

NORTH CAROLINA REGISTER

VOLUME 39 • ISSUE 05 • Pages 184 – 281

September 3, 2024

I. IN ADDITION

DHHS – Notice of Application for a new Innovative Approval of a Wastewater System for On-site Subsurface Use	184 – 185
NC License and Theft Bureau – Public Notice of License Application Submission	186

II. PROPOSED RULES

Health and Human Services, Department of	
Radiation Protection Commission	187 – 208
Public Health, Commission for	209 – 210
Labor, Department of	
Department	210 – 211
Environmental Quality, Department of	
Environmental Management Commission	211 – 212
Coastal Resources Commission	212 – 217
Wildlife Resources Commission	217 – 223

III. EMERGENCY RULES

Wildlife Resources Commission	224
-------------------------------------	-----

IV. TEMPORARY RULES

Elections, State Board of	
Board	225 – 227
Justice, Department of	
Criminal Justice Education and Training Standards Commission	227 – 228
Environmental Quality, Department of	
Wildlife Resources Commission	229

V. APPROVED RULES

Environmental Quality, Department of	
Marine Fisheries Commission	230 – 265
Occupational Licensing Boards and Commissions	
Dental Examiners, Board of	
Pharmacy, Board of	
Appraisal Board	
State Human Resources Commission	
State Human Resources Commission	

VI. RULES REVIEW COMMISSION	266 – 281
-----------------------------------	-----------

PUBLISHED BY

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

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

Contact List for Rulemaking Questions or Concerns

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

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

Office of Administrative Hearings

Rules Division

1711 New Hope Church Road

984-236-1850

Raleigh, North Carolina 27609

984-236-1947 FAX

contact: Ashley B. Snyder, Codifier of Rules

ashley.snyder@oah.nc.gov

984-236-1941

Dana McGhee, Publications Coordinator

dana.mcghee@oah.nc.gov

984-236-1937

Cathy Matthews-Thayer, Editorial Assistant

cathy.thayer@oah.nc.gov

984-236-1901

Rule Review and Legal Issues

Rules Review Commission

1711 New Hope Church Road

984-236-1850

Raleigh, North Carolina 27609

984-236-1947 FAX

contact: Brian Liebman, Commission Counsel

brian.liebman@oah.nc.gov

984-236-1948

William W. Peaslee, Commission Counsel

bill.peaslee@oah.nc.gov

984-236-1939

Seth M. Ascher, Commission Counsel

seth.ascher@oah.nc.gov

984-236-1934

Travis Wiggs, Commission Counsel

travis.wiggs@oah.nc.gov

984-236-1929

Alexander Burgos, Paralegal

alexander.burgos@oah.nc.gov

984-236-1940

Fiscal Notes & Economic Analysis

Office of State Budget and Management

116 West Jones Street

Raleigh, North Carolina 27603-8005

Contact: Julie Ventaloro, Economic Analyst

osbmruleanalysis@osbm.nc.gov

984-236-0694

NC Association of County Commissioners

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

919-715-5460 FAX

Jason Moran-Bates, Staff Attorney

Chris Saunders, Staff Attorney

Aaron McGlothlin, Staff Attorney

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: Josh Lindell
AquaPoint
39 Tarklin Place
New Bedford, MA 02745

For: Modification to the Innovative Approval for the Bioclere Modified Trickling Filter System

Application by: Ryan Zaremba
SludgeHammer Group, Ltd
4472 US 131 Building D
Petoskey, NC 49770

For: New Innovative Approval for the SludgeHammer Unit

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.

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: Scott Samuelson
FujiClean USA LLC
41-2 Greenwood Rd
Brunswick, ME 04011

For: Innovative Approval for the FujiClean CEN Series

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.

North Carolina License and Theft Bureau

PUBLIC NOTICE

This serves as a notice pursuant to G.S. § 20-288 of a license application submission by a manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative that has not been previously issued a license by the Division.

Applicant's Name: Piaggio Group Americas Inc

Applicant's Address: 860 Washington Street 9th Floor, New York NY 10014

Application Date: 05/21/2024

Names and titles of any individual listed on the application as an owner, partner, member or officer of the applicant:

Marco D'Acunzo CEO

Enrico Pugliese CFO

George Costi General Affairs Manager

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

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Radiation Protection Commission intends to amend the rules cited as 10A NCAC 15 .0112, .1001, .1601, repeal the rule cited as 10A NCAC 15 .0323, readopt with substantive changes the rules cited as 10A NCAC 15 .0103-.0110, .0306, .0311, .0313, readopt without substantive changes the rules cited as 10A NCAC 15 .0101, .0102, and repeal through re adoption the rules cited as 10A NCAC 15 .0114-.0118, .0316, .0345 and .0346.

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

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

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

Proposed Effective Date: May 1, 2025

Public Hearing:

Date: October 23, 2024

Time: 10:00 a.m.

Location: Edgerton Building, 809 Ruggles Drive, Dorothea Dix Campus, Raleigh, North Carolina 27603

Reason for Proposed Action: *There are 25 Rules in this rulemaking action. Pursuant to G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules, all rules are reviewed at least every 10 years, or they shall expire. As a result of the periodic review of the rules in Chapter 10A NCAC 15, Radiation Protection, 21 of these rules were part of the 257 rules from the N.C. Radiation Protection Commission determined as “Necessary With Substantive Public Interest,” requiring re adoption and one of these rules was determined as “Necessary Without Substantive Public Interest” requiring amendment. Three of these rules were previously readopted. With input from advisory committees, working groups of the N.C. Radiation Protection Commission and stake holders, substantive changes are proposed for 11 rules for re adoption with substantive changes, two rules for re adoption without substantive changes, three rules for amendment, one rule for repeal, and eight rules are proposed for repeal through re adoption.*

Four of the rules proposed for re adoption with substantive changes have been reorganized to incorporate by reference Title 10 of the federal Code of Federal Regulations (10 CFR) for Parts 34, 71 and 150, and Title 21 (21 CFR) for Subchapter J, including subsequent amendments and editions, instead of repeating the contents of those regulations. The remaining rules that are being readopted reflect agency requirements, not federal requirements. These rules are necessary because they clarify agency expectations for registrants and licensees possessing and using sources of radiation within the State. Two of the rules being amended are being amended to correct references to definitions that apply to X-Ray registrants found in one rule that is being readopted with substantive changes during this rulemaking. All of the rules proposed for repeal are being repealed due to rule requirement redundancy.

Comments may be submitted to: Shanah Black, 809 Ruggles Drive, Edgerton Building; 2701 Mail Service Center, Raleigh, NC 27699; email DHSR.RulesCoordinator@dhhs.nc.gov

Comment period ends: November 4, 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 15 – RADIATION PROTECTION

SECTION .0100 – GENERAL PROVISIONS

10A NCAC 15 .0101 SCOPE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 15 .0102 COMPLIANCE WITH LAWS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 15 .0103 INTENTIONAL EXPOSURE DEFINITIONS

Nothing in Sections .0100 to .1000 of this Chapter shall be interpreted as limiting the intentional exposure of patients to radiation for the purposes of medical diagnosis and therapy.

(a) As used in the Rules of this Chapter, persons registered with the agency pursuant to the rules in Section .0200 of this Chapter and persons licensed under the rules in Sections .0300, .0900, .1200, and 1300 of this Chapter, the following definitions apply:

- (1) "Act" means North Carolina Radiation Protection Act as defined in G.S. 104E-1.
(2) "Agency" means the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Radiation Protection Section.
(3) "Authorized representative" means an employee of the agency.
(4) "Annually" means either:
(A) at intervals not to exceed 12 consecutive months; or
(B) once per year at the same time each year (completed during the same month each year over a period of multiple years).
(5) "Calendar month" means January, February, March, April, May, June, July, August, September, October, November, or December.
(6) "Calendar year" means the period of time between 12:00:00 am January 1 to 11:59:59 pm December 31.
(7) "Calibration" means the determination of the reading or response of an instrument to known radiation values over the range of the instrument, or the strength of a source of radiation relative to a standard.
(8) "CFR" means Code of Federal Regulations.
(9) "Commission" has the meaning as defined in G.S. 104E-5(5), except as stated in Paragraph (c) of this Rule.
(10) "Department" has the meaning as defined in G.S. 104E-5(6) except as stated in Paragraph (c) of this Rule.
(11) "Exposure rate" means the exposure per unit of time, such as R/min and mR/h.
(12) "Human use" means the internal or external administration of radiation or radioactive materials to human beings.
(13) "Inspection" means an examination or observation by an authorized representative of the agency to determine compliance with rules, orders, requirements, and conditions of the agency or the Commission.
(14) "Monthly" means once every calendar month.

- (15) "Natural radioactivity" means radioactivity of naturally occurring nuclides.
(16) "Person" has the same meaning as defined in G.S. 104E-5(11).
(17) "Quarterly" means four time per calendar year, and:
(A) at intervals not to exceed 13 weeks; or
(B) once per month during the months of January, April, July, and October; or
(C) once per month during the months of February, May, August, and November; or
(D) once per month during the months of March, June, September, and December.
(18) "Radiation" except as otherwise defined in Section .1400 of this Chapter, has the meaning as defined in G.S. 104E-5(12).
(19) "Radiation dose" means dose.
(20) "Semiannually" means twice per calendar year at six month intervals.
(21) "SI unit" means a unit of measure from the International System of Units as established by the General Conference of Weights and Measures.
(22) "Source of radiation" means any radioactive material, or any device or equipment emitting or capable of producing radiation.
(23) "State" means the State of North Carolina.
(24) "These Rules" means Chapter 10 of this Title.
(b) As used in the Rules of this Chapter, persons registered with the agency pursuant to the rules in Section .0200 of this Chapter, the following definitions shall apply:
(1) "Clinical study" means human use of a radiation machine for research and development. The terms "clinical investigation", "clinical research", "research", and "study" also means "clinical study".
(2) "Consulting" means providing professional technical advice on radiological matters by an expert registered with the agency in accordance with Rule .0205 of this Chapter.
(3) "Facility" means the location at which one or more radiation machines or sources of radiation are installed or located within one building, at one address or vehicle, and are under the same administrative control.
(4) "Healing arts" means the art or science of diagnostic examination using a source of radiation in the diagnosis or treatment of human or animal diseases.
(5) "Individual responsible for radiation protection" means a person who has the knowledge and responsibility to apply appropriate radiation protection rules, for persons registered with the agency in accordance with Section .0200 of this Chapter, commensurate with the scope of the activities authorized by the registrant.

- (6) "Install or installation" means the assembly, placement, initial calibration, operational testing, or other actions that allow a radiation machine to be used in a new location or after being moved from one location to another.
- (7) "Licensed practitioner" means a person authorized to order diagnostic exams that use radiation machines for diagnosing or treatment of human or animal diseases. The person shall be:
 - (A) a physician in accordance with Subparagraph (8) of this Paragraph; or
 - (B) licensed by the appropriate licensing board in North Carolina pursuant to G.S. Chapter 90 to provide professional services in chiropractic, dentistry, podiatry, and veterinary medicine.
- (8) "Physician" means a person licensed to practice medicine in North Carolina pursuant to G.S. Chapter 90, Article I.
- (9) "Radiation machine" has the same meaning as defined in G.S. 104E-5(13).
- (10) "Registrant" means any person who is registered with the agency, after completing the registration process, in accordance with Rule .0203 of this Chapter.
- (11) "Registration" means the process of registration, with the agency, by completing and submitting agency forms in accordance with Rules .0203 and .0205 of this Chapter.
- (12) "Registered" means a facility or service provider that has completed the registration process in accordance with Rules .0203 and .0205 of this Chapter and has been issued a Notice of Registration in accordance with Rule .0207 of this Chapter.
- (13) "Research and development" means:
 - (A) theoretical analysis, exploration, or experimentation; or
 - (B) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.
- (14) "Service" means calibration, conversion, repair, routine maintenance, or other testing performed on a radiation machine, x-ray system or subsystem, or source of radiation, other than those actions taken during installation.
- (15) "Service Provider" means any person engaged in equipment services included in Rule .0205(d) of this Chapter.

(d) To reconcile differences between the Rules of this Chapter and the incorporated sections of Federal regulations and to effectuate their joint enforcement, the following words and phrases shall be substituted for the language of the Federal regulations:

- (1) With the exception of 10 CFR 30.4 and in the definition of Special Nuclear Material, a reference to "NRC" or "Commission" means the "Agency."
- (2) A reference to "NRC or agreement state" means the "Agency or agreement state."
- (3) In 10 CFR 40.4 and 70.4, in the definition of "Special Nuclear Material", the sentence "and any other material which the Commission, pursuant to the provisions of section 51 of the Act, determines to be special nuclear material", remains preserved as implemented by G.S. 104E-5.(16).
- (4) In 10 CFR 30.18(d), 30.32(g), 31.5(b)(1)(ii), 31.5(c)(3)(ii), 31.5(c)(8)(i), 31.6, 31.7(a), 31.10(a), 1.10(b)(1), 31.12(c)(4), 32.13, 32.51(a), 32.51(c), 32.56, 32.59, 32.72(b)(5)(ii), 40.13(c)(10), 40.22(e), 40.25(b), 40.25(d)(3), 40.54, 40.55(c), (c)(1), (d)(1)(ii), (d)(2) and (d)(3), where a reference is made to "an Agreement State", it means "an Agreement State or the NRC".
- (5) In 10 CFR 31.6 where the words "any non-agreement state" or "offshore waters" are used, substitute the words "State of North Carolina."
- (6) In 10 CFR 70.19(a)(1) and 70.19(c)(3), the term "Commission or the Atomic Energy Commission" remains and does not mean the Agency or have the same definition shown in G.S. 104E-5(5). In 10 CFR 70.42(b)(1) the word "Department" means the "U.S. Department of Energy".
- (7) "Written directive," except as defined in Rule .0307 of this Chapter, means an order in writing for a specific patient or human research subject dated and signed by an authorized user prior to the administration of radiation therapy through the use of a licensed accelerator that contains the patient or human research subject's name and the following information:
 - (A) total dose;
 - (B) dose per fraction;
 - (C) treatment site, and
 - (D) number of fractions.

Authority G.S. 104E-7; 104E-7(a); 10 CFR 20.1003.

**10A NCAC 15 .0104 DEFINITIONS
INCORPORATION BY REFERENCE**

As used in these Rules, the following definitions apply:

- (1) "Absorbed dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the rad and the gray (Gy).

(c) Definitions of certain other words and phrases as used in these Rules are set forth in Sections .0300, .0500, .0600, .0800, .1000, .1200, .1300, .1400, .1600, and .1700 of this Chapter.

- (2) ~~"Accelerator produced material" means any material made radioactive by use of a particle accelerator.~~
- (3) ~~"Act" means North Carolina Radiation Protection Act as defined in G.S. 104E-1.~~
- (4) ~~"Activity" is the rate of disintegration (transformation) or decay of radioactive material. The units of activity are the curie (Ci) and the becquerel (Bq).~~
- (5) ~~"Adult" means an individual 18 or more years of age.~~
- (6) ~~"Agency" means the, North Carolina Department of Health and Human Services, Division of Health Service Regulation, Radiation Protection Section.~~
- (7) ~~"Agreement state" has the meaning as defined in G.S. 104E-5(2).~~
- (8) ~~"Air purifying respirator" means a respirator with an air purifying filter, cartridge, or canister that removes specific air contaminants by passing ambient air through the air purifying element.~~
- (9) ~~"Airborne radioactive material" means any radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.~~
- (10) ~~"Airborne radioactivity area" means a room, enclosure, or area in which airborne radioactive materials, composed wholly or partly of licensed radioactive material, exist in concentrations:~~
- (a) ~~in excess of the derived air concentrations specified in Appendix B to 10 CFR 20.1001-20.2401; or~~
- (b) ~~to such a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6 percent of the annual limit on intake or 12 DAC hours.~~
- (11) ~~"ALARA" (acronym for "as low as is reasonably achievable") means making every reasonable effort to maintain exposures to radiation as far below the dose limits in the rules of this Chapter as is practical consistent with the purpose for which the licensed or registered activity is undertaken, taking into account the state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of sources of radiation in the public interest.~~
- (12) ~~"Annual limit on intake" (ALI) means the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide~~
- in an effective dose equivalent of five rems (0.05 Sv) or a committed dose equivalent of 50 rems (0.5 Sv) to any individual organ or tissue. The ALI values for intake by ingestion and by inhalation of selected radionuclides are given in Table 1, Columns 1 and 2, of Appendix B to 10 CFR 20.1001-20.2401.
- (13) ~~"Annually" means either:~~
- (a) ~~at intervals not to exceed 12 consecutive months; or~~
- (b) ~~once per year at the same time each year (completed during the same month each year over a period of multiple years).~~
- (14) ~~"Assigned protection factor (APF)" means the expected workplace level of respiratory protection that would be provided by a properly functioning respirator or a class of respirators to properly fitted and trained users. APF can be divided into the ambient airborne concentrations to estimate inhaled air concentrations.~~
- (15) ~~"Atmosphere supplying respirator" means a respirator that supplies the respirator user with breathing air from a source independent of the ambient atmosphere and includes supplied air respirators and self-contained breathing apparatus units.~~
- (16) ~~"Authorized representative" means an employee of the agency, or an individual outside the agency when the individual is so designated by the agency under Rule .0112 of this Section.~~
- (17) ~~"Authorized user" means an individual who is authorized by license or registration condition to use a source of radiation.~~
- (18) ~~"Background radiation" means radiation from cosmic sources; naturally occurring radioactive materials, including radon (except as a decay product of source or special nuclear material); and global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that are not under the control of the licensee or registrant. "Background radiation" does not include sources of radiation regulated by the agency.~~
- (19) ~~"Becquerel" is the SI unit of radioactivity. One becquerel is equal to one disintegration per second (s⁻¹).~~
- (20) ~~"Bioassay" or "radiobioassay" means the determination of kinds, quantities or concentrations, and, in some cases, the locations of radioactive material in the human body, whether by direct measurement (in vivo counting) or by analysis and evaluation of materials excreted or removed from the human body.~~

- (21) ~~"Brachytherapy" means a method of radiation therapy in which sources are used to deliver a radiation dose at a distance of up to a few centimeters by surface, intracavitary, intraluminal or interstitial application.~~
- (22) ~~"Brachytherapy source" means a radioactive source or a manufacturer assembled source train or a combination of these sources that is designed to deliver a therapeutic dose within a distance of a few centimeters.~~
- (23) ~~"Byproduct material" has the meaning as defined in G.S. 104E 5(4), and in addition includes:~~
- (a) ~~The tailings or wastes produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute "byproduct material" within this definition;~~
 - (b) ~~Any discrete source of Radium 226 that is produced, extracted, or converted after extraction, for use for a commercial, medical, or research activity;~~
 - (c) ~~Any material that:~~
 - (i) ~~has been made radioactive by use of a particle accelerator; or~~
 - (ii) ~~is produced, extracted, or converted after extraction, for use for a commercial, medical, or research activity; and~~
 - (d) ~~Any discrete source of naturally occurring radioactive material, other than source material, that:~~
 - (i) ~~the US Nuclear Regulatory Commission, in consultation with the Administrator of the Environmental Protection, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium 226 to the public health and safety or the common defense and security; and~~
 - (ii) ~~is extracted or converted after extraction for use in a commercial, medical, or research activity.~~
- (24) ~~"Class", "lung class" or "inhalation class" means a classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. Materials are classified as D, W, or Y, which applies to a range of clearance half times as follows:~~
- | CLASSIFICATION OF INHALED MATERIAL | Clearance half time |
|---|----------------------------------|
| Class D (Day) | less than 10 days |
| Class W (Weeks) | 10 days to 100 days |
| Class Y (Years) | greater than 100 days |
- (25) ~~"Clinical procedures manual" means a collection of procedures governing the medical use of radioactive material not requiring a written directive that describes each method by which the licensee performs clinical procedures and includes other instructions and precautions. Each clinical procedure, including the radiopharmaceutical dosage and route of administration, shall be approved in writing by an authorized user prior to inclusion in the manual. The radiation safety officer shall ensure that the manual includes the approved procedure(s) for all clinical procedures using radioactive material not requiring a written directive performed at the facility.~~
- (26) ~~"Collective dose" is the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.~~
- (27) ~~"Commission" has the meaning as defined in G.S. 104E 5(5).~~
- (28) ~~"Committed dose equivalent" (HT,50) means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50 year period following the intake.~~
- (29) ~~"Committed effective dose equivalent" (HE,50) is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to these organs or tissues (HE,50 = ΣwTHT,50).~~
- (30) ~~"Consortium" means an association of medical use licensees and a PET radionuclide production facility that jointly own or share in the operation and maintenance costs of the PET radionuclide production facility that produces PET radionuclides for use in producing radioactive drugs within the consortium for noncommercial distributions among its associated members for medical use. The consortium's PET radionuclide production~~

- facility must be located at an educational institution, federal or medical facility.
- (31) "Constraint" or "dose constraint" means a value above which specified licensee actions are required.
- (32) "Controlled area" means an area, outside of a restricted area but inside the site boundary, access to which can be limited by the licensee or registrant for any reason.
- (33) "Critical group" means the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.
- (34) "Curie" is the special unit of radioactivity. One curie is equal to 3.7×10^{10} disintegrations per second = 3.7×10^{10} becquerels = 2.22×10^{12} disintegrations per minute.
- (35) "Declared pregnant woman" means a woman who has voluntarily informed the licensee or registrant, in writing, of her pregnancy and the estimated date of conception. The declaration remains in effect until the declared pregnant woman withdraws the declaration in writing or is no longer pregnant.
- (36) "Decommission" means to remove (as a facility) safely from service and reduce residual radioactivity to a level that permits release of the property for either unrestricted use and termination of the license or for restricted use and termination of the license.
- (37) "Deep dose equivalent" (Hd), which applies to external whole-body exposure, is the dose equivalent at a tissue depth of one cm (1000 mg/cm²).
- (38) "Demand respirator" means an atmosphere-supplying respirator that admits breathing air to the facepiece only when a negative pressure is created inside the facepiece by inhalation.
- (39) "Department" has the meaning as defined in G.S. 104E-5(6).
- (40) "Depleted uranium" means the source material uranium in which the isotope uranium 235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.
- (41) "Derived air concentration" (DAC) means the concentration of a given radionuclide in air which, if breathed by the reference man for a working year of 2,000 hours under conditions of light work (inhalation rate 1.2 cubic meters of air per hour), results in an intake of ALI. DAC values are given in Table 1, Column 3, of Appendix B to 10 CFR 20.1001-20.2401.
- (42) "Derived air concentration hour" (DAC-hour) is the product of the concentration of radioactive material in air (expressed as a fraction or multiple of the derived air concentration for each radionuclide) and the time of exposure to that radionuclide, in hours.
- (43) "Discrete source" means a radionuclide that has been processed so that its concentration within a material has been purposely increased for use for commercial, medical, or research activities.
- (44) "Disposable respirator" means a respirator for which maintenance is not intended and that is designed to be discarded after excessive breathing resistance, sorbent exhaustion, physical damage, or end-of-service life renders it unsuitable for use. Examples of this type of respirator are a disposable half mask respirator or a disposable escape only self-contained breathing apparatus (SCBA).
- (45) "Distinguishable from background" means that the detectable concentration of a radionuclide is statistically different from the background concentration of that radionuclide in the vicinity of the site or, in the case of structures, in similar materials using measurement technology, survey and statistical techniques as defined in 10 CFR 20.1003.
- (46) "Dose" or "radiation dose" is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, or total effective dose equivalent, as defined in other Items of this Rule.
- (47) "Dose equivalent" (HT) means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the rem and sievert (Sv).
- (48) "Dose limits" (see "Limits" defined in this Rule).
- (49) "Dosimetry processor" means an individual or organization that processes and evaluates individual monitoring equipment in order to determine the radiation dose delivered to the equipment.
- (50) "Effective dose equivalent" (HE) is the sum of the products of the dose equivalent to the organ or tissue (HT) and the weighting factors (wT) applicable to each of the body organs or tissues that are irradiated ($HE = \sum wTHT$).
- (51) "Embryo/fetus" means the developing human organism from conception until the time of birth.
- (52) "Entrance or access point" means any location through which an individual could gain access to radiation areas or to a source of radiation. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.
- (53) "Equipment services" means the selling, installation, rebuilding, conversion, repair, inspection, testing, survey or calibration of

- equipment which can affect compliance with these Rules by a licensee or registrant.
- (54) "Exposure" means being exposed to ionizing radiation or to radioactive material.
- (55) "Exposure rate" means the exposure per unit of time, such as R/min and mR/h.
- (56) "External dose" means that portion of the dose equivalent received from radiation sources outside the body.
- (57) "Extremity" means hand, elbow, arm below the elbow, foot, knee, or leg below the knee.
- (58) "Eye dose equivalent" (See "Lens dose equivalent" as defined in this Rule).
- (59) "Filtering facepiece" or "dust mask" means a negative pressure particulate respirator with a filter as an integral part of the facepiece or with the entire facepiece composed of the filtering medium, not equipped with elastomeric sealing surfaces and adjustable straps.
- (60) "Fit factor" means a quantitative estimate of the fit of a particular respirator to a specific individual, and typically estimates the ratio of the concentration of a substance in ambient air to its concentration inside the respirator when worn.
- (61) "Fit test" means the use of a protocol to qualitatively or quantitatively evaluate the fit of a respirator on an individual.
- (62) "Generally applicable environmental radiation standards" means standards issued by the U.S. Environmental Protection Agency (EPA) under the authority of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using sources of radiation.
- (63) "Gray" (Gy) is the SI unit of absorbed dose. One gray is equal to an absorbed dose of one joule/kilogram (100 rads).
- (64) "Helmet" means a rigid respiratory inlet covering that also provides head protection against impact and penetration.
- (65) "High dose rate remote afterloader" (HDR) means a brachytherapy device that remotely delivers a dose rate in excess of 12 gray (1200 rads) per hour at the point or surface where the dose is prescribed.
- (66) "High radiation area" means an area, accessible to individuals, in which radiation levels from sources external to the body could result in an individual receiving a dose equivalent in excess of 0.1 rem (1 mSv) in one hour at 30 centimeters from the radiation source or from any surface that the radiation penetrates.
- (67) "Hood" means a respiratory inlet covering that completely covers the head and neck and may also cover portions of the shoulders and torso.
- (68) "Hospital" means a facility that provides as its primary functions diagnostic services and intensive medical and nursing care in the treatment of acute stages of illness.
- (69) "Human use" means the internal or external administration of radiation or radioactive materials to human beings.
- (70) "Individual" means any human being.
- (71) "Individual monitoring" means:
- (a) the assessment of dose equivalent by the use of devices designed to be worn by an individual;
 - (b) the assessment of committed effective dose equivalent by bioassay or by determination of the time weighted air concentrations to which an individual has been exposed, i.e., DAC hours; or
 - (c) the assessment of dose equivalent by the use of survey data.
- (72) "Individual monitoring devices" or "individual monitoring equipment" means devices designed to be worn by a single individual for the assessment of dose equivalent such as film badges, thermoluminescence dosimeters (TLDs), pocket ionization chambers, and personal ("lapel") air sampling devices.
- (73) "Inhalation class" (see "Class" defined in this Rule).
- (74) "Inspection" means an examination or observation by the agency to determine compliance with rules, orders, requirements and conditions of the agency or the Commission.
- (75) "Internal dose" means that portion of the dose equivalent received from radioactive material taken into the body.
- (76) "Lens dose equivalent" (LDE) applies to the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 cm (300 mg/cm²).
- (77) "License," except where otherwise specified, means a license issued pursuant to Section .0300 of this Chapter.
- (78) "Licensee" means any person who is licensed by the agency pursuant to Section .0300 of this Chapter.
- (79) "Licensing state" means any state designated as such by the Conference of Radiation Control Program Directors, Inc. Unless the context indicates otherwise, use of the term Agreement State in this Chapter includes licensing state with respect to naturally occurring and accelerator produced radioactive material (NARM).
- (80) "Limits" or "dose limits" means the permissible upper bounds of radiation doses.

