907, .0908, .0909, and .0910 were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

**COMMISSION BUSINESS**

Outgoing OAH Commission Counsel Amanda Reeder, addressed the Commission.

The meeting adjourned at 10:19 a.m.

The next regularly scheduled meeting of the Commission is Thursday, December 16, 2021, at 9:00 a.m.

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Alexander Burgos, Paralegal

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

**Rules Review Commission Meeting November 18, 2021  
Held Via WebEx**

<b>Name</b>	<b>Agency</b>
Laura Rowe	Treasurer
Jeff Horton	NC Senior Living
Dennis Seavers	Barbers Examiners
Denise Baker	DHHS
Carrie Hollis	OSBM
Stella Bailey	DHHS
Christine Goebel	DEQ
Catherine Rowe	
Jessica Macari	DOJ
Kerry Sutton	Concrete.org
Joseph Gilroy	
Ashley Pekrul	WRC
Jennifer Everett	DEQ
Shalisa Jones	DHHS
Megan Lamphere	DHHS
Loretta Peace-Bunch	DOI
Ben Garner	Treasurer
Rebecca Ellin	DEQ
Nadine Pfeiffer	DSHR

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**RULES REVIEW COMMISSION**

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November 18, 2021

Rules Review Commission  
Meeting  
Please **Print** Legibly

Name	Agency
Randy Overton	RRC
Leslie Dismukes	NCJETS
Erika Jones	NCJETS
Charmonique Williams	CJETS
Denise A Mazze	SARC

**LIST OF APPROVED TEMPORARY RULES**

**November 18, 2021 Meeting**

**WILDLIFE RESOURCES COMMISSION**

Striped Bass 15A NCAC 10C .0314

**ARCHITECTURE AND REGISTERED INTERIOR DESIGNERS, BOARD OF**

<u>Organization of Board and Officers</u>	21 NCAC	02	.0102
<u>Seal of Board</u>	21 NCAC	02	.0106
<u>Fees</u>	21 NCAC	02	.0108
<u>Definitions</u>	21 NCAC	02	.0109
<u>Architect, Registered Interior Designer, Firm or Partners...</u>	21 NCAC	02	.0201
<u>Applicability of Board Rules</u>	21 NCAC	02	.0202
<u>Rules of Professional Conduct</u>	21 NCAC	02	.0203
<u>Forms of Practice</u>	21 NCAC	02	.0204
<u>Name of Firm</u>	21 NCAC	02	.0205
<u>Dishonest Conduct</u>	21 NCAC	02	.0208
<u>Unprofessional Conduct</u>	21 NCAC	02	.0209
<u>Incompetence</u>	21 NCAC	02	.0210
<u>Independent Judgement and Disclosure</u>	21 NCAC	02	.0212
<u>Individual Licenses and Registrations</u>	21 NCAC	02	.0213
<u>Firm Practice of Architecture and Registered Interior Design</u>	21 NCAC	02	.0214
<u>Out of State Firms</u>	21 NCAC	02	.0215
<u>Architect Emeritus</u>	21 NCAC	02	.0217
<u>Limited Liability Companies</u>	21 NCAC	02	.0218
<u>Architectural Licensure by Examination</u>	21 NCAC	02	.0302
<u>Architecture Licensure by Reciprocity</u>	21 NCAC	02	.0303
<u>Interior Design Registration</u>	21 NCAC	02	.0306
<u>Scope</u>	21 NCAC	02	.0901
<u>Requirements</u>	21 NCAC	02	.0903
<u>Determination of Credit</u>	21 NCAC	02	.0904
<u>Record Keeping</u>	21 NCAC	02	.0905
<u>Exceptions</u>	21 NCAC	02	.0906
<u>Reinstatement</u>	21 NCAC	02	.0907
<u>Reciprocity</u>	21 NCAC	02	.0908
<u>Forms</u>	21 NCAC	02	.0909
<u>Non-Compliance</u>	21 NCAC	02	.0910

**LIST OF APPROVED PERMANENT RULES**

**November 18, 2021 Meeting**

**MEDICAL CARE COMMISSION**

<u>Infection Prevention and Control Program</u>	10A NCAC	13F	.1801
<u>Reporting and Notification of a Suspected or Confirmed Co...</u>	10A NCAC	13F	.1802
<u>Infection Prevention and Control Program</u>	10A NCAC	13G	.1701
<u>Reporting and Notification of a Suspected or Confirmed Co...</u>	10A NCAC	13G	.1702

**MENTAL HEALTH/DD/SAS, COMMISSION FOR**

<u>Schedule I</u>	10A NCAC	26F	.0102
<u>Schedule II</u>	10A NCAC	26F	.0103
<u>Schedule IV</u>	10A NCAC	26F	.0105
<u>Schedule V</u>	10A NCAC	26F	.0106

