

NORTH CAROLINA REGISTER

VOLUME 39 • ISSUE 04 • Pages 154 – 183

August 15, 2024

I. IN ADDITION

DHHS – Notice of Application for New Innovative Approval of a Wastewater System	154
Building Code Council – Notice of Public Hearing	155 – 162

II. PROPOSED RULES

Environmental Quality, Department of Environmental Management Commission	163 – 166
Public Instruction, Department of Education, State Board of	166 – 176
Occupational Licensing Boards and Commissions Optometry, Board of Examiners in	176 – 177

III. RULES REVIEW COMMISSION	178 – 183
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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.

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Raleigh, North Carolina 27603-8005

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919-715-2893

215 North Dawson Street

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: Baxter Wells

bwells@nclm.org

Legislative Process Concerning Rulemaking

545 Legislative Office Building

300 North Salisbury Street

919-733-2578

Raleigh, North Carolina 27611

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NORTH CAROLINA REGISTER
Publication Schedule for January 2024 – December 2024

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 th day from publication in the Register
38:13	01/02/24	12/06/23	01/17/24	03/04/24	03/20/24	04/30/2024	05/01/24	09/28/24
38:14	01/16/24	12/19/23	01/31/24	03/18/24	03/20/24	04/30/2024	05/01/24	10/12/24
38:15	02/01/24	01/10/24	02/16/24	04/01/24	04/20/24	05/29/2024	06/01/24	10/28/24
38:16	02/15/24	01/25/24	03/01/24	04/15/24	04/20/24	05/29/2024	06/01/24	11/11/24
38:17	03/01/24	02/09/24	03/16/24	04/30/24	05/20/24	06/26/2024	07/01/24	11/26/24
38:18	03/15/24	02/23/24	03/30/24	05/14/24	05/20/24	06/26/2024	07/01/24	12/10/24
38:19	04/01/24	03/08/24	04/16/24	05/31/24	06/20/24	07/31/2024	08/01/24	12/27/24
38:20	04/15/24	03/22/24	04/30/24	06/14/24	06/20/24	07/31/2024	08/01/24	01/10/25
38:21	05/01/24	04/10/24	05/16/24	07/01/24	07/20/24	08/28/2024	09/01/24	01/26/25
38:22	05/15/24	04/24/24	05/30/24	07/15/24	07/20/24	08/28/2024	09/01/24	02/09/25
38:23	06/03/24	05/10/24	06/18/24	08/02/24	08/20/24	09/25/2024	10/01/24	02/28/25
38:24	06/17/24	05/24/24	07/02/24	08/16/24	08/20/24	09/25/2024	10/01/24	03/14/25
39:01	07/01/24	06/10/24	07/16/24	08/30/24	09/20/24	10/30/2024	11/01/24	03/28/25
39:02	07/15/24	06/21/24	07/30/24	09/13/24	09/20/24	10/30/2024	11/01/24	04/11/25
39:03	08/01/24	07/11/24	08/16/24	09/30/24	10/20/24	11/26/2024	12/01/24	04/28/25
39:04	08/15/24	07/25/24	08/30/24	10/14/24	10/20/24	11/26/2024	12/01/24	05/12/25
39:05	09/03/24	08/12/24	09/18/24	11/04/24	11/20/24	12/19/2024	01/01/25	05/31/25
39:06	09/16/24	08/23/24	10/01/24	11/15/24	11/20/24	12/19/2024	01/01/25	06/13/25
39:07	10/01/24	09/10/24	10/16/24	12/02/24	12/20/24	*01/29/2025	02/01/25	06/28/25
39:08	10/15/24	09/24/24	10/30/24	12/16/24	12/20/24	*01/29/2025	02/01/25	07/12/25
39:09	11/01/24	10/11/24	11/16/24	12/31/24	01/20/25	*02/26/2025	03/01/25	07/29/25
39:10	11/15/24	10/24/24	11/30/24	01/14/25	01/20/25	*02/26/2025	03/01/25	08/12/25
39:11	12/02/24	11/06/24	12/17/24	01/31/25	02/20/25	*03/26/2025	04/01/25	08/29/25
39:12	12/16/24	11/21/24	12/31/24	02/14/25	02/20/25	*03/26/2025	04/01/25	09/12/25

*Dates not approved by the RRC

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 Human Resources 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 but not later than 60 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.

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 Application for a new Innovative Approval of a Wastewater System for On-site Subsurface Use

Pursuant to NCGS 130A-343(g), the North Carolina Department of Health and Human Services (DHHS) shall publish a Notice in the NC Register that a manufacturer has submitted a request for approval of a modification of a wastewater system, component, or device for on-site subsurface use. The following application has been submitted to DHHS:

Application by: Nicholas Noble
Orenco Systems, Inc
814 Airway Ave
Sutherlin, OR 97479

For: Innovative Approval for the ClickTight Wiring Connection Systems

DHHS Contact: Wilson Mize
919-270-9665
Fax: 919-845-3973
wilson.mize@dhhs.nc.gov

These applications may be reviewed by contacting the applicant or Wilson Mize, Branch Head, at 5605 Six Forks Rd, Raleigh, NC, On-Site Water Protection Branch, Environmental Health Section, Division of Public Health. Draft proposed innovative approvals and proposed final action on the application by DHHS can be viewed on the On-Site Water Protection Branch web site: <http://ehs.ncpublichealth.com/oswp/>.

Written public comments may be submitted to DHHS within 30 days of the date of the Notice publication in the North Carolina Register. All written comments should be submitted to Wilson Mize, Branch Head, On-site Water Protection Branch, 1642 Mail Service Center, Raleigh, NC 27699-1642, wilson.mize@dhhs.nc.gov, or fax 919-845-3973. Written comments received by DHHS in accordance with this Notice will be taken into consideration before a final agency decision is made on the innovative subsurface wastewater system application.

1 **NOTICE OF RULE MAKING PROCEEDINGS AND PUBLIC HEARING**

2
3 **NORTH CAROLINA BUILDING CODE COUNCIL**

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

7
8 **Citation to Existing Rule Affected by this Rule-Making:** *North Carolina Administrative Code and*
9 *Policies, Building Code, Electrical Code, Energy Conservation Code, Existing Building Code, Fire Code,*
10 *Fuel Gas Code, Mechanical Code, Plumbing Code and Residential Code amendments.*

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

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

17
18 **Public Hearing:** *Tuesday, September 10, 2024, 9:00AM, Albemarle Building, 325 North Salisbury Street,*
19 *Raleigh, NC 27603, 2nd Floor Training Room 245. Comments on both the proposed rules and any fiscal*
20 *impacts will be accepted.*

21
22 **Comment Procedures:** *Written comments may be sent to David B. Rittlinger, Secretary, NC Building*
23 *Code Council, NC Department of Insurance: Office of the State Fire Marshal, 1429 Rock Quarry Road,*
24 *Raleigh, NC 27610 (email david.rittlinger@ncdoi.gov). Comments on both the proposed rule and any*
25 *fiscal impact will be accepted. Comment period expires on October 14, 2024.*

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

29
30 **Statement of Subject Matter:**

- 31
32 **1. Request from David Rittinger representing the NC Office of State Fire Marshal to amend Chapter**
33 **36 of the 2018 NC Building Code to reflect the requirements of North Carolina General Assembly**
34 **Session Law 2023-137, Section 35 “Restore 2009 Building Code Standards for Piers and Docks**
35 **Constructed in Estuarine Waters”.**
36

1 Due to size, this petition can be conveniently viewed at the link below and selecting the link “B-1 2018
2 NCBC Section 3608”:

3 <https://www.ncosfm.gov/news/events/building-code-council-public-hearing-june-11-2024>

4

5 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is January
6 1, 2025, unless the BCC assigns a delayed effective date.

7

8 **Reason Given** – Sections 3601 through 3607 is edited and applies to docks, piers, bulkheads and waterway
9 structures not included in North Carolina General Assembly Session Law 2023-137, Section 35 and not in
10 estuarine waters as defined within the definition of “Coastal Fishing Waters” within North Carolina
11 General Statute 113-129(4). Section 3608 is added and applies to docks, piers, bulkheads and waterway
12 structures included in North Carolina General Assembly Session Law 2023-137, Section 35 and in
13 estuarine waters as defined within the definition of “Coastal Fishing Waters” within North Carolina
14 General Statute 113-129(4). Section 3608 represents a reprint of Chapter 36 of the 2009 North Carolina
15 Building Code. Code change required by North Carolina General Assembly Session Law 2023-137,
16 Section 35 to reinstate 2009 NC Building Code, Chapter 36 Docks, Piers, Bulkheads and Waterway
17 Structures for docks, piers, bulkheads and waterway structures built within estuarine waters.

18

19 **Fiscal Statement** – No impact to federal, state and local government funds. No substantial impact and/or
20 an increase of more than \$80 per dwelling. A fiscal note has not been prepared.

21

22 **2. Request from David Rittinger representing the NC Office of State Fire Marshal to amend Chapter**
23 **36 of the 2024 NC Building Code to reflect the requirements of North Carolina General Assembly**
24 **Session Law 2023-137, Section 35 “Restore 2009 Building Code Standards for Piers and Docks**
25 **Constructed in Estuarine Waters”.**

26

27 Due to size, this petition can be conveniently viewed at the link below and selecting the link “B-2 2024
28 NCBC Section 3608”:

29 <https://www.ncosfm.gov/news/events/building-code-council-public-hearing-june-11-2024>

30

31 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is January
32 1, 2025, unless the BCC assigns a delayed effective date.

33

34 **Reason Given** – Sections 3601 through 3607 is edited and applies to docks, piers, bulkheads and waterway
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36 estuarine waters as defined within the definition of “Coastal Fishing Waters” within North Carolina
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1 structures included in North Carolina General Assembly Session Law 2023-137, Section 35 and in
2 estuarine waters as defined within the definition of “Coastal Fishing Waters” within North Carolina
3 General Statute 113-129(4). Section 3608 represents a reprint of Chapter 36 of the 2009 North Carolina
4 Building Code. Code change required by North Carolina General Assembly Session Law 2023-137,
5 Section 35 to reinstate 2009 NC Building Code, Chapter 36 Docks, Piers, Bulkheads and Waterway
6 Structures for docks, piers, bulkheads and waterway structures built within estuarine waters.

7

8 **Fiscal Statement** – No impact to federal, state and local government funds. No substantial impact and/or
9 an increase of more than \$80 per dwelling. A fiscal note has not been prepared.

10

11 **3. Request from Joseph Starling, PE representing the NC Office of State Fire Marshal to amend the**
12 **2023 NC Electrical Code, Article 100 – Definitions – Selective Coordination as follows:**

13

14 **Article 100 – Definitions**

15

16 **Coordination, Selective. (Selective Coordination)** Localization of an overcurrent condition to restrict
17 outages to the circuit or equipment affected, ~~accomplished for fault current events that extend beyond 0.1~~
18 second, and accomplished by the selection and installation of overcurrent protective devices and their
19 ratings or settings for the full range of available overcurrents, ~~from overload to the available fault current,~~
20 under such conditions, whether originating from overload, ground-fault or short circuit, and for the full
21 range of overcurrent protective device opening times ~~associated with those overcurrents applicable to such~~
22 events.