- | | |
|--|---|
| <p>(81) "Loose fitting facepiece" means a respiratory inlet covering that is designed to form a partial seal with the face.</p> <p>(82) "Lost or missing licensed radioactive material" means licensed radioactive material whose location is unknown. It includes material that has been shipped but has not reached its destination and whose location cannot be readily traced in the transportation system.</p> <p>(83) "Low dose rate remote afterloader" (LDR) means a brachytherapy device that remotely delivers a dose rate of less than or equal to 2 gray (200 rads) per hour at the point or surface where the dose is prescribed.</p> <p>(84) "Lung class" (see "Class" as defined in this Rule).</p> <p>(85) "Manual brachytherapy" means a type of brachytherapy in which the brachytherapy seeds, ribbons) are manually placed topically on or inserted either into the body cavities that are in close proximity to a treatment site or directly into the tissue volume.</p> <p>(86) "Medical event" means an event that meets the criteria in Rule .0364 of this Chapter.</p> <p>(87) "Medical use" means the intentional internal or external administration of radioactive material or the radiation therefrom to patients or human research subjects under the supervision of an authorized user.</p> <p>(88) "Medium dose rate remote afterloader" means a brachytherapy device that remotely delivers a dose rate of greater than 2 gray (200 rads), but less than 12 gray (1200 rads) per hour at the point or surface where the dose is prescribed.</p> <p>(89) "Member of the public" means any individual except when that individual is receiving an occupational dose.</p> <p>(90) "Minor" means an individual less than 18 years of age.</p> <p>(91) "Mobile nuclear medicine service" means the transportation and medical use of radioactive material.</p> <p>(92) "Monitoring," "radiation monitoring" or "radiation protection monitoring" means the measurement of radiation levels, concentrations, surface area concentrations or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses.</p> <p>(93) "Natural radioactivity" means radioactivity of naturally occurring nuclides.</p> <p>(94) "Negative pressure respirator" means a tight-fitting respirator in which the air pressure inside the facepiece is negative during inhalation with respect to the ambient air pressure outside of the respirator.</p> <p>(95) "Nonstochastic effect" or "deterministic effect" means health effects, the severity of which vary with the dose and for which a threshold is</p> | <p>believed to exist. Radiation induced cataract formation is an example of a nonstochastic effect.</p> <p>(96) "NRC" means the United States Nuclear Regulatory Commission or its authorized representatives.</p> <p>(97) "Occupational dose" means the dose received by an individual in the course of employment in which the individual's assigned duties involve exposure to radiation or radioactive material from licensed and unlicensed sources of radiation, whether in the possession of the licensee or registrant or other person. Occupational dose does not include doses received from background radiation, as a patient from medical practices, from exposure to individuals administered radioactive material and released in accordance with Rule .0358 of this Chapter, from voluntary participation in medical research programs, or as a member of the public.</p> <p>(98) "Particle accelerator" means any machine capable of accelerating electrons, protons, deuterons, or other charged particles, in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of one megaelectron volt. For purposes of this definition, "accelerator" is an equivalent term.</p> <p>(99) "Patient intervention" means actions by the patient or human research subject, whether intentional or unintentional, such as dislodging or removing treatment devices or prematurely terminating the administration.</p> <p>(100) "Person" has the meaning as defined in G.S. 104E-5(11).</p> <p>(101) "Personnel monitoring equipment" means devices, such as film badges, pocket dosimeters, and thermoluminescent dosimeters, designed to be worn or carried by an individual for the purpose of estimating the dose of radiation received by the individual.</p> <p>(102) "Pharmacist" means a person licensed to practice pharmacy in North Carolina pursuant to G.S. Chapter 90, Article 4A.</p> <p>(103) "Physician" means a person licensed to practice medicine in North Carolina pursuant to G.S. Chapter 90, Article 1.</p> <p>(104) "Planned special exposure" means an infrequent exposure to radiation, separate from and in addition to the annual dose limits as defined in Rule .1608 of this Chapter.</p> <p>(105) "Positive pressure respirator" means a respirator in which the pressure inside the respiratory inlet covering exceeds the ambient air pressure outside the respirator.</p> <p>(106) "Positron Emission Tomography (PET) radionuclide production facility" means a facility operating an accelerator or a cyclotron</p> |
|--|---|

- for the purpose of producing PET radionuclides.
- (107) ~~"Powered air purifying respirator (PAPR)" means an air purifying respirator that uses a blower to force the ambient air through air purifying elements to the inlet covering.~~
- (108) ~~"Prescribed dosage" means the specified activity or range of activity of unsealed radioactive material as documented:~~
- ~~(a) In a written directive; or~~
- ~~(b) In accordance with the directions of an authorized user.~~
- (109) ~~"Prescribed dose" means:~~
- ~~(a) for teletherapy or accelerator radiation:~~
- ~~(i) the total dose; and~~
- ~~(ii) the dose per fraction as documented in the written directive;~~
- ~~(b) for brachytherapy:~~
- ~~(i) the total source strength and exposure time; or~~
- ~~(ii) the total dose, as documented in the written directive;~~
- ~~(c) for gamma stereotactic radiosurgery, the total dose as documented in the written directive; or~~
- ~~(d) for remote brachytherapy afterloaders, the total dose and dose per fraction as documented in a written directive.~~
- (110) ~~"Pressure demand respirator" means a positive pressure atmosphere supplying respirator that admits breathing air to the facepiece when the positive pressure is reduced inside the facepiece by inhalation.~~
- (111) ~~"Public dose" means the dose received by a member of the public from exposure to radiation or radioactive material released by a licensee or registrant, or another source of radiation within a licensee's or registrant's control. It does not include occupational dose or doses received from background radiation, as a patient from medical practices, from exposure to individuals administered radioactive material and released in accordance with Rule .0358 of this Chapter, or from voluntary participation in medical research programs.~~
- (112) ~~"Pulsed dose rate remote afterloader" means a type of remote afterloading brachytherapy device that uses a single source capable of delivering dose rates in the "high dose rate" range, but:~~
- ~~(a) Is approximately one tenth of the activity of typical high dose rate remote afterloader sources; and~~
- ~~(b) Is used to simulate the radiobiology of a low dose rate treatment by inserting the source for a given fraction of each hour.~~
- (113) ~~"Qualitative fit test" (QLFT) means a pass/fail fit test to assess the adequacy of respirator fit that relies on the individual's response to the test agent.~~
- (114) ~~"Quality factor" (Q) means the modifying factor that is used to derive dose equivalent from absorbed dose. Quality factors are provided in the definition of rem in this Rule.~~
- (115) ~~"Quantitative fit test" (QNFT) means an assessment of the adequacy of respirator fit by numerically measuring the amount of leakage into the respirator.~~
- (116) ~~"Quarter" means a period of time equal to one-fourth of the year observed by the licensee or registrant (approximately 13 consecutive weeks), providing that the beginning of the first quarter in a year coincides with the starting date of the year and that no day is omitted or duplicated in consecutive quarters.~~
- (117) ~~"Quarterly" means either:~~
- ~~(a) at intervals not to exceed 13 weeks; or~~
- ~~(b) once per 13 weeks at about the same time during each 13 week period (completed during the same month of the quarter (first month, second month or third month) each quarter over a time period of several quarters.~~
- (118) ~~"Rad" is the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 ergs/gram or 0.01 joule/kilogram (0.01 gray).~~
- (119) ~~"Radiation", except as otherwise defined in Section .1400 of this Chapter, has the meaning as defined in G.S. 104E 5(12).~~
- (120) ~~"Radiation area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.005 rem (0.05 mSv) in one hour at 30 centimeters from the radiation source or from any surface that the radiation penetrates.~~
- (121) ~~"Radiation dose" means dose.~~
- (122) ~~"Radiation machine" has the meaning as defined in G.S. 104E 5(13).~~
- (123) ~~"Radiation safety officer" means one who has the knowledge and responsibility to apply appropriate radiation protection rules.~~
- (124) ~~"Radioactive material" has the meaning as defined in G.S. 104E 5(14).~~
- (125) ~~"Radioactive waste disposal facility" means any low level radioactive waste disposal facility, as defined in G.S. 104E 5(9c), established for the purpose of receiving low-level radioactive waste, as defined in Rule .1202 of this Chapter, generated by another licensee for the purpose of disposal.~~
- (126) ~~"Radioactive waste processing facility" means any low level radioactive waste facility, as defined in G.S. 104E 5(9b), established for the purpose of receiving waste, as defined in this~~

PROPOSED RULES

- | | |
|--|---|
| <p>Rule, generated by another licensee to be stored, compacted, incinerated or treated.</p> <p>(127) "Radioactivity" means the disintegration of unstable atomic nuclei by emission of radiation.</p> <p>(128) "Radiobioassay" means bioassay.</p> <p>(129) "Reference man" means a hypothetical aggregation of human physical and physiological characteristics arrived at by international consensus as published by the International Commission on Radiological Protection. These characteristics may be used by researchers and public health workers to standardize results of experiments and to relate biological insult to a common base.</p> | <p>(130) "Registrant" means any person who is registered with the agency as required by provisions of these Rules or the Act.</p> <p>(131) "Registration" means registration with the agency in accordance with these Rules.</p> <p>(132) "Regulations of the U.S. Department of Transportation" means the regulations in 49 CFR Parts 100-189.</p> <p>(133) "Rem" is the special unit of any of the quantities expressed as dose equivalent. The dose equivalent in rems is equal to the absorbed dose in rads multiplied by the quality factor (1 rem = 0.01 sievert). As used in this Chapter, the quality factors for converting absorbed dose to dose equivalent are as follows:</p> |
|--|---|

QUALITY FACTORS AND ABSORBED DOSE EQUIVALENCIES

TYPE OF RADIATION	Quality Factor (Q)	Absorbed Dose Equal to a Unit Dose Equivalent ^a
X, gamma, or beta radiation	1	1
Alpha particles, multiple charged particles, fission fragments and heavy particles of unknown charge	20	0.05
Neutrons of unknown energy	10	0.1
High energy protons	10	0.1

^a Absorbed dose in rad equal to one rem or the absorbed dose in gray equal to one sievert.

If it is more convenient to measure the neutron fluence rate than to determine the neutron dose equivalent rate in rems per hour or sieverts per hour, one rem (0.01 Sv) of neutron radiation of unknown energies may, for purposes of the rules of this Chapter, be assumed to result from a total fluence of 25 million neutrons per square centimeter incident upon the body.

If sufficient information exists to estimate the approximate energy distribution of the neutrons, the licensee or registrant may use the fluence rate per unit dose equivalent or the appropriate Q value from the following table to convert a measured tissue dose in rads to dose equivalent in rems:

MEAN QUALITY FACTORS, Q, AND FLUENCE PER UNIT DOSE EQUIVALENT FOR MONOENERGETIC NEUTRONS

Neutron Energy (MeV)	Quality Factor ^a (Q)	Fluence per Unit Dose Equivalent ^b (neutrons cm ⁻² rem ⁻¹)
(thermal)		
2.5 x 10 ⁻⁸	2	980 x 10 ⁶
1 x 10 ⁻⁷	2	980 x 10 ⁶
1 x 10 ⁻⁶	2	810 x 10 ⁶
1 x 10 ⁻⁵	2	810 x 10 ⁶
1 x 10 ⁻⁴	2	840 x 10 ⁶
1 x 10 ⁻³	2	980 x 10 ⁶
1 x 10 ⁻²	2.5	1010 x 10 ⁶
1 x 10 ⁻¹	7.5	170 x 10 ⁶
5 x 10 ⁻¹	11	39 x 10 ⁶
1	11	27 x 10 ⁶
2.5	9	29 x 10 ⁶
5	8	23 x 10 ⁶
7	7	24 x 10 ⁶

PROPOSED RULES

10	6.5	24 x 10 ⁶
14	7.5	17 x 10 ⁶
20	8	16 x 10 ⁶
40	7	14 x 10 ⁶
60	5.5	16 x 10 ⁶
1 x 10 ²	4	20 x 10 ⁶
2 x 10 ²	3.5	19 x 10 ⁶
3 x 10 ²	3.5	16 x 10 ⁶
4 x 10 ²	3.5	14 x 10 ⁶

a Value of quality factor (Q) at the point where the dose equivalent is maximum in a 30-cm diameter cylinder tissue-equivalent phantom.
 b Monoenergetic neutrons incident normally on a 30-cm diameter cylinder tissue-equivalent phantom.

- | | |
|--|--|
| <p>(134) "Research and development" means:
 (a) theoretical analysis, exploration, or experimentation; or
 (b) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.
 Research and development does not include the internal or external administration of radiation or radioactive material to human beings.</p> <p>(135) "Residual radioactivity" means radioactivity in structures, materials, soils, groundwater, and other media at a site resulting from activities under the licensee's control. This includes radioactivity from all licensed and unlicensed sources used by the licensee, but excludes background radiation. It also includes radioactive materials remaining at the site as a result of routine or accidental releases of radioactive material at the site and previous burials of radioactive materials at the site, even if the burials were made in accordance with the provisions of Section .1600 of this Chapter.</p> <p>(136) "Respiratory protective device" means an apparatus, such as a respirator, used to reduce the individual's intake of airborne radioactive materials.</p> <p>(137) "Restricted area" means an area, access to which is controlled by the licensee or registrant for purposes of protecting individuals against undue risks from exposure to radiation and radioactive materials. Restricted area does not include areas used as residential quarters, but separate rooms in a residential building may be set apart as a restricted area.</p> <p>(138) "Roentgen" (R) means the special unit of exposure. One roentgen equals 2.58 x 10⁻⁴ coulombs/kilogram of air.</p> <p>(139) "Sanitary sewerage" means a system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee.</p> | <p>(140) "Sealed source" means radioactive material that is encased in a capsule designed to prevent leakage or escape of the radioactive material.</p> <p>(141) "Sealed source and device registry" means the national registry that contains all the registration certificates, generated by both NRC and the Agreement States, that summarize the radiation safety information for the sealed sources and devices and describe the licensing and use conditions approved for the product.</p> <p>(142) "Self contained breathing apparatus (SCBA)" means an atmosphere supplying respirator for which the breathing air source is designed to be carried by the user.</p> <p>(143) "Semiannually" means either:
 (a) at intervals not to exceed six months; or
 (b) once per six months at about the same time during each six month period (completed during the sixth month of each six month period over multiple six month periods).</p> <p>(144) "Shallow dose equivalent" (H_s), which applies to the external exposure of the skin of the whole body or the skin of an extremity, is taken as the dose equivalent at a tissue depth of 0.007 centimeter (7 mg/cm²).</p> <p>(145) "SI unit" means a unit of measure from the International System of Units as established by the General Conference of Weights and Measures.</p> <p>(146) "Sievert" is the SI unit of any of the quantities expressed as dose equivalent. The dose equivalent in sieverts is equal to the absorbed dose in grays multiplied by the quality factor (1 Sv = 100 rems).</p> <p>(147) "Site boundary" means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or registrant.</p> <p>(148) "Source material" has the meaning as defined in G.S. 104E-5(15).</p> <p>(149) "Source of radiation" means any radioactive material, or any device or equipment emitting or capable of producing radiation.</p> |
|--|--|

- (150) ~~"Special form radioactive material" means radioactive material which satisfies the following conditions:~~
- (a) ~~It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;~~
 - (b) ~~The piece or capsule has at least one dimension not less than five millimeters (0.197 inch); and~~
 - (c) ~~It satisfies the test requirements specified by the U.S. Nuclear Regulatory Commission, Subpart F of 10 CFR Part 71, and the tests prescribed in Rule .0114 of this~~
- (151) ~~"Special nuclear material" has the meaning as defined in G.S. 104E-5(16).~~
- (152) ~~"Special nuclear material in quantities not sufficient to form a critical mass" means uranium enriched in the isotope uranium 235 in quantities not exceeding 350 grams of contained uranium 235; uranium 233 in quantities not exceeding 200 grams; plutonium in quantities not exceeding 200 grams; or any combination of uranium 235, uranium enriched in uranium 235 and plutonium in accordance with the following formula: For each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified in this Rule for the same kind of special nuclear material. The sum of these ratios for all the kinds of special nuclear material in combination shall not exceed one. For example, the following quantities in combination would not exceed the limitations and are within the formula, as follows:~~
- $$\frac{175 \text{ (gram contained U 235)}}{350} + \frac{50 \text{ (grams U 233)}}{200} + \frac{50 \text{ (grams Pu)}}{200} \text{ is } \leq \text{ or } = 1$$
- (153) ~~"State" means the State of North Carolina.~~
- (154) ~~"Stereotactic radiosurgery" means the use of external radiation in conjunction with a stereotactic guidance device to precisely deliver a therapeutic dose to a tissue volume.~~
- (155) ~~"Stochastic effects" means health effects that occur randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without threshold. Hereditary effects and cancer incidence are examples of stochastic effects.~~
- (156) ~~"Supplied air respirator" (SAR) or "airline respirator" means an atmosphere supplying respirator for which the source of breathing air is not designed to be carried by the user.~~
- (157) ~~"Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of sources of radiation. When appropriate, such an evaluation includes a physical survey of the location of sources of radiation and measurements or calculations of levels of radiation, or concentrations or quantities of radioactive material present.~~
- (158) ~~"Therapeutic dosage" means a dosage of unsealed radioactive material that is intended to deliver a radiation dose to a patient or human research subject for palliative or curative treatment.~~
- (159) ~~"These Rules" means Chapter 11 of this Title.~~
- Section. A special form encapsulation designed in accordance with the U.S. Nuclear Regulatory Commission requirements, Subpart F of 10 CFR Part 71, in effect on June 30, 1984, and constructed prior to July 1, 1985, may continue to be used. A special form encapsulation either designed or constructed after June 30, 1985, must meet requirements of this definition applicable at the time of its design or construction.
- (160) ~~"Tight fitting facepiece" means a respiratory inlet covering that forms a complete seal with the face.~~
- (161) ~~"To the extent practicable" means to the extent feasible or capable of being done or carried out with reasonable effort, taking into account the state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations.~~
- (162) ~~"Total effective dose equivalent" (TEDE) means the sum of the effective dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures).~~
- (163) ~~"Toxic or hazardous constituent of the waste" means the nonradioactive content of waste which, notwithstanding the radioactive content, would be classified as "hazardous waste" as defined in G.S. 130A-290(8).~~
- (164) ~~"Treatment site" means the anatomical description of the tissue intended to receive a radiation dose, as described in a written directive.~~
- (165) ~~"Type A quantity" means a quantity of radioactive material, the aggregate radioactivity of which does not exceed A1 for special form radioactive material or A2 for normal form radioactive material, where A1 and A2 are given in Rule .0113 of this Section or may be determined by procedures described in that~~

- Rule. All quantities of radioactive material greater than a Type A quantity are Type B.
- (166) "Unit dosage" means a dosage intended for medical use in an individual that has been obtained from a manufacturer or preparer licensed pursuant to 10 CFR 32.72 or equivalent agreement state requirements.
- (167) "Unrefined and unprocessed ore" means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining.
- (168) "Unrestricted area" means an area, access to which is neither limited nor controlled by the licensee or registrant.
- (169) "User seal check" or "fit check" means an action conducted by the respirator user to determine if the respirator is properly seated to the face. Examples include negative pressure check, positive pressure check, irritant smoke check, or isoamyl acetate check.
- (170) "Very high radiation area" means an area, accessible to individuals, in which radiation levels from sources external to the body could result in an individual receiving an absorbed dose in excess of 500 rads (5 grays) in one hour at one meter from a radiation source or from any surface that the radiation penetrates. At very high doses received at high dose rates, units of absorbed dose (e.g., rads and grays) are appropriate, rather than units of dose equivalent (e.g., rems and sieverts).
- (171) "Waste" means low level radioactive waste as defined in G.S. 104E-5(9a) and includes those low level radioactive wastes containing source, special nuclear, or radioactive material that are acceptable for disposal in a land disposal facility. For purposes of this definition, low level waste means radioactive waste not classified as high level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in this Rule, and licensed naturally occurring and accelerator produced radioactive material which is not subject to regulation by the U.S. Nuclear Regulatory Commission under the Atomic Energy Act of 1954, as amended, except as defined differently in Rule .1202 of this Chapter.
- (172) "Week" means seven consecutive days.
- (173) "Weighting factor", wT, for an organ or tissue (T) is the proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of wT are:

Tissue	wT
Gonads	0.25
Breast	0.15
Red bone marrow	0.12
Lung	0.12
Thyroid	0.03
Bone surfaces	0.03
Remainder	0.30a
Whole body	1.00b

a 0.30 results from 0.06 for each of 5 "remainder" organs (excluding the skin and the lens of the eye) that receive the highest doses.

b For the purpose of weighting the external whole body dose (for adding it to the internal dose), a single weighting factor, wT=1.0, has been specified.

- (174) "Whole body" means, for purposes of external exposure, head, trunk (including male gonads), arms above the elbow, or legs above the knee.
- (175) "Worker" means an individual engaged in work under a license or registration issued by the agency and controlled by a licensee or registrant, but does not include the licensee or registrant.
- (176) "Working level" (WL) is any combination of short lived radon daughters (for radon 222: polonium 218, lead 214, bismuth 214, and polonium 214; and for radon 220: polonium 216, lead 212, bismuth 212, and polonium 212) in one liter of air that will result in the ultimate emission of 1.3×10^5 MeV of potential alpha particle energy.
- (177) "Working level month" (WLM) means an exposure to one working level for 170 hours.
- (178) "Written directive" means an order in writing for a specific patient or human research subject dated and signed by an authorized user prior to the administration of a radiopharmaceutical or radiation from a licensed source, except as specified in Sub item (e) of this definition, containing the patient or human research subject's name and the following information:
- (a) for the administration of greater than 30 microcuries (1.11 Megabecquerels (MBq)) of sodium iodide I 131, the dosage;
 - (b) for the therapeutic administration of a radiopharmaceutical other than sodium iodide I 131:
 - (i) radionuclide;
 - (ii) dosage; and
 - (iii) route of administration;
 - (c) for teletherapy or accelerator radiation therapy:
 - (i) total dose;
 - (ii) dose per fraction;
 - (iii) treatment site; and
 - (iv) number of fractions;

ORGAN DOSE WEIGHTING FACTORS

Organ or

- (d) ~~for high dose rate remote afterloading brachytherapy:~~
 - (i) ~~radionuclide;~~
 - (ii) ~~treatment site;~~
 - (iii) ~~dose per fraction~~
 - (iv) ~~number of fractions; and~~
 - (v) ~~total dose;~~
- (e) ~~for all other brachytherapy:~~
 - (i) ~~prior to implantation:~~
 - (A) ~~radionuclide;~~
 - (B) ~~treatment site; and~~
 - (C) ~~dose; and~~
 - (ii) ~~after implantation:~~
 - (A) ~~radionuclide;~~
 - (B) ~~treatment site;~~
 - (C) ~~number of sources;~~
 - (D) ~~total source strength and exposure time; and~~
 - (E) ~~total dose; and~~
- (f) ~~for gamma stereotactic radiosurgery:~~
 - (i) ~~the total dose;~~
 - (ii) ~~treatment site; and~~
 - (iii) ~~values for the target coordinate settings per treatment for each anatomically distinct treatment site.~~

(179) ~~"Year" means the period of time beginning in January used to determine compliance with the provisions of Section 1600 of this Chapter. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.~~

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

- (1) The following parts of 21 CFR Subchapter J:
 - (A) Part 1000, "General;"
 - (B) Subpart A 1000.1, "General Provisions - General;"
 - (C) Subpart A 1000.3(a) through (j),(k),(l), and (n) through (t), "Definitions;"
 - (D) Subpart A 1000.15, "Examples of electronic products subject to the Radiation Control for Health and Safety Act of 1968;"
 - (E) Part 1002, "Records and Reports;"
 - (F) Subpart A 1002.1(a) and (c)(4), "Applicability;"
 - (G) Subpart D 1002.31, "Preservation and inspection of records;"
 - (H) Part 1003, "Notification of Defects of Failures to Comply;"
 - (I) Subpart A 1003.1, "Applicability;"

- (J) Subpart A 1003.2, "Defect in an electronic product;"
- (K) Subpart C 1003.21, "Notification by the manufacturer to affected persons;"
- (L) Part 1010, "Performance Standards for Electronic Products - General;"
- (M) Subpart A 1010.1, "Scope;"
- (N) Subpart A 1010.2(a),(b), and (d), "Certification;"
- (O) Subpart A 1010.3, "Identification;"
- (P) Subpart A 1010.4(a) and (d), "Variances;"
- (Q) Part 1020, "Performance Standards for Ionizing Radiation Emitting Products;"
- (R) Section 1020.20, "Cold-cathode gas discharge tubes;"
- (S) Section 1020.30, "Diagnostic x-ray systems and their main components;"
- (T) Section 1020.31, "Radiographic equipment;"
- (U) Section 1020.32, "Fluoroscopic equipment;" and
- (V) Section 1020.33, "Computed tomography (CT) equipment."

(2) "Agreement Between the United States Atomic Energy Commission and the State of North Carolina for Discontinuance of Certain Commission Regulatory Authority and Responsibility within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended," signed July 21, 1964.

(b) The rules, standards and other requirements incorporated by reference in Paragraph (a) of this Rule are available free of charge at:

- (1) <https://www.ecfr.gov/current/title-21/chapter-I/subchapter-J> for Part (a)(1)(A) through (a)(1)(V) of this Rule, and
- (2) <https://www.nrc.gov/cdn/nmss/pdf/ncagreements.pdf> for the agreement between the NRC and the State of North Carolina.

Authority G.S. 104E-7(a)(2); ~~40 CFR 20.1003; 104E-15(a); 104E-25(b); 150B-19(5)(b); 150B-21.6.~~

**10A NCAC 15 .0105 OTHER DEFINITIONS
DESIGNATION OF AUTHORIZED REPRESENTATIVE
OF THE AGENCY**

~~Definitions of certain other words and phrases as used in these Rules are set forth in Sections .0300, .0500, .0600, .0800, .1200, .1300, .1400, and .1500 of this Chapter. Waste class is defined in Rule .1650 of this Chapter.~~

(a) When an employee of the agency is qualified and is specifically designated by the agency, the employee shall be an authorized representative of the agency to conduct inspections, tests, or surveys.

(b) When a public employee is determined by the agency to be qualified, the agency may designate the employee to conduct tests or surveys with an authorized representative of the agency.

Authority G.S. 104E-7.