**INSURANCE, DEPARTMENT OF**

<u>Division Procedures</u>	11 NCAC	04	.0115
<u>Policy or Service Fees</u>	11 NCAC	04	.0120
<u>Premium Notices: Payments and Refunds</u>	11 NCAC	04	.0314
<u>Issuance of Contracts</u>	11 NCAC	04	.0315
<u>Contestability Clause and Rescission</u>	11 NCAC	04	.0316
<u>Sex Discrimination: Life: Accident and Health Insurance</u>	11 NCAC	04	.0317
<u>Life Insurance Sales: Financing First Year Premium</u>	11 NCAC	04	.0318
<u>Claims Practices: Life: Accident and Health Insurance</u>	11 NCAC	04	.0319
<u>Safe Driver Incentive Plan</u>	11 NCAC	04	.0415
<u>Disclosure Requirements</u>	11 NCAC	04	.0427
<u>Commingling</u>	11 NCAC	04	.0429
<u>Refund of Excess Premium on Scheduled Items</u>	11 NCAC	04	.0432
<u>Refund of Auto Insurance Premium on New Business</u>	11 NCAC	04	.0433
<u>Scope and Definitions</u>	11 NCAC	04	.0501
<u>Assumed Expenses and Current Scale</u>	11 NCAC	04	.0502
<u>Illustrated Policies</u>	11 NCAC	04	.0503
<u>General Rules</u>	11 NCAC	04	.0504
<u>Standards and Basic Illustrations</u>	11 NCAC	04	.0505
<u>Standards for Supplemental Illustrations</u>	11 NCAC	04	.0506
<u>Delivery of Illustration and Record Retention</u>	11 NCAC	04	.0507
<u>Annual Reports and Notices to Policy Owners</u>	11 NCAC	04	.0508
<u>Annual Certifications</u>	11 NCAC	04	.0509

**CODE OFFICIALS QUALIFICATION BOARD**

<u>Residential Changeout Inspector</u>	11 NCAC	08	.0734
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**COASTAL RESOURCES COMMISSION**

<u>General Use Standards for Ocean Hazard Areas</u>	15A NCAC	07H	.0306
<u>Specific Use Standards for Ocean Hazard Areas</u>	15A NCAC	07H	.0308
<u>Purpose</u>	15A NCAC	07H	.1201
<u>Approval Procedures</u>	15A NCAC	07H	.1202
<u>Permit Fee</u>	15A NCAC	07H	.1203
<u>General Conditions</u>	15A NCAC	07H	.1204
<u>Specific Conditions</u>	15A NCAC	07H	.1205
<u>Application Procedures</u>	15A NCAC	07J	.1105
<u>Permit Conditions</u>	15A NCAC	07J	.1106
<u>Permit Compliance</u>	15A NCAC	07J	.1107
<u>Requesting the Development Line</u>	15A NCAC	07J	.1301
<u>Structural Accessways Over Frontal Dunes Exempted</u>	15A NCAC	07K	.0207

**ENVIRONMENTAL QUALITY, DEPARTMENT OF**

<u>Statement of Purpose</u>	15A NCAC	07O	.0101
<u>Definitions as used in this Subchapter</u>	15A NCAC	07O	.0102
<u>Responsibilities: Duties of The Coastal Reserve Program</u>	15A NCAC	07O	.0103
<u>State and Local Coastal Reserve Advisory Committees</u>	15A NCAC	07O	.0104
<u>Reserve Components</u>	15A NCAC	07O	.0105
<u>Management Plan</u>	15A NCAC	07O	.0201
<u>Reserve Use Requirements</u>	15A NCAC	07O	.0202
<u>Special Activity Authorization</u>	15A NCAC	07O	.0203

**TREASURER, DEPARTMENT OF STATE**

<u>Correspondence</u>	20 NCAC	01F	.0102
<u>Petition for Rulemaking</u>	20 NCAC	01F	.0111
<u>Form of Requests</u>	20 NCAC	01F	.0203
<u>Who Makes Ruling</u>	20 NCAC	01F	.0204
<u>Ruling Procedures</u>	20 NCAC	01F	.0207
<u>Declaratory Rulings</u>	20 NCAC	01F	.0208

**STATE HUMAN RESOURCES COMMISSION**

<u>Temporary Appointment</u>	25 NCAC	01C	.0405
<u>Temporary Part-time Appointment</u>	25 NCAC	01C	.0407

**BUILDING CODE COUNCIL**

<u>2018 NC Existing Building Code/Repairs to Structural Conc...</u>	606.1.1
<u>2018 NC Building Code and NC Fire Code/Increased Occupant...</u>	1004.2
<u>2018 NC Fire Code/Permits</u>	3103.4