23

24 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is January
25 1, 2025, unless the BCC assigns a delayed effective date.

26

27 **Reason Given** – This proposal is a current Amendment to the NEC for redefining selective coordination
28 that was unintentionally excluded in the 2023 State Electrical Code adoption package. This request is to
29 include the Amendment with adopting the 2023 NEC. The State Electrical Division will handle this by
30 interpretation until this is corrected.

31

32 **Fiscal Statement** – No impact to federal, state and local government funds. No substantial impact and/or
33 an increase of more than \$80 per dwelling. A fiscal note has not been prepared.

34

35 **4. Request from Joseph Starling, PE representing the NC Office of State Fire Marshal to amend the**
36 **2023 NC Electrical Code, Section 551.71(F)(C), Receptacles Installed in Recreational Vehicle Site**
37 **Equipment as follows:**

1 Current Amendment of the 2023 North Carolina Electrical Code:

2

3 ~~Item 26: Requiring GFCI for 30- and 50- amp receptacles in RV site equipment the same as non-RV~~
4 ~~site equipment in (A) for RV parks; Retaining 2020 Code requirements.~~

5

6 ~~AMENDMENT 551.71(F)(2)~~

7 ~~Amend NEC 2023, page 516:~~

8

9 ~~(2) Receptacles Installed in Recreational Vehicle Site Equipment.~~

10 ~~Ground-fault circuit-interrupter protection shall be provided as required in 210.8(B).~~

11

12 ~~Informational Note No. 1: The definition of Feed Assembly clarifies that the power supply cord to a~~
13 ~~recreational vehicle is considered a feeder.~~

14

15 Repeal Amendment and Replace with Original Text of the 2023 NEC in the 2023 North Carolina Electrical
16 Code:

17

18 (2) Receptacles Installed in Recreational Vehicle Site Equipment.

19 Ground-fault circuit-interrupter protection shall only be required for 125-volt, single-phase, 15- and 20-
20 ampere receptacles.

21

22 Informational Note No. 1: Appliances used within- the recreational vehicle can create leakage current
23 levels at the supply receptacle(s) that could exceed the limits of a Class A GFCI device. Informational Note

24

25 No. 2: The definition of Feed Assembly clarifies that the power supply cord to a recreational vehicle is
26 considered a feeder.

27

28 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is January
29 1, 2025, unless the BCC assigns a delayed effective date.

30

31 **Reason Given** – Item B-2 of the March 2024 BCC meeting will have no effect on the GFCI requirements
32 to RV site equipment as intended by the petitioner. The attached proposal of returning back to the 2023
33 NEC text for section 551.71(F)(2) will modify section 210.8(B) to exempt RV site equipment from
34 providing GFCI protection for 30 and 50 amp receptacles as intended by the petitioner.

35

36 **Fiscal Statement** – No impact to federal, state and local government funds. No substantial impact and/or
37 an increase of more than \$80 per dwelling. A fiscal note has not been prepared.

1
2 **5. Request from Dan Dittman representing the NC Office of State Fire Marshal to amend the 2018**
3 **NC Energy Conservation Code, Sections R402.2.2.1, R402.2.2.2, Table R402.1.2, and R402.1.4 to**
4 **reflect the requirements of North Carolina General Assembly Session Law 2023108, Section 5**
5 **“Amend Insulation Requirements for Unvented Attic and Enclosed Rafter Assemblies” as follows:**
6

7 **R402.2.2 Ceilings without attic spaces.**

8
9 **R402.2.2.1 Roof Ceiling Assemblies.** Where Section R402.1.2 would require R-38 insulation and
10 the design of the roof/ceiling assembly, including cathedral ceilings, bay windows and other
11 similar areas, does not allow sufficient space for the required insulation, the minimum required
12 insulation for such roof/ceiling assemblies shall be R-30. This reduction of insulation from the
13 requirements of Section R402.1.2 shall be limited to 500 square feet (46 m²) of the total insulated
14 ceiling area. This reduction shall not apply to the U-factor alternative approach in Section
15 R402.1.4 and the total UA alternative in Section R402.1.5.
16

17 **R402.2.2.2 Unvented attic and unvented enclosed rafter assembly alternate.**

18 Where Table R402.1.2 requires R-38 insulation in the ceiling, or Table R402.1.4 requires a ceiling
19 U-factor of 0.030, installing air-impermeable insulation, as follows, to the underside or directly
20 above the roof deck shall be deemed to satisfy the R-38 requirements: (i) R-20 (equivalent U-
21 factor 0.05) for climate zone 3; (ii) R-25 (equivalent U-factor 0.037) for climate zone 4; and (iii)
22 R-25 (equivalent U-factor 0.037) for climate zone 5. These air-impermeable insulation alternative
23 R-value minimums apply in residences meeting the following criteria:

- 24 (1) The unvented attic or unvented enclosed rafter assemblies are constructed under
25 Section R806.5 of the North Carolina Residential Code.
26 (2) The residence contains a mechanical ventilation system that operates on a positive,
27 balanced, or hybrid pressure strategy in accordance with North Carolina Mechanical
28 Code Section 403.3.
29 (3) For residences with air-impermeable insulation installed below the roof deck, exposed
30 portions of the roof rafters are wrapped by a minimum of R-3 insulation unless directly
31 covered by drywall or finished ceiling material. For residences with air-impermeable
32 insulation installed above the roof deck, roof rafters do not require insulation wrapping if
33 air-impermeable insulation installed above the roof deck is continuous.
34 (4) The residence obtains an ACH50 blower door test result of less than 3.0.
35 (5) The residence contains heating, cooling, and ventilation equipment and ductwork
36 within thermal envelope.
37

1
2

**TABLE R402.1.2
INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT***

CLIMATE ZONE	FENESTRATION U-FACTOR ¹	SKYLIGHT ² U-FACTOR	GLAZED FENESTRATION SHGC ^{3,4}	CEILING R-VALUE ^{5a}	WOOD FRAME WALL R-VALUE	MASS WALL R-VALUE ⁶	FLOOR R-VALUE	BASEMENT ^{7,8} WALL R-VALUE	SLAB R-VALUE & DEPTH	CRAWL SPACE WALL R-VALUE
3	0.35	0.55	0.30	38 or 30ci ⁹	15 or 13+2.5 ^b	5/13 or 5/10ci	19	5/13 ^f	0	5/13
4	0.35	0.55	0.30	38 or 30ci ⁹	15 or 13+2.5 ^b	5/13 or 5/10ci	19	10/15	10	10/15
5	0.35	0.55	NR	38 or 30ci ⁹	19 ^a or 13+5 ^h or 15+3 ^h	13/17 or 13/12.5ci	30 ^g	10/15	10	10/19

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p. Alternately, per North Carolina General Assembly Session Law 2023-108, Section 6 (effective 8/16/23), unvented attic and unvented enclosed rafter assemblies can utilize R402.2.2.2 where the assembly can comply with the criteria listed under R402.2.2.2.

**TABLE R402.1.4
EQUIVALENT U-FACTORS***

CLIMATE ZONE	FENESTRATION U-FACTOR ^a	SKYLIGHT U-FACTOR	CEILING U-FACTOR ^b	FRAME WALL U-FACTOR	MASS WALL U-FACTOR ^c	FLOOR U-FACTOR	BASEMENT WALL U-FACTOR	CRAWL SPACE WALL U-FACTOR
3	0.35	0.55	0.030	0.077	0.141	0.047	0.091 ^e	0.136
4	0.35	0.55	0.030	0.077	0.141	0.047	0.059	0.065
5	0.35	0.55	0.030	0.061	0.082	0.033	0.059	0.065

13
14
15

e. Alternately, per North Carolina General Assembly Session Law 2023-108, Section 6 (effective 8/16/23), unvented attic and unvented enclosed rafter assemblies can utilize R402.2.2.2 where the assembly can comply with the criteria listed under R402.2.2.2.

16
17
18
19
20
21
22
23

Motion/Second/Approved – The request was granted. The proposed effective date of this rule is January 1, 2025, unless the BCC assigns a delayed effective date.

1 **Reason Given** – This amendment is being filed to comply with the requirements of N.C. Sess. L. 2023-
2 108, § 6 (eff. Aug. 16, 2023). As such, the proposal was not vetted for cost of construction, increasing the
3 cost of a dwelling by \$80 or more, affecting Local or State funds, or if it will cause a substantial impact.
4 Likewise, a cost-benefit analysis was not performed because the code change was a directive by the North
5 Carolina General Assembly to codify the language.

6
7 **Fiscal Statement** – No impact to federal, state and local government funds. No substantial impact and/or
8 an increase of more than \$80 per dwelling. A fiscal note has not been prepared.

9
10 **6. Request from Dan Dittman representing the NC Office of State Fire Marshal to amend the 2024**
11 **NC Energy Conservation Code, Section R402 Building Thermal Envelope to reflect the requirements**
12 **of North Carolina General Assembly Session Law 2023-108, Section 5 “Amend Insulation**
13 **Requirements for Unvented Attic and Enclosed Rafter Assemblies” as follows:**

14
15 Due to size, this petition can be conveniently viewed at the link below and selecting the link “B-6 2024
16 NCECC R402 building Thermal Envelope”:
17 <https://www.ncosfm.gov/news/events/building-code-council-public-hearing-june-11-2024>

18
19 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is January
20 1, 2025, unless the BCC assigns a delayed effective date.

21
22 **Reason Given** – This amendment is being filed to comply with the requirements of N.C. Sess. L. 2023-
23 108, § 6 (eff. Aug. 16, 2023). As such, the proposal was not vetted for cost of construction, increasing the
24 cost of a dwelling by \$80 or more, affecting Local or State funds, or if it will cause a substantial impact due
25 to the incremental impact of said Statute. Likewise, a cost-benefit analysis was not performed for the
26 incremental impact of said Statute, because the code change was a directive by the North Carolina General
27 Assembly to codify the language. This permanent rule change to the 2024 NC Energy Conservation Code is
28 in response to the objection by the Rules Review Commission of the NC Office of Administrative Hearings
29 at the 4/30/24 RRC meeting.

30
31 **Fiscal Statement** – A fiscal note as required by N.C.G.S. 143-138 (a1)(1) and approved by OSBM is in
32 development and is anticipated to be available by the publication of the 8/15/24 NC Register. A cost benefit
33 analysis as required by N.C.G.S. 143-138 (a1)(2) is in development and is anticipated to be available by the
34 publication of the 8/15/24 NC Register. The fiscal note and cost benefit analysis can be found at the link
35 below once it is completed:

36 <https://www.ncosfm.gov/news/events/building-code-council-public-hearing-june-11-2024>

37

1 **NOTICE:**

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

4 **<https://www.ncosfm.gov/interpretations>**

5

6 **NOTICE:**

7 **Amendments** of the North Carolina State Building Codes are published online at the following link.