10A NCAC 15 .0106 EXEMPTIONS INSPECTIONS AND TESTS

(a) ~~The agency may, upon application therefore, grant individual exemptions or exceptions from the requirements of these Rules if it will not result in radiation dose or contamination in excess of the limits prescribed in these Rules for the protection of public health, safety or property.~~

(b) ~~Except as otherwise provided in this Rule, common and contract or other carriers, freight forwarders, and warehousemen, who are subject to the regulations of the U.S. Postal Service (39 CFR Parts 14 and 15), are exempt from these Rules to the extent that they transport or store sources of radiation in the regular course of their carriage for another or storage incident thereto. Common, contract, or other carriers who are not exempt pursuant to this Rule are subject to the provisions of Rule .0316 of this Chapter. Notwithstanding these exemptions, common, contract or other carriers are required to comply with the provisions of Rule .0316(c) of this Chapter to the extent that these carriers are transporting spent nuclear fuel, as defined in Rule .0316(c) of this Chapter, upon the highways of North Carolina.~~

(c) ~~Any U.S. Department of Energy contractor or subcontractor and any U.S. Nuclear Regulatory Commission contractor or subcontractor of the following categories operating within this state is exempt from these Rules to the extent that the contractor or subcontractor under his contract receives, possesses, uses, transfers or acquires sources of radiation:~~

- (1) ~~prime contractors performing work for the U.S. Department of Energy at U.S. government owned or controlled sites, including the transportation of sources of radiation to or from such sites and the performance of contract services during temporary interruptions of such transportation;~~
- (2) ~~prime contractors of the U.S. Department of Energy performing research in, or development, manufacture, storage, testing or transportation of, atomic weapons or components thereof;~~
- (3) ~~prime contractors of the U.S. Department of Energy using or operating nuclear reactors or other nuclear devices in a United States government owned vehicle or vessel; and~~
- (4) ~~any other prime contractor or subcontractor of the U.S. Department of Energy or of the U.S. Nuclear Regulatory Commission when the agency and the U.S. Nuclear Regulatory Commission jointly determine that:~~
 - (A) ~~the exemption of the prime contractor or subcontractor in Subparagraph (c)(4) of this Rule is authorized by law, and~~
 - (B) ~~that under the terms of the contract or subcontract, there is adequate assurance that the work thereunder can be accomplished without undue risk to the public health and safety.~~

(a) Inspections. At all reasonable times during hours of operation, each licensee and registrant shall:

- (1) allow authorized representatives of the agency the opportunity to inspect any radiation machine or source of radiation and the facility or premises where any radiation machine or source of radiation is used or stored; and
- (2) make available to the agency for inspection, upon reasonable notice, records maintained pursuant to the Rules in this Chapter.

(b) Tests. Each licensee and registrant shall perform upon instructions from the agency, or shall permit the agency to perform, such reasonable tests as the agency deems appropriate or necessary of any:

- (1) radiation machine or source of radiation;
- (2) facility wherein any radiation machine or source of radiation is used or stored;
- (3) radiation detection and monitoring instruments; and
- (4) other equipment and devices used in connection with utilization or storage of any radiation machine or source of radiation.

Authority G.S. ~~104E-2; 104E-7; 104E-15;~~ 104E-7(2); 104E-11(a).

10A NCAC 15 .0107 INSPECTIONS IMPOUNDING

~~Each licensee and registrant shall, upon reasonable notice, make available to the agency for inspection records maintained pursuant to provisions of these Rules.~~

Radiation machines and sources of radiation are subject to impounding by authorized representatives of the agency pursuant to the provisions of the Act.

Authority G.S. ~~104E-7; 104E-11(a);~~ 104E-14.

10A NCAC 15 .0108 ADDITIONAL REQUIREMENTS ENFORCEMENT

(a) ~~The agency may, by license condition, registration condition, or order, when not in conflict with any law, waive any requirement in these Rules or impose additional requirements in accordance with 46 FR 7540 as it deems appropriate or necessary to minimize danger to public health, safety or property. Such additional requirements are subject to appeal procedures contained in Section 15A NCAC 1B .0200.~~

(b) ~~The Commission may by rule require radioactive material licensees to procure and file with the department such bond, insurance or other security as the Commission deems necessary to protect the state from costs for emergency response and perpetual maintenance.~~

Any person is subject to administrative penalties pursuant to provisions of the Act for the following:

- (1) failing to comply with provisions of this Chapter; or
- (2) refusal of an inspection in accordance with Rule .0106(a) of this Section or impounding in accordance with Rule .0107 of this Section.

Authority G.S. ~~104E-2; 104E-7; 104E-18; 104E-11; 104E-14; 10 C.F.R. Chapter 1, Commission Notices, Policy Statements, Agreement States, 46 F.R. 7540; 104E-(24).~~

10A NCAC 15 .0109 IMPOUNDING RECORDS

~~Sources of radiation are subject to impounding by authorized representatives of the agency pursuant to provisions of the Act.~~

- ~~(a) Each registrant shall maintain records:

 - ~~(1) showing the receipt, transfer, and disposal of all radiation machines and sources of radiation;~~
 - ~~(2) documenting operator training; and~~
 - ~~(3) additional record requirements specified elsewhere in the Rules of this Chapter.~~~~
- ~~(b) These records shall be available for agency review during inspection or upon agency request.~~

Authority G.S. ~~104E-7; 104E-14; 104E-12(a).~~

10A NCAC 15 .0110 PROHIBITED USES

- ~~(a) Hand held fluoroscopic screens shall not be used.~~
- ~~(b) Shoe fitting fluoroscopic devices shall not be used.~~
- ~~(c) Effective February 1, 1981, plastic pointed position indicating devices on intraoral dental systems shall not be used.~~
- ~~(d) Effective February 1, 1983, mechanical timers on intraoral dental machines shall not be used.~~
- ~~(e) Dental fluoroscopy without image intensification shall not be used.~~
- ~~(f) Non intensified photofluorographic equipment shall not be used.~~

The agency prohibits the use of the following:

- ~~(1) demonstration or training of radiation machines or sources of radiation without providing engineered or administrative protective controls to ensure exposure to radiation does not exceed dose limits in Rule .1601(a) of this Chapter;~~
- ~~(2) hand-held radiation machines used for diagnostic exams, ordered by a licensed practitioner as defined in Rule .0103(7) of this Section in the diagnosing or treatment of human or animal diseases, except for dental hand-held equipment authorized for use by the agency;~~
- ~~(3) hand-held fluoroscopic screens;~~
- ~~(4) shoe-fitting fluoroscopic devices;~~
- ~~(5) dental fluoroscopy without image intensification; and~~
- ~~(6) non-intensified photofluorographic equipment.~~

Authority G.S. ~~104E-7; 104E-12(a).~~

10A NCAC 15 .0112 DESIGNATION OF AUTHORIZED REPRESENTATIVE OF THE AGENCY PETITIONING FOR RULEMAKING

- ~~(a) When an employee of the agency is qualified and is specifically designated by the agency, the employee shall be an authorized representative of the agency to conduct inspections, or tests, or surveys.~~
- ~~(b) When a public employee of other than the agency is determined by the agency to be qualified, the agency may~~

~~designate the employee as an authorized representative of the agency to conduct specified inspections, or tests, or surveys.~~

~~(a) Except for petitions regarding the Rules in Section .1100 of this Chapter, any person wishing to submit a petition for rulemaking requesting the adoption, amendment, or repeal of a Rule in this Chapter shall address the petition to the Radiation Protection Commission care of the Radiation Protection Section and submit the petition to one of the addresses shown in Rule .0111(a) of this Chapter. A petition for adoption, amendment, or repeal of a Rule in Section .1100 of this Chapter shall be addressed to the Department of Health and Human Services care of the Radiation Protection Section and submitted to one of the addresses shown in Rule .0111(a) of this Chapter.~~

~~(b) Petitions to adopt a new Rule, or to amend or repeal an existing Rule shall contain the following information:~~

- ~~(1) the proposed text of the new Rule or the proposed text amending a Rule. If the petition is for the repeal of a Rule the petitioner shall not be required to submit proposed Rule text;~~
- ~~(2) statutory authority supporting the new Rule, or amending or repealing a Rule;~~
- ~~(3) reason for the proposed rulemaking action;~~
- ~~(4) effect of the proposed rule change on existing rules;~~
- ~~(5) effect of the proposed rule change on existing practices;~~
- ~~(6) information supporting the proposed rulemaking;~~
- ~~(7) effect of the proposed rule change on the regulated community and the public; and~~
- ~~(8) name and contact information of the petitioner.~~

~~(c) The agency shall determine if the petitioned rule change is authorized under G.S. 104E. The agency shall maintain a record of this review.~~

~~(d) Petitions failing to contain the information required by Subparagraphs (b)(1) through (b)(7) of this Rule and petitions for rulemaking activities that are not authorized by G.S. 104E as determined by the agency under Paragraph (c) of this Rule shall be denied and the petitioner shall be notified by the agency of this decision and the reason for this decision if the information required by Subparagraph (b)(8) of this Rule is provided in the petition. Denial of a petition for failing to contain the information required by Paragraph (b) of this Rule shall not preclude resubmitting a corrected petition.~~

~~(e) Except for petitions denied in accordance with Paragraph (d) of this Rule, the agency shall send the petition to the Department of Health and Human Services (department). The department shall provide copies of the documents required by G.S 150B-20(a) to the Office of Administrative Hearings.~~

~~(f) Except for petitions denied in accordance with Paragraph (d) of this Rule and petitions for changes to the Rules in Section .1100 of this Chapter, the agency shall submit the rulemaking petition to the Radiation Protection Commission (commission). The agency may include written recommendations to the commission endorsing or not endorsing the petition for rulemaking when it submits the petition to the commission.~~

~~(g) The commission shall grant or deny a rulemaking petition within the time requirements of G.S. 150B-20.(b). The commission shall grant or deny a rulemaking petition based on the~~

requirements of G.S. 104E-7(a). The petitioner shall be notified in writing of this decision and the reason for this decision if the information required by Subparagraph (b)(8) of this Rule is provided in the petition. If the commission grants the rulemaking petition the commission shall initiate rulemaking proceedings.

(h) Except for petitions denied in accordance with Paragraph (d) of this Rule, the agency shall submit petitions for changes to the Rules in Section .1100 of this Chapter to the department. The agency may include written recommendations to the department endorsing or not endorsing the petition for rulemaking when it submits the petition to the department.

(i) The department shall grant or deny a rulemaking petition regarding the Rules in Section .1100 of this Chapter within the time requirements of G.S. 150B-20.(b). The department shall grant or deny a rulemaking petition regarding the Rules in Section .1100 of this Chapter based on the requirements of G.S. 104E-19. The petitioner shall be notified in writing of this decision and the reason for this decision if the information required by Subparagraph (b)(8) of this Rule is provided in the petition. If the department grants the rulemaking petition the department shall initiate rulemaking proceedings.

(j) Failure of the commission or the department to grant or deny a rulemaking petition within the time limit set in this Rule is a denial of the petition for rulemaking.

(k) Denial of a rulemaking petition is a final agency action and is subject to judicial review as specified by G.S. 150B-20.(d).

Authority G.S. 104E-7; 104E-15.

**10A NCAC 15 .0114 TESTS FOR SPECIAL FORM
10A NCAC 15 .0115 RECORDS
10A NCAC 15 .0116 TESTS**

Authority G.S. 104E-7; 104E-7(2); 104E-11(a); 104E-12(a); 104E-15.

10A NCAC 15 .0117 INCORPORATION BY REFERENCE

Authority G.S. 104E-7; 104E-15(a); 104E-25(b); 150B-19(5)(b); 150B-21.6.

10A NCAC 15 .0118 OPTIONAL EARLY COMPLIANCE WITH SECTION .1600

Authority G.S. 104E-7(a)(2); 104E-12(a).

SECTION .0300 - LICENSING OF RADIOACTIVE MATERIAL

**10A NCAC 15 .0306 ~~TYPES OF LICENSES:~~
GENERAL AND SPECIFIC SPECIFIC LICENSES:
SEALED SOURCES IN INDUSTRIAL RADIOGRAPHY
AND RADIATION SAFETY REQUIREMENTS FOR
INDUSTRIAL RADIOGRAPHIC OPERATIONS**

(a) General licenses provided in this Section are effective without the filing of applications with the agency or the issuance of licensing documents to the general licensee, although registration with the agency may be required by the particular general license.

~~The general license is subject to all other applicable rules in this Chapter and any limitations contained in a general license document, if issued.~~

~~(b) Specific licenses require the submission of an application to the agency and the issuance of a licensing document by the agency. The licensee is subject to all applicable rules of this Chapter as well as any limitations and requirements specified in the licensing document.~~

(a) Persons conducting industrial radiography using radioactive materials shall comply with the requirements of 10 CFR 34, which are hereby incorporated by reference including subsequent amendments and editions, except for: 10 CFR 34.5, 34.8, 34.121, and 34.123. Copies of these regulations are available free of charge at <https://www.nrc.gov/reading-rm/doc-collections/cfr/part034/>.

(b) Applications required by 10 CFR 34 shall be made on forms provided by the agency. Applications and supporting material shall be submitted to the agency by e-mail at Licensing_RAM@dhhs.nc.gov, or at the address shown in Rule .0111 of this Chapter in lieu of the NRC:

- (1) Persons applying for new radioactive materials licenses, or for the renewal of existing radioactive materials licenses, shall submit an Application for Radioactive Materials License. The following information shall appear on the application:
 - (A) legal business name and mailing address;
 - (B) physical address(es) where radioactive material shall be used or possessed. The application shall indicate if radioactive materials shall be used at temporary jobsites;
 - (C) the name, telephone number, and e-mail address of the Radiation Safety Officer;
 - (D) the name, telephone number, and e-mail address of the individual to be contacted about the application. If this individual is same as the Radiation Safety Officer, the application may so state;
 - (E) the application shall indicate if the application is for a new license, or for the renewal of an existing license, by marking the corresponding check box;
 - (F) if the application is for the renewal of an existing license, the license number shall be provided on the application;
 - (G) applicants shall indicate the type and category of license as shown on the form by marking the corresponding check box; and
 - (H) the printed name, title, and signature of the certifying official. The certifying official shall be an individual employed by the business or licensee, who is authorized by the

licensee to sign license applications on behalf of the business or licensee.

- (2) Persons applying for an amendment to an existing license shall submit an Application for Amendment of Radioactive Materials and Accelerator Licenses. The following information shall appear on the application:
- (A) the license number;
 - (B) amendment number of the current license;
 - (C) expiration date of the license;
 - (D) licensee name as it currently appears on the license;
 - (E) the name, telephone number, and e-mail address of the Radiation Safety Officer;
 - (F) the name, telephone number, and e-mail address of the individual to be contacted about the application. If this individual is same as the Radiation Safety Officer, item 5b on the application may be left blank;
 - (G) applicants shall provide a description of the action requested by marking the corresponding checkbox in item 6a. If the check box next to "Other" is marked in item 6a, provide a brief description of the action requested in the space provided in item 6b;
 - (H) explanation of the action requested; and
 - (I) the printed name, title, and signature of the certifying official. The certifying official shall be an individual employed by the business or licensee who is authorized by the licensee to sign license applications on behalf of the business or licensee.

- (3) Applications specified in this Rule are available at:
[www.ncradiation.net/rms/rmsforms2.htm\(Rev 01\).htm](http://www.ncradiation.net/rms/rmsforms2.htm(Rev 01).htm)

(c) Reports of leaking sealed sources required by 10 CFR 34.27 shall be made to the agency at the address shown in Rule .0111(a) of this Chapter in lieu of the NRC.

(d) Notifications required by 10 CFR 34.101, including notifications of source disconnects, shall be made to the agency at the address shown in Rule .0111(a) of this Chapter in lieu of the NRC. In addition to the information required by 10 CFR 34.101(b), notifications of devices with failed or worn through S-tubes shall contain the serial number and storage location of the device, whether the device has been disposed of or returned to the manufacturer, and whether personnel contamination occurred.

(e) Requests for exemption under 10 CFR 34.111 shall be made to the agency as specified in Paragraph (b) of this Rule.

Authority G.S. 104E-7; 104E-10(b).

**10A NCAC 15 .0311 GENERAL LICENSES:
LUMINOUS SAFETY DEVICES PACKAGING AND
TRANSPORTATION OF RADIOACTIVE MATERIAL**

~~(a) A general license shall be issued to own, receive, acquire, possess, and use tritium or promethium 147 contained in luminous safety devices for use in aircraft, provided:~~

- ~~(1) each device contains not more than ten curies of tritium or 300 millicuries of promethium 147; and~~
- ~~(2) each device has been manufactured, assembled or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, or each device has been manufactured or assembled in accordance with the specifications contained in a specific license issued by the agency or an agreement state to the manufacturer or assembler of the device pursuant to licensing requirements equivalent to those in Section 32.53 of 10 CFR Part 32 of the regulations of the U.S. Nuclear Regulatory Commission.~~

~~(b) Persons who own, receive, acquire, possess, or use luminous safety devices pursuant to the general license in Paragraph (a) of this Rule are exempt from the requirements of Sections .1000 and .1600 of this Chapter except for Rules .1645 and .1646 of this Chapter.~~

~~(c) This general license does not authorize the manufacture, assembly, or repair of luminous safety devices containing tritium or promethium 147.~~

~~(d) This general license does not authorize the ownership, receipt, acquisition, possession or use of promethium 147 contained in instrument dials.~~

~~(e) The general license provided in Paragraphs (a) and (b) of this Rule are subject to the provisions of Rules .0107 to .0111, .0303(a), .0338, .0343, .0344 and .0346 of this Chapter.~~

(a) All persons packaging, preparing for transport, or transporting radioactive materials shall comply with the provisions of 10 CFR 71, which are hereby incorporated by reference including subsequent amendments and editions, as follows:

- (1) 10 CFR 71.0, "Purpose and scope;"
- (2) 10 CFR 71.1, "Communications and records;" except that communications, notices, and reports required by this Rule shall be sent to the addresses shown in Rule .0111 of this Chapter unless directed otherwise by the agency, in lieu of the NRC;
- (4) 10 CFR 71.3, "Requirement for license;"
- (5) 10 CFR 71.4, "Definitions;"
- (6) 10 CFR 71.5, "Transportation of licensed material;"
- (7) 10 CFR 71.7(a), "Completeness and accuracy of information;"
- (8) 10 CFR 71.8, "Deliberate misconduct;"
- (9) 10 CFR 71.12, "Specific exemptions;"
- (10) 10 CFR 71.13, "Exemption of Physicians;"
- (11) 10 CFR 71.14(a), "Exemption for low-level materials;"
- (12) 10 CFR 71.15, "Exemption from classification as fissile material;"

- (13) 10 CFR 71.17, "General license: NRC-approved package;"
 - (14) 10 CFR 71.21, "General license: Use of foreign approved package;"
 - (15) 10 CFR 71.22, "General license: Fissile material;"
 - (16) 10 CFR 71.23, "General license: Plutonium-beryllium special form material;"
 - (17) 10 CFR 71.47, "External radiation standards for all packages;"
 - (18) 10 CFR 71.81, "Applicability of operating controls and procedures;"
 - (19) 10 CFR 71.83, "Assumptions as to unknown properties;"
 - (20) 10 CFR 71.85(d), "Preliminary determinations;"
 - (21) 10 CFR 71.87, "Routine determinations;"
 - (22) 10 CFR 71.88, "Air transport of plutonium;"
 - (23) 10 CFR 71.89, "Opening instructions;"
 - (24) 10 CFR 71.91(a), (c) through (d), "Records;"
 - (25) 10 CFR 71.93, "Inspection and tests;"
 - (26) 10 CFR 71.95, "Reports;"
 - (27) 10 CFR 71.97, "Advance notification of shipment of irradiated reactor fuel and nuclear waste." Advanced notifications required by this Subparagraph shall be made to the Governor's designee in lieu of the NRC as follows:
 - (A) designee: N.C. Highway Patrol Headquarters, Operations Officer;
 - (B) mailing address: P.O. Box 27687, Raleigh, North Carolina 27611-7687;
 - (C) telephone: (919) 733-4030 from 8 a.m. to 5 p.m. Monday through Friday except State holidays, and (919) 733-3861 at all other times.
 - (28) 10 CFR 71.101(a) through (c)(1), (f), (g), "Quality assurance requirements." The quality assurance plan required by 10 CFR 71.101(c)(1) shall be submitted to the agency for review and approval in lieu of the NRC;
 - (29) 10 CFR 71.103, "Quality assurance organization," except that certificates of compliance shall be issued by the NRC in lieu of the agency;
 - (30) 10 CFR 71.105, "Quality assurance program;"
 - (31) 10 CFR 71.106, Changes to quality assurance program;"
 - (32) 10 CFR 71.127, "Handling, storage, and shipping control;"
 - (33) 10 CFR 71.129, "Inspection, test, and operating status;"
 - (34) 10 CFR 71.131, "Nonconforming materials, parts, or components;"
 - (35) 10 CFR 71.133, "Corrective action;"
 - (36) 10 CFR 71.135, "Quality assurance records;"
 - (37) 10 CFR 71.137, "Audits;"
 - (38) Appendix A to 10 CFR 71, "Determination of A₁ and A₂;"
 - (39) Table A-1 of Appendix A to 10 CFR 71, "A₁ and A₂ Values for Radionuclides;"
 - (40) Table A-2 of Appendix A to 10 CFR 71, "Exempt Material Activity Concentrations and Exempt Consignment Activity Limits for Radionuclides," and
 - (41) Table A-3 of Appendix A to 10 CFR 71, "General Values for A₁ and A₂."
- (b) Requests for a specific exemption from this Rule as permitted by 10 CFR 71.12 shall be made on the licensee's business letterhead. Requests for exemptions from the requirements of this Rule shall be made to the agency at the addresses shown in Rule .0111(a) of this Chapter in lieu of the NRC or as otherwise instructed by the agency. To request an exemption, the following information shall be submitted to the agency:
- (1) licensee name;
 - (2) license number;
 - (3) name of the individual requesting the exemption;
 - (4) contact information for the individual requesting the exemption;
 - (5) a description of the exemption being requested; and
 - (6) an explanation describing why the exemption is necessary.
- (c) Copies of these regulations are available free of charge at <https://www.nrc.gov/reading-rm/doc-collections/cfr/part071/>.

Authority G.S. 104E-7; 104E-10(b).

10A NCAC 15 .0313 OWNERSHIP OF RADIOACTIVE MATERIAL EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

~~A general license shall be issued to own radioactive material without regard to quantity. This general license does not authorize the manufacture, production, transfer, receipt, possession or use of radioactive material.~~

(a) All persons using byproduct material, source material, or special nuclear material shall comply with the provisions of 10 CFR 150, which are hereby incorporated by reference including subsequent amendments and editions, as follows:

- (1) 10 CFR 150.1, "Purpose;"
- (2) 10 CFR 150.2, "Scope;"
- (3) 10 CFR 150.3, "Definitions," except that the term "foreign obligations" shall not apply;
- (4) 10 CFR 150.4, "Communications," except that questions about this Rule and communications and reports required by this Rule shall be sent to the address shown in Rule .0111(a) of this Chapter unless directed otherwise by the agency, in lieu of the NRC;
- (5) 10 CFR 150.11, "Critical Mass;"
- (6) 10 CFR 150.20, "Recognition of Agreement State licenses;"
- (7) 10 CFR 150.31, "Requirements for Agreement State regulation of byproduct material," and

(8) 10 CFR 150.32, "Funds for reclamation or maintenance of byproduct material;"

(b) Copies of these regulations are available free of charge at <https://www.nrc.gov/reading-rm/doc-collections/cfr/part150/>.

Authority G.S. 104E-7; 104E-10(b).

10A NCAC 15 .0316 GENERAL LICENSES: TRANSPORTATION

Authority G.S. 20-167.1; 104E-7; 104E-10(b); 104E-15(a).

10A NCAC 15 .0323 SPECIFIC LICENSES: SEALED SOURCES IN INDUSTRIAL RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHIC OPERATIONS

Authority G.S. 104E-7; 104E-10(b).

10A NCAC 15 .0345 RECIPROCAL RECOGNITION OF LICENSES

10A NCAC 15 .0346 PREPARATION OF RADIOACTIVE MATERIAL FOR TRANSPORT

Authority G.S. 104E-7; 104E-10(b); 104E-15(a).

SECTION .1000 - NOTICES: INSTRUCTIONS: REPORTS AND INSPECTIONS

10A NCAC 15 .1001 NOTICES, INSTRUCTIONS, AND REPORTS TO EMPLOYEES

(a) Persons registered with the agency pursuant to the rules in Section .0200 of this Chapter and persons licensed under the rules in Sections .0300, .0900, .1200, and .1300 of this Chapter shall comply with the provisions of 10 CFR 19 as follows, which are hereby incorporated by reference including subsequent amendments and editions, except that references to and requirements for 10 CFR 2, 50, 52, 54, 60, 63, 72, and 76 shall not apply:

- (1) 10 CFR 19.1, "Purpose;"
- (2) 10 CFR 19.2, "Scope;"
- (3) 10 CFR 19.3, "Definitions," except that the definition of "regulated activities" and "regulated entities" shall not apply. For persons registered with the agency pursuant to the rules in Section .0200 of this Chapter, the following terms used in 10 CFR 19 shall have the following substitutions:
 - (A) "license" shall have the same meaning as "registration" as defined in Rule ~~.0104(131)~~ .0103(b) of this Chapter;
 - (B) "licensed" means "registered" as defined in Rule ~~.0104(131)~~ .0103(b) of this Chapter;
 - (C) "licensee" shall have the same meaning as "registrant" as defined in Rule ~~.0104(130)~~ .0103(b) of this Chapter;

- (D) "materials" shall have the same meaning as "radiation machine" as defined in Rule ~~.0104(122)~~ .0103(b) of this Chapter ;
- (E) "NRC-licensed" means "registered"; and
- (F) "radioactive material" shall have the same meaning as "radiation machine" as defined in Rule ~~.0104(122)~~ .0103(b) of this Chapter .

(4) 10 CFR 19.5, "Communications," except that licensees and registrants shall address communications and reports to the agency as instructed by Rule .0111 of this Chapter in lieu of the NRC;

(5) 10 CFR 19.11, "Posting of notices to workers," except that 19.11(b) and (e) shall not apply;

(A) NRC Form 3 shall not be used in lieu of the Notice to Employees issued by the agency, except as authorized by the agency in writing;

(B) licensees and registrants shall not post other notices, postings, notes, or other materials over the Notice to Employees, nor shall equipment be placed in such a manner that the Notice to Employees is obscured or hidden by that equipment; and

(C) additional copies of the Notice to Employees may be obtained free of charge from the agency by contacting the agency at the addresses shown in Rule .0111(a) of this Chapter in lieu of the NRC, or online at <https://radiation.ncdhs.gov/>;

(6) 10 CFR 19.12, "Instructions to workers;"

(7) 10 CFR 19.13, "Notifications and reports to individuals;"

(8) 10 CFR 19.14, "Presence of representatives of licensees and regulated entities, and workers during inspections," except that 19.14(a) shall not apply;

(9) 10 CFR 19.15, "Consultation with workers during inspections;"

(10) 10 CFR 19.16, "Requests by workers for inspections." Requests for inspections shall be mailed or delivered to the agency as instructed by Rule .0111(a) of this Chapter in lieu of the NRC;

(11) 10 CFR 19.17, "Inspections not warranted; informal review." Communications regarding the agency's decisions with respect to a request for inspection submitted to the agency under Subparagraph (a)(10) shall be mailed or delivered to the agency as instructed by Rule .0111(a) of this Chapter in lieu of the NRC;

(12) 10 CFR 19.18, "Sequestration of witnesses and exclusion of counsel in interviews conducted under subpoena;"

- (13) 10 CFR 19.20, "Employee protection;"
- (14) 10 CFR 19.31, "Application for exemptions," except that the request for exemption shall be made on the licensee's or registrant's business letterhead. Requests for exemptions from the requirements of this Rule shall be made to the agency at the addresses shown in Rule .0111(a) of this Chapter in lieu of the NRC or as otherwise instructed by the agency. To request an exemption, the following information shall be submitted to the agency:
 - (A) licensee or registrant name;
 - (B) license or registration number;
 - (C) name of the individual requesting the exemption;
 - (D) contact information for the individual requesting the exemption;
 - (E) a description of the exemption being requested; and
 - (F) an explanation describing why the exemption is necessary.

(b) Notwithstanding Subparagraph (a)(5) of this Rule, registrants temporarily working in North Carolina and licensees working in North Carolina under reciprocity may post the Notice to Employees, NRC Form 3, or an equivalent form issued under the authority of the regulatory agency issuing the registration or license.

(c) Copies of these regulations are available free of charge at <https://www.nrc.gov/reading-rm/doc-collections/cfr/part019/>.

Authority G.S. 104E-7; 104E-12.

SECTION .1600 - STANDARDS FOR PROTECTION AGAINST RADIATION

10A NCAC 15 .1601 STANDARDS FOR PROTECTION AGAINST RADIATION

(a) Persons registered with the agency pursuant to the rules in Section .0200 of this Chapter and persons licensed pursuant to the rules in Section .0300, .0900, .1200, or .1300 of this Chapter shall comply with the provisions of 10 CFR 20 as follows, which are hereby incorporated by reference including subsequent amendments and editions, except references to and requirements for 10 CFR 50, 52, 60, 63, 72, 73, and 76 shall not apply:

- (1) 20.1001, "Purpose," except that non-ionizing radiation from radiation machines registered in accordance with the rules in Section .0200 of this Chapter shall also be regulated by this Rule;
- (2) 20.1002, "Scope;"
- (3) 20.1003, "Definitions," except that for persons registered with the agency pursuant to the rules in Section .0200 of this Chapter, the following terms used in 10 CFR 20 shall have the following substitutions:
 - (A) "license" shall have the same meaning as "registration" as defined in Rule ~~.0104(134)~~ .0103(b) of this Chapter;
 - (B) "licensed" ~~means registered pursuant to the rules in Section .0200~~ shall have

the same meaning as "registered" as defined in Rule .0103(b) of this Chapter;

- (C) "licensed material" shall have the same meaning as "radiation machine" as defined in Rule ~~.0104(122)~~ .0103(b) of this Chapter, and
- (D) "licensee" shall have the same meaning as "registrant" as defined in Rule ~~.0104(130)~~ .0103(b) of this Chapter;
- (4) 20.1004, "Units of radiation dose;"
- (5) 20.1005, "Units of radioactivity;"
- (6) 20.1007, "Communications," except that licensees and registrants shall address communications regarding these rules, notifications, and reports to the agency as instructed by Rule .0111 of this Chapter in lieu of the NRC;
- (7) 20.1101, "Radiation protection programs;"
- (8) 20.1201, "Occupational dose limits for adults;"
- (9) 20.1202, "Compliance with requirements for summation of external and internal doses;"
- (10) 20.1203, "Determination of external dose from airborne radioactive material;"
- (11) 20.1204, "Determination of internal exposure;"
- (12) 20.1206, "Planned special exposures;"
- (13) 20.1207, "Occupational dose limits for minors;"
- (14) 20.1208, "Dose equivalent to an embryo/fetus;"
- (15) 20.1301, "Dose limits for individual members of the public;"
- (16) 20.1302, "Compliance with dose limits for individual members of the public;"
- (17) 20.1401, "General provisions and scope;"
- (18) 20.1402, "Radiological criteria for unrestricted use;"
- (19) 20.1403, "Criteria for license termination under restricted conditions;"
- (20) 20.1404, "Alternate criteria for license termination;"
- (21) 20.1405, "Public notification and public participation," except the agency shall not publish a notice in the Federal Register;
- (22) 20.1406, "Minimization of contamination," except that 20.1406(b) shall not apply;
- (23) 20.1501, "General;"
- (24) 20.1502, "Conditions requiring individual monitoring of external and internal occupational dose;"
- (25) 20.1601, "Control of access to high radiation areas;"
- (26) 20.1602, "Control of access to very high radiation areas;"
- (27) 20.1701, "Use of process or other engineering controls;"
- (28) 20.1702, "Use of other controls;"
- (29) 20.1703, "Use of individual respiratory protection equipment;"

- (30) 20.1704, "Further restrictions on the use of respiratory equipment;"
 - (31) 20.1705, "Application for use of higher assigned protection factors;"
 - (32) 20.1801, "Security of stored material;"
 - (33) 20.1802, "Control of material not in storage;"
 - (34) 20.1901, "Caution signs;"
 - (35) 20.1902, "Posting requirements;"
 - (36) 20.1903, "Exceptions to posting requirements;"
 - (37) 20.1904, "Labeling containers;"
 - (38) 20.1905, "Exemptions to labeling requirements," except that 20.1905(g) shall not apply;
 - (39) 20.1906, "Procedures for receiving and opening packages;"
 - (40) 20.2001, "General requirements;"
 - (41) 20.2002, "Method for obtaining approval of proposed disposal procedures;"
 - (42) 20.2003, "Disposal by release to sanitary sewerage;"
 - (43) 20.2004, "Treatment or disposal by incineration;"
 - (44) 20.2005, "Disposal of specific wastes;"
 - (45) 20.2006, "Transfer for disposal and manifests;"
 - (46) 20.2007, "Compliance with environmental and health protection regulations;"
 - (47) 20.2008, "Disposal of certain byproduct material;"
 - (48) 20.2101, "General provisions;"
 - (49) 20.2102, "Records of radiation protection programs;"
 - (50) 20.2103, "Records of surveys;"
 - (51) 20.2104, "Determination of prior occupational dose;"
 - (52) 20.2105, "Records of planned special exposures;"
 - (53) 20.2106, "Records of individual monitoring results;"
 - (54) 20.2107, "Records of dose to individual members of the public;"
 - (55) 20.2108, "Records of waste disposal;"
 - (56) 20.2110, "Form of records;"
 - (57) 20.2201, "Reports of theft or loss of material." Persons registered with the agency pursuant to the rules in Section .0200 of this Chapter shall make telephone reports of the theft or loss of radiation machines in accordance with 20.2201(a)(1)(i);
 - (58) 20.2202, "Notifications of incidents;"
 - (59) 20.2203, "Reports of exposures, radiation levels, and concentrations of radioactive material exceeding the constraints or limits," except that 20.2203(c) shall not apply;
 - (60) 20.2204, "Reports of planned special exposures;"
 - (61) 20.2205, "Reports to individuals exceeding dose limits;"
 - (62) 20.2206, "Reports of individual monitoring," except that 20.2206(a)(1), and 20.2206(a)(3) through (a)(5) shall not apply. The report required by 20.2206(b) shall be submitted upon request by the agency in lieu of the requirements of 20.2206(c);
 - (63) 20.2207, "Reports of transactions involving nationally tracked sources." Notwithstanding Subparagraph (a)(6) of this Rule, reports required by this Subparagraph shall be made in accordance with 20.2207(f) and (g);
 - (64) 20.2301, "Application for exemptions," except that the request for exemption shall be made on the licensee's or registrant's business letterhead. Requests for exemptions from the requirements of this Rule shall be made to the agency at the addresses shown in Rule .0111(a) of this Chapter in lieu of the NRC or as otherwise instructed by the agency. To request an exemption, the following information shall be submitted to the agency:
 - (A) licensee or registrant name;
 - (B) license or registration number;
 - (C) name and contact information for the individual requesting the exemption;
 - (D) a description of the exemption being requested, and
 - (E) an explanation describing why the exemption is necessary;
 - (65) 20.2302, "Additional requirements;"
 - (66) Appendix A to Part 20, "Assigned Protection Factors for Respirators;"
 - (67) Appendix B to Part 20, "Annual Limits on Intake (ALIs) and Derived Air Concentrations (DACs) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sewerage;"
 - (68) Appendix C to Part 20, "Quantities of Radioactive Material Requiring Labeling;"
 - (69) Appendix E to Part 20, "Nationally Tracked Source Thresholds," and
 - (70) Appendix G to Part 20, "Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests."
- (b) Exposure of a personnel monitoring device to deceptively indicate a dose delivered to an individual is prohibited.
- (c) Licensees and registrants shall continue to perform all activities required by the rules of this Chapter, license or registration condition, and shall pay annual fees as instructed on an invoice issued by the agency until the license or registration is terminated. Registrants shall maintain registration of all radiation machines under their control until those units are disposed.
- (d) Nothing in the rules of this Chapter shall relieve any person of responsibility for complying with other applicable North Carolina laws and rules.
- (e) Copies of these regulations are available free of charge at <https://www.nrc.gov/reading-rm/doc-collections/cfr/part020/>.
- Authority G.S. 104E-7(a)(2).*

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to amend the rule cited as 10A NCAC 46 .0301.

Link to agency website pursuant to G.S. 150B-19.1(c): https://cph.dph.ncdhhs.gov/

Proposed Effective Date: January 1, 2025

Public Hearing:

Date: September 25, 2024

Time: 2:00 p.m.

Location: This public hearing will be held by teleconference at (919) 715-0769 (no access code required).

Reason for Proposed Action: Rule 10A NCAC 46 .0301, which contains minimum standards for health department staffing, is proposed for amendment to clarify and update terminology as well as update minimum education requirements for local health department public health nursing staff.

Comments may be submitted to: Virginia Niehaus, CPH Rulemaking Coordinator, 1931 Mail Service Center, Raleigh, NC 27699-1931; email cphcomment@dhhs.nc.gov

Comment period ends: November 4, 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 46 - LOCAL STANDARDS

SECTION .0300 - LOCAL HEALTH DEPARTMENT STAFF

10A NCAC 46 .0301 MINIMUM STANDARD

HEALTH DEPARTMENT: STAFFING

In addition to meeting the requirements in 10A NCAC 48B .0103, to be accredited pursuant to G.S. 130A-34.1, a local health department shall meet the following requirements:

- (1) The local health department shall employ a full-time health director who meets the requirements of G.S. 130A-40, director, a full-time public health nurse who meets the requirements of Item (2) of this Rule, a full-time registered environmental health specialist who is authorized as agent of the state in accordance with 15A NCAC 01O .0100, sanitarian, and a full-time administrative assistant, secretary. For purposes of this Rule, full-time means the employee is employed to work a standard work week of the local health department. However, the local health department may share a local health director with one or more other local health departments.
(2) All local health department public health nurses employed by a local health department shall either:
(a) Hold an active unencumbered license to practice as a registered nurse in accordance with 21 NCAC 36, which is hereby incorporated by reference, including any subsequent amendments and editions, and available free of charge at http://reports.oah.state.nc.us/ncac.asp; Have a nursing degree from a baccalaureate school accredited by the National League for Nursing or the Commission on Collegiate Nursing Education; or
(b) Complete within one year of employment with the health department an introductory course in principles and practices of public health and public health nursing sponsored by the Department and Department. The curriculum for the course shall be developed by the Department with input from local health departments and schools of nursing. Public health nurses employed by a local health department after the effective date of this Rule shall complete the introductory course within one year of employment with the local health department. Public health nurses employed by a local health department on the effective date of this Rule who have not completed the introductory course or who completed it prior to January 1, 2023

(c) shall complete the introductory course by December 31, 2027; and nursing- Complete within three years of first publication each public health nursing refresher course sponsored by the Department following the public health nurse's completion of the introductory course required in Sub-item (2)(b) of this Rule. Refresher courses shall be published on the Division of Public Health's website at <https://www.dph.ncdhhs.gov/local-health-departments> and align with the American Nurses Association's Public Health Nursing: Scope and Standards of Practice, 3rd edition and any subsequent amendments or editions, which is incorporated by reference and available at <https://www.nursingworld.org/nurses-books/public-health-nursing-scope-and-standards-of-prac/>.

the federal OSHA program, and for North Carolina to maintain its State Plan status pursuant to the federal Occupational Safety and Health Act of 1970. The amendment to 13 NCAC 07F. 0101 regarding the General Industry Hazard Communication standard is being filed in accordance with N.C. Gen. Stat. §§ 150B-21.2 and 150B-21.6.

The specific federal OSHA amendment to the current General Industry Hazard Communication Standard ("HCS"), found in the General Industry standards at 29 CFR 1910.1200, is to conform to the 7th revision of the United Nations' Globally Harmonizing System of Classification and Labeling of Chemicals to address issues that arose during the implementation of the 2012 update to the HCS and provide better alignment with the other U.S. agencies and international trading partners, while enhancing the effectiveness of the HCS. Federal OSHA has determined that the revisions to the HCS will enhance the HCS effectiveness by ensuring employees are appropriately apprised of the chemical hazards to which they may be exposed thus reducing the incidence of occupational illnesses and injuries. The modifications to the standard include revised criteria for classification of certain health and physical hazards, revised provisions for updating labels, new labeling provisions for updating labels, new labeling provisions for small containers, new provision related to trade secrets, technical amendments related to the contents of safety data sheets (SDSs), and related revisions to definitions of terms used in the HCS. The federal OSHA rule was published May 20, 2024, in the Federal Register, Volume 89, Number 98 (<https://www.govinfo.gov/content/pkg/FR-2024-05-20/pdf/2024-08568.pdf>) and became effective July 19, 2024.

Authority G.S. 130A-5(3); 130A-9; 130A-34.1.

TITLE 13 – DEPARTMENT OF LABOR

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Labor intends to amend the rule cited as 13 NCAC 07F .0101.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.labor.nc.gov/rules-and-regulations>

Proposed Effective Date: January 1, 2025

Public Hearing:

Date: September 19, 2024

Time: 10:00 a.m.

Location: 4 West Edenton Street, Raleigh, NC 27601 or online via <https://call.lifefizecloud.com/22124720>

Reason for Proposed Action: The Department of Labor's (NCDOL) Occupational Safety and Health Division (OSH Division) operates a State Plan program that is approved by federal OSHA; the State Plan covers most private sector workers and all state and local government workers. Pursuant to the OSH Division's status as a federal OSHA-approved State Plan, NCDOL must either adopt a federal OSHA standard within six (6) months of the promulgation of a federal standard or an amendment to an existing federal standard pursuant to 29 CFR 1953.1(a) [Changes to State Plans] or adopt a state-specific standard that is at least as effective as the federal OSHA standard. NCDOL has previously adopted 29 CFR 1910 in its entirety in 13 NCAC 07F. 0101 through an incorporation by reference. This amendment is required by 29 CFR 1902.4(a)(1) [Indices of effectiveness] and N.C. Gen. Stat. § 95-131(a) and (e) and § 95-133 in order for North Carolina's State Plan to be as effective as

Comments may be submitted to: Jill F. Cramer, 1101 MSC, Raleigh, NC 27699-1101; email dol.rules@labor.nc.gov

Comment period ends: November 4, 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 07 - OFFICE OF OCCUPATIONAL SAFETY AND HEALTH

SUBCHAPTER 07F - STANDARDS

SECTION .0100 - GENERAL INDUSTRY STANDARDS

13 NCAC 07F .0101 GENERAL INDUSTRY

The provisions for the Occupational Safety and Health Standards for General Industry, Title 29 of the Code of Federal Regulations Part 1910 promulgated as of ~~June 1, 2022~~; July 1, 2024; and exclusive of subsequent amendments, are incorporated by reference except as modified or amended in 13 NCAC 07F .0103 through .0106.

Authority G.S. 95-131; 95-133; 150B-21.6.

analysis for the proposed amendments. The rule amendments are proposed in response to the final action from the United States Environmental Protection Agency (U.S. EPA) to revise the primary annual National Ambient Air Quality Standard (NAAQS) for particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers (PM2.5). On July 11, 2024, the Environmental Management Commission approved proceeding to public comment on the proposed rule amendments and accompanying regulatory impact analysis. The text of the rules and regulatory impact analysis are available on the DAQ website: <http://deq.nc.gov/about/divisions/air-quality/air-quality-rules/rules-hearing-process>

Comments may be submitted to: Katherine Quinlan, 217 West Jones St., 1641 Mail Service Center, Raleigh, NC 27699-1641; phone (919) 707-8702; email daq.publiccomments@deq.nc.gov (Please type "PM2.5 Revision" in subject line)

Comment period ends: November 4, 2024

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 02D .0410.

Link to agency website pursuant to G.S. 150B-19.1(c): <http://deq.nc.gov/about/divisions/air-quality/air-quality-rules/rules-hearing-process>

Proposed Effective Date: March 1, 2025

Public Hearing:

Date: October 17, 2024

Time: 6:00 p.m.

Location:

1st Floor Training Room (#1210), DEQ Green Square Office Building, 217 West Jones Street, Raleigh, NC 27603,

or virtually using Cisco WebEx, Digital Hearing Link:

<https://tinyurl.com/yc37x73p>

Meeting Password: NCDAQ

Audio conference: To receive a call back, provide your phone number when you join the event, or call the number below and enter the access code. US TOLL +1-415-655-0003,

Access code: 2433 977 7961

If you wish to speak at the digital public hearing, you must register, provide the required information, and follow instructions on ways to join the public hearing. Registration must be completed by 4:00 PM on October 17, 2024. To register, please go to the following link: <https://forms.office.com/g/60sZnbCKWV>

*For instructions on ways to join the public hearing, please refer to the following link: <https://www.deq.nc.gov/about/boards-and-commissions/how-attend-webex-meeting-0> *If you have technical difficulties, the following automated voicemail has been set up to receive your verbal comments: 919-707-8430

Reason for Proposed Action: To receive comments on the proposed amendments to 15A NCAC 02D .0410, PM2.5 Particulate Matter, and accompanying regulatory impact

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 02D - AIR POLLUTION CONTROL REQUIREMENTS

SECTION .0400 - AMBIENT AIR QUALITY STANDARDS

15A NCAC 02D .0410 PM2.5 PARTICULATE MATTER

(a) The national primary ambient air quality standards for PM2.5 shall be ~~42.0~~ 9.0 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) annual arithmetic mean concentration and 35 $\mu\text{g}/\text{m}^3$ 24-hour average concentration measured in the ambient air as PM2.5 (particles

with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers) by either:

- (1) A reference method based on appendix L to 40 CFR Part 50 and designated in accordance with 40 CFR Part 53; or
- (2) An equivalent method designated in accordance with 40 CFR Part 53.

(b) The primary annual PM2.5 standard shall be deemed met when the annual arithmetic mean concentration, as determined in accordance with Appendix N of 40 CFR Part 50, is less than or equal to ~~12.0~~ 9.0 µg/m³.

(c) The primary 24-hour PM2.5 standard shall be deemed met when the 98th percentile 24-hour concentration, as determined in accordance with Appendix N of 40 CFR Part 50, is less than or equal to 35 µg/m³.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3).

Notice is hereby given in accordance with G.S. 150B-21.2 that the Coastal Resources Commission intends to adopt the rules cited as 15A NCAC 07H .0508; 07J .1401-.1405 and .1501-.1503.

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

Proposed Effective Date: January 1, 2025

Public Hearing:

15A NCAC 07J .1401-.1405, .1501-.1503: Processing Coastal Area Management Act (CAMA) Permits

Date: September 25, 2024

Time: 1:30 p.m.

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

15A NCAC 07H .0508: Jockey's Ridge Area of Environmental Concern

Date: October 15, 2024

Time: 1:00 p.m.

Location: Jockeys Ridge State Park, Community Room in Visitor's Center, 300 W. Carolista Dr., Nags Head, NC 27959

Reason for Proposed Action:

15A NCAC 07H .0508: The CRC is proposing a rule to re-designate Jockey's Ridge as an Area of Environmental Concern (AEC), as well as use standards to protect the AEC from incompatible development and loss of sand.

15A NCAC 07J .1401 - .1405, 07J .1501 - .1503: Rules in 7J .1401, .1402, .1403, .1404, .1405, .1501, .1502 and .1503 define the standards for accepting major and minor permit applications as complete and the process by which CAMA Major permits projects are investigated to determine compliance with the CAMA.

Comments may be submitted to: Tancred Miller, 400 Commerce Avenue, Morehead City, NC 28557

Comment period ends: November 4, 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 07 - COASTAL MANAGEMENT

SUBCHAPTER 07H - STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

SECTION .0500 - NATURAL AND CULTURAL RESOURCE AREAS

15A NCAC 07H .0508 JOCKEY'S RIDGE AREA OF ENVIRONMENTAL CONCERN

(a) Description. Jockey's Ridge is the tallest active sand dune (medano) along the Atlantic Coast of the United States. Located within the Town of Nags Head in Dare County, between US 158 and Roanoke Sound, Jockey's Ridge represents the southern extremity of a back barrier dune system which extends north along Currituck Spit into Virginia. Given the status of Jockey' Ridge as a State Park, State Nature Preserve, complex natural area, and an area containing a unique geological formation as identified by the State Geologist, the Coastal Resources Commission hereby designates Jockey's Ridge as an Area of Environmental Concern pursuant to G.S. 113A-113.

(b) The boundaries of the Jockey's Ridge AEC shall be as depicted on a map approved by the Coastal Resources Commission on (adoption date), and can be found at the Division of Coastal Management, 400 Commerce Ave., Morehead City, NC 28557 or at the Division of Coastal Management's website at <https://www.deq.nc.gov/about/divisions/division-coastal-management>. The AEC includes the entire rights of way of US 158 Bypass, SR 1221 (Sound Side Road), Virginia Dare Trail, and Conch Street where these roads bound this area.

(c) Use Standards. Development within the Jockey's Ridge AEC shall be consistent with the following use standards:

- (1) Development that requires the removal of greater than ten cubic yards of sand per year from the area within the AEC boundary shall require a Coastal Area Management Act permit from the Division of Coastal Management or designated local official;
- (2) All sand that is removed from the area within the AEC boundary in accordance with Subparagraph (1) of this Paragraph shall be deposited at locations within the Jockey's Ridge State Park designated by the Division of Coastal Management in consultation with the NC Department of Natural and Cultural Resources Division of Parks and Recreation;
- (3) Development activities within Jockey's Ridge AEC shall not alter or retard the free movement of sand except when necessary for the purpose of maintaining or constructing a road, residential or commercial structure, accessway, lawn, garden, or parking area unless allowed by Jockey's Ridge State Park's Management Plan. Jockey's Ridge State Park's Management Plan can be found at the Division of Parks and Recreation's website at <https://www.ncparks.gov>.

Authority G.S. 113A-107(a),(b); 113A-113(a); 113A-113(b)(4)a., e., and g.; 113A-124.

SUBCHAPTER 07J - PROCEDURES FOR PROCESSING AND ENFORCEMENT OF MAJOR AND MINOR DEVELOPMENT PERMITS, VARIANCE REQUESTS, APPEALS FROM PERMIT DECISIONS, DECLARATORY RULINGS, AND STATIC LINE EXCEPTIONS

SECTION .1400 – APPLICATION REQUIREMENTS

15A NCAC 07J .1401 STANDARDS FOR WORK PLATS FOR CAMA MAJOR AND DREDGE AND FILL PERMITS

(a) Project plans or work plats shall include a top or plan view and a cross-sectional view. All plats shall have a north arrow at the top of the plat. Work plats shall be drawn to a scale of 1" = 200' or less.

(b) Details of Work Plats

- (1) Top View or Plan View Work Plats shall show existing and proposed features including dune systems, dune elevations or contours, shorelines, creeks, marshlands, docks, piers, bulkheads, excavated areas, fill areas, type and location of sewage treatment facilities, effluent outlets, shoreline length, upland vegetation, coastal wetlands, 404 wetlands, houses, septic tanks, septic fields, existing structures on adjacent property (i.e. shoreline stabilization, docking facility), Areas of Environmental

Concern shall be labeled, the 30' buffer or DWR buffers as applicable. US Army Corps of Engineers setbacks and lines, First Line of Stable Natural Vegetation, development setbacks, pre-project vegetation line, north arrow, submerged aquatic vegetation, shellfish, navigation markers, hydraulic dredge pipe alignment, spoil disposal location, and adjacent waterbody name. Existing water depths shall be indicated as Normal Water Level or Normal High Water Level unless work plats are by a licensed professional surveyor or engineer where water depths can be indicated using mean low water as base or zero and shall be shown either as contours or spot elevation. In areas where the difference in daily low and high tides is less than six inches, mean water level as certified by a professional surveyor or engineer or normal water level shall be used. Work plats shall indicate which features exist and which are proposed. Property boundaries, as they appear on the deed, and the names of adjacent property owners shall be shown on the work plat with Riparian Lines and 15' riparian setback. The work plat shall show areas to be excavated and the exact site for disposal of the excavated material unless outside of the Area of Environmental Concern, then an address may be provided. When fill material is to be placed behind a bulkhead or dike, the plan shall show the exact location of such bulkheads, dikes and fill areas and calculations showing that the bulkhead or dike has the capacity to confine the material. Work plats shall indicate the presence of wetlands in the area of proposed work.

(2) Cross-Sectional Work Plats shall show the depth and elevation of proposed work relative to Normal Water Level or Normal High Water Level, or to Mean Low Water and Mean High Water if certified by a professional surveyor or engineer. First floor elevations shall be shown for any proposed structures.

(3) Title of Work Plats. Each work plat shall be numbered, have a title block to identify the project or work, and shall include the name of applicant or project, date the plat was prepared, and scale of the plat. The date of any revisions shall be noted on the work plat. The applicant shall also include the name or initials of the person who drew the plat.

Authority G.S. 113A-107(b); 113A-119(a); 113-229; 113A-124(a)(1).

15A NCAC 07J .1402 PROJECT NARRATIVE

Any application for a CAMA Major or Dredge and Fill permit shall include the following information:

- (1) the character of the development (i.e. residential, commercial, recreational);

- (2) a description of the development activities proposed;
- (3) a description of the development site identifying all wetlands and waters; and
- (4) the amount of land-disturbing activity, as defined in G.S. 113A-52(6), in the Area of Environmental Concern measured in acres or square feet.

Authority G.S. 113-229; 113A-107(a); 113A-119(a); 113A-124(a)(1).

15A NCAC 07J .1403 COMPLETE CAMA MAJOR PERMIT AND DREDGE AND FILL APPLICATIONS

(a) Processing for a Major Permit or Dredge and Fill Permit application, or a modification to a Major Permit or Dredge and Fill Permit application shall begin when an application is accepted as complete. Permit applications shall be in the form and include the content required under this Subchapter. Applications not in compliance with this form and content shall not be considered complete and the processing time specified under G.S. 113A-122(c) or G.S. 113-229(e) shall not commence.

(b) Before an application is accepted as complete, the requirements as listed in Subparagraphs (1) through (5) of the Paragraph shall be met. Any application not in compliance with these requirements shall be returned to the applicant along with a notification explaining the deficiencies of the application.

- (1) a current application form shall be submitted and can be found at <https://ncdeq.dynamics365portals.us/dcm-home/>. The application form shall contain:
 - (A) application type (Major or modification)
 - (B) name of entity, or first, middle, and last name(s), referenced on deed or other instrument under which ownership is claimed;
 - (C) phone number and email;
 - (D) physical address of the site of the proposed development and mailing address for the applicant;
 - (E) project type and location;
 - (F) authorized agent authorization form and contact information for agent;
 - (G) description of existing conditions and development on the project location including lot size, shoreline length, vegetation, and erosion details;
 - (H) total amount of land-disturbing activity, as defined in G.S 113A-52(6), in the AEC measured in acres or square feet resulting from the proposed development;
 - (I) applicable dimensions of proposed development activity including quantity, length, width, elevation, slope, area, volume, distance waterward of Normal Water Level or Normal High Water Level, average

existing depth, proposed final depth, impervious coverage, and sediment characteristics;

(J) applicable erosion and sedimentation control measures, fill source and environmental mitigation efforts for the proposed development activity;

(K) general information concerning the use of the proposed development activity, including boat type and length, proximity of structures to adjacent properties and other structures, and waterbody width; (L)type of proposed impacts and dimensions (i.e. shading, filling, excavating) to coastal wetlands, submerged aquatic vegetation, shell bottom, non-coastal wetlands, and open water from the proposed development activities;

(M) project narrative that includes a brief description of the project and any previous or active State or federal permits issued on the property; and
(N) acknowledgements to be attested to before submitting the application;

(i) I understand that any permit issued in response to this application will allow only the development described in the application. The project will be subject to the conditions and restrictions contained in the permit;

(ii) I certify that I am authorized to grant, and do in fact grant permission to representatives of State and federal review agencies to enter on the aforementioned lands in connection with evaluating information related to this permit application and follow-up monitoring of the project;

(iii) I certify that the information provided in this application is truthful to the best of my knowledge; and

(iv) I certify that by clicking the submit button on this NC Division of Coastal Management application I acknowledge that I am signing and dating the application submitted therein.