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

9

10 **NOTICE:**

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

13 **<http://www.ncoah.com/rules/>**

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

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to amend the rule cited as 15A NCAC 02B .0309.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.deq.nc.gov/public-notices-hearings>

Proposed Effective Date: March 1, 2025

Public Hearing:

Date: October 10, 2024

Time: 6:00 p.m.

Location: Rowan-Cabarrus Community College North Campus, Room 101, Building 106, 1333 Jake Alexander Blvd, S., Salisbury, NC 28146

Reason for Proposed Action: *The Environmental Management Commission proposes to amend the classification of the following waters to either Class WS-IV or Class WS-V: portions of the Yadkin River, South Yadkin River, Deals Creek, Second Creek, Beaverdam Creek, Walnut Branch, Setman Branch, Fourth Creek, Peeler Creek, Cody Creek, Dutchman Creek, Humpy Creek, and associated tributaries. The affected surface waters are in Rowan, Davie, and Davidson Counties.*

This proposed reclassification was requested by Salisbury-Rowan Utilities in order to relocate their existing pump station and raw water intake to a location approximately 2,100 feet downstream in the Yadkin River (including upper portion of High Rock Lake below normal operating level). The existing intake is affected by increased sedimentation and flooding. Relocating the intake will improve resiliency of their water supply system and will allow them to maintain raw water supply capabilities during and following floods. The new combined intake structure and pump station is within the boundary of High Rock Lake and would draw water from not only the Yadkin River but also the South Yadkin River, Deals Creek, and associated tributaries, which necessitates the reclassification of these waterbodies to the Water Supply classification.

A Use and Value Demonstration study, as required by the federal Clean Water Act, was conducted on the waters proposed to be reclassified and concluded that they meet the classification requirements.

If reclassified, restrictions affecting new landfills, sites that land apply sludge and residuals, development density, and industrial process wastewater discharges would apply. Based on zoning and current conditions in the area, the reclassification is anticipated to have no effect on current practices, including no effect on farming practices.

The Regulatory Impact Analysis was certified by OSBM on June 11, 2024, and found there would be a one-time estimated cost of \$7,050 to local governments associated with updating local ordinances and a one-time estimated cost of \$2,000 to state governments associated with updating surface water classification maps. The proposed reclassifications will not meet or exceed the threshold for a substantial economic impact.

Comments may be submitted to: Elizabeth Ward Liebig, DEQ-DWR Water Planning Section, 1611 Mail Service Center, Raleigh, NC 27699-1611; email elizabeth.liebig@deq.nc.gov

Comment period ends: October 14, 2024

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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or 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 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02B - SURFACE WATER AND WETLAND STANDARDS

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

15A NCAC 02B .0309 YADKIN-PEE DEE RIVER BASIN

(a) Classifications assigned to the waters within the Yadkin-Pee Dee River Basin are set forth in the Yadkin River Basin

Classification Schedule, which may be inspected at the following places:

- (1) the Internet at <https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification>; and
- (2) the following offices of the North Carolina Department of Environmental Quality:
 - (A) Mooresville Regional Office
610 East Center Avenue, Suite 301
Mooresville, North Carolina;
 - (B) Winston-Salem Regional Office
450 West Hanes Mill Road
Winston-Salem, North Carolina;
 - (C) Fayetteville Regional Office
225 Green Street
Systel Building Suite 714
Fayetteville, North Carolina;
 - (D) Asheville Regional Office
2090 US Highway 70
Swannanoa, North Carolina; and
 - (E) Division of Water Resources
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed streams entering Virginia are classified "C," and such streams entering South Carolina are classified "C".

(c) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective:

- (1) February 12, 1979;
- (2) March 1, 1983;
- (3) August 1, 1985;
- (4) February 1, 1986;
- (5) October 1, 1988;
- (6) March 1, 1989;
- (7) January 1, 1990;
- (8) August 1, 1990;
- (9) January 1, 1992;
- (10) April 1, 1992;
- (11) August 3, 1992;
- (12) December 1, 1992;
- (13) April 1, 1993;
- (14) September 1, 1994;
- (15) August 1, 1995;
- (16) August 1, 1998;
- (17) April 1, 1999;
- (18) July 1, 2006;
- (19) September 1, 2006;
- (20) November 1, ~~2007~~, 2007; and
- (21) March 1, 2025.

(d) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective October 1, 1988 as follows:

- (1) Mitchell River [Index No. 12-62-(1)] from source to mouth of Christian Creek (North Fork Mitchell River) including all tributaries has been reclassified from Class B Tr to Class B Tr ORW.
- (2) Mitchell River [Index No. 12-62-(7)] from mouth of Christian Creek (North Fork Mitchell

River) to Surry County SR 1315 including all tributaries has been classified from Class C Tr to C Tr ORW, except Christian Creek and Robertson Creek which will be reclassified from Class B Tr to Class B Tr ORW.

- (3) Mitchell River [Index No. 12-62-(12)] from Surry County SR 1315 to mouth of South Fork Mitchell River including all tributaries from Class C to Class C ORW.

(e) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective March 1, 1989 as follows: Elk Creek [Index Nos. 12-24-(1) and 12-24-(10)] and all tributary waters were reclassified from Class B-trout, Class C-trout and Class B to Class B-trout ORW, Class C-trout ORW and Class B ORW.

(f) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective January 1, 1990 as follows: Barnes Creek (Index No. 13-2-18) was reclassified from Class C to Class C ORW.

(g) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective January 1, 1992 as follows:

- (1) Little River [Index Nos. 13-25-(10) and 13-25-(19)] from Suggs Creek to Densons Creek has been reclassified from Classes WS-III and C to Classes WS-III HQW and C HQW.
- (2) Densons Creek [Index No. 13-25-20-(1)] from its source to Troy's Water Supply Intake including all tributaries has been reclassified from Class WS-III to Class WS-III HQW.
- (3) Bridgers Creek (Index No. 13-25-24) from its source to the Little River has been reclassified from Class C to Class C HQW.

(h) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective April 1, 1992 with the reclassification of the North Prong South Fork Mitchell River from Class C to Class C Trout.

(i) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules (15A NCAC 02B .0100, .0200 and .0300), which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(j) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective December 1, 1992 as follows:

- (1) Pike Creek (Index No. 12-46-1-2) was reclassified from Class C Tr to Class C Tr HQW;
- (2) Basin Creek (Index No. 12-46-2-2) was reclassified from Class C Tr to Class C Tr ORW;

- (3) Bullhead Creek (Index No. 12-46-4-2) was reclassified from Class C Tr to Class C Tr ORW;
 - (4) Rich Mountain Creek (Index No. 12-46-4-2-2) was reclassified from Class Tr to Class C Tr ORW; and
 - (5) Widows Creek (Index No. 12-46-4-4) was reclassified from Class C Tr HQW to Class C Tr ORW.
- (k) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective September 1, 1994 as follows:
- (1) Lanes Creek [Index Nos. 13-17-40-(1) and 13-17-40-(10.5)] from its source to the Marshville water supply dam including tributaries was reclassified from Classes WS-II and WS-II CA to Class WS-V.
 - (2) The South Yadkin River [Index Nos. 12-108-(9.7) and 12-108-(15.5)] from Iredell County SR 1892 to a point 0.7 mile upstream of the mouth of Hunting Creek including associated tributaries was reclassified from Classes WS-V, C and WS-IV to Classes WS-V, WS-IV, C and WS-IV CA.
 - (3) The Yadkin River [Index Nos. 12-(53) and 12-(71)] from a point 0.3 mile upstream of the mouth of Elkin Creek (River) to the Town of King water supply intake including associated tributaries was reclassified from Classes C and WS-IV to Classes WS-IV and WS-IV CA.
 - (4) The Yadkin River [Index Nos. 12-(80.5), 12-(81.5) and 12-(84.5)] from the Town of King water supply intake to the Davie County water supply intake reclassified from Classes C, B, WS-IV and WS-V to Classes WS-IV, WS-IV B and WS-IV CA.
- (l) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective August 1, 1995 as follows: Bear Creek [Index Nos. 12-108-18-(3), 12-108-18-(3.3)], Little Bear Creek (Index No. 12-108-18-2), and Blue Branch (Index No. 12-108-18-2-1) were reclassified from WS-II and WS-II CA (Critical Area) to C and WS-IV.
- (m) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective August 1, 1998 with the revision to the primary classification for portions of the Yadkin River [Index No. 12-(45)] from Class WS-IV to WS-V, Yadkin River [Index No. 12-(67.5)] from Class WS-IV to Class C, Yadkin River [Index Nos. 12-(93.5) and 12-(98.5)] from Class WS-IV to Class WS-V, South Yadkin River [Index No. 12-108-(12.5)] from Class WS-IV to Class WS-V, and South Yadkin River [Index Nos. 12-108-(19.5) and 12-108-(22)] from Class WS-IV to Class C.
- (n) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective April 1, 1999 with the reclassification of a portion of the Yadkin River [Index No. 12-(80.5)] from WS-IV CA to WS-IV. A portion of the Yadkin River 0.5 mile upstream of Bashavia Creek was reclassified from WS-IV to WS-IV CA. Bashavia Creek [Index Nos. 12-81-(0.5) and 12-81-(2)] was reclassified from WS-IV and WS-IV CA to Class C. Tributaries to Bashavia Creek were also reclassified to Class C. Portions of the Yadkin River [Index Nos. 12-(25.5) and 12-(27)] were

reclassified from WS-IV to Class C and from WS-IV & B to Class B. Tributaries were reclassified from Class WS-IV to Class C. Supplemental classifications were not changed.

(o) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective July 1, 2006 with the reclassification of a portion of the Uwharrie River. More specifically, Index No. 13-2-(25), Index No. 13-2-(17.5), and a portion of Index No. 13-2-(1.5) was reclassified from Class WS-IV CA, WS-IV, and C, to Class WS-IV B CA, WS-IV B, and B, respectively.

(p) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective September 1, 2006 with the reclassification of a segment of the Yadkin River [portion of Index No. 12-(53)] from a point 0.3 mile upstream of the Town of Elkin proposed water supply intake to the Town of Elkin proposed water supply intake from C to WS-IV CA. The Town of Elkin proposed water supply intake is to be placed on the Yadkin River at a point directly above the mouth of Elkin Creek.

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

- (1) Black Ankle Bog near Suggs Creek [Index No. 13-25-12] was reclassified to Class WL UWL.
- (2) Pilot Mountain Floodplain Pool near Horne Creek [Index No. 12-75] was reclassified to Class WL UWL.