(2) work plan as described in 15A NCAC 07J .1401 shall be attached to all CAMA Major

development or Dredge and Fill permit applications;

(3) a copy of a deed or other instrument under which the applicant claims title shall accompany a CAMA Major Permit or Dredge and Fill Permit application, or a modification to a Major Permit or Dredge and Fill Permit application;

(4) notice to adjacent riparian landowners of a CAMA Major Permit applicant shall be given as follows: Certified return mail receipts (or copies thereof) indicating that adjacent riparian landowners (as identified in the permit application) received a copy of the application for the proposed development for a CAMA Major development and/or Dredge and Fill Permit application. Said landowners have 30 days from the date of notification in which to comment. Such comments shall be considered by the Department in reaching a final decision on the application.

(5) the fee as detailed in 15A NCAC .07J .1405(b).

(c) A modification to a Major Permit or Dredge and Fill Permit or permit application shall be processed in accordance with the procedures outlined in G.S. 113A-119(b).

Authority G.S. 113A-107(b); 113A-119(a); 113A-120(a)(2) and (b); 113A-124(a)(1).

15A NCAC 07J .1404 COMPLETE MINOR PERMIT APPLICATIONS

(a) Processing for a Minor Permit application shall begin when an application is accepted as complete. Permit applications shall be in the form and include the content required under this Subchapter. Applications not in compliance with this form and content shall not be considered complete and the processing time specified under G.S. 113A-121(c) shall not commence.

(b) Before an application is accepted as complete, the requirements as listed in Subparagraphs (1) through (3) of this Paragraph shall be met. Any application not in compliance with these requirements shall be returned to the applicant along with a notification explaining the deficiencies of the application and shall not be accepted as complete until all required information is submitted.

(1) a current application form shall be submitted. The application form shall contain:

- (A) name of entity on deed or first, middle, and last name(s) referenced on deed;
- (B) phone number and email;
- (C) physical and mailing address;
- (D) authorized agent first and last name and contact information;
- (E) location of project including address, street name, directions to site and adjacent waterbody;
- (F) description of the proposed project, including a list of all proposed construction and the amount of land-disturbing activity, as defined in G.S.

113A-52(6), in the AEC measured in acres or square feet.;

(G) size of lot or parcel in square feet and acres;

(H) proposed use, if residential, single-family or multi-family, commercial, industrial;

(I) if proposed development is located in the Ocean Hazard Area of Environmental Concern.

Total Floor Area of structure in square feet including conditioned living space, parking elevated above ground level, non-conditioned space elevated above ground level but excluding non-load bearing attic space;

(J) project drawings that includes:

(i) a top or plan view, a cross-sectional view. All plats shall have the standard north arrow. North should be at the top of the plat. Work plats shall be accurately drawn to scale. A scale of 1" = 200' or less is required;

(ii) such drawings shall show existing and proposed features such as dune systems, shorelines, creeks, wetlands docks, piers, bulkheads, excavated areas, fill areas, type and location of sewage treatment facilities and effluent outlets. Property boundaries, as they are described on the deed appear on the deed, and the names of adjacent property owners shall be shown on the detailed plat.

(iii) Cross-Section Drawing. A cross-sectional diagram showing elevation of proposed work relative to existing ground level. Mean low and mean high water line shall be included in the plan. The mean low water shall be the reference land elevations (i.e., mean low water should be depicted as "Elevation 0.0 MLW"). First floor elevations relative to mean sea level shall be shown for any proposed buildings.

(iv) Title of Drawing. Each drawing shall have a simple title block to identify the project or work, and shall

include name of applicant, date the plat was prepared, and scale of the plat. The date of any revisions shall be noted. The applicant shall also include the name of the person who drew the plat.

- (K) if proposed development is located in the Coastal Shoreline Area of Environmental Concern, size of building footprint and other impervious or built upon surfaces in square feet including the area of the foundation of all buildings, driveways, covered decks, concrete or masonry patios that are within the AEC. Calculations shall be attached to project drawings;
- (L) if the development is located in an area subject to a State storm water management permit issued by the NC Division of Energy, Mineral and Land Resources, the total built upon area and impervious surfaces allowed for the lot or parcel in square feet; and
- (M) the fee as detailed in 15A NCAC 07J .1405(a).

- (2) a copy of a deed or other instrument under which the applicant claims title shall accompany a CAMA minor permit application.
- (3) the applicant shall give actual notice to all adjacent riparian property owners who share a property line with the site of the proposed development of the applicant's intention to develop their property and apply for a CAMA minor development permit. If comments are submitted before a permit decision is made, such comments shall be considered by the Department or designated local official in reaching a final decision on the application.

Authority G.S. 113A-107(b); 113A-118(b); 113A-119(a); 113A-124(a)(1).

15A NCAC 07J .1405 PERMIT FEE

- (a) An applicant shall pay a Minor development permit fee of one hundred dollars (\$100.00) in the form of an electronic funds transfer or check or money order payable to the Department, or the city or county, in the amount of one hundred dollars (\$100.00). Monies so collected shall be used only in the administration of the permit program.
- (b) An applicant shall pay a Major Permit application fee of two hundred fifty dollars (\$250.00) for private, non-commercial development or four hundred dollars (\$400.00) for public or commercial for-profit project in the form of an electronic funds transfer or check or money order payable to the Department.

Authority G.S. 113A-119(a); 113A-119.1(a).

SECTION .1500 - PERMIT PROCESSING

15A NCAC 07J .1501 APPLICATION PROCESSING

- (a) On receipt of a CAMA major development and/or dredge and fill permit application that complies with the form and includes the content required in 15A NCAC 07J .1403, the Department shall send a notification to the applicant acknowledging receipt of a complete application and begin processing the application.
- (b) If the Division of Coastal Management finds that additional information is necessary to complete its investigation of the proposed development to determine whether a permit application shall be approved or denied, the Division shall request that additional information from the applicant.
- (c) If the Division of Coastal Management finds an application is incomplete or contains inaccurate information after processing has begun, the Division shall notify the applicant of the deficiency or inaccuracy and request the applicant provide the required information. Until the requested information is provided, the permit application shall be considered incomplete and the time within which to process the application shall be stayed.
- (d) In order to determine the environmental impact of the proposed project, the Department shall prepare a field report on each major development and/or dredge and fill permit application accepted for processing. Such report shall be prepared after an on-site investigation is completed. The report shall include project location, environmental setting, project description and probable environmental impact.

Authority G.S. 113-129; 113A-107(b); 113A-119(a) and (b); 113A-120(a)(2).

15A NCAC 07J .1502 CIRCULATION OF CAMA MAJOR AND DREDGE AND FILL APPLICATIONS

- (a) Pursuant to G.S. 113-229(e), the division shall circulate applications among all State agencies and the appropriate federal agencies having jurisdiction over the subject matter which might be affected by the project so that such agencies will have an opportunity to raise objections and coordinate. These agencies are: Division of Coastal Management, Local Government, U.S. Army Corps of Engineers, NC DEQ Division of Water Resources – Public Water Supply section, Division of Water Resources - 401 section, Division of Energy, Mineral and Land Resources – Stormwater Section, Division of Energy, Mineral and Land Resources – Sedimentation and Erosion Control Section, Department of Administration, Wildlife Resources Commission, Division of Marine Fisheries – Shellfish Section, Division of Marine Fisheries – Habitat and Enhancement Section, Department of Natural and Cultural Resources – Archives & History section and Department of Natural and Cultural Resources – Natural Heritage Program.
- (b) Pursuant to G.S. 113A-124(a)(1) the division will circulate applications to the agencies having expertise in the subject matter contained in G.S. 113A-113(b). These agencies are: Division of Coastal Management, Local Government, U.S. Army Corps of Engineers, NC DEQ Division of Water Resources – Public Water Supply section, Division of Water Resources - 401 section, Division of Energy, Mineral and Land Resources – Stormwater Section, Division of Energy, Mineral and Land Resources – Sedimentation and Erosion Control Section, Department of

Administration, Wildlife Resources Commission, Division of Marine Fisheries – Shellfish Section, Division of Marine Fisheries – Habitat and Enhancement Section, Department of Natural and Cultural Resources – Archives & History section and Department of Natural and Cultural Resources – Natural Heritage Program.

Authority G.S. 113-229(e); 113A-107(b); 113A-118; 113A-119(a); 113A-120(a)(2); 113A-124(a)(1).

15A NCAC 07J .1503 PERMIT CONDITIONS

Following the review of a new CAMA Major or Minor Permit application, a modification of a CAMA Major or Minor Permit application, a Dredge and Fill Permit application, or a general permit, the Division may issue a permit conditioned in accordance with G.S. 113-229(e) and G.S. 113A-120(b). Any subsequent violation of these conditions shall be a permit violation.

Authority G.S. 113-229(e); 113A-107(b); 113A-118.1(c); 113A-120(b).

Notice is hereby given in accordance with G.S. 150B-21.2 that the Wildlife Resources Commission intends to amend the rules cited as 15A NCAC 10F .0305, .0330, .0332 and .0333.

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

Proposed Effective Date: February 1, 2025

Public Hearing:

Date: October 23, 2024

Time: 1:00 p.m.

Location:

Zoom Meeting. Registration Required: https://ncwildlife.org.zoomgov.com/webinar/register/WN_f5gIbnlTQVq9xHLEo2
Usq, or Join by Phone: Toll Free (833) 568-8864,
Webinar ID 161 758 9271

Reason for Proposed Action: Amendments to the following rules are proposed:

10F .0305 Brunswick County - the proposed amendments will correct a coordinate at the Town of Ocean Isle Beach in the vicinity of the S.R. 1172 Beach Bridge and Sunset Beach Boating Access Area, and remove duplicate text that describes the Oak Island Boating Access Area as the Dutchman Creek Boating Access Area in Southport.

10F .0330 Carteret County – the proposed amendments will codify descriptions and addresses of Boating Access Areas in Carteret County.

10F .0332 Alexander County – the proposed amendments will establish a restricted area at the Wittenburg Access Area on Lake Hickory where vessel entry is prohibited, extend the no-wake zone from the Rink Dam to a point 195 yards southeast of the Rink Dam Road bridge and 50 yards southeast of the Sandbar Marina and Grill docks on Lake Hickory, and update the names and addresses of marinas and boating access areas on Lake Hickory.

10F .0333 Mecklenburg and Gaston Counties – the proposed amendments will correct the coordinates of the no-wake zone at the Buster Boyd Bridge in Mecklenburg Co., establish a no-wake zone within 50 yards of Joyner’s Marina and waters of the surrounding cove, and remove incorrect text pertaining to the marking of some public facilities and marked swim and mooring areas by the Lake Wylie Marine Commission.

Comments may be submitted to: Rulemaking Coordinator, 1701 Mail Service Center, Raleigh, NC 27699; email regulations@ncwildlife.org

Comment period ends: November 4, 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 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

15A NCAC 10F .0305 BRUNSWICK COUNTY

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

- (1) Lockwood Folly River in the Town of Varnamtown, from a point at 33.94966 N, 78.22587 W, 500 yards northwest of the boat ramp located at the end of S.R. 1123 otherwise known as Fisherman Road, to a point at 33.94498 N, 78.22206 W, 180 yards southeast of the boat ramp, and including the portion of

- the river otherwise known as Mill Creek where it meets Lockwood Folly River directly across from the boat ramp, to a point 100 feet northeast at 33.94687 N, 78.22235 W;
- (2) Calabash River in the Town of Calabash, from a point in the water at the end of Marina Drive at 33.88638 N, 78.56254 W to a point 650 yards southwest at the southern end of the deep-sea fishing docks at 33.88344 N, 78.56751 W;
- (3) Morningstar Marinas Southport, shore to shore beginning at its intersection with the Intracoastal Waterway at a point at 33.91685 N, 78.02865 W;
- (4) Shallotte River east of S.R. 1233, otherwise known as Village Point Road SW south of the Town of Shallotte, shore to shore from its intersection with the Intracoastal Waterway at a point at 33.91477 N, 78.37103 W to point 500 feet north at 33.91613 N, 78.37126 W;
- (5) Montgomery Slough, otherwise known as Davis Creek, within 100 yards of the hotel and marina at the northern end of 57th Place West in the Town of Oak Island;
- (6) the waters in the natural and concrete canals located on the south side of the Intracoastal Waterway, east of N.C. Highway 904 in the Town of Ocean Isle Beach;
- (7) Town Creek east of S.R. 1609, otherwise known as Clearview Lane in Town Creek Township, shore to shore from a point at 34.16788 N, 78.07139 W, north and east around a bend in the creek to a point at 34.16910 N, 78.07030 W;
- (8) Montgomery Slough, otherwise known as Davis Creek, shore to shore from its entrance at the Intracoastal Waterway west of SW Yacht Drive at a point at 33.92145 N, 78.19408 W, to the canal end at NE 40th Street in the Town of Oak Island;
- (9) Intracoastal Waterway in the Town of Sunset Beach in the vicinity of the S.R. 1172 Sunset Beach Bridge and Sunset Beach Boating Access Area at 101 Sunset Boulevard, shore to shore from a point 150 yards east of the Sunset Beach Bridge at 33.88173 N, 78.50995 W, to a point 50 yards west of the bridge at 33.88111 N, 78.51194 W;
- (10) Intracoastal Waterway in the Town of Ocean Isle Beach in the vicinity of the N.C. Highway 904 Odell Williamson Bridge and Ocean Isle Beach Boating Access Area at 67 Causeway Drive, shore to shore from a point 100 yards east of the N.C. Highway 904 Odell Williamson Bridge at 33.89578 N, 78.43870 W, to a point 100 yards west of the Bridge at ~~33.89567 N, 78.51194 W;~~ 33.89551 N, 78.44077 W;
- (11) Lockwood Folly River at Rourk's Landing Subdivision, beginning at a point south of the subdivision at 33.95338 N, 78.22553 W, north and west around two sharp bends in the channel and ending north at a point at 33.95539 N, 78.22900 W;
- (12) Intracoastal Waterway in the Town of Holden Beach, N.C. Highway 130 Holden Beach Bridge and Holden Beach Boating Access Area at 99 S. Shore Drive, shore to shore between a point 250 feet west and a point 100 feet east of the Holden Beach Bridge;
- (13) Intracoastal Waterway, within 50 yards of the Oak Island Boating Access Area at 4950 Fish Factory Road SE in Southport;
- (14) within 50 yards of the Sunset Harbor Boating Access Area adjacent to the Intracoastal Waterway at 356 Riverview Drive SE in Bolivia;
- (15) within 20 yards of the shoreline and 50 yards east and 50 yards west of the Brick Landing Boating Access Area on the Intracoastal Waterway at 1921 Brick Landing Road SW in Shallotte;
- (16) within 50 yards of Rices Creek Boating Access Area on Rice Creek at 797 Gordon Lewis Drive SE in Winnabow;
- (17) within 50 yards of the Pireway Boating Access Area on Waccamaw River at 9739 Pireway Road NW in ~~Ash;~~ Ash.
- ~~(18) within 50 yards of the Dutchman Creek Boat Ramp on Dutchman Creek in Southport.~~
- (b) Speed Limit. No person shall operate a vessel at greater than no-wake speed within the regulated areas described in Paragraph (a) of this Rule.
- (c) Placement and Maintenance of Markers. The following agencies shall place or place and maintain markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers:
- (1) the Board of Aldermen of Varnamtown for placement in the area indicated in Subparagraph (a)(1) of this Rule;
- (2) the Board of Commissioners of Brunswick County for placement in areas indicated in Subparagraphs (a)(2) through (8) and (a)(11) of this Rule; and
- (3) the North Carolina Wildlife Resources Commission for the placement and maintenance of areas indicated in Subparagraphs (a)(9), (a)(10), and (a)(12) ~~through (18)~~ through (17) of this Rule.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0330 CARTERET COUNTY

(a) Regulated Areas. This Rule ~~shall apply~~ applies to the following waters in Carteret County:

- (1) the waters of Money Island Slough in Atlantic Beach, beginning at the east end of Money Island near the Anchorage Marina Basin at a point at 34.70187 N, 76.72938 W and ending at the west end of Money Island where Brooks

- Avenue dead ends at a point at 34.70235 N, 76.73271 W;
- (2) the waters of Taylor Creek in Beaufort, shore to shore from its intersection with the Newport River at the western end, to a line at the eastern end between a point on the north shore at 34.70762 N, 76.61784 W, south-southwest to the eastern tip of Carrot Island;
- (3) the waters of Peletier Creek in Morehead City, beginning at the entrance to Peletier Creek at the Intracoastal Waterway at a point at 34.72543 N, 76.78044 W and ending at U.S. Highway 70;
- (4) the waters of Bogue Sound Harbor Channel in Morehead City, between Sugarloaf Island and the seawall on the south side of Evans, Shepard, and Shackelford Streets, from the east at the State Ports Authority, west to a point at 34.71848 N, 76.72015 W at the southern end of South 13th Street;
- (5) the waters of Gallants Channel in Beaufort, from the U.S. 70 Grayden Paul Bridge at a point at 34.72248 N, 76.66936 W, south to Taylor Creek at a point at 34.71775 N, 76.66950 W;
- (6) the waters of Cedar Island Bay and Harbor in the Town of Cedar Island, from N.C. Highway 12 to Cedar Island Bay Channel Light 8;
- (7) the waters of the small cove on the west side of Radio Island in Beaufort south of Old Causeway Road;
- (8) the waters of the Newport River in Beaufort, from a point north of the U.S. 70 Grayden Paul Bridge at 34.72265 N, 76.66930 W, north northwest to marker # 6;
- (9) the waters of Spooner Creek in Morehead City, north of a point where it enters the Intracoastal Waterway at 34.72570 N, 76.80294 W;
- (10) the waters of the Newport River at Bogue Sound in Morehead City, including all waters surrounding the Port of Morehead City to Goat Island as delineated by appropriate markers;
- (11) the waters of Newport River, known as Morgan Creek in Beaufort, west northwest of a point at the mouth at 34.71611 N, 76.67814 W;
- (12) the waters of Cannonsgate Marina and the Cannonsgate Marina Channel in Newport, beginning at its intersection with Bogue Sound at 34.70163 N, 76.98157 W, as delineated by appropriate markers;
- (13) the waters of ~~the~~ Newport River within 200 yards of the Newport River Beach Access Boat Ramp, 301 U.S. Highway 70 East, Morehead City, beginning at the shore north of the U.S. Highway 70 Newport River Bridge at a point at 34.72141 N, 76.68707 W, west to a point at 34.72128 N, 76.68893 W, north to a point at 34.72376 N, 76.68911 N, then east to the shore at 34.72371 N, 76.68631 W;
- (14) the waters of Palmetto Drive ~~canal, a tributary to~~ Canal on the White Oak River in the Town of Cedar Point, beginning at a point on the western shore at 34.67903 N, 77.10142 W to a point on the eastern shore at 34.67899 N, 77.10098 W and extending the entire length of the canal; ~~and~~
- (15) the portion of the canal at Dolphin Bay ~~Estates, a tributary to~~ Estates on the White Oak River in the Town of Cedar Point, beginning 30 yards inside the entrance to the canal and extending the entire length of the ~~canal~~ canal;
- (16) the waters within approximately 50 yards of the Gordon S. Myers Boating Access Area at Cedar Point Boating Access Area, but not extending into the Intracoastal Waterway channel setback, at 144 Cedar Point Boulevard, Cedar Point;
- (17) the waters of the navigation channel from a point in Bogue Sound at 34.67392 N, 77.00725 W to the Emerald Isle Boating Access Area, a distance of 345 yards, at 6800 Emerald Drive, Emerald Isle;
- (18) the waters within 50 yards of the Newport Boating Access Area on Newport River, at 333 E. Chatham Street, Newport;
- (19) the waters within 50 yards of the Morehead City Boating Access Area on the Intracoastal Waterway, 3407 Arendall Street, Morehead City;
- (20) the waters within 50 yards of the West Beaufort Boating Access Area on Newport River, 298 West Beaufort Road, Beaufort;
- (21) the waters within 50 yards of the Taylors Creek Boating Access Area on Taylors Creek, 2370 Lennoxville Road, Beaufort;
- (22) the waters within 50 yards of the Straits Landing Boating Access Area on North River, 1648 Harkers Island Road, Straits;
- (23) the waters within 50 yards of the Oyster Creek Boating Access Area on Oyster Creek, 1300 U.S. Highway 70, Davis;
- (24) the waters within 50 yards of the Salters Creek Boating Access Area on Salters Creek, 200 Wildlife Ramp Road, Sealevel; and
- (25) the waters within 50 yards of the Cedar Island Boating Access Area on Pamlico Sound, 115 Driftwood Drive, Cedar Island.
- (b) Speed Limit. No person shall operate a vessel at a speed greater than no-wake speed while on the waters of the regulated areas designated in Paragraph (a) of this Rule.
- (c) Placement of Markers. The following agencies shall ~~be the designated agencies for placement of~~ place the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers:
- (1) the Board of Commissioners of Carteret County, for the regulated areas designated in Subparagraphs (a)(1), (3), (5) through (8), (11), and (12) of this Rule;

- (2) the Board of Commissioners of the Town of Beaufort, for the regulated area designated in Subparagraph (a)(2) of this Rule;
- (3) the Board of Commissioners of Morehead City, for the regulated areas designated in Subparagraphs (a)(4), (9), and (13) of this Rule;
- (4) the North Carolina State Ports Authority, for the regulated area designated in Subparagraph (a)(10) of this Rule; ~~and~~
- (5) the Board of Commissioners of the Town of Cedar Point for the regulated areas designated in Subparagraphs (a)(14) and (15) of this ~~Rule~~ Rule; and
- (6) the North Carolina Wildlife Resources Commission shall place and maintain markers for the areas designated in Subparagraphs (a)(16) through (25) of this Rule.

- located at 420 Taylorsville Beach Court; and
- (C) the waters within 50 yards of the Dusty Ridge Boating Access Area, 508 Dusty Ridge Access Road.
- (2) Hickory:
 - (A) the waters within 50 yards of Rivers Edge Marina and docks, located at 5803 Icard Ridge Road; and
 - (B) the waters within 50 yards of the Lakeside Marina and docks, located at 81 Marina Drive.
- (3) Bethlehem. The waters within 50 yards of the Wittenburg Boating Access Area, located at 175 Wildlife Access Road.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0332 ALEXANDER COUNTY

~~(a) Regulated Area. This Rule shall apply to the waters of Lake Hickory within Alexander County:~~

- ~~(1) the waters shore to shore at a line 150 yards southeast of SR 1137 bridge otherwise known as the Rink Dam Road bridge in Taylorsville, from a point on the south shore at 35.82843 N, 81.26389 W to a point on the north shore at 35.82919 N, 81.26272 W, northwest to a point at the Rink Dam at 35.83035 N, 81.26669 W;~~
- ~~(2) the waters within 50 yards of the Taylorsville Beach Marina and docks, located at 420 Taylorsville Beach Court in Taylorsville;~~
- ~~(3) the waters within 50 yards of Rivers Edge Marina and docks, located at 5803 Icard Ridge Road in Hickory; and~~
- ~~(4) the waters within 50 yards of the Lakeside Marina and docks located at 81 Marina Drive in Hickory.~~

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

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

(a) Regulated Area. This Rule applies to the waters of Lake Hickory.

- (1) Taylorsville:
 - (A) the waters shore to shore from the Rink Dam at 35.83035 N, 81.26670 W, east-southeast to a point that is 195 yards southeast of the S.R. 1137 bridge known as the Rink Dam Road bridge, and 50 yards southeast of the Sandbar Marina and Grill docks;
 - (B) the waters within 50 yards of the Lake Hickory Scuba and Marina and docks,

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed within the regulated areas described in Parts (a)(1)(A), (B), (C), (a)(2)(A) and (B), and Subparagraph (a)(3) of this Rule.

(c) Wittenburg Access Area Restricted Area, Bethlehem. Vessel entry is prohibited in the waters of the cove south of the Wittenburg Access Area where the marked swim beach is located, west of a line from a point at 35.80480 N, 81.31101 W to a point at 35.80437 N, 81.31100 W.

(d) Placement of Markers. The Board of Commissioners of Alexander County shall place markers implementing the regulated areas designated in Part (a)(1)(A) and (B), and Part (a)(2)(A) and (B) of this Rule.

(e) Placement and Maintenance of Markers. The following agencies shall place and maintain markers implementing the regulated areas designated in this Rule:

- (1) The Wildlife Resources Commission for the regulated areas designated in Part (a)(1)(C) and Subparagraph (a)(3); and
- (2) Duke Energy, LLC for the regulated area designated in Paragraph (c) of this Rule.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0333 MECKLENBURG AND GASTON COUNTIES

~~(a) Regulated Areas. This Rule shall apply applies to the following waters of Lake Wylie in Mecklenburg and Gaston counties:~~

- (1) McDowell Park. The waters of the coves adjoining McDowell Park and the Southwest Nature Preserve in Mecklenburg County shore to shore, east of the mouth of the cove at a line from a point on the south shore at 35.10272 N, 81.03026 W to a point on the north shore at 35.10556 N, 80.02964 W;
- (2) Gaston County Wildlife Club Cove. The waters of the cove west of the Gaston County Wildlife Club on South Point Road in Belmont, north of a line at the mouth of the cove from a point on the east shore at 35.15628 N, 81.01427 W to a point on the west shore at 35.15628 N, 81.01615 W;

- (3) Buster Boyd Bridge. The waters from a point 250 feet east of the Buster Boyd Bridge on N.C. Highway 49 in Mecklenburg County at ~~35.10293 N, 81.03932 W, 35.10187 N, 81.03913 W~~ to a point 150 feet west of the Buster Boyd Bridge at ~~35.10242 N, 81.04089 W; 35.10165 N, 81.04070 W~~;
- (4) N.C. Highway 27 Bridge. The waters shore to shore, from a point 50 yards north of the N.C. Highway 27 bridge in Mecklenburg and Gaston counties at 35.29849 N, 81.00346 W to a point 190 yards south of the N.C. Highway 27 bridge at 35.29635 N, 81.00424 W;
- (5) Brown's Cove. The area beginning at the mouth of Brown's Cove in Mecklenburg County shore to shore, at a point at 35.16453 N, 81.00474 W, west to a point at 35.16480 N, 81.00309 W;
- (6) Paradise Point Cove. The waters of Paradise Point Cove in Gaston County between Paradise Circle and Lake Front Drive, west of a line from a point on the south shore at 35.18853 N, 81.04036 W to a point on the north shore at 35.18991 N, 81.04136 W;
- (7) Withers Cove. The waters of Withers Cove in Mecklenburg County, shore to shore, beginning at a line north of the Mecklenburg Charlotte Fire Department and Police Department Boathouse from a point on the west shore at 35.14632 N, 81.00383 W to a point on the east shore at 35.14713 N, 81.00173 W, and ending at a point 50 feet southeast of the Withers Bridge on S.R. 1116, otherwise known as Shopton Road, at 35.14576 N, 81.00187 W;
- (8) Sadler Island. The waters shore to shore beginning at a line from a point on the west shore of Lake Wylie in Gaston County at 35.27481 N, 81.0138 W east to a point on the east shore of the Lake in Mecklenburg County at 35.27423 N, 81.01111 W, extending south on the Lake west of Sadler Island to a line from a point on the west shore of the Lake in Gaston County at 35.27079 N, 81.01525 W, east to a point on the west side of Sadler Island in Mecklenburg County at 35.27051 N, 81.01396 W, and the waters shore to shore east of Sadler Island in Mecklenburg County from a point at 35.27441 N, 81.01185 W, south-southwest to a line from a point on the south shore of Sadler Island at 35.26635 N, 81.01432 W, south to a point on the Lake shore at 35.26494 N, 81.01368 W;
- (9) Other Bridges. The waters within 50 feet of a bridge in North Carolina that crosses the waters of Lake Wylie that is not otherwise specifically mentioned in this Paragraph;
- (10) Yachtsman on Lake Wylie Community. The waters within 50 yards of the community piers near the terminus of Waterside Drive in Mecklenburg County, and northward to include

- (11) Brown's Cove. The waters of Brown's Cove in Mecklenburg County, beginning at a line from a point on the east shore at 35.16892 N, 80.99702 W to a point on the west shore at 35.16948 N, 80.99783 W, northeast to a line from a point on the south shore at 35.16913 N, 80.99556 W to a point on the north shore at 35.17043 N, 80.99684 W;
- (12) South Point Boating Access Area. The waters within 50 yards of the South Point Boating Access Area in Gaston County, 199 Boat Launch Road in Belmont; and
- ~~(13) Other Facilities. The waters within 50 yards of a public boat launching ramp not otherwise specified in this Paragraph, public dock, public pier, public marina, public boat storage structure, or public boat service area; and~~
- ~~(14) Marked Swimming and Mooring Areas. The waters within 50 yards of a marked swimming area or marked mooring area.~~
- (13) the waters within 50 yards of the docks at Joyner's Marina, 16310 York Road in Charlotte, and including the cove southeast of the docks to a point on the shore at 35.10084 N, 81.03610 W.