(r) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective March 1, 2025, using 15A NCAC 02B .0202(20)(c) and (48)(c), which defined the critical and protected areas a different distance from the intake as adopted by the Commission during the reclassification process as follows:

- (1) a portion of the Yadkin River Index No. 12-(108.5) from the mouth of the South Yadkin River to a point 125 feet downstream of its confluence with Deals Creek, a portion of Deals Creek Index No. 12-109 from a point 0.7 miles upstream of the mouth of the Yadkin River to the Yadkin River, and a portion of the South Yadkin River Index No. 12-108-(19.5) from a point 0.2 miles upstream of the mouth of the Yadkin River to the Yadkin River, and the watersheds associated with these waterbody portions were reclassified from Class C to Class WS-IV CA;
- (2) a portion of the Yadkin River Index No. 12-(107.5) from a point 0.7 miles upstream of the mouth of the South Yadkin River to a point 0.2 miles upstream of the mouth of the South Yadkin River, a portion of Deals Creek Index No. 12-109 from its source to a point 0.7 miles upstream of the mouth of the Yadkin River, a portion of Second Creek Index No. 12-108-21 from Highway 70 to the mouth of the South Yadkin River, a portion of Fourth Creek Index No. 12-108-20 from NC 801 to the mouth of the South Yadkin River, a portion of South Yadkin River Index No. 12-108-(19.5) from NC 801 to a point 0.2 miles upstream of its confluence

(3) with the Yadkin River, and watersheds associated with these waterbody portions were reclassified from Class C to Class WS-IV; and a portion of the Yadkin River Index No. 12-101.5 from a point 1.0 mile upstream of the mouth of Dutchman Creek to Dutchman Creek and its watershed were reclassified from Class WS-IV to Class WS-V.

Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

TITLE 16 – DEPARTMENT OF PUBLIC INSTRUCTION

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the State Board of Education intends to adopt the rules cited as 16 NCAC 06A .0201, .0202; 06D .0510, amend the rule cited as 16 NCAC 06D .0508, and readopt with substantive changes the rules cited as 16 NCAC 06D .0501, .0503 and .0506.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.dpi.nc.gov/about-dpi/state-board-education/rulemaking-information>

Proposed Effective Date: January 1, 2025

Public Hearing:
Date: September 6, 2024
Time: 9:00 a.m.
Location:

<https://ncgov.webex.com/ncgov/j.php?MTID=m310b78e5c3e1b223788859916edef744>

Reason for Proposed Action: Title 16, Subchapter 6D, Section .0500 of the North Carolina Administrative Code covers several rules related to grade promotion and high school graduation requirements for North Carolina public schools. Rules 16 NCAC 06D .0501, .0503, and .0506 are part of the SBE periodic review schedule and must be re-adopted by June 30, 2026, in accordance with G.S. 150B-21.3A. Rules 16 NCAC 06D .0503 and .0506 which lists the state high school graduation requirements for traditional students and special education students, respectively, have not been revised since 2006 and need to be updated to align with SBE Policy GRAD-004.

S.L. 2023-134, Sections 8A.6.(k)–(r), required the SBE to establish a set of graduation requirements that allow students enrolled in North Carolina public high schools to graduate within 3 years of enrollment in 9th Grade. Sections 8A.6.(k) also amended G.S. 115C-12(9d) to prohibit local boards of education from establishing additional requirements beyond those established by the State Board. Section 8A.6.(s) directed the SBE to adopt an emergency rule to implement these requirements. The emergency rule became effective on November 16, 2023, and the temporary rule became effective on February 8, 2024. The SBE is now proposing a permanent rule, which does not differ in any substantive way from the temporary rule.

Finally, the SBE is proposing two operational rules designed to increase clarity and streamline other SBE rules within the North

Carolina Administrative Code. 16 NCAC 06A .0201 is a master definitions rule that defines commonly used terms like "local superintendent" and "public school unit." 16 NCAC 06A .0201 identifies the physical location and mailing address for the SBE and DPI; this is a common rule for other agencies and is used whenever a rule calls for sending mail to the agency. These rules are being included with the graduation and promotion rules for administrative convenience.

Comments may be submitted to: Ryan Collins, 6301 Mail Service Center, Raleigh, NC 27601; email ryan.collins@dpi.nc.gov

Comment period ends: October 15, 2024

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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or 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 06 - ELEMENTARY AND SECONDARY EDUCATION

SUBCHAPTER 06A – ORGANIZATIONAL PLAN STATE BOARD OF EDUCATION RULES

SECTION .0200 – ORGANIZATION AND ADMINISTRATION

16 NCAC 06A .0201 DEFINITIONS

As used in this Chapter, the following definitions apply unless otherwise specified:

- (1) "Board," "SBE," or "NCSBE" means the State Board of Education.
- (2) "Charter school" means a public school organized and operated under Chapter 115, Article 14A of the General Statutes.

- (3) "Department," "DPI," or "NCDPI" means the Department of Public Instruction.
- (4) "High school" means a public school offering education in Grades 9 through 12 or 10 through 12.
- (5) "Institution of higher education" or "IHE" means a community college, two-year college, four-year college, or university accredited by an agency recognized by the United States Secretary of Education to be a reliable authority on accreditation.
- (6) "Junior high school" means a public school offering education in Grades 6 through 9 or 7 through 9.
- (7) "Local education agency" or "LEA" means a local school administrative unit.
- (8) "Local board of education" or "local board" is defined in G.S. 115C-5(5).
- (9) "Local school administrative unit" or "LSAU" is defined in G.S. 115C-5(6).
- (10) "Local superintendent" means the superintendent of a local school administrative unit, as provided in Chapter 115C, Article 18 of the General Statutes.
- (11) "Middle school" means a public school offering education in Grades 6 through 8.
- (12) "Principal" means a school administrator employed as the principal of a school, as provided in Chapter 115C, Article 19 of the General Statutes.
- (13) "Professional educator" or "educator" is defined in G.S. 115C-270.1(2).
- (14) "Public school" or "school" means a public institution offering tuition-free education at any level from Kindergarten through Grade 12 and that is under the jurisdiction of a public school unit.
- (15) "Public school unit" or "PSU" is defined in G.S. 115C-5(7a).
- (16) "PSU governing body" or "governing body of a public school unit" is defined in G.S. 115C-5(3a).
- (17) "Regional school" is defined in G.S. 115C-238.61(4).
- (18) "School district" is defined in G.S. 115C-5(4).
- (19) "School for the blind" is defined in G.S. 115C-150.10(6).
- (20) "School for the deaf" is defined in G.S. 115C-150.10(7).
- (21) "School year" or "academic year" means a calendar year beginning on July 1 of one year and ending on June 30 of the following year.
- (22) "Student" means a person enrolled in pre-kindergarten, kindergarten, or in Grade 1 through Grade 12 in any public school unit.

Authority G.S. 115C-5; 115C-12; 115C-150.10; 115C-218; 115C-238.61; 115C-270.1.

16 NCAC 06A .0202 ADMINISTRATIVE OFFICE AND CONTACT INFORMATION

(a) The administrative offices for the State Board of Education and the Department of Public Instruction are located in the New Education Building, 301 North Wilmington Street, Raleigh, North Carolina 27601.

(b) The mailing address for the State Board of Education and the Department of Public Instruction is 6301 Mail Service Center, Raleigh, North Carolina 27699. To the extent that any rule in this Chapter calls for materials to be submitted via physical mail to the SBE, DPI, or any officer or employee thereof, the sender shall utilize this mailing address.

Authority G.S. 115C-5; 115C-12.

SUBCHAPTER 06D - INSTRUCTION

SECTION .0500 – DEFINITIONS PROMOTION AND GRADUATION

16 NCAC 06D .0501 DEFINITIONS

As used in this Subchapter: Section, the following definitions apply:

- ~~(1) "adequate progress" shall mean student performance at or near grade level as indicated by student work, assessment data, and other evaluation information.~~
- ~~(2) "focused intervention" shall mean help for students in attaining competency goals and objectives. The help or assistance shall be based on a diagnosis of what the student knows and is able to do. The strategies for helping the student shall be based on the diagnosis of the student's work.~~
- ~~(3) "grade level proficiency" shall mean Level III or above on end of grade assessments in reading and mathematics in grades 3-8. In grades K-2, teachers shall identify those students who are not performing at grade level expectations. The levels of student performance shall be defined as follows:~~
 - ~~(a) "Level I" shall mean that the student fails to achieve at a basic level. Students performing at this level do not have sufficient mastery of knowledge and skills in this subject area to be successful at the next grade level.~~
 - ~~(b) "Level II" shall mean that the student achieves at a basic level. Students performing at this level demonstrate inconsistent mastery of knowledge and skills in this subject area and are minimally prepared to be successful at the next grade level.~~
 - ~~(c) "Level III" shall mean that the student achieves at a proficient level. Students performing at this level consistently demonstrate mastery of grade level~~

subject matter and skills and are well prepared for the next grade level.

- (d) "Level IV" shall mean that the student achieves at an advanced level. Students performing at this level consistently perform in a superior manner clearly beyond that required to be proficient at grade level work.
- (4) "instructionally sound" shall mean a practice or strategy that reflects research findings and the achievement needs of students. The practice shall take into account student learning styles, effective delivery of content and skills, diagnosis, monitoring, and evaluation.
- (1) "Alternative assessment" is defined in G.S. 115C-83.3.
- (2) "Career and technical education" or "CTE" means education designed to teach a set of technical or career-based skills, including agriculture, business and finance, family and consumer science, health science, information technology, marketing, technology, and industrial trades.
- (3) "Child with a disability" is defined in G.S. 115C-106.3(1).
- (4) "Content area" means a subject matter, academic discipline, or knowledge domain, such as a core academic area, career and technical education, and the arts.
- (5) "Content standards" means the knowledge, concepts, and skills that a student should acquire at a specific grade level or within a specific content area. The Standard Course of Study indicates the minimum content standards for students in North Carolina.
- (6) "Core academic areas" means the academic disciplines of reading, writing, mathematics, science, history, geography, and civics.
- (7) "Course credit" means the documented recognition that a student has demonstrated, to the satisfaction of the governing body of a public school unit and consistent with the content standards, rigor, breadth, and depth of the Standard Course of Study, mastery of the content area for which the credit is being earned.
- (8) "Elective course credit" means course credit not specifically mandated by law or by this Section.
- (9) "Individualized education program" or "IEP" is defined in G.S. 115C-106.3(8).
- (10) "IEP team" is defined in G.S. 115C-106.3(7).
- (11) "Occupational preparation education" means instruction designed to prepare a student identified as a child with a disability for post-secondary education, employment, or independent living.
- (12) "Postsecondary plans" means a student's educational or occupational plans after

graduating from high school, such as one of the following:

- (a) Enrollment in an institution of higher education.
- (b) Full-time employment.
- (c) Enlistment in the military.
- (13) "Principal" means a school administrator employed as the principal of a school, as provided in Chapter 115C, Article 19 of the General Statutes, or the staff member with the highest decision-making authority at a school, if there is no principal.
- (14) "Standard Course of Study" means the plan of education and standard course of study that has been developed and approved by the State Board of Education in accordance with G.S. 115C-12(9c) and Chapter 115C, Article 8, Part 1 of the General Statutes. The Standard Course of Study defines the content standards for each grade level or proficiency level for each high school course to provide a uniform set of learning standards for every public school in North Carolina. These standards define what a student is expected to know and be able to do by the end of each school year or high school course so that the student is prepared for the student's postsecondary plans.