- (b) Speed Limit. No person shall operate a vessel at greater than no-wake speed within the regulated areas described in Paragraph (a) of this Rule.
- (c) Restricted Area. No person operating or responsible for the operation of a vessel shall allow it to enter the waters of the restricted area with swim beach at the South Point Access Area in Gaston County, at 199 Boat Launch Road in Belmont, north of the rope in the cove east of the South Point Boating Access Area.
- (d) Placement and Maintenance of Markers. The following agencies are the designated agencies for placement and maintenance of markers implementing this Rule:
 - (1) the Lake Wylie Marine Commission for the regulated areas designated in Subparagraphs (a)(1) through (11), ~~(13) and (14)~~; and (13);
 - (2) the North Carolina Wildlife Resources Commission for the regulated area designated in Subparagraph (a)(12); and
 - (3) Duke Energy Carolinas, LLC for the restricted area designated in Paragraph (c).

Authority G.S. 75A-3; 75A-15.

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Wildlife Resources Commission intends to readopt with substantive changes the rules cited as 15A NCAC 10G .0501; 10J .0103 and .0104.

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

Proposed Effective Date: February 1, 2025

Public Hearing:

Date: October 23, 2024

Time: 2:00 p.m.

Location:

Zoom Meeting. Registration Required: https://ncwildlife.org/zoomgov.com/webinar/register/WN_z0Xqn9syQlqLqrpXFXH2zw, or Join by Phone: Toll Free (833) 568-8864, Webinar ID 160 187 2762

Reason for Proposed Action: The 10G .0500 Licensee Requirements and 10J .0100 Wildlife Conservation Area Regulations Rules were determined to be "necessary with substantive public interest" and are required to be readopted as part of the periodic review. Proposed amendments are for clarity and to align with current formatting requirements.

Comments may be submitted to: Rulemaking Coordinator, 1701 Mail Service Center, Raleigh, NC 27699; email regulations@ncwildlife.org

Comment period ends: November 4, 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 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10G - DISTRIBUTION AND SALE OF HUNTING: FISHING: AND TRAPPING LICENSE

SECTION .0500 - LICENSEE REQUIREMENTS

15A NCAC 10G .0501 LICENSEE REQUIREMENTS

(a) In order to show entitlement to licenses An individual exercising the privilege of a license issued by the Wildlife Resources Commission, Commission persons exercising the privilege of any license shall carry on their person and show to any a Wildlife Enforcement Officer, Officer upon request a request, the following documents:

- (1) an electronic or physical license that entitles the individual to that privilege; and
(2) a valid picture identification card which that includes the license holder's correct name, address, and date of birth, birth.

(b) except that no No person shall be in violation of this Rule if the required identification is provided to the Wildlife Resources Commission prior to the assigned court date. The North Carolina Driver's License or the North Carolina Picture ID Card issued by the North Carolina Division of Motor Vehicles is one type of identification card that is acceptable for the purposes of this Rule.

Authority G.S. 113-134; 113-270.1.

SUBCHAPTER 10J - WILDLIFE CONSERVATION AREA REGULATIONS

15A NCAC 10J .0103 HUNTING ON WILDLIFE CONSERVATION AREAS

(a) Safety Requirements. No person shall be under the influence of an impairing substance, as defined by G.S. 20-4.01(48b) while hunting on any area a designated and posted as a wildlife conservation area Wildlife Conservation Area, shall be under the influence of alcohol or any narcotic drug.

(b) Tree Stands. It is unlawful to erect or to occupy, for the purpose of hunting, any tree stand or platform attached by nails, screws, bolts, or wire to a tree on any area designated and posted as a wildlife conservation area. Erecting or occupying a tree stand or platform attached by nails, screws, bolts, or wire to a tree for the purpose of hunting on a designated Wildlife Conservation Area is prohibited. This prohibition shall not apply to lag-screw steps or portable stands that are removed after use with no metal left remaining in or attached to the tree.

(c) Time and Manner of Taking. Hunting on designated Wildlife Conservation Areas during the open season for game or furbearing species is permitted, Except except where the area is closed to hunting or limited to specific dates by the rules of this Chapter Chapter, hunting on areas designated and posted as wildlife conservation areas is permitted during the open season for the game or furbearing species being hunted.

- (1) Waterfowl waterfowl hunters shall not enter the areas earlier than 4:00 a.m. on the permitted hunting dates, and hunting is prohibited after 1:00 p.m. on such hunting dates; decoys may not be set out prior to 4:00 a.m. and must be removed by 3:00 p.m. each date.
(2) game may be taken during the open seasons and hunting is limited to Mondays, Wednesdays, Saturdays and Thanksgiving Day, Christmas Day, and New Year's Day.

(3) deer may be taken with archery equipment as specified in 15A NCAC 10B .0116 on the opening day of the archery season.

~~a.m. on Thursdays, and until midnight on Saturdays.~~

(2) ~~Except as otherwise indicated, the following designated wildlife conservation areas or indicated portions thereof are closed to all hunting:~~

(d) The following shall be prohibited while hunting on Wildlife Conservation Areas:

(1) ~~No person shall operate operating any a vessel or vehicle powered by an internal combustion engine engine; on the waters of any area designated and posted as a wildlife conservation area.~~

(A) ~~Nona Pitt Hinson Cohen Wildlife Conservation Area — Richmond County.~~

(B) ~~John D. Lewis Wildlife Conservation Area — Wayne County.~~

(2) ~~No person shall attempt attempting to obscure the sex or age of any a game bird or game animal taken by severing the head or any other part thereof, or possess any a bird or animal which that has been ~~so mutilated.~~ mutilated;~~

(3) ~~No person shall place, or cause to be placed on any area designated and posted as a wildlife conservation area, placing salt, grain, fruit, or other foods without prior written authorization of the Commission or its agent agent; and no person shall take or attempt attempting to take any game birds or game animals attracted to such ~~foods.~~ foods;~~

(4) ~~No person shall use using an electronic calling device for the purpose of attracting wild birds or wild ~~animals.~~ animals; and~~

(5) ~~No removing live wild animals or wild ~~birds~~ birds, shall be removed from any designated wildlife conservation area except with the written permission of the landowner.~~

(e) The Nona Pitt Hinson Cohen Wildlife Conservation Area - Richmond County is closed to hunting.

(d) Hunting Dates:

(1) ~~Any game may be taken during the open seasons and hunting is limited to Mondays, Wednesdays, Saturdays and Thanksgiving, Christmas, and New Year's Days. In addition, deer may be taken with bow and arrow on the opening day of the bow and arrow season for deer. Raccoon and opossum hunting may continue until 7:00 a.m. on Tuesdays, until 7:00~~

Authority G.S. 113-134; 113-136; 113-264; 113-291.2; 113-291.5; 113-305.

15A NCAC 10J .0104 FISHING ON WILDLIFE CONSERVATION AREAS

(a) ~~Generally. Except as otherwise indicated herein, fishing on designated wildlife conservation areas which are open to fishing shall be in accordance with the statewide regulations. All designated Designated wildlife conservation areas Wildlife Conservation Areas are open to public fishing except restocked ponds when posted against fishing.~~

~~(b) No trotline or set hook nor any, net, trap, gig or other special fishing device of a type mentioned specified in 15 NCAC 10C .0403 .0404, except bow and arrow archery equipment equipment, may be used in the impounded waters or free-running streams located on designated wildlife conservation areas. Wildlife Conservation Areas. Except as otherwise indicated, the following designated wildlife conservation areas or indicated portions thereof are closed to all fishing, except for special fishing clinics authorized or conducted by the Commission: John D. Lewis Wildlife Conservation Area — Wayne County.~~

~~(b) Designated Public Mountain Trout Waters: Fishing Hours. It is unlawful to fish in designated public mountain trout waters on any a designated wildlife conservation area Wildlife Conservation Area from one half hour after sunset to one half hour before sunrise.~~

Authority G.S. 113-134; 113-264; 113-272; 113-292; 113-305.

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

TITLE 15A- DEPARTMENT OF ENVIRONMENTAL QUALITY

Rule-making Agency: *Wildlife Resources Commission*

Rule Citation: *15A NCAC 10F .0304*

Effective Date: *August 5, 2024*

Findings Reviewed and Approved by the Codifier: *July 26, 2024*

Reason for Action: *The agency was recently notified of a serious safety hazard caused by amendments to the Rule for the restricted area at White Lake. The restricted area is 500 feet from the shoreline around the entire perimeter of the lake. Because of the size of the restricted area and the shallow water in that portion of the lake, swimming within the restricted area is common.*

The most recent rule change allows for unrestricted directional operation of motorboats within the restricted area, a change from the previous rule which only allowed for operation perpendicular to the shoreline. Parallel operation of a motorboat in the restricted area, even at no wake speed, is dangerous to swimmers and needs to be regulated for safety of the public. The proposed amendment will require motorboats to travel perpendicular to the shore and at no wake speed within the restricted area at White Lake.

White Lake is busiest with boat traffic and swimmers in the summer months, Memorial Day through Labor Day specifically. The safety hazard created by allowing unrestricted motorboat movement in the extensive restricted zone where people are swimming could be life threatening to the public, as they have never had the concern of boat traffic in this area and would be unaware that this could impact them.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

15A NCAC 10F .0304 BLADEN COUNTY

(a) Regulated Areas. This Rule applies to the following waters in Bladen County:

- (1) White Lake. The water between the shoreline and no-wake markers 500 feet from the shoreline is a restricted area.

- (2) Cape Fear River:
 - (A) the waters shore to shore between a point 100 yards east and 100 yards west of the ferry cable at Elwell Ferry and Elwells Ferry Boating Access Area, 2702 Elwell Ferry Road, Council;
 - (B) the waters within 50 yards of the Tar Heel Boating Access Area, 1000 Wildlife Landing Drive, Tar Heel; and
 - (C) the waters within 50 yards of the Tory Hole Boating Access Area, 335 N. Poplar Street, Elizabethtown.
- (3) Black River. The waters within 50 yards of the Hunts Bluff Boating Access Area, 351 Hunts Bluff Road, Kelly.
 - (b) Restricted Area. ~~Skiing is prohibited~~ Motorboats, as defined in G.S. 75A-2(1e), shall not be operated on a course parallel to the shoreline in the restricted area described in Subparagraph (a)(1) of this Rule.
 - (c) Diving. A person engaged in skin or scuba diving shall display a diver's flag, and no vessel shall approach within 50 feet of a diver's flag, as described in G.S. 75A-13.1.
 - (d) Speed Limit. No person shall operate a ~~vessel~~ motorboat at greater than no-wake speed within the regulated areas described in Subparagraphs (a)(1) and (3), and Parts (a)(2)(A) through (C) of this Rule.
 - (e) Placement and Maintenance of Markers. The following agencies shall place and maintain the markers implementing this Rule:
 - (1) North Carolina State Parks for the regulated area designated in Subparagraph (a)(1) of this Rule; and
 - (2) the North Carolina Wildlife Resources Commission for the regulated areas designated in Parts (a)(2)(A) through (C), and Subparagraph (a)(3) of this Rule.

History Note: Authority G.S. 75A-3; 75A-15; Eff. February 1, 1976; Amended Eff. April 1, 1990; August 1, 1988; June 17, 1979; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. June 1, 2024; October 1, 2018; Emergency Amendment Eff. August 5, 2024.

Note from the Codifier: The rules published in this Section of the NC Register are temporary rules reviewed and approved by the Rules Review Commission (RRC) and have been delivered to the Codifier of Rules for entry into the North Carolina Administrative Code. A temporary rule expires on the 270th day from publication in the Register unless the agency submits the permanent rule to the Rules Review Commission by the 270th day.

This section of the Register may also include, from time to time, a listing of temporary rules that have expired. See G.S. 150B-21.1 and 26 NCAC 02C .0500 for adoption and filing requirements.

TITLE 08 – STATE BOARD OF ELECTIONS

Rule-making Agency: State Board of Elections

Rule Citation: 08 NCAC 02 .0110; 09 .0107, .0110

Effective Date: August 8, 2024

Date Approved by the Rules Review Commission: July 31, 2024

Reason for Action: The State Board found that the immediate adoption of the proposed rules is required to implement provisions of the General Statutes governing election protests and recounts, both of which are proceedings the Board is authorized to adopt rules for, and to ensure that these post-election proceedings are concluded in enough time to comply with the deadline in federal law for certifying presidential electors. The abbreviated notice and hearing schedule put forth by the State Board were of practical necessity, to gather public input in time to adopt rules in advance of the 2024 general election. Finally, the rules need to become effective immediately in order to preserve the integrity of the elections process, by avoiding unnecessary post-election delays in determining official election results and authorizing election winners to take office, delays which could undermine the public's confidence in the electoral process.

The State Board found that adherence to the notice and hearing requirements of permanent rulemaking would be contrary to the public interest, because it would mean that the proposed rules could not go into effect until after the general election, which is when they are needed to ensure prompt resolution of post-election proceedings.

The main purpose of these rules is to avoid protest and recount proceedings taking an unnecessary amount of time during a post-election canvass. The framework of the statutes governing the canvass period intend for post-election processes to be completed in short order, so that election results can be timely certified and elected officials can assume office. But there are some gaps in the rules for the timelines governing election protests and recounts that, at times, unnecessarily lead to the delay of the certification of elections.

The State Board has witnessed such delays in recent years, with protest decisions being delayed for weeks at a time, well past State Board canvass, such that protest appeals do not even reach the State Board until weeks after the State canvass. With the possibility of appealing State Board decisions on protests to Wake Superior Court, the delays in some counties have led to the inability to arrive at finality in certain contests until months after the election is over. For example, in Robeson County, a protest over a 2023 municipal contest was so delayed that it didn't reach superior court until mid-January 2024. That contest is still

undecided because a superior court ordered the county board to conduct a new protest hearing, which was recently completed. And as recently as the statewide primary in March 2024, there was a multicounty recount in a state legislative contest that was not completed until the day before the State Board's canvass meeting. These sorts of delays are not what the statutes contemplate for post-election processes.

In addition to these recent examples of unnecessary delays in contest certification, another concern is the ability of the State Board to timely certify the winner of the presidential contest in November. The deadline for certifying presidential electors is governed by federal law. The State Board must certify the winner of the presidential election in sufficient time for the Governor to issue "certificates of ascertainment" to the official slate of electors to attend the Electoral College. The Governor's certificates must be issued on or before December 11, 2024. See 3 U.S.C. 5(a)(1) (requiring the certificates to issue no later than 6 days before the Electoral College meeting, which takes place on December 17 this year, per 3 U.S.C. 7). Accordingly, the State Board seeks to avoid the possibility that North Carolina cannot certify the presidential contest on time.

CHAPTER 02 - ELECTION PROTESTS

08 NCAC 02 .0110 ACTIONS OF COUNTY BOARD AS TO ELECTION PROTESTS

(a) The county board shall ~~deliver~~ transmit by email a copy of any filed election protest, including any attachments, to the State Board as follows:

- (1) if hand delivered or mailed, within 24 hours after the election protest is filed;
- (2) if faxed, the same day the election protest is filed; or
- (3) if emailed, the same day the election protest is filed.

(b) The county board shall not consider election protests not timely filed, but shall ~~refer~~ refer, in the same manner and within the time period provided in Paragraph (a) of this Rule, all such untimely protests, along with copies of the protest and attachments, to the State Board office for consideration under G.S. 163-182.12. For the purposes of this Rule, timely means within the time specified in G.S. 163-182.9.

(c) Upon receipt of a timely filed election protest, the county board of elections shall hold a preliminary consideration ~~meeting hearing~~ meeting in accordance with ~~G.S. 163-182.10~~ G.S. 163-182.10 within two business days of when the protest is filed. If the county board dismisses the protest upon preliminary consideration, the county board shall file its written decision at the board office within two business days of the preliminary consideration meeting and shall serve the written decision in the manner provided under Subparagraph (e)(2) of this Rule. If the county board determines that a hearing is necessary, the board shall set

the hearing no later than ~~ten~~ five business days from the date of the preliminary ~~consideration~~, consideration meeting and shall start no earlier than 8:00 a.m. and no later than 8:00 p.m. at any location set by the county board of elections. The county board may continue hearings for good cause as determined by the county board. Only for good cause and upon informing the State Board office, may a hearing be set on or continued to a weekend day or holiday. Examples of good cause include, but are not limited to, procuring documentary evidence or securing witness testimony necessary to conclude the hearing.

(d) Notice of hearing as required by ~~G.S. 163-182.10(b)~~ G.S. 163-182.10(b)(2) shall be given at least three business days prior to the day of the hearing, and the notice shall be provided by any of the following means: required shall be notice by in-person oral notice, written notice to an email address supplied by any person required to receive notice, or, only if the county board lacks an email address, by U.S. mail to an address supplied by any person required to receive notice followed immediately by a phone call, if the person has supplied a phone number to the board. any means chosen by the county board. Any oral notice of the hearing shall be followed with a written notice sent prior to the hearing date. The oral notice shall constitute valid notice meeting the three-day notice requirement.

(e) The county board shall follow these procedures when considering an election protest. Required procedures include:

- (1) Upon request by a protester or interested person, the chair or any two members of the county board ~~may shall~~ issue subpoenas for ~~witnesses persons or documents. documents,~~ when the chair or two members of the county board conclude that the witnesses or documents are likely to provide information that is both relevant and material to the questions the county board must adjudicate in the protest, the information sought is not unnecessarily duplicative of other available evidence, and the subpoena is not likely to subject the recipient to undue burden or expense. Such subpoenas shall be served in the same manner matter as allowed in the North Carolina Rules of Civil Procedure.
- (2) The county board shall notify the person protesting, any affected candidate, and any affected officeholder of its decision in a protest hearing no later than 5:00 p.m. the next day after the conclusion of the hearing itself. The board shall file at the board office a written decision within the mandates of G.S. 163-182.10(d) by 5:00 p.m. three five business days after the conclusion of the protest hearing or a decision is given to the person filing the protest. Such written decision shall be served at the same time it is filed at the board office by email to an email address supplied by any person required to receive notice under G.S. 163-182.10(b). If the county board has no email address for any person required to receive notice under G.S. 163-182.10(b), the board shall serve that person by U.S. mail and immediately call that person, if the person has

supplied a phone number to the board, to notify them that the decision has been filed. any means of delivery upon the protestor and any affected candidate or officeholder within 24 hours after being filed at the board office. Nothing herein shall discourage more prompt decisions and written orders.

(3) All election protest hearings before county boards shall be recorded by a court ~~reporter. reporter or by mechanical means.~~ The hearing need not be transcribed unless the board's decision is appealed. Upon notice of appeal to the State Board of an election protest, the county board shall cause the record of the hearing to be transcribed and delivered to the State Board, at the county board's expense, within seven business days of the notice of appeal. Transcripts of hearings shall be kept for two years after their creation.

(4) ~~If the State Board sets an appeal for hearing, it shall designate who shall appear on behalf of the county board.~~

(f) A county board of elections shall ~~timely~~ timely hear and decide all timely filed protests, unless:

- (1) the protest is administratively dismissed pursuant to 08 NCAC 02 .0114; or
- (2) the county board of elections receives alternative instructions from the State Board issued under G.S. 163-182.12.

If a protest does not concern the manner in which votes were counted or results tabulated, a county board of elections shall not delay canvass in order to hear the protest. A protest that alleges the occurrence of an election law violation regarding an insufficient number of votes to change the outcome of a contest within the jurisdiction of a county board of elections shall not delay canvass by a county board of elections.

History Note: Authority G.S. 163-22; 163-182.10; Temporary Adoption Eff. April 15, 2002; Eff. August 1, 2004; Readopted Eff. September 1, 2018; Amended Eff. November 1, 2020; Temporary Amendment Eff. August 8, 2024.

CHAPTER 09 - CONDUCT OF VOTE RECOUNTS BY COUNTY BOARDS OF ELECTIONS

08 NCAC 09 .0107 FIRST RECOUNT

In the first recount conducted by the county board of elections in accordance with G.S. 163-182.7, all ballots that were originally counted shall be ~~counted~~ recounted again by machine. machine, notwithstanding the method by which the ballots were originally counted. All ballots that are rejected for tabulation purposes by the machines during the recount shall be recounted by hand by a bi-partisan team of four in accordance with 08 NCAC 09. 0106(d) 0106(d). ~~or duplicated and counted by machine.~~ Ballots accepted by the machines during the recount shall not be counted by hand, regardless of whether the ballot is marked, contains overvotes, or is blank. The board of elections having jurisdiction over the ballot

item shall schedule the first recount to begin within three business days of the demand for a mandatory recount or the decision to conduct a discretionary recount under G.S. 163-182.7, except the recount shall begin no earlier than the conclusion of the county canvass meeting pursuant to G.S. 163-182.5.

History Note: Authority G.S. 163-22; 163-182.7; Temporary Adoption Eff. April 15, 2002; Eff. August 1, 2004; Readopted Eff. June 1, 2019; Amended Eff. September 1, 2021; 2021; Temporary Amendment Eff. August 8, 2024.

08 NCAC 09 .0110 SECONDARY RECOUNTS

For any hand-to-eye recount conducted under G.S. 163-182.7A, each county board of elections involved in the recount shall provide notice at least 24 hours in advance of the recount by email to the county board's notice list under G.S. 143-318.12(b)(2), county party chairs, and the candidates in the contest subject to the recount. No separate notice of a hand-to-eye recount is required if the hand-to-eye recount occurs immediately upon the conclusion of the first recount under 08 NCAC 09 .0107 and the notice of the first recount stated that a hand-to-eye recount, if required, could take place upon the conclusion of the first recount. The board of elections having jurisdiction over the ballot item under G.S. 163-182.7 shall schedule any hand-to-eye recount to begin within two business days of the demand for a hand-to-eye recount, whether that recount is a sample recount or a full recount.

History Note: Authority G.S. 163-22; 163-182.7; 163-182.7A; Temporary Adoption Eff. August 8, 2024.

TITLE 12 – DEPARTMENT OF JUSTICE

Rule-making Agency: *NC Criminal Justice Education and Training Standards Commission*

Rule Citation: *12 NCAC 09C .0401*

Effective Date: *September 1, 2024*

Date Approved by the Rules Review Commission: *July 31, 2024*

Reason for Action: *A serious and unforeseen threat to the public health, safety or welfare. The Commission has encountered a situation where a school has held courses resulting in serious injuries to students. The conduct involved acts and omissions of the school throughout its chain of command, from the instructor to the school executive level. This type of systemic failure to adhere to the Rules resulting in repeated and multiple serious injuries was not foreseen. The Commission has rules that allow the summary suspension of criminal justice officers and instructors on an individual basis, when the public health, safety and welfare require. However, this authority does not currently exist for schools. This temporary rule allows for the summary suspension of the accreditation of a school if the public health, safety, and welfare requires action. The Commission faces such a*

situation at present. Without the temporary rule, the school can continue to offer courses in a way that risks the health safety and welfare of the students and public.

CHAPTER 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SUBCHAPTER 09C - ADMINISTRATION OF CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SECTION .0400 - ACCREDITATION OF CRIMINAL JUSTICE SCHOOLS AND TRAINING COURSES

12 NCAC 09C .0401 ACCREDITATION OF CRIMINAL JUSTICE SCHOOLS

(a) Any school requesting ~~accreditation~~, accreditation or re-accreditation, pursuant to the Commission's authority to certify criminal justice training schools in G.S. 17C-6, ~~as meeting~~ and which is in compliance with the requirements contained in ~~42 NCAC 09B .0200~~ Section .0200 of this Subchapter, ~~must~~ shall submit a completed Form F-10(SA) Request for School Accreditation. The Form F-10(SA) is available on the agency's website: [http://www.ncdoj.gov/getdoc/9134b822-24a7-4d70-8a3b-b2bd807100c4/F-10\(SA\)-6-11.aspx](http://www.ncdoj.gov/getdoc/9134b822-24a7-4d70-8a3b-b2bd807100c4/F-10(SA)-6-11.aspx). The F-10(SA) Request for School Accreditation shall contain the following:

- (1) The name of the requesting institution/agency;
- (2) The mailing address, phone number, and name of the institution head or executive officer;
- (3) The name, title or rank, address and phone number of the designated School Director;
- (4) The type of Commission approved training course in which accreditation is being sought;
- (5) The type and location of all facilities to be used in administering the Commission approved training course; and
- (6) The signature of the institution head or executive officer.

(b) Upon receipt of a completed Request for School Accreditation application:

- (1) The Standards Division staff reviews the application and conducts a site visit to tour facilities, confirm information on the application, and determine if and where deficiencies exist;
- (2) The Standards Division Staff contacts the applying institution or agency concerning deficiencies and provides assistance on correcting problem areas;
- (3) The Standards Division staff recommends to the Education and Training Committee when the accredited institution has satisfied the requirements outlined in 12 NCAC 09B .0200; and
- (4) The Education and Training Committee recommends to the full Commission at its next regularly scheduled meeting the approval or denial of accreditation for the applicant institution or agency.

~~(b)(c)~~ Accreditation or Re-accreditation of a school shall remain effective for five years from issuance unless earlier suspended or revoked for failure to maintain compliance with the requirements set forth in 12 NCAC 09B .0200, Minimum Standards for Criminal Justice Schools and Criminal Justice Training Programs or Courses of Instruction.

~~(e)~~ The identity of those schools accredited under this Rule are published and distributed by the Standards Division, via the agency's website: <http://www.ncdoj.gov/CMSPages/GetFile.aspx?nodeguid=6cb7e157-87f7-40a3-b281-d95a36807bb9> and the schedule of criminal justice training courses planned for delivery during the succeeding year.

~~(d)~~ A school may request reaccreditation from the Commission by submitting a completed Form F 10(SA) Request for School Accreditation form, located on the agency's website: [http://ncdoj.gov/getdoc/9134b822-24a7-4d70-8a3b-b2bd807100e4/F10\(SA\)-6-11.aspx](http://ncdoj.gov/getdoc/9134b822-24a7-4d70-8a3b-b2bd807100e4/F10(SA)-6-11.aspx). The Form F 10(SA) shall contain information on changes in facilities, equipment, and staffing. Upon receipt of a completed application:

- ~~(1)~~ The Standards Division staff reviews the request for reaccreditation, conducts a site visit to tour facilities, confirms information on the application, determines if and where deficiencies exist, and attaches copies of the reports of site visits to the application;
- ~~(2)~~ The Standards Division staff submits the application and staff reports to the Education and Training Committee for review; and
- ~~(3)~~ The Education and Training Committee recommends to the full Commission at its next regularly scheduled meeting the approval or denial of accreditation of the applicant institution or agency.

~~(e)~~ In instances where certified schools have been found to be in compliance with by whom 12 NCAC 09B .0200 through favorable site visit reports, Standards Division staff shall reaccredit on behalf of the Commission. Such action shall be reported to the Education and Training Committee at its next scheduled meeting.