Authority G.S. 115C-12(9b); 115C-81(b)(4); N.C. Constitution, Article IX, Sec. 5; G.S. 115C-12(9c); 115C-12(9d); 115C-81.5; 115C-81.25; 115C-81.45; 115C-81.90; 115C-83.3; 115C-83.31; 115C-83.32; 115C-106.3.

16 NCAC 06D .0503 STATE GRADUATION REQUIREMENTS

- (a) In order to graduate and receive a high school diploma, public school students shall meet the requirements of Paragraph (e) of this Rule and shall attain passing scores on competency tests adopted by the SBE and administered by the LEA. The passing score for the competency test, which is the same as grade level proficiency as set forth in Rule .0502 of this Subchapter, shall be level III or higher.
- (b) Students who satisfy all state and local graduation requirements but who fail the competency tests shall receive a certificate of achievement and transcript and shall be allowed by the LEA to participate in graduation exercises.
- (c) Special education students, other than students who are following the occupational course of study in Paragraph (e)(1)(D) of this Rule, may apply in writing to be exempted from taking the competency tests. Before it approves the request, the LEA must assure that the parents, or the child if aged 18 or older, understand that each student must pass the competency tests to receive a high school diploma.
- (d) Any student who has failed to pass the competency tests by the end of the last school month of the year in which the student's class graduates may receive additional remedial instruction and continue to take the competency tests during regularly scheduled testing until the student reaches maximum school age. Special education students who are following the occupational course of

study in Paragraph (e)(1)(D) of this Rule shall not be required to pass the competency test or the exit exam referred to in 16 NCAC 06D .0502(d)(2) in order to graduate and receive a diploma.

(e) In addition to the requirements of Paragraph (a) of this Rule, students must successfully complete 20 course units in grades 9-12 as specified below:

- (1) Effective with the class entering ninth grade for the first time in the 2000-2001 school year, students shall select one of the following four courses of study:

NOTE: All students are encouraged, but not required, to include at least one elective course in arts education. Unless included as career/technical education credits in the career preparation course of study, courses in R.O.T.C. qualify for credit as electives in any of the courses of study.

(A) career preparation, which shall include:

- (i) four credits in English language arts, which shall be English I, II, III, and IV;
- (ii) three credits in mathematics, one of which shall be algebra I (except as limited by G.S. 115C-81(b));
- (iii) three credits in science, which shall include biology, a physical science, and earth/environmental science;
- (iv) three credits in social studies, which shall be Civics and Economics, U.S. history, and World history;
- (v) one credit in health and physical education;
- (vi) four credits in career/technical education, which shall be in a career concentration or pathway that leads to a specific career field and which shall include a second level (advanced) course; or four credits in one of the four disciplines in arts education: theatre, music, visual arts, or dance; or four credits in R.O.T.C.;
- (vii) two elective credits; and
- (viii) other credits designated by the LEA.

(B) college technical preparation, which shall include:

- (i) four credits in English language arts, which shall be English I, II, III, and IV;
- (ii) three credits in mathematics, which shall be either algebra I, geometry, and algebra II; or algebra I, technical

mathematics I, and technical mathematics II; or integrated mathematics I, II, and III;

- (iii) three credits in science, which shall include biology, a physical science, and earth/environmental science;
- (iv) three credits in social studies, which shall be Civics and Economics, U.S. history, and World history;
- (v) one credit in health and physical education;
- (vi) four credits in career/technical education, which shall be in a career concentration or pathway that leads to a specific career field and which shall include a second level (advanced) course;
- (vii) two elective credits; and
- (viii) other credits designated by the LEA.

NOTE: A student who is pursuing this course of study may also meet the requirements of a College/university course of study by completing one additional mathematics course for which Algebra II is a prerequisite and, effective with the class entering the ninth grade for the first time in the 2002-03 school year, two credits in the same second language.

(C) college/university preparation, which shall include:

- (i) four credits in English language arts, which shall be English I, II, III, and IV;
- (ii) three credits in mathematics, which shall be algebra I, algebra II, and geometry or a higher level course for which algebra II is a prerequisite; or integrated mathematics I, II, and III; however, effective with the class entering the ninth grade for the first time in the 2002-03 school year, this requirement shall become four credits in mathematics, which shall be algebra I, algebra II, geometry, and a higher level course for which algebra II is a prerequisite; or integrated

~~(g) Special needs students as defined by G.S. 115C-109, excluding gifted and pregnant, who do not meet the requirements for a high school diploma shall receive a graduation certificate and shall be allowed to participate in graduation exercises if they meet the following criteria:~~

- ~~(1) successful completion of 20 course units by general subject area (4 English, 3 math, 3 science, 3 social studies, 1 health and physical education, and 6 local electives) under Paragraph (e) of this Rule. These students are not required to pass the specifically designated courses such as Algebra I, Biology or United States history; and~~
- ~~(2) completion of all IEP requirements.~~

(a) To graduate from a public high school in North Carolina and be issued a high school diploma by the governing body of a public school unit, a student shall satisfy the requirements set forth in this Rule. The requirements for each student are determined by the school year in which the student first enrolls in Grade 9. The requirements for a student who has been identified as a child with a disability and whose IEP team has determined cannot satisfy the standard state graduation requirements are set forth in 16 NCAC 06D .0506.

(b) A student who first enrolled in Grade 9 in the 2020-2021 school year shall earn a total of 22 course credits, including the following:

- (1) Four course credits in the content area of English and language arts, which shall consist of:
 - (A) English I;
 - (B) English II;
 - (C) English III; and
 - (D) English IV
- (2) Four course credits in the content area of mathematics, which shall consist of:
 - (A) NC Math I;
 - (B) NC Math II;
 - (C) NC Math III; and
 - (D) A fourth course credit aligned with the student's postsecondary plans.

A student may, with the approval of the principal of the student's school, complete a CTE course approved by DPI in lieu of NC Math III.

- (3) Three course credits in the content area of science, which shall consist of:
 - (A) Biology;
 - (B) One course in physical science; and
 - (C) One course in earth and environmental science.
- (4) Four course credits in the content area of social studies, which shall consist of:
 - (A) One course on founding principles of the United States, which shall be either American History: Founding Principles, Civics, and Economics; or Founding Principles of the United States of America and North Carolina: Civic Literacy;
 - (B) Economics and Personal Finance;

(C) One course in American history, which shall be either American History, American History I, or American History II; and

(D) World History.

(5) One course credit in the content area of health and physical education, including completion of instruction in cardiopulmonary resuscitation ("CPR") as provided in G.S. 115C-81.25(c)(10).

(6) Two elective course credits in any combination of the following content areas:

- (A) Career and technical education.
- (B) Visual or performing arts education;
- or
- (C) World languages education.

(7) Four elective course credits in any combination of the following content areas:

- (A) Career and technical education;
- (B) Visual or performing arts education;
- (C) Reserve Officer Training Corps ("ROTC"); or
- (D) Any other content area.

(c) A student who first enrolled in Grade 9 in the 2021-2022 school year shall earn a total of 22 course credits, including the following:

- (1) Four course credits in the content area of English and language arts, which shall consist of:
 - (A) English I;
 - (B) English II;
 - (C) English III; and
 - (D) English IV
- (2) Four course credits in the content area of mathematics, which shall consist of:
 - (A) NC Math I;
 - (B) NC Math II;
 - (C) NC Math III; and
 - (D) A fourth course credit aligned with the student's postsecondary plans.

A student may, with the approval of the principal of the student's school, complete a CTE course approved by DPI in lieu of NC Math III.

- (3) Three course credits in the content area of science, which shall consist of:
 - (A) Biology;
 - (B) One course in physical science; and
 - (C) One course in earth and environmental science.
- (4) Four course credits in the content area of social studies, which shall consist of:
 - (A) Founding Principles of the United States of America and North Carolina: Civic Literacy;
 - (B) Economics and Personal Finance;
 - (C) American History; and
 - (D) World History.
- (5) One course credit in the content area of health and physical education, including completion

of instruction in cardiopulmonary resuscitation ("CPR") as provided in G.S. 115C-81.25(c)(10).

- (6) Two elective course credits in any combination of the following content areas:
 - (A) Career and technical education.
 - (B) Visual or performing arts education;
or
 - (C) World languages education.
- (7) Four elective course credits in any combination of the following content areas:
 - (A) Career and technical education;
 - (B) Visual or performing arts education;
 - (C) Reserve Officer Training Corps ("ROTC"); or
 - (D) Any other content area.

(d) A student who first enrolled in Grade 9 in the 2026-2027 school year shall earn a total of 22 course credits, including the following:

- (1) Four course credits in the content area of English and language arts, which shall consist of:
 - (A) English I;
 - (B) English II;
 - (C) English III; and
 - (D) English IV
- (2) Four course credits in the content area of mathematics, which shall consist of:
 - (A) NC Math I;
 - (B) NC Math II;
 - (C) NC Math III; and
 - (D) A fourth course credit aligned with the student's postsecondary plans.

A student may, with the approval of the principal of the student's school, complete a CTE course approved by DPI in lieu of NC Math III.

- (3) Three course credits in the content area of science, which shall consist of:
 - (A) Biology;
 - (B) One course in physical science; and
 - (C) One course in earth and environmental science.
- (4) Four course credits in the content area of social studies, which shall consist of:
 - (A) Founding Principles of the United States of America and North Carolina; Civic Literacy;
 - (B) Economics and Personal Finance;
 - (C) American History; and
 - (D) World History.
- (5) One course credit in the content area of health and physical education, including completion of instruction in cardiopulmonary resuscitation ("CPR") as provided in G.S. 115C-81.25(c)(10).
- (6) One course credit in the content area of computer science, as prescribed in G.S. 115C-81.90. A student shall be exempt from this requirement if the student transfers from a

nonpublic school or a school in another state to a North Carolina public school after completion of Grade 11, or if the student has been identified as a child with disabilities and the student's IEP team determines that the student's disability would prevent the student from completing the course credit.

- (7) Two elective course credits in any combination of the following content areas:
 - (A) Career and technical education.
 - (B) Visual or performing arts education;
or
 - (C) World languages education.
- (8) Three elective courses any other content area.

(e) A student who first enrolled in Grade 9 in the 2025-2026 school year shall have earned at least one course credit in visual or performing arts from Grade 6 through 12. A student shall be exempt from this requirement if the student transfers from a nonpublic school or a school in another state to a North Carolina public school in Grade 9 or thereafter and the requirement would prevent the student from graduating with the cohort of students to which the student was assigned upon transfer.

(f) In determining whether a student who is the child of a military family has satisfied the requirements established by this Rule, the governing body of a public school unit shall consider and comply with all requirements of the Interstate Compact on Educational Opportunity for Military Children, codified at G.S. 115C-407.5.

Authority G.S. 115C-12(9b); 115C-81(b)(4); N.C. Constitution, Article IX, Sec. 5; G.S. 115C-12(9c); 115C-12(9d); 115C-81.5; 115C-81.25; 115C-81.45; 115C-81.90; 115C-83.31; 115C-83.32.

16 NCAC 06D .0506 STUDENTS WITH DISABILITIES

~~(a) Unless exempted pursuant to Paragraph (b) of this Rule, all students with disabilities shall participate in the statewide student accountability promotion standards for elementary, middle, and high school levels.~~

~~(b) Students with disabilities may be exempted from the statewide student accountability promotion standards by the IEP team, including the principal or school district representative. These students shall demonstrate evidence of progress on alternate assessments. Alternate assessments shall be performance measures that assess the educational progress of students with disabilities who are unable to participate in the general large-scale assessment system even when accommodations are provided to the student.~~

~~(c) All interventions/remediation and other opportunities, benefits and resources that are made available to students without disabilities shall be made available to students with disabilities who participate in the student promotion standards. All services offered shall be in addition to the special education services provided to the student.~~

(a) To graduate from a public high school in North Carolina and be issued a high school diploma by the governing body of a public school unit, a student who has been identified as a child with a disability in accordance with Chapter 115C, Article 9 of the General Statutes and whose IEP team has determined cannot satisfy the standard state graduation requirements set forth in 16

NCAC 06D .0503 shall satisfy the requirements set forth in this Rule. The requirements for each student are determined by the school year in which the student first enrolls in Grade 9.

(b) A student who first enrolled in Grade 9 in the 2020-2021 school year shall earn a total of 22 course credits, including the following:

- (1) Four course credits in the content area of English and language arts, which shall consist of:
(A) English I;
(B) English II;
(C) English III; and
(D) English IV.
- (2) Three course credits in the content area of mathematics, which shall consist of:
(A) Introduction to Mathematics;
(B) NC Math I; and
(C) Financial Management.
- (3) Two course credits in the content area of science, which shall consist of:
(A) Biology; and
(B) Applied Science
- (4) Two course credits in the content area of social studies, which shall consist of:
(A) One course on founding principles of the United States, which shall be either American History: Founding Principals, Civics, and Economics; or Founding Principles of the United States of America and North Carolina: Civic Literacy; and
(B) Economics and Personal Finance.
- (5) One course credit in the content area of health and physical education, including completion of instruction in cardiopulmonary resuscitation ("CPR") as provided in G.S. 115C-81.25(c)(10). The governing body of a public school unit shall provide appropriate accommodations in accordance with the student's approved IEP.
- (6) Six course credits occupational preparation education, which shall consist of:
(A) Occupational Preparation I or Employment Preparation I: Science
(B) Occupational Preparation II, or Employment Preparation II: Citizenship 1A and Employment Preparation II: Citizenship 1B;
(C) Occupational Preparation III or Employment Preparation III: Citizenship 2A and Employment Preparation III: Citizenship 2B; and
(D) Occupational Preparation IV or Employment Preparation IV: Math.
- (7) Four elective credits in career and technical education.

(c) A student who first enrolled in Grade 9 in the 2021-2022 school year shall earn a total of 22 course credits, including the following:

- (1) Four course credits in the content area of English and language arts, which shall consist of:
(A) English I;
(B) English II;
(C) English III; and
(D) English IV.
- (2) Three course credits in the content area of mathematics, which shall consist of:
(A) Introduction to Mathematics;
(B) NC Math I;
(C) Financial Management; and
(D) Employment Preparation IV: Math, including 150 of the work hours required by Subparagraph (d)(1) of this Rule.
- (3) Three course credits in the content area of science, which shall consist of:
(A) Biology;
(B) Applied Science; and
(C) Employment Preparation I: Science, including 150 of the work hours required by Subparagraph (d)(1).
- (4) Four course credits in the content area of social studies, which shall consist of:
(A) Founding Principles of the United States of America and North Carolina: Civic Literacy;
(B) Economics and Personal Finance;
(C) Employment Preparation II: Citizenship 1A, including 75 of the work hours required by required by Subparagraph (d)(1) of this Rule; and
(D) Employment Preparation II: Citizenship 1B, including 75 of the work hours required by required by Subparagraph (d)(1) of this Rule.
- (5) One course credit in the content area of health and physical education, including completion of instruction in cardiopulmonary resuscitation ("CPR") as provided in G.S. 115C-81.25(c)(10). The governing body of a public school unit shall provide appropriate accommodations in accordance with the student's approved IEP.
- (6) Two additional course credits occupational preparation education, which shall consist of:
(A) Employment Preparation III: Citizenship 2A, including 75 of the work hours required by required by Subparagraph (d)(1) of this Rule; and
(B) Employment Preparation III: Citizenship 2B, including 75 of the work hours required by required by Subparagraph (d)(1) of this Rule.
- (7) Four elective credits in career and technical education.

(d) In addition to completing the course credits listed above, the student must complete the following:

- (1) 600 work hours consisting of the following:
 - (A) 150 hours of school-based vocational training with activities and experiences that align with the student's postsecondary plans;
 - (B) 225 hours of community-based vocational training; and
 - (C) 225 hours of paid employment or 225 hours of unpaid vocational training, an unpaid internship, paid employment at a community rehabilitation facility, or community service.
- (2) A career portfolio.
- (3) Any other objectives identified in the student's IEP.

(e) In determining whether a student who is the child of a military family has satisfied the requirements established by this Rule, the governing body of a public school unit shall consider and comply with all requirements of the Interstate Compact on Educational Opportunity for Military Children, codified at G.S. 115C-407.5.

(f) The governing body of a public school unit shall award a Graduation Certificate to a child with a disability who does not earn a high school diploma by the age of 22 or who completes the requirements of this Rule except for the 225 hours of employment identified in Part (d)(1)(C) of this Rule. The student shall be allowed to participate in high school graduation exercises.

Authority G.S. 115C-12(9b); 115C-81(b)(4); N.C. Constitution, Article IX, Sec. 5; G.S. 115C-12(9c); 115C-12(9d); 115C-81.5; 115C-81.25; 115C-81.45; 115C-81.90; 115C-83.3; 115C-83.31; 115C-83.32; 115C-106.3.

16 NCAC 06D .0508 NC GENERAL ASSEMBLY'S NORTH CAROLINA READ TO ACHIEVE PROGRAM

- (a) ~~Local education agencies (LEAs)~~ The governing board of each public school unit shall ~~enact third-grade~~ adopt retention and promotion policies for students in Grade 3 that are consistent with G.S. 115C-83.1, 83.3, and 83.7. Chapter 115C, Article 8, Part 1a of the General Statutes.
- (b) Pursuant to G.S. 115C-83.3(2), LEAs shall use the Read to Achieve test as the alternative assessment in connection with G.S. 115C-83.7 and 83.8. For the purpose of implementing the requirements of Chapter 115C, Article 8, Part 1a of the General Statutes, local school administrative units shall utilize the alternative assessment approved by the State Board of Education in accordance with G.S. 115C-83.3.
- (c) The board of directors for a charter school may submit for approval by the State Board of Education ("SBE") an alternative assessment of its choice for use in satisfying the requirements of Chapter 115C, Article 8, Part 1a of the General Statutes, provided that the board does so no later than June 30 prior to the start of the school year in which it intends to use the alternative assessment. The board shall be responsible for any expenses associated with utilization of the alternative assessment.
- (d) For purposes of supplemental tutoring offered in accordance with G.S. 115C-83.8(e), a student is identified as "retained twice" if the student was retained once in Kindergarten, Grade 1, Grade 2, or Grade 3, and was retained again in Grade 3 either by

placement in a Grade 3 class or a combined Grades 3 and 4 class in which the student received Grade 3 instruction in reading.

Authority G.S. 115C-12; 115C-83.1; 115C-83.3; 115C-83.7; 115C-83.7A; 115C-83.8; 115C-83.10.

16 NCAC 06D .0510 THREE-YEAR GRADUATION

(a) For the purposes of this Rule, the following definitions shall apply:

- (1) "Local superintendent" means the superintendent of a local school administrative unit or the staff member with the highest decision-making authority for a PSU, if there is no superintendent.
- (2) "Public school unit" or "PSU" is defined in G.S. 115C-5(7a), except that this Rule shall not apply to a charter school unless the charter school has elected to offer a three-year sequence of courses under G.S. 115C-218.85, or to a regional school unless the regional school has elected to offer a three-year sequence of courses under G.S. 115C-238.66.

(b) A student enrolled in a PSU who requests to graduate from high school three years after entering Grade 9 shall do so in accordance with this Rule. This Rule shall apply to a student who enters Grade 11 on or after July 1, 2024, and is at least 16 years of age at the time of graduation.

(c) The student shall complete and sign a 3-year graduation request form provided by the student's PSU. The form shall be signed by the student's parent or legal guardian, unless the student is at least 18 years of age or has been emancipated in accordance with Chapter 7B, Article 35 of the General Statutes.

(d) An administrator from the student's high school or the PSU shall meet with the student and, if the student is under 18 years of age and not emancipated, the student's parent or legal guardian, to discuss the implications of graduating after three years. The administrator shall address, at minimum, the following topics:

- (1) Plans for transitioning into higher education, employment, or enlistment in the Armed Forces of the United States; and
- (2) Loss of access to high school services and programming, including extracurricular activities, interscholastic athletics, nutritional services, and school counseling.

(e) The local superintendent shall verify that the student has met the minimum graduation requirements of 16 NCAC 06D .0503 or 16 NCAC 06D .0506.

(f) No later 45 school days after receipt of a request, the local superintendent shall approve the request upon verification of the student's eligibility and compliance with the procedures set forth above. If the request is approved during the semester after classes have started, the student may elect to graduate immediately or graduate at the end of the semester. However, if the student does not submit the request until after classes have started, the student shall be required to complete the current semester.

(g) Before students select their course schedules for Grade 9, PSUs shall provide students with information on how to graduate from high school within three years. Such information shall include the topics listed in Paragraph (d) of this Rule as well as a

course schedule that, if followed, will satisfy the minimum graduation requirements of 16 NCAC 06D .0503 or 16 NCAC 06D .0506.

Authority G.S. 115C-12(9d); 115C-83.31; 115C-218.85; 115C-238.66.

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of Education intends to adopt the rule cited as 16 NCAC 06G .0701.

Link to agency website pursuant to G.S. 150B-19.1(c): https://www.dpi.nc.gov/about-dpi/state-board-education/rulemaking-information

Proposed Effective Date: January 1, 2025

Public Hearing:
Date: September 6, 2024
Time: 9:00 a.m.
Location:

https://ncgov.webex.com/ncgov/j.php?MTID=m310b78e5c3e1b22378859916edef744

Reason for Proposed Action: G.S. 116C-76.60, as enacted by S.L. 2023-106, Section 2.(a), provides parents of children in North Carolina public schools the ability to request a parental concern hearing before the State Board of Education ("SBE") regarding the procedures or practices of a public school unit under Chapter 115C, Article 7B, Part 4 of the General Statutes. The provision also directs the SBE to establish rules for these hearings. S.L. 2023-134, Section 7.81.(d) directed the SBE to adopt an emergency rule for these hearings in order to begin receiving requests by January 30, 2024.