~~(d)~~ In instances where the Education and Training Committee determines the school seeking accreditation or reaccreditation is not in compliance with 12 NCAC 09B .0200, the requirements contained in Section .0200 of this Subchapter, the school application and staff reports shall be reviewed by the Probable Cause Committee, as specified in 12 NCAC 09A .0201.

~~(e)~~ The Commission may shall suspend or revoke a school's accreditation when it finds that the school has failed to meet or continuously maintain any requirement, standard, or procedure for school or course accreditation. The Commission, by and through the Probable Cause Committee, shall summarily suspend the accreditation of a criminal justice school if the public health, safety, or welfare requires action pursuant to G.S. 150B-3.

- (1) For the purpose of considering a summary suspension of accreditation, the Probable Cause Committee shall meet only during its regularly scheduled quarterly meeting or upon notice given by mail, telephone, or other means not less than 48 hours in advance of the meeting;

(2) A summary suspension shall be effective on the date specified in the order of the summary suspension or upon service of the certified copy of the order at the last known address of the school, whichever is later. The summary suspension shall remain effective during the proceedings for suspension and revocation;

(3) Upon oral notification to the executive officer or officers of the institution or agency sponsoring any criminal justice training program or course of instruction by the Director that the accreditation of a school is being summarily suspended by written order, the school shall not perform any duties or conduct any courses requiring accreditation by the Commission;

(4) The Director shall send a report of all summary suspensions for a formal hearing before the Probable Cause Committee at the next scheduled Commission meeting.

~~(h)~~ The Accreditation of a school whose accreditation is scheduled to expire in calendar year 2015 and who has submitted a request for recertification shall be extended for a maximum of two years under the following conditions:

- ~~(1) accreditation has not expired;~~
- ~~(2) the school has submitted a request for reaccreditation along with the required documentation by December 31, 2015;~~
- ~~(3) the Standards Division staff was unable to complete the recertification process by December 31, 2014; and~~
- ~~(4) the school is not denied reaccreditation prior to the expiration of the current accreditation. Accreditation or accreditation extension according to this Paragraph expires when reaccreditation is denied or revoked or the Standards Division staff is able to complete the reaccreditation process and it is determined that the school is in compliance with the Rules for Reaccreditation. If the school reaccreditation is denied or revoked, the school shall not deliver Commission accredited criminal justice courses until such reaccreditation has been granted or reinstated by the Commission.~~

History Note: Authority G.S. 17C-6; 17C-11; Eff. January 1, 1981; Amended Eff. August 1, 2004, January 1, 1996; Temporary Amendment Eff. January 1, 2007; Temporary Amendment Expired October 13, 2007; Amended Eff. February 1, 2016; April 1, 2008; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019; Emergency Amendment Eff. May 21, 2024; Temporary Amendment Eff. September 1, 2024.

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Rule-making Agency: Wildlife Resources Commission

Rule Citation: 15A NCAC 10C .0307

Effective Date: August 8, 2024

Date Approved by the Rules Review Commission: July 31, 2024

Reason for Action: The N.C. Division of Marine Fisheries (NCDMF) has stated they will not open the recreational flounder harvest season in 2024 due to the recreational sector exceeding the 2023 harvest allotment last year. Initially, NCWRC proposed a temporary rule to close the flounder harvest season in 2024 in its jurisdiction, all Inland Fishing Waters and hook and line fishing in Joint Fishing Waters, to remain consistent with NCDMF. However, after reviewing and considering the available data and public comments, the NCWRC adopted amendments to provide a limited 2024 flounder season that balances the needs of the resource and the public.

SUBCHAPTER 10C - INLAND FISHING REGULATIONS

SECTION .0300 – GAME FISH IN INLAND FISHING WATERS

15A NCAC 10C .0307 FLOUNDER

- (a) The daily creel limit for flounder is one ~~four~~ fish.
(b) The minimum size limit is 15 inches.
(c) The season for taking and possessing flounder is September 1 through and 2; and September 14, 7 and 8. Flounder shall not be taken or possessed.

History Note: Authority G.S. 113-134; 113-292; 113-304; 113-305; Eff. November 1, 2013; Readopted Eff. October 1, 2021; Temporary Amendment Eff. September 1, 2022; Amended Eff. August 1, 2024; March 15, 2023, 2023; Temporary Amendment Eff. August 8, 2024.

Rule-making Agency: Wildlife Resources Commission

Rule Citation: 15A NCAC 10D .0252

Effective Date: August 8, 2024

Date Approved by the Rules Review Commission: July 31, 2024

Reason for Action: Because of the changes to the 2024 deer season, this amendment is needed to remove the one day of introductory antlerless deer harvest during the gun season on the Needmore Game Land in Macon and Swain County, and align the Needmore Game Land to the same antlerless deer season structure as the adjacent Nantahala Game Land in Cherokee, Clay, Graham, Jackson, Macon, and Swain counties.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10D - GAME LANDS REGULATIONS

SECTION .0200 - USE OF GAME LANDS

15A NCAC 10D .0252 NEEDMORE GAME LAND IN MACON AND SWAIN COUNTIES

Needmore game land is a Seven Days per Week Area, in which the following applies:

- (1) Horseback riding is prohibited except on designated trails May 16 through August 31, and all horseback riding is prohibited from September 1 through May 15.
(2) On posted dove fields, dove hunting on the opening day of dove season is by permit only.
(3) No antlerless deer may be taken during the first open Saturday of the Deer With Visible Antlers season on Needmore Game Land. No antlerless deer shall be taken during the Deer With Visible Antler season.

History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305; Eff. October 1, 2022, 2022; Temporary Amendment Eff. August 8, 2024.

APPROVED RULES

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

Rules approved by the Rules Review Commission at its meeting on July 31, 2024.

**REGISTER CITATION TO THE
NOTICE OF TEXT**

MARINE FISHERIES COMMISSION

<u>Definitions</u>	15A NCAC 03I .0101*	38:03 NCR
<u>Public Health and Control of Oysters, Clams, Scallops and...</u>	15A NCAC 03K .0110	38:03 NCR
<u>Oyster Sanctuaries</u>	15A NCAC 03R .0117	38:03 NCR
<u>Restricted Areas</u>	15A NCAC 18A .0906*	38:03 NCR

DENTAL EXAMINERS, BOARD OF

<u>Definitions</u>	21 NCAC 16A .0101	38:18 NCR
<u>Board Contact Information; Submission of Information and ...</u>	21 NCAC 16A .0107	38:18 NCR
<u>Board Approved Examinations</u>	21 NCAC 16B .0303*	38:18 NCR
<u>Board Approved Examinations</u>	21 NCAC 16C .0303*	38:18 NCR
<u>Approved Education and Training Programs</u>	21 NCAC 16H .0104*	38:18 NCR
<u>Notice of Mailing List</u>	21 NCAC 16N .0202	38:18 NCR
<u>Right to Hearing</u>	21 NCAC 16N .0501	38:18 NCR
<u>Request for Hearing</u>	21 NCAC 16N .0502	38:18 NCR
<u>Granting or Denying Hearing Request</u>	21 NCAC 16N .0503*	38:18 NCR
<u>Notice of Hearing</u>	21 NCAC 16N .0504	38:18 NCR
<u>Cooperation with Board Inquiry</u>	21 NCAC 16U .0104	38:18 NCR

PHARMACY, BOARD OF

<u>Hours: Records: Providers: Correspondence: Reciprocity</u>	21 NCAC 46 .2201*	38:15 NCR
<u>Emergency Closure</u>	21 NCAC 46 .2516*	38:15 NCR

APPRAISAL BOARD

<u>Continuing Education</u>	21 NCAC 57A .0204*	38:18 NCR
<u>Expired Registration, License or Certificate</u>	21 NCAC 57A .0206*	38:18 NCR
<u>Time and Place</u>	21 NCAC 57A .0301*	38:18 NCR
<u>Re-Examination</u>	21 NCAC 57A .0303*	38:18 NCR
<u>Business Practices</u>	21 NCAC 57A .0406	38:18 NCR
<u>Appraisal Standards</u>	21 NCAC 57A .0501*	38:18 NCR
<u>Course Content</u>	21 NCAC 57B .0302*	38:18 NCR
<u>Form</u>	21 NCAC 57D .0101*	38:18 NCR
<u>Registration Renewal</u>	21 NCAC 57D .0202*	38:18 NCR
<u>Change In Registration and Reporting Requirements</u>	21 NCAC 57D .0302*	38:18 NCR

STATE HUMAN RESOURCES COMMISSION

<u>Temporary Appointment</u>	25 NCAC 01C .0405*	38:18 NCR
<u>Definitions</u>	25 NCAC 01E .1901	38:18 NCR
<u>Relationship to Other Rules and Policies</u>	25 NCAC 01E .1902	38:18 NCR
<u>Eligibility for Paid Parental Leave</u>	25 NCAC 01E .1903*	38:18 NCR

APPROVED RULES

<u>Leave Available to Full-Time Employees</u>	25 NCAC 01E .1904	38:18 NCR
<u>Leave Available to Part-Time Employees</u>	25 NCAC 01E .1905	38:18 NCR
<u>Use of Other Leave</u>	25 NCAC 01E .1906	38:18 NCR
<u>Requesting Use of Paid Parental Leave</u>	25 NCAC 01E .1907	38:18 NCR
<u>Leave Administration</u>	25 NCAC 01E .1908	38:18 NCR
<u>Leave Administration for Adoptions or Foster Care Placements</u>	25 NCAC 01E .1909*	38:18 NCR
<u>Miscarriage or Stillbirth</u>	25 NCAC 01E .1910*	38:18 NCR

The following rules are subject to Legislative Review.

MARINE FISHERIES COMMISSION

<u>Data Collection</u>	15A NCAC 03I .0113*	38:03 NCR
<u>Prohibited Activities in Polluted Shellfish Areas</u>	15A NCAC 03K .0101*	38:03 NCR
<u>Permits for Relaying Shellfish from Polluted Areas</u>	15A NCAC 03K .0104	38:03 NCR
<u>Size and Harvest Limits of Clams</u>	15A NCAC 03K .0301*	38:03 NCR
<u>Polluted Area Permit Requirements</u>	15A NCAC 03K .0401	38:03 NCR
<u>Disposition of Meats</u>	15A NCAC 03K .0403	38:03 NCR
<u>Oysters, Hard Clams, or Mussels Prohibited</u>	15A NCAC 03K .0405	38:03 NCR
<u>Procedures and Requirements to Obtain Licenses, Endorseme...</u>	15A NCAC 03O .0101*	38:03 NCR
<u>Assignment of Standard Commercial Fishing License</u>	15A NCAC 03O .0109*	38:03 NCR
<u>For-Hire License Requirements</u>	15A NCAC 03O .0112	38:03 NCR
<u>Eligibility and Requirements for Recreational Commercial ...</u>	15A NCAC 03O .0301	38:03 NCR
<u>Procedures and Requirements to Obtain Permits</u>	15A NCAC 03O .0501*	38:03 NCR
<u>Permit Conditions; Specific</u>	15A NCAC 03O .0503*	38:03 NCR
<u>Permits</u>	15A NCAC 18A .0302*	38:03 NCR
<u>Definitions</u>	15A NCAC 18A .0901*	38:03 NCR

TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY

15A NCAC 03I .0101 DEFINITIONS

All definitions set out in G.S. 113, Subchapter IV and the following additional terms shall apply to this Chapter:

- (1) enforcement and management terms:
 - (a) "Commercial quota" means total quantity of fish allocated for harvest by commercial fishing operations.
 - (b) "Educational institution" means a college, university, or community college accredited by an accrediting agency recognized by the U.S. Department of Education; an Environmental Education Center certified by the N.C. Department of Environmental Quality Office of Environmental Education and Public Affairs; or a zoo or aquarium certified by the Association of Zoos and Aquariums.
 - (c) "Internal Coastal Waters" or "Internal Waters" means all Coastal Fishing Waters except the Atlantic Ocean.
 - (d) length of finfish:

- (i) "Curved fork length" means a length determined by measuring along a line tracing the contour of the body from the tip of the upper jaw to the middle of the fork in the caudal (tail) fin.
- (ii) "Fork length" means a length determined by measuring along a straight line the distance from the tip of the snout with the mouth closed to the middle of the fork in the caudal (tail) fin, except that fork length for billfish is measured from the tip of the lower jaw to the middle of the fork of the caudal (tail) fin.
- (iii) "Pectoral fin curved fork length" means a length of a beheaded fish from the dorsal insertion of the pectoral fin to the fork of the tail measured along the contour of the body in a line that runs along the

- top of the pectoral fin and the top of the caudal keel.
- (iv) "Total length" means a length determined by measuring along a straight line the distance from the tip of the snout with the mouth closed to the tip of the compressed caudal (tail) fin.
- (e) "Nongovernmental conservation organization" means an organization whose primary mission is the conservation of natural resources. For the purpose of this Chapter, a determination of the organization's primary mission is based upon the Division of Marine Fisheries' consideration of the organization's publicly stated purpose and activities.
- (f) "Polluted" means any shellfish growing waters as defined in 15A NCAC 18A .0901:
 - (i) that are contaminated with fecal material, pathogenic microorganisms, poisonous or deleterious substances, or marine biotoxins that render the consumption of shellfish from those growing waters hazardous. This includes poisonous or deleterious substances as listed in the latest approved edition of the National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish, Section IV: Guidance Documents, Chapter II: Growing Areas; Action Levels, Tolerances and Guidance Levels for Poisonous or Deleterious Substances in Seafood, which is incorporated by reference, including subsequent amendments and editions. A copy of the reference material can be found at <https://www.fda.gov/food/fe-deralstate-food-programs/national-shellfish-sanitation-program-nssp>, at no cost;
 - (ii) that have been determined through a sanitary survey as defined in 15A NCAC 18A .0901 to be adjacent to a sewage treatment plant outfall or other point source outfall that may contaminate shellfish and cause a food safety hazard as defined in 15A NCAC 18A .0301;
 - (iii) that have been determined through a sanitary survey as defined in 15A NCAC 18A .0901 to be in or adjacent to a marina;
 - (iv) that have been determined through a sanitary survey as defined in 15A NCAC 18A .0901 to be impacted by other potential sources of pollution that render the consumption of shellfish from those growing waters hazardous, such as a wastewater treatment facility that does not contaminate a shellfish area when it is operating normally but will contaminate a shellfish area and shellfish in that area when a malfunction occurs;
 - (v) where the Division is unable to complete the monitoring necessary to determine the presence of contamination or potential pollution sources.
 - (g) "Recreational possession limit" means restrictions on size, quantity, season, time period, area, means, and methods where take or possession is for a recreational purpose.
 - (h) "Recreational quota" means total quantity of fish allocated for harvest for a recreational purpose.
 - (i) "Regular closed oyster season" means March 31 through October 15, unless amended by the Fisheries Director through proclamation authority.
 - (j) "Scientific institution" means one of the following entities:
 - (i) an educational institution as defined in this Item;
 - (ii) a state or federal agency charged with the management of marine or estuarine resources; or
 - (iii) a professional organization or secondary school working under the direction of, or in compliance with mandates from, the entities listed in Sub-items (j)(i) and (ii) of this Item.

- (2) fishing activities:
- (a) "Aquaculture operation" means an operation that produces artificially propagated stocks of marine or estuarine resources, or other non-native species that may thrive if introduced into Coastal Fishing Waters, or obtains such stocks from permitted sources for the purpose of rearing on private bottom (with or without the superadjacent water column) or in a controlled environment. A controlled environment provides and maintains throughout the rearing process one or more of the following:
 - (i) food;
 - (ii) predator protection;
 - (iii) salinity;
 - (iv) temperature controls; or
 - (v) water circulation, utilizing technology not found in the natural environment.
 - (b) "Attended" means being in a vessel, in the water or on the shore, and immediately available to work the gear and be within 100 yards of any gear in use by that person at all times. Attended does not include being in a building or structure.
 - (c) "Blue crab shedding" means the process whereby a blue crab emerges soft from its former hard exoskeleton. A shedding operation is any operation that holds peeler crabs in a controlled environment. A controlled environment provides and maintains throughout the shedding process one or more of the following:
 - (i) food;
 - (ii) predator protection;
 - (iii) salinity;
 - (iv) temperature controls; or
 - (v) water circulation, utilizing technology not found in the natural environment. A shedding operation does not include transporting pink or red-line peeler crabs to a permitted shedding operation.
 - (d) "Depurate" or "depuration" has the same meaning as defined in the 2019 revision of the NSSP Guide for the Control of Molluscan Shellfish, Section I: Purpose and Definitions. This definition is incorporated by reference, not including subsequent amendments and editions. A copy of the reference material can be found at <https://www.fda.gov/food/federalstate-food-programs/national-shellfish-sanitation-program-nssp>, at no cost.
 - (e) "Long haul operation" means fishing a seine towed between two vessels.
 - (f) "Peeler crab" means a blue crab that has a soft shell developing under a hard shell and having a white, pink, or red-line or rim on the outer edge of the back fin or flipper.
 - (g) "Possess" means any actual or constructive holding whether under claim of ownership or not.
 - (h) "Recreational purpose" means a fishing activity that is not a commercial fishing operation as defined in G.S. 113-168.
 - (i) "Swipe net operations" means fishing a seine towed by one vessel.
 - (j) "Transport" means to ship, carry, or cause to be carried or moved by public or private carrier by land, sea, or air.
 - (k) "Use" means to employ, set, operate, or permit to be operated or employed.
- (3) gear:
- (a) "Bunt net" means the last encircling net of a long haul or swipe net operation constructed of small mesh webbing. The bunt net is used to form a pen or pound from which the catch is dipped or bailed.
 - (b) "Channel net" means a net used to take shrimp that is anchored or attached to the bottom at both ends or with one end anchored or attached to the bottom and the other end attached to a vessel.
 - (c) "Commercial fishing equipment or gear" means all fishing equipment used in Coastal Fishing Waters except:
 - (i) cast nets;
 - (ii) collapsible crab traps, a trap used for taking crabs with the largest open dimension no larger than 18 inches and that by design is collapsed at all times when in the water, except when it is being retrieved from or lowered to the bottom;
 - (iii) dip nets or scoops having a handle not more than eight feet in length and a hoop or frame to which the net is attached not exceeding 60 inches along the perimeter;
 - (iv) gigs or other pointed implements that are propelled by hand, whether

- or not the implement remains in the hand;
- (v) hand operated rakes no more than 12 inches wide and weighing no more than six pounds and hand operated tongs;
 - (vi) hook and line, and bait and line equipment other than multiple-hook or multiple-bait trotline;
 - (vii) landing nets used to assist in taking fish when the initial and primary method of taking is by the use of hook and line;
 - (viii) minnow traps when no more than two are in use;
 - (ix) seines less than 30 feet in length;
 - (x) spears, Hawaiian slings, or similar devices that propel pointed implements by mechanical means, including elastic tubing or bands, pressurized gas, or similar means.
- (d) "Corkline" means the support structure a net is attached to that is nearest to the water surface when in use. Corkline length is measured from the outer most mesh knot at one end of the corkline following along the line to the outer most mesh knot at the opposite end of the corkline.
 - (e) "Dredge" means a device towed by engine power consisting of a frame, tooth bar or smooth bar, and catchbag used in the harvest of oysters, clams, crabs, scallops, or conchs.
 - (f) "Fixed or stationary net" means a net anchored or staked to the bottom, or some structure attached to the bottom, at both ends of the net.
 - (g) "Fyke net" means an entrapment net supported by a series of internal or external hoops or frames, with one or more lead or leaders that guide fish to the net mouth. The net has one or more internal funnel-shaped openings with tapered ends directed inward from the mouth, through which fish enter the enclosure. The portion of the net designed to hold or trap fish is completely enclosed in mesh or webbing, except for the openings for fish passage into or out of the net (funnel area).
 - (h) "Gill net" means a net set vertically in the water to capture fish by entanglement of the gills in its mesh as a result of net design, construction, mesh length, webbing diameter, or method in which it is used.
 - (i) "Headrope" means the support structure for the mesh or webbing of a trawl that is nearest to the water surface when in use. Headrope length is measured from the outer most mesh knot at one end of the headrope following along the line to the outer most mesh knot at the opposite end of the headrope.
 - (j) "Hoop net" means an entrapment net supported by a series of internal or external hoops or frames. The net has one or more internal funnel-shaped openings with tapered ends directed inward from the mouth, through which fish enter the enclosure. The portion of the net designed to hold or trap the fish is completely enclosed in mesh or webbing, except for the openings for fish passage into or out of the net (funnel area).
 - (k) "Lead" means a mesh or webbing structure consisting of nylon, monofilament, plastic, wire, or similar material set vertically in the water and held in place by stakes or anchors to guide fish into an enclosure. Lead length is measured from the outer most end of the lead along the top or bottom line, whichever is longer, to the opposite end of the lead.
 - (l) "Mechanical methods for clamming" means dredges, hydraulic clam dredges, stick rakes, and other rakes when towed by engine power, patent tongs, kicking with propellers or deflector plates with or without trawls, and any other method that utilizes mechanical means to harvest clams.
 - (m) "Mechanical methods for oystering" means dredges, patent tongs, stick rakes, and other rakes when towed by engine power, and any other method that utilizes mechanical means to harvest oysters.
 - (n) "Mesh length" means the distance from the inside of one knot to the outside of the opposite knot, when the net is stretched hand-tight in a manner that closes the mesh opening.
 - (o) "Pound net set" means a fish trap consisting of a holding pen, one or more enclosures, lead or leaders, and stakes or anchors used to support the trap. The holding pen, enclosures, and

- lead(s) are not conical, nor are they supported by hoops or frames.
- (p) "Purse gill net" means any gill net used to encircle fish when the net is closed by the use of a purse line through rings located along the top or bottom line or elsewhere on such net.
- (q) "Seine" means a net set vertically in the water and pulled by hand or power to capture fish by encirclement and confining fish within itself or against another net, the shore or bank as a result of net design, construction, mesh length, webbing diameter, or method in which it is used.
- (4) "Fish habitat areas" means the estuarine and marine areas that support juvenile and adult populations of fish species throughout their entire life cycle, including early growth and development, as well as forage species utilized in the food chain. Fish habitats in all Coastal Fishing Waters, as determined through marine and estuarine survey sampling, are:
- (a) "Anadromous fish nursery areas" means those areas in the riverine and estuarine systems utilized by post-larval and later juvenile anadromous fish.
- (b) "Anadromous fish spawning areas" means those areas where evidence of spawning of anadromous fish has been documented in Division sampling records through direct observation of spawning, capture of running ripe females, or capture of eggs or early larvae.
- (c) "Coral" means:
- (i) fire corals and hydrocorals (Class Hydrozoa);
- (ii) stony corals and black corals (Class Anthozoa, Subclass Scleractinia); or
- (iii) Octocorals; Gorgonian corals (Class Anthozoa, Subclass Octocorallia), which include sea fans (*Gorgonia* sp.), sea whips (*Leptogorgia* sp. and *Lophogorgia* sp.), and sea pansies (*Renilla* sp.).
- (d) "Intertidal oyster bed" means a formation, regardless of size or shape, formed of shell and live oysters of varying density.
- (e) "Live rock" means living marine organisms or an assemblage thereof attached to a hard substrate, excluding mollusk shells, but including dead coral or rock. Living marine organisms associated with hard bottoms, banks, reefs, and live rock include:
- (i) Coralline algae (Division Rhodophyta);
- (ii) *Acetabularia* sp., mermaid's fan and cups (*Udotea* sp.), watercress (*Halimeda* sp.), green feather, green grape algae (*Caulerpa* sp.) (Division Chlorophyta);
- (iii) *Sargassum* sp., *Dictyopteris* sp., *Zonaria* sp. (Division Phaeophyta);
- (iv) sponges (Phylum Porifera);
- (v) hard and soft corals, sea anemones (Phylum Cnidaria), including fire corals (Class Hydrozoa), and Gorgonians, whip corals, sea pansies, anemones, *Solengastrea* (Class Anthozoa);
- (vi) Bryozoans (Phylum Bryozoa);
- (vii) tube worms (Phylum Annelida), fan worms (*Sabellidae*), feather duster and Christmas treeworms (*Serpulidae*), and sand castle worms (*Sabellaridae*);
- (viii) mussel banks (Phylum Mollusca: Gastropoda); and
- (ix) acorn barnacles (Arthropoda: Crustacea: *Semibalanus* sp.).
- (f) "Nursery areas" means areas that for reasons such as food, cover, bottom type, salinity, temperature, and other factors, young finfish and crustaceans spend the major portion of their initial growing season. Primary nursery areas are those areas in the estuarine system where initial post-larval development takes place. These are areas where populations are uniformly early juveniles. Secondary nursery areas are those areas in the estuarine system where later juvenile development takes place. Populations are composed of developing sub-adults of similar size that have migrated from an upstream primary nursery area to the secondary nursery area located in the middle portion of the estuarine system.
- (g) "Shellfish producing habitats" means historic or existing areas that shellfish, such as clams, oysters, scallops, mussels, and whelks use to reproduce and survive because of such favorable conditions as bottom type, salinity,

currents, cover, and cultch. Included are those shellfish producing areas closed to shellfish harvest due to pollution.

- (h) "Strategic Habitat Areas" means locations of individual fish habitats or systems of habitats that provide exceptional habitat functions or that are particularly at risk due to imminent threats, vulnerability, or rarity.
- (i) "Submerged aquatic vegetation (SAV) habitat" means submerged lands that:
 - (i) are vegetated with one or more species of submerged aquatic vegetation including bushy pondweed or southern naiad (*Najas guadalupensis*), coontail (*Ceratophyllum demersum*), eelgrass (*Zostera marina*), horned pondweed (*Zannichellia palustris*), naiads (*Najas* spp.), redhead grass (*Potamogeton perfoliatus*), sago pondweed (*Stuckenia pectinata*, formerly *Potamogeton pectinatus*), shoalgrass (*Halodule wrightii*), slender pondweed (*Potamogeton pusillus*), water stargrass (*Heteranthera dubia*), water starwort (*Callitriche heterophylla*), waterweeds (*Elodea* spp.), widgeongrass (*Ruppia maritima*), and wild celery (*Vallisneria americana*). These areas may be identified by the presence of above-ground leaves, below-ground rhizomes, or reproductive structures associated with one or more SAV species and include the sediment within these areas; or
 - (ii) have been vegetated by one or more of the species identified in Sub-item (4)(i)(i) of this Rule within the past 10 annual growing seasons and that meet the average physical requirements of water depth, which is six feet or less, average light availability, which is a secchi depth of one foot or more, and limited wave exposure that characterize the environment

suitable for growth of SAV. The past presence of SAV may be demonstrated by aerial photography, SAV survey, map, or other documentation. An extension of the past 10 annual growing seasons criteria may be considered when average environmental conditions are altered by drought, rainfall, or storm force winds.

This habitat occurs in both subtidal and intertidal zones and may occur in isolated patches or cover extensive areas. In defining SAV habitat, the Marine Fisheries Commission recognizes the Aquatic Weed Control Act of 1991 (G.S. 113A-220 et. seq.) and does not intend the submerged aquatic vegetation definition, of this Rule or 15A NCAC 03K .0304 and .0404, to apply to or conflict with the non-development control activities authorized by that Act.

- (5) licenses, permits, leases and franchises, and record keeping:
 - (a) "Assignment" means temporary transferal to another person of privileges under a license for which assignment is permitted. The person assigning the license delegates the privileges permitted under the license to be exercised by the assignee, but retains the power to revoke the assignment at any time, and is still the responsible party for the license.
 - (b) "Designee" means any person who is under the direct control of the permittee or who is employed by or under contract to the permittee for the purposes authorized by the permit.
 - (c) "For hire vessel", as defined by G.S. 113-174, means when the vessel is fishing in State waters or when the vessel originates from or returns to a North Carolina port.
 - (d) "Franchise" means a franchise recognized pursuant to G.S. 113-206.
 - (e) "Holder" means a person who has been lawfully issued in the person's name a license, permit, franchise, lease, or assignment.
 - (f) "Land" means:
 - (i) for commercial fishing operations, when fish reach the shore or a structure connected to the shore.