The emergency rule became effective on November 16, 2023, and the temporary rule became effective February 8, 2024. The SBE has now proposed the permanent rule to replace the temporary rule. There are no substantive differences between the temporary and permanent rules.

Comments may be submitted to: Ryan Collins, 6301 Mail Service Center, Raleigh, NC 27699-6301; email ryan.collins@dpi.nc.gov

Comment period ends: October 15, 2024

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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or 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 06 - ELEMENTARY AND SECONDARY EDUCATION

SUBCHAPTER 06G - EDUCATION AGENCY RELATIONS

SECTION .0700 - PUBLIC SCHOOL UNIT OVERSIGHT

16 NCAC 06G .0701 PARENTAL CONCERN HEARINGS

(a) For the purposes of this Rule, the following definitions shall apply:

- "Child" is defined in G.S. 115C-76.1(2).
"Hearing officer" means an individual who meets the requirements in G.S. 115C-76.60(b)(1)a.
"Parent" is defined in G.S. 115C-76.1(5).
"Practice" means a regular method, process, or course of conduct, whether or not established in the written policies of a PSU, by which the PSU provides the notices or information to parents as required by Chapter 115C, Article 7B, Part 4 of the General Statutes. "Practice" does not include isolated incidents or isolated conduct by individual PSU personnel, including those inconsistent with the established procedures of the PSU.
"Principal" is defined in G.S. 115C-76.1(6).
"Procedure" means a regular method or process, as established in the written policies of a PSU, by which the PSU provides the notices or information to parents as required by G.S. 115C-76.45, or age-appropriate instruction on certain topics as described in G.S. 115C-76.55. "Procedure" does not include isolated incidents or isolated conduct by individual PSU personnel, including those inconsistent with the established procedures of the PSU.
"Superintendent" is defined in G.S. 115C-76.1(8).

(b) A parent who wishes to request a parental concern hearing before the State Board of Education regarding the procedures or practices of a PSU required by Chapter 115C, Article 7B, Part 4

of the General Statutes shall do so in writing. The parent shall submit a written request to the SBE in writing, with a copy to the superintendent, and include the following information:

- (1) The specific procedures or practices of the PSU about which the parent is concerned.
- (2) The specific concerns that the parent has about the procedures or practices of the PSU.
- (3) Copies of all written correspondence and summaries of all verbal correspondence with PSU personnel, including date, times, and parties involved for any correspondence conducted by telephone or in person, regarding the parental concern and efforts by the PSU to resolve the concern. The parent shall also include documented evidence that the parent has notified the principal of the school at which the parent's child is enrolled about these concerns at least 30 days prior to requesting a hearing before the SBE.
- (4) A description of the relevant facts.
- (5) An explanation of why the parent believes that the concerns have not been resolved by the PSU.
- (6) A proposed resolution to address the parent's concerns.

(c) Upon receipt of a request in accordance with Paragraph (b) of this Rule, the SBE or its authorized designee shall review the request and determine whether the SBE has jurisdiction to review the matters therein addressed. The SBE or designee may dismiss the request for any of the following reasons:

- (1) The parent has failed to provide any of the information required by Paragraph (b) of this Rule.
- (2) The parent's concern does not address the procedures or practices of a PSU required by Chapter 115C, Article 7B, Part 4 of the General Statutes.
- (3) The parent has failed to provide the PSU 30 days to resolve the parent's concern.
- (4) The parent's proposed resolution is not within the legal authority of the PSU or SBE.

(d) If the SBE or designee determines that it has jurisdiction to review the matters addressed in the request, the SBE or designee shall appoint a hearing officer to review the request.

(e) Upon appointment, the hearing officer shall hold a hearing, subject to the following requirements:

- (1) The parent and the superintendent shall attend as parties to the hearing and may be represented by legal counsel, provided that any party intending to be represented notifies the hearing officer at least three business days before the hearing. The hearing officer may delay the hearing if a party requests additional time to secure legal representation.
- (2) The hearing officer shall provide the parties with notice of the time and place for the hearing at least five business days in advance. The hearing may be held in person or via

teleconference, at the discretion of the hearing officer.

- (3) Each party shall provide any documentation or written statements to the hearing officer and the other party at least three business days before the hearing.
- (4) Each party shall have up to 30 minutes to present the party's case to and answer questions from the hearing officer. The hearing officer may extend time for each party's presentation at the hearing officer's discretion.
- (5) The North Carolina Rules of Evidence, codified at Chapter 8C of the General Statutes, shall not apply to the hearing, and the hearing officer may consider any information that is relevant to the proceedings.
- (6) The hearing officer shall arrange for audio and video recording of the hearing.

(f) Within 30 days of appointment and after having conducted a hearing in accordance with Paragraph (d) of this Rule, the hearing officer shall provide a recommendation to the SBE that includes the following:

- (1) Findings of fact.
- (2) Conclusions of law, including citations to any relevant statutes, rules, or policies.
- (3) A proposed resolution to the case, which may include a finding that the parental concern lacks merit.

(g) At the next regularly scheduled meeting of the SBE held more than seven days after receipt of the hearing officer's recommendation, the SBE shall vote to either approve, reject, or amend the hearing officer's recommendation. The decision of the SBE shall be final.

(h) The hearing officer shall provide an invoice to the PSU for the cost of the hearing officer's services, at a rate of two hundred dollars (\$200.00) per hour, within 45 days of submitting the hearing officer's recommendation to the SBE. The PSU shall pay the hearing officer within 60 days of receipt of the invoice.

Authority G.S. 115C-76.60.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 42 – BOARD OF EXAMINERS IN OPTOMETRY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Examiners in Optometry intends to amend the rule cited as 21 NCAC 42B .0103.

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

Proposed Effective Date: December 1, 2024

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): Contact the Board

office at 521 Yopp Road, Suite 214 #444, Jacksonville, NC 28540, (910) 285-3160, or email to janice@ncoptometry.org

- Approved by OSBM
- No fiscal note required

Reason for Proposed Action: *The Board needs 60 days advance notice of the number of people who will take the licensing examination. National Board scores are being reported later than previously, making it hard for applicants to provide all required documentation by the current 60 day deadline. To accommodate that later National Board reporting and give the Board time to then acquire transcripts and verify graduation and the award of a degree, the Board wishes to institute a two-deadline system. The 60-day deadline provides the needed "headcount" and the 30-day deadline allows the exam registration process to be completed sufficiently prior to the exam date.*

Comments may be submitted to: *Janice Peterson, 521 Yopp Rd., Suite 214 #444, Jacksonville, NC 28540; phone (910) 285-3160; fax (910) 285-4546; email janice@ncoptometry.org*

Comment period ends: *October 14, 2024*

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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or 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)

SUBCHAPTER 42B - LICENSE TO PRACTICE OPTOMETRY

SECTION .0100 - LICENSE BY EXAMINATION

21 NCAC 42B .0103 APPLICATION FOR LICENSURE BY EXAMINATION

~~One desiring to obtain the application form for licensure by examination shall specify the date of the examination when requesting the application form. The application shall be made on Form BEO-1 supplied by the Board. The completed application form and the proper fee must be received in the Board office 60 days prior to the examination date.~~

(a) An applicant desiring to take the next regularly scheduled North Carolina Optometry Board examination for licensure must pay the required fee and obtain his/her application via the process set forth on the Board website under "Examinations." Should an applicant wish to apply for an examination other than the next regularly scheduled examination, he/she must contact the Board staff.

(b) The application process has two deadlines:

- (1) First deadline: The completed application form must be received by the Board no later than 60 days prior to the first day of the scheduled examinations.
- (2) Second deadline: All supporting documents required by the application form must be received by the Board no later than 30 days prior to the first day of the scheduled examinations.

(c) The date and time at which each candidate will be scheduled to take his/her examination will be finalized immediately after the second deadline. Applicants who missed either or both deadlines but otherwise have submitted a completed application and all supporting documents may be placed on a waitlist and may be given an examination slot should a vacancy become available.

Authority G.S. 90-117.5; 90-118; .

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission August 28, 2024 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 984-236-1850. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Jeanette Doran (Chair)
John Hahn
Jeff Hyde
Brandon Leebrick
Bill Nelson

Appointed by House

Barbara A. Jackson (1st Vice-Chair)
Randy Overton (2nd Vice-Chair)
Wayne R. Boyles, III
Jake Parker
Paul Powell

COMMISSION COUNSEL

Brian Liebman	984-236-1948
William W. Peaslee	984-236-1939
Seth M. Ascher	984-236-1934
Travis Wiggs	984-236-1929

RULES REVIEW COMMISSION MEETING DATES

August 28, 2024	October 30, 2024
September 25, 2024	November 26, 2024

AGENDA

RULES REVIEW COMMISSION

Wednesday, August 28, 2024, 10:00 A.M.

1711 New Hope Church Rd., Raleigh, NC 27609

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
- IV. Review of Log of Filings (Permanent Rules) for rules filed June 21, 2024 through July 20, 2024
 1. Department of Health and Human Services (Liebman)
 2. Sheriffs' Education and Training Standards Commission (Peaslee)
 3. Department of Public Safety (Peaslee)
 4. Private Protective Services Board (Ascher)
 5. Alarm Systems Licensing Board (Liebman)
 6. Environmental Management Commission (Ascher)
 7. Board of Examiners of Electrical Contractors (Wiggs)
 8. Board of Examiners in Optometry (Peaslee)
 9. Board of Pharmacy (Liebman)
 10. Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors (Wiggs)
 11. Veterinary Medical Board (Wiggs)
- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
- VI. Existing Rules Review
 - Review of Reports
 1. 04 NCAC 20 - Department of Commerce (Ascher)
 2. 04 NCAC 24 - Commerce - Division of Employment Security (Ascher)
 3. 11 NCAC 08 .0900 and .1400 - Manufactured Housing Board (Wiggs)
 4. 14B NCAC 15C - Alcoholic Beverage Control Commission (Wiggs)
 5. 15A NCAC 01O - Department of Health and Human Services (Wiggs)
 6. 21 NCAC 08 - Board of Certified Public Accountant Examiners (Ascher)
 7. 21 NCAC 52 - Board of Podiatry Examiners (Ascher)
 8. 25 NCAC 01A, 01B, 01C - State Human Resources Commission (Wiggs)

9. 25 NCAC 02 - Office of Americans with Disabilities Act (Wiggs)
- VII. Commission Business
- Proposed changes to 26 NCAC 05 .0107, .0108, and .0115
 - Closed session, to consult with attorneys regarding CRC v. RRC and CJETS v. RRC; and ASHLEY SNYDER, in her official capacity as CODIFIER OF RULES
 - Next meeting: Wednesday, September 25, 2024
-

**Commission Review
Log of Permanent Rule Filings
June 21, 2024 through July 20, 2024**

DEPARTMENT OF HEALTH AND HUMAN SERVICES

The rules in Subchapter 14E concern licensure of suitable facilities for the performance of surgical abortions including licensure procedure (.0100); minimum standards for construction and equipment (.0200); governing authority (.0300); and medical staff (.0400).

<u>Definitions</u>	10A NCAC 14E .0101
Adopt*	
<u>Application</u>	10A NCAC 14E .0106
Adopt*	
<u>Issuance of License</u>	10A NCAC 14E .0107
Adopt*	
<u>Renewal</u>	10A NCAC 14E .0109
Adopt*	
<u>Inspections</u>	10A NCAC 14E .0111
Adopt*	

SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

The rules in Subchapter 10B govern the commission organization and procedure (.0100); enforcement rules (.0200); minimum standards for employment as a justice officer (deputy or jailer) (.0300); certification of justice officers (.0400); standards and accreditation for justice officers schools, training programs, and the instructors (.0500-.0900); certificate and awards programs for sheriffs, deputies, justice officers, jailers, reserve officers, and telecommunicators (.1000-.1700); in-service training (.2000); firearms in-service training and re-qualification (.2100); and forms (.2200).

<u>Verification of Records to the Division</u>	12 NCAC 10B .0408
Amend*	
<u>Certification Forms</u>	12 NCAC 10B .2201
Amend*	

PUBLIC SAFETY, DEPARTMENT OF

The rules in Chapter 05 concern the Governor's Crime Commission.

The rules in Subchapter 05B grant administration including general provisions (.0100); program grants (.0200); penalties (.0300); and exceptions (.0500).

<u>Applications for Grants</u>	14B NCAC 05B .0201
Amend*	
<u>Waiver</u>	14B NCAC 05B .0501
Adopt*	

PRIVATE PROTECTIVE SERVICES BOARD

The rules in Chapter 16 are from the Private Protective Services Board and cover organization and general provisions (.0100); licenses and trainee permits (.0200); security guard patrol and guard dog service (.0300); private investigator: electronic countermeasures (.0400); polygraph (.0500); psychological stress evaluator (PSE) (.0600); unarmed security guard registration (.0700); armed security guard firearm registration permit (.0800); trainer certificate (.0900); recovery fund (.1000); training and supervision for private investigator associates (.1100); continuing education (.1300); armed armored car service guards firearm registration permit (.1400); close personal protection (.1500); digital forensics examiner (.1600); and training and supervision for digital forensics examiner (D.F.E) associates (.1700).

<u>Complaints</u>	14B NCAC 16 .0115
Amend*	
<u>Application for License and Trainee Permits</u>	14B NCAC 16 .0201
Amend*	
<u>Renewal or Re-issue of Licenses and Trainee Permits</u>	14B NCAC 16 .0203
Amend*	
<u>Experience Requirements/Security Guard and Patrol License</u>	14B NCAC 16 .0301
Amend*	
<u>Experience Requirements for Guard Dog Service License</u>	14B NCAC 16 .0302
Amend*	
<u>Experience Requirements for a Private Investigator License</u>	14B NCAC 16 .0401
Amend*	
<u>Experience Requirements for an Electronic Countermeasures...</u>	14B NCAC 16 .0402
Amend*	
<u>Experience Requirements for a Polygraph License</u>	14B NCAC 16 .0501
Amend*	
<u>Application for Unarmed Security Guard Registration</u>	14B NCAC 16 .0701
Amend*	
<u>Fees for Unarmed Security Guard Registration</u>	14B NCAC 16 .0702
Amend*	
<u>Renewal of Unarmed Security Guard Registration</u>	14B NCAC 16 .0706
Amend*	
<u>Application/Armed Security Guard Firearm Registration Permit</u>	14B NCAC 16 .0801
Amend*	
<u>Fees for Armed Security Guard Firearm Registration Permit</u>	14B NCAC 16 .0802
Amend*	
<u>Renewal of Armed Security Guard Firearm Registration Permit</u>	14B NCAC 16 .0806
Amend*	
<u>Application for Firearms Trainer Certificate</u>	14B NCAC 16 .0902
Amend*	
<u>Renewal of a Firearms Trainer Certificate</u>	14B NCAC 16 .0904
Amend*	
<u>Application for an Unarmed Trainer</u>	14B NCAC 16 .0910
Amend*	
<u>Definitions</u>	14B NCAC 16 .1101
Amend*	
<u>Training and Supervision Required in Level One</u>	14B NCAC 16 .1102
Amend*	
<u>Training and Supervision Required in Level Two</u>	14B NCAC 16 .1103
Amend*	
<u>Training and Supervision Required in Level Three</u>	14B NCAC 16 .1104
Amend*	

<u>Educational Degrees and Non-Degreed Training</u>	14B NCAC 16 .1105
Amend*	
<u>Application for Unarmed Armored Car Service Guard Registr...</u>	14B NCAC 16 .1301
Amend*	
<u>Fees for Unarmed Armored Car Service Guard Registration</u>	14B NCAC 16 .1302
Amend*	
<u>Renewal or Reissue of Unarmed Car Service Guard Registration</u>	14B NCAC 16 .1306
Amend*	
<u>Application/Armed Armored Car Service Guard Firearm Regis...</u>	14B NCAC 16 .1401
Amend*	
<u>Fees for Armed Armored Car Service Guard Firearm Registra...</u>	14B NCAC 16 .1402
Amend*	
<u>Renewal of Armed Armored Car Service Guard Firearm Regist...</u>	14B NCAC 16 .1406
Amend*	
<u>Experience Requirements for a Close Personal Protection L...</u>	14B NCAC 16 .1501
Amend*	
<u>Probationary Employees</u>	14B NCAC 16 .1709
Adopt*	

ALARM SYSTEMS LICENSING BOARD

The rules in Chapter 17 are from the N.C. Alarm Systems Licensing Board and cover the organization and general provisions (.0100); provisions for licensees (.0200); provisions for registrants (.0300); the recovery fund (.0400); and continuing education for licensees (.0500).

<u>Application for License</u>	14B NCAC 17 .0201
Amend*	
<u>Fees for License</u>	14B NCAC 17 .0203
Amend*	
<u>Application for Registration</u>	14B NCAC 17 .0301
Amend*	
<u>Fees for Registration</u>	14B NCAC 17 .0302
Amend*	
<u>Renewal or ReRegistration of Registration</u>	14B NCAC 17 .0306
Amend*	

ENVIRONMENTAL MANAGEMENT COMMISSION

The rules in Subchapter 2H concern procedures for permits: approvals including point source discharges to the surface waters (.0100); waste not discharged to surface waters (.0200); coastal waste treatment disposal (.0400); water quality certification (.0500); laboratory certification (.0800); local pretreatment programs (.0900); stormwater management (.1000); biological laboratory certification (.1100); special orders (.1200); discharges to isolated wetlands and isolated waters (.1300); and discharges to federally non-jurisdictional wetlands and federally non-jurisdictional classified surface waters (.1400).

<u>Parameters for Which Certification May be Requested</u>	15A NCAC 02H .0804
Amend*	

ELECTRICAL CONTRACTORS, BOARD OF EXAMINERS OF

The rules in Chapter 18 are from the State Board of Examiners of Electrical Contractors. The rules in Chapter 18B are from the Board of Electrical Contractors including general provisions (.0100); examinations and qualifications (.0200); terms and definitions applicable to licensing (.0300); licensing requirements (.0400); reciprocal licensing agreements

with other states (.0700); special restricted licenses (.0800); violations and contested case hearings (.0900); forms, certificates, and publications of the board (.1000); and continuing education courses and requirements (.1100).

Continuing Education Requirements: Listed Qualified Individ... 21 NCAC 18B .1101
Amend*

OPTOMETRY, BOARD OF EXAMINERS IN

The rules in Subchapter 42J concern the fee schedule.

Fees 21 NCAC 42J .0101
Repeal*

PHARMACY, BOARD OF

The rules in Chapter 46 cover organization of the board (.1200); general definitions (.1300); hospitals and other health facilities (.1400); admission requirements and examinations (.1500); licenses and permits (.1600); drugs dispensed by nurse and physician assistants (.1700); prescriptions (.1800); forms (.1900); administrative provisions (.2000); elections (.2100); continuing education (.2200); prescription information and records (.2300); dispensing in health departments (.2400); miscellaneous provisions (.2500); devices (.2600); nuclear pharmacy (.2700); compounding (.2800); product selection (.2900); disposal of unwanted drugs (.3000); clinical pharmacist practitioner (.3100); impaired pharmacist peer review program (.3200); and registry of pharmacist technicians (.3300).

Patient Counseling 21 NCAC 46 .2504
Amend*

PLUMBING, HEATING AND FIRE SPRINKLER CONTRACTORS, BOARD OF EXAMINERS OF

The rules in Chapter 50 are from the Plumbing, Heating and Fire Sprinkler Contractors including rules about organization (.0100); forms (.0200); examinations (.0300); general procedures (.0400); policy statements and interpretative rules (.0500); contested cases (.1000); fees (.1100); petitions for rules (.1200); declaratory rulings (.1300); and continuing education (.1400).

Qualifications Determined by Examination 21 NCAC 50 .0301
Amend*

Applications: Issuance of License 21 NCAC 50 .0306
Amend*

License in Good Standing 21 NCAC 50 .0318
Adopt*

VETERINARY MEDICAL BOARD

The rules in Chapter 66 are from the Veterinary Medical Board including statutory and administrative provisions (.0100); practice of veterinary medicine (.0200); examination and licensing procedures (.0300); rules petitions hearings (.0400); declaratory rulings (.0500); administrative hearings procedures (.0600); administrative hearings decisions related rights (.0700) judicial review (.0800); veterinary facility permits (.0900); boarding kennels (.1000); and facilities and operating standards (.1100).

Boarding Kennel Records 21 NCAC 66 .1001
Adopt*

Inspection Records 21 NCAC 66 .1002
Adopt*

Definitions 21 NCAC 66 .1003
Adopt*

Permits and Registrations 21 NCAC 66 .1004

RULES REVIEW COMMISSION

Adopt*			
<u>General</u>	21	NCAC 66	.1101
Adopt*			
<u>Indoor Facilities</u>	21	NCAC 66	.1102
Adopt*			
<u>Outdoor Facilities</u>	21	NCAC 66	.1103
Adopt*			
<u>Primary Enclosures</u>	21	NCAC 66	.1104
Adopt*			
<u>Feeding</u>	21	NCAC 66	.1105
Adopt*			
<u>Watering</u>	21	NCAC 66	.1106
Adopt*			
<u>Sanitation</u>	21	NCAC 66	.1107
Adopt*			
<u>Classification and Separation</u>	21	NCAC 66	.1108
Adopt*			
<u>Veterinary Care</u>	21	NCAC 66	.1109
Adopt*			
<u>Discipline of Boarding Kennel Permits</u>	21	NCAC 66	.1110
Adopt*			