- (ii) for purposes of trip tickets, when fish reach a licensed seafood dealer, or where the fisherman is the dealer, when fish reach the shore or a structure connected to the shore.
- (iii) for recreational fishing operations, when fish are retained in possession by the fisherman.
- (g) "Licensee" means any person holding a valid license from the Department to take or deal in marine fisheries resources, except as otherwise defined in 15A NCAC 03O .0109.
- (h) "Logbook" means paper forms provided by the Division and electronic data files generated from software provided by the Division for the reporting of fisheries statistics by persons engaged in commercial or recreational fishing or for-hire operators.
- (i) "Master" means captain or operator of a vessel or one who commands and has control, authority, or power over a vessel.
- (j) "New fish dealer" means any fish dealer making application for a fish dealer license who did not possess a valid dealer license for the previous license year in that name. For purposes of license issuance, adding new categories to an existing fish dealers license does not constitute a new dealer.
- (k) "Office of the Division" means physical locations of the Division conducting license and permit transactions in Wilmington, Morehead City, Washington, and Roanoke Island, North Carolina. Other businesses or entities designated by the Secretary to issue Recreational Commercial Gear Licenses or Coastal Recreational Fishing Licenses are not considered Offices of the Division.
- (l) "Responsible party" means the person who coordinates, supervises, or otherwise directs operations of a business entity, such as a corporate officer or executive level supervisor of business operations, and the person responsible for use of the issued license in compliance with applicable statutes and rules.
- (m) "Tournament organizer" means the person who coordinates, supervises, or otherwise directs a recreational fishing tournament and is the holder of the Recreational Fishing Tournament License.
- (n) "Transaction" means an act of doing business such that fish are sold, offered for sale, exchanged, bartered, distributed, or landed.
- (o) "Transfer" means permanent transferal to another person of privileges under a license for which transfer is permitted. The person transferring the license retains no rights or interest under the license transferred.
- (p) "Trip ticket" means paper forms provided by the Division and electronic data files generated from software provided by the Division for the reporting of fisheries statistics by licensed fish dealers.

History Note: Authority G.S. 113-134; 113-174; 113-182; 143B-289.52; Eff. January 1, 1991; Amended Eff. March 1, 1995; March 1, 1994; October 1, 1993; July 1, 1993; Recodified from 15A NCAC 03I .0001 Eff. December 17, 1996; Amended Eff. April 1, 1999; August 1, 1998; April 1, 1997; Temporary Amendment Eff. May 1, 2000; August 1, 1999; July 1, 1999; Amended Eff. August 1, 2000; Temporary Amendment Eff. August 1, 2000; Amended Eff. May 1, 2015; April 1, 2014; April 1, 2011; April 1, 2009; October 1, 2008; December 1, 2007; December 1, 2006; September 1, 2005; April 1, 2003; April 1, 2001; Readopted Eff. June 1, 2022; Amended Eff. (Pending legislative review of 15A NCAC 03O .0201).

15A NCAC 03I .0113 DATA COLLECTION

- (a) For the purpose of this Rule:
 - (1) "refuse to allow" as used in Paragraphs (b) and (c) of this Rule shall mean to oppose, impede, intimidate, interfere, tamper, prohibit, or bar by command, impediment, threat, coercion, interference, or refusal of reasonable assistance, the Fisheries Director or the Fisheries Director's agents from collecting data as set forth in Paragraphs (b) and (c) of this Rule; and
 - (2) "responsible person" shall mean any licensee or person engaged in regulated activity under Chapter 113, Subchapter IV, of the General Statutes.
- (b) It shall be unlawful for any responsible person to refuse to allow the Fisheries Director or the Fisheries Director's agents to obtain biological data, harvest information, or other data necessary or useful to the conservation and management of

marine and estuarine resources for the taking of fish by the responsible person. Such data may include:

- (1) species identification;
- (2) species length;
- (3) species weight;
- (4) species age;
- (5) species sex;
- (6) number of species;
- (7) quantity of catch;
- (8) area of catch;
- (9) harvest method;
- (10) gear and gear specifications;
- (11) target species;
- (12) number of hours and days the responsible person spent fishing;
- (13) state, county, and zip code of responsible person;
- (14) number of individuals fishing with responsible person; and
- (15) social and economic data, including fishing expenditures and durable goods.

(c) It shall be unlawful for any responsible person to refuse to allow the Fisheries Director or the Fisheries Director's agents to obtain data for the protection of public health related to the public health programs that fall under the authority of the Marine Fisheries Commission.

History Note: Authority G.S. 113-134; 113-135; 113-170.3; 113-174.1; 113-181; 113-182; 113-221.2; 113-221.3; 143B-289.52;
Eff. October 1, 1992;
Recodified from 15A NCAC 3I.0013 Eff. December 17, 1996;
Readopted Eff. March 15, 2023;
Amended Eff. (Pending legislative review pursuant to S.L. 2019-198).

15A NCAC 03K .0101 PROHIBITED ACTIVITIES IN POLLUTED SHELLFISH AREAS

(a) It shall be unlawful to possess, sell, or take oysters, clams, or mussels from areas that have been designated as polluted by proclamation by the Fisheries Director except in accordance with:

- (1) a Depuration Permit as set forth in Rule .0107 of this Section;
- (2) an Aquaculture Seed Transplant Permit as set forth in G.S. 113-203; or
- (3) a Shellfish Relocation Permit. The Fisheries Director may, by proclamation, designate sites for relocation where shellfish would otherwise be destroyed due to maintenance dredging, construction, or other development activities.

Individuals shall obtain an Aquaculture Seed Transplant Permit from the Secretary, or a Depuration Permit or a Shellfish Relocation Permit from the Fisheries Director setting forth the time, area, and method by which such shellfish may be taken. The procedures and requirements for obtaining permits are found in 15A NCAC 03O .0500.

(b) The Fisheries Director shall issue shellfish polluted area proclamations if criteria for approved shellfish harvest areas in accordance with 15A NCAC 18A .0900 have not been met. The

Fisheries Director may reopen any such closed area by proclamation if criteria for approved shellfish harvest areas in accordance with 15A NCAC 18A .0900 have been met. Copies of these proclamations and maps of these areas are available upon request at the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557; 800-682-2632 or 252-515-5500; or at <https://www.deq.nc.gov/about/divisions/marine-fisheries/rules-proclamations-and-size-and-bag-limits/polluted-area-proclamations>.

(c) The Fisheries Director may, by proclamation, close areas to the taking of oysters, clams, scallops, and mussels to protect the shellfish populations for management purposes or for protection of public health related to the public health programs that fall under the authority of the Marine Fisheries Commission not specified in Paragraphs (a) or (b) of this Rule.

(d) It shall be unlawful to possess or sell oysters, clams, or mussels taken from waters outside North Carolina that have been deemed by the shellfish control authority where the shellfish were taken as unsuitable for the harvest of shellfish, except as provided in 15A NCAC 03I .0104.

History Note: Authority G.S. 113-134; 113-168.5; 113-169.2; 113-182; 113-203; 113-221.1; 113-221.2; 143B-289.52;
Eff. January 1, 1991;
Amended Eff. July 1, 1993;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. August 1, 2000;
Temporary Amendment Eff. October 1, 2001;
Amended Eff. October 1, 2008; April 1, 2003;
Readopted Eff. March 15, 2023;
Amended Eff. (Pending legislative review pursuant to S.L. 2019-198).

15A NCAC 03K .0104 PERMITS FOR RELAYING SHELLFISH FROM POLLUTED AREAS

History Note: Authority G.S. 113-134; 113-182; 113-203; 113-221.1; 143B-289.52;
Eff. January 1, 1991;
Amended Eff. March 1, 1996; September 1, 1991;
Temporary Amendment Eff. October 1, 2001;
Amended Eff. April 1, 2003;
Readopted Eff. March 15, 2023;
Repealed Eff. (Pending legislative review pursuant to S.L. 2019-198).

15A NCAC 03K .0110 PUBLIC HEALTH AND CONTROL OF OYSTERS, CLAMS, SCALLOPS, AND MUSSELS

(a) The National Shellfish Sanitation Program Guide for Control of Molluscan Shellfish, Section II: Model Ordinance (Model Ordinance) includes requirements for the sale or distribution of shellfish from approved areas or shellfish dealers, as defined in 15A NCAC 18A .0301, and to ensure that shellfish have not been adulterated or misbranded during cultivation, harvesting, processing, storage, or transport. To protect public health, the Fisheries Director may, by proclamation, impose requirements of the Model Ordinance as set forth in Paragraph (b) of this Rule on any of the following:

- (1) the cultivation, distribution, harvesting, processing, sale, storage, or transport of:
 - (A) oysters;
 - (B) clams;
 - (C) scallops; and
 - (D) mussels;
- (2) areas used to store shellfish;
- (3) means and methods to take shellfish;
- (4) vessels used to take shellfish; and
- (5) shellstock conveyances as defined in 15A NCAC 18A .0301.

(b) Proclamations issued under this Rule may impose any of the following requirements:

- (1) specify time and temperature controls;
- (2) specify sanitation requirements to prevent a food safety hazard, as defined in 15A NCAC 18A .0301, or cross-contamination or adulteration of shellfish;
- (3) specify sanitation control procedures set forth in 21 CFR 123.11;
- (4) specify Hazard Analysis Critical Control Point (HACCP) requirements set forth in 21 CFR:
 - (A) 123.3 Definitions;
 - (B) 123.6 HACCP Plan;
 - (C) 123.7 Corrective Actions;
 - (D) 123.8 Verification;
 - (E) 123.9 Records; and
 - (F) 123.28 Source Controls;
- (5) specify tagging and labeling requirements;
- (6) implement the National Shellfish Sanitation Program's training requirements for shellfish harvesters and certified shellfish dealers;
- (7) require sales records and collection and submission of information to provide a mechanism for tracing shellfish product back to the water body of origin; and
- (8) require product recall and specify recall procedures.

21 CFR 123.3, 123.6-9, 123.11, and 123.28 are incorporated by reference, including subsequent amendments and editions. A copy of the reference material can be found at <https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-123?toc=1>, at no cost.

(c) Proclamations issued under this Rule shall suspend appropriate rules or portions of rules under the authority of the Marine Fisheries Commission as specified in the proclamation. The provisions of 15A NCAC 03I .0102 terminating suspension of a rule pending the next Marine Fisheries Commission meeting and requiring review by the Marine Fisheries Commission at the next meeting shall not apply to proclamations issued under this Rule.

History Note: Authority G.S. 113-134; 113-182; 113-201; 113-221.1; 113-221.2; 143B-289.52; Eff. April 1, 2014; Amended Eff. May 1, 2017; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; Amended Eff. August 1, 2024.

15A NCAC 03K .0301 SIZE AND HARVEST LIMITS OF CLAMS

(a) It shall be unlawful to take, land, or possess aboard a vessel more than 6,250 hard clams per commercial fishing operation from public bottom in internal waters. It shall be unlawful to take, possess, sell, or purchase any clams (except Rangia or freshwater clams) less than one inch thick except in accordance with Rule .0305 of this Section. Clams shall be culled where harvested and all clams of less than legal size with their shell, shall be immediately returned to the bottom from which they were taken. In determining whether the size and harvest limits have been exceeded, Marine Fisheries Inspectors shall be authorized and empowered to grade all, or any portion, or any combination of portions of the entire quantity being graded, and in cases of violations, may seize and return to public bottom or otherwise dispose of the clams as authorized by law the entire quantity being graded or any portion thereof.

(b) As set forth in Rule .0101 of this Subchapter, size and harvest limits established in Paragraph (a) of this Rule and the season and area limitations established in Rule .0302 of this Section may or may not apply for:

- (1) harvest limits for temporary openings consistent with the requirements of 15A NCAC 18A .0900 and the North Carolina Hard Clam Fishery Management Plan; or
- (2) maintenance dredging operations, when clams would otherwise be destroyed, upon approval by the Division of Marine Fisheries and consistent with the North Carolina Hard Clam Fishery Management Plan.

History Note: Authority G.S. 113-134; 113-136; 113-137; 113-182; 113-221.2; 143B-289.52; Eff. January 1, 1991; Amended Eff. March 1, 1994; Readopted Eff. March 15, 2023; Amended Eff. (Pending legislative review pursuant to S.L. 2019-198).

15A NCAC 03K .0401 POLLUTED AREA PERMIT REQUIREMENTS

History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 143B-289.52; Eff. January 1, 1991; Amended Eff. August 1, 2004; Readopted Eff. March 15, 2023; Repealed Eff. (Pending legislative review pursuant to S.L. 2019-198).

15A NCAC 03K .0403 DISPOSITION OF MEATS

History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 143B-298.52; Eff. January 1, 1991; Amended Eff. August 1, 2004; Readopted Eff. April 1, 2019; Repealed Eff. (Pending legislative review pursuant to S.L. 2019-198).

15A NCAC 03K .0405 OYSTERS, HARD CLAMS, OR MUSSELS PROHIBITED

History Note: Authority G.S. 113-134; 113-182; 113-201; 143B-289.52; Eff. August 1, 2004; Readopted Eff. April 1, 2019; Repealed Eff. (Pending legislative review pursuant to S.L. 2019-198).

15A NCAC 03O .0101 PROCEDURES AND REQUIREMENTS TO OBTAIN LICENSES, ENDORSEMENTS, AND COMMERCIAL FISHING VESSEL REGISTRATIONS

(a) Division of Marine Fisheries licenses are available at offices of the Division or by mail from the Morehead City Office of the Division, unless otherwise specified. In addition, Recreational Commercial Gear Licenses are available from license agents of the Wildlife Resources Commission in accordance with G.S. 113-270.1.

(b) For the purposes of this Rule, the procedures and requirements for the licensee shall also apply to the responsible party, the person holding power of attorney, the tournament organizer, and the vessel master.

(c) To obtain Division of Marine Fisheries licenses, endorsements, and Commercial Fishing Vessel Registrations, a licensee shall provide a completed application to an office of the Division by mail or in person. Applications submitted without complete and required information shall not be processed until all required information has been submitted. Incomplete applications shall be returned to the applicant within two business days with deficiency in the application so noted. The following shall be required for the application:

- (1) full name, physical address, mailing address, date of birth, and signature of the licensee. If the licensee is not appearing before a license agent or a representative of the Division, the licensee's signature shall be notarized.
- (2) a statement from the licensee that the information and supporting documentation submitted with the application is true and correct.
- (3) current and valid picture identification of the licensee. Acceptable forms of picture identification are state driver's license, state identification card issued by the Division of Motor Vehicles, military identification card, resident alien card (green card), or passport; or if purchased by mail, a copy thereof.
- (4) certification that the applicant does not have four or more convictions for violation of any provision of Subchapter 113 of the North Carolina General Statutes under the authority of the Marine Fisheries Commission or any rule adopted by the Marine Fisheries Commission pursuant to Subchapter 113 during the previous three years.
- (5) current articles of incorporation and a current list of corporate officers when purchasing a

license or Commercial Fishing Vessel Registration in a corporate name. In the case of incorporation of an individual fishing vessel, the name of the vessel master shall also be specified. The licensee shall notify the Morehead City Office of the Division within five days of changing the vessel master.

- (6) a current copy of a written partnership agreement shall be provided when purchasing a license, endorsement, or Commercial Fishing Vessel Registration in a partnership name, if a partnership is established.
- (7) valid documentation papers or current motor boat registration, or copy thereof when purchasing a Commercial Fishing Vessel Registration. If an application for transfer of documentation is pending, a copy of the pending application and a notarized bill of sale may be submitted.
- (8) affirmation of liability insurance and that the operator is knowledgeable of United States Coast Guard (USCG) safety requirements for the vessels used in the operation in accordance with G.S. 113-168.6 when purchasing a Commercial Fishing Vessel Registration with a for-hire endorsement.

(d) In addition to the requirements of Paragraph (c) of this Rule, proof of residency for non-residents shall be documented by a notarized certification from the licensee stating the state where they are a resident. Proof of residency for residents of North Carolina shall be documented by the licensee as follows:

- (1) Standard or Retired Standard Commercial Fishing Licenses: A notarized certification from the applicant that the applicant is a resident of the State of North Carolina as defined by G.S. 113-130(4) and:
 - (A) a notarized certification from the applicant that a North Carolina State Income Tax Return was filed for the previous calendar or tax year as a North Carolina resident;
 - (B) a notarized certification that the applicant was not required to file a North Carolina State Income Tax Return for the previous calendar or tax year; or
 - (C) military identification or military dependent identification, and permanent change of station orders or assignment orders substantiating the military individual's active duty assignment at a military facility in North Carolina.
- (2) All other types of licenses:
 - (A) North Carolina voter registration card;
 - (B) current North Carolina Driver's License;
 - (C) current North Carolina Certificate of Domicile;

- (D) current North Carolina Identification Card issued by the North Carolina Division of Motor Vehicles; or
- (E) military identification or military dependent identification, and permanent change of station orders or assignment orders substantiating the military individual's active duty assignment at a military facility in North Carolina.

- (6) Recreational Fishing Tournament License to Sell Fish: name and date or dates of the tournament.
- (7) Spotter Plane License:
 - (A) the information required in G.S. 113-171.1;
 - (B) the current aircraft registration; and
 - (C) a list of operators.

(e) In addition to the requirements in Paragraphs (c) and (d) of this Rule, the following shall be required:

(f) For a License to Land Flounder from the Atlantic Ocean, in addition to the requirements in Paragraphs (c) and (d) of this Rule, the following shall be applicable:

- (1) Blanket For-Hire Captain's CRFL: a valid certification from the USCG that allows carrying six or fewer passengers or a valid certification from the USCG that allows carrying more than six passengers.
- (2) Blanket For-Hire Vessel CRFL or Non-Blanket For-Hire Vessel License:
 - (A) valid documentation papers or current motor boat registration, or copies thereof for the vessel engaged as for-hire; or
 - (B) a copy of the pending application and a notarized bill of sale if an application for transfer of documentation is pending.
- (3) Fish Dealer License:
 - (A) the physical address of the established location where business is conducted and, if different, the address where records are kept; and
 - (B) a valid Permit and Certificate of Compliance from the Division of Marine Fisheries Shellfish Sanitation and Recreational Water Quality Section, if purchasing a Fish Dealer License with clam or oyster categories or a consolidated license.
- (4) Land or Sell License:
 - (A) valid documentation papers or current motor boat registration, or copy thereof; or
 - (B) a copy of the pending application and a notarized bill of sale if an application for transfer of documentation is pending.

(1) for the purpose of this Paragraph, "license year" means the period beginning July 1 of a year through June 30 of the following year.

(2) to qualify for a License to Land Flounder from the Atlantic Ocean, the applicant shall:

- (A) have landed in North Carolina at least 1,000 pounds of flounder from a single vessel each year from the Atlantic Ocean during any two of the 1992-93, 1993-94, 1994-95 license years for which the person had a vessel that was licensed to land in North Carolina;
- (B) have been licensed under G.S. 113-152 or 113-153 during any two of the 1992-93, 1993-94, or 1994-95 license years; and
- (C) hold a valid Standard or Retired Standard Commercial Fishing License or valid Land or Sell License.

(3) it shall be unlawful for a person to hold more Licenses to Land Flounder from the Atlantic Ocean than the number of vessels that the person owns that individually met the eligibility requirements of Parts (f)(2)(A) and (f)(2)(B) of this Rule.

(4) the License to Land Flounder from the Atlantic Ocean is only valid when used on the vessel specified at the time of license issuance.

(5) at the time of issuance, the applicant for the License to Land Flounder from the Atlantic Ocean shall specify the name of the vessel master for each License to Land Flounder from the Atlantic Ocean issued.

(6) the holder of the License to Land Flounder from the Atlantic Ocean shall notify the Morehead City Office of the Division of Marine Fisheries within five days of change as to the vessel master identified on the license.

(7) Licenses to Land Flounder from the Atlantic Ocean are issued for the current license year.

(g) For a Recreational Fishing Tournament License to Sell Fish, in addition to the requirements in Paragraphs (c) and (d) of this Rule, the following shall be applicable:

(1) it shall be unlawful for anyone other than the holder of the Recreational Fishing Tournament License to Sell Fish to sell fish taken during a recreational fishing tournament.

The fees for a Land or Sell License shall be based on the vessel's homeport as it appears on the USCG documentation papers or the state in which the vessel is registered, in accordance with G.S. 113-169.5.

- (5) Ocean Fishing Pier License:
 - (A) the information required in G.S. 113-169.4; and
 - (B) linear length of the pier. A Marine Fisheries inspector's signature is required to verify the linear length of the pier before the license can be issued.

- (2) fish to be sold under the Recreational Fishing Tournament License to Sell Fish shall be sold only to licensed fish dealers and shall comply with all applicable rules of the Marine Fisheries Commission or provisions of proclamations issued by the Fisheries Director as authorized by the Marine Fisheries Commission.
- (3) it shall be unlawful for a licensed recreational fishing tournament organizer to fail to accurately and legibly complete a North Carolina Recreational Fishing Tournament Disposition of Proceeds from the Sale of Fish Form provided by the Division of Marine Fisheries and submit the form to the Division within 30 days after the last day of the tournament.

(h) It shall be unlawful for a license, endorsement, or Commercial Fishing Vessel Registration holder to fail to notify the Division of Marine Fisheries within 30 days of a change of name or address, in accordance with G.S. 113-169.2.

(i) If requested by the Division, it shall be unlawful for a licensee to fail to participate in and provide accurate information for data collection in accordance with 15A NCAC 03I .0113 and for survey programs administered by the Division.

History Note: Authority G.S. 113-134; 113-168; 113-168.1-6; 113-169.2-5; 113-171.1; 113-174.3; 113-182; 143B-289.52; Eff. January 1, 1991; Amended Eff. July 1, 1997; March 1, 1994; Temporary Amendment Eff. July 1, 1999; Amended Eff. August 1, 2000; Temporary Amendment Eff. April 1, 2001; Amended Eff. May 1, 2015; July 1, 2008; December 1, 2006; August 1, 2004; August 1, 2002; Readopted Eff. March 15, 2023; Amended Eff. (Pending legislative review pursuant to S.L. 2019-198).

15A NCAC 03O .0109 ASSIGNMENT OF STANDARD COMMERCIAL FISHING LICENSE

- (a) For the purpose of this Rule, "licensee" shall mean the person issued a Standard Commercial Fishing License and "assignee" shall mean the individual to whom the licensee assigns a Standard Commercial Fishing License in accordance with the requirements of this Rule.
- (b) If requested by the Division of Marine Fisheries, it shall be unlawful for a licensee or assignee to fail to participate in and provide accurate information for data collection in accordance with 15A NCAC 03I .0113 and for survey programs administered by the Division.
- (c) The Division shall provide assignment forms to the licensee upon request.
- (d) The assignment form shall include the following information for the licensee:

- (1) participant identification number;
- (2) first, middle, and last name;
- (3) business name, if applicable;
- (4) Standard Commercial Fishing License number assigned;

- (5) assignment start date;
 - (6) assignment termination date;
 - (7) signature;
 - (8) date licensee signed the form; and
 - (9) notarization of licensee's signature.
- (e) The assignment form shall include the following information for the assignee:
- (1) participant identification number;
 - (2) first, middle, and last name, and suffix, if applicable;
 - (3) one of the following:
 - (A) driver's license number and expiration date;
 - (B) state identification number and expiration date;
 - (C) military identification number and expiration date;
 - (D) resident alien identification number and expiration date; or
 - (E) passport number and expiration date;
 - (4) date of birth;
 - (5) physical address of primary residence;
 - (6) physical address of secondary residence, if applicable;
 - (7) mailing address;
 - (8) e-mail address, if applicable;
 - (9) race;
 - (10) gender;
 - (11) height and weight;
 - (12) eye color and hair color;
 - (13) at least one of the following:
 - (A) home phone number;
 - (B) business phone number; or
 - (C) cellular phone number;
 - (14) fax number, if applicable;
 - (15) signature;
 - (16) date assignee signed the form; and
 - (17) notarization of assignee's signature.

(f) Only Division assignment forms shall be used to obtain an assignment. On the assignment form, the licensee shall designate what, if any, endorsements are included in the assignment. Endorsements shall not be assigned independent of the Standard Commercial Fishing License. It shall be unlawful for the licensee or the assignee to fail to submit within five days the completed assignment form to any office of the Division in person or by mail to the Morehead City Office. The Morehead City Office is located at 3441 Arendell Street, Morehead City, North Carolina, 28557. If the completed assignment form is not received by the Division within five days from the date it was signed, the assignment shall be null and void. Incomplete forms shall be returned to the licensee with deficiency in the form so noted. An assignment is in effect from the date specified on the assignment form and when:

- (1) the assignment form is complete with all required information;
- (2) signatures of the current license holder and the assignee are notarized; and
- (3) the assignee has in the assignee's possession the current licensee's original actual Standard Commercial Fishing License, including

applicable endorsements in accordance with G.S. 113-169.2.

(g) For an extension of time for assignments, a new assignment form shall be completed in accordance with Subparagraphs (f)(1) through (f)(3) of this Rule.

(h) Assignments shall terminate:

- (1) when the date specified on the assignment form is reached;
- (2) if the licensee or assignee are determined ineligible for a license or assignment;
- (3) if the Division receives a notarized statement from the current license holder stating a revised date for an earlier assignment termination;
- (4) upon the licensee or assignee's death; or
- (5) when the Standard Commercial Fishing License expires.

(i) It shall be unlawful for an individual assigned a Standard Commercial Fishing License when involved in a commercial fishing operation to fail to have the original actual Standard Commercial Fishing License, any assigned endorsements, and a copy of the assignment form in the individual's possession ready at hand for inspection in accordance with G.S. 113-168.1.

(j) All landings occurring during the time of the assignment shall be credited to the licensee, not the assignee.

(k) It shall be unlawful to be assigned more than a single Standard Commercial Fishing License at any one time. It shall be unlawful to assign a Standard Commercial Fishing License to more than one individual at any one time. Assignments shall only be made by the licensee and shall not be further assigned by assignees. Masters identified on the Standard Commercial Fishing Licenses of corporations consisting of an individual fishing vessel shall not assign such licenses.

(l) It shall be unlawful for a person to accept assignment of a Standard Commercial Fishing License for which they are ineligible.

(m) It shall be unlawful for any assignee of a Standard Commercial Fishing License not to return the assignment and the Standard Commercial Fishing License with any assigned endorsements to the licensee within five days of notice that the assignment has been terminated or a demand by the licensee to return the license.

History Note: Authority G.S. 113-134; 113-135; 113-168.1; 113-168.2; 113-168.5; 113-169.2; 113-182; 113-187; 143B-289.52;

Eff. January 1, 1991;

Temporary Amendment Eff. October 2, 1999; July 1, 1999;

Amended Eff. August 1, 2000;

Readopted Eff. March 15, 2023;

Amended Eff. (Pending legislative review pursuant to S.L. 2019-198).

15A NCAC 030 .0112 FOR-HIRE LICENSE REQUIREMENTS

(a) The license requirements for an operator of a vessel engaged in a for-hire operation are set forth in G.S. 113-174.3. Either the vessel owner or the for-hire vessel operator may seek to obtain the applicable for-hire vessel license. Only the vessel owner shall seek to obtain the applicable registration and endorsement

required by G.S. 113-168.6. For the purpose of this Rule, "for-hire vessel operator" shall include the holder of a Blanket For-Hire Captain's Coastal Recreational Fishing License, Blanket For-Hire Vessel Coastal Recreational Fishing License, or Non-Blanket For-Hire Vessel License, as set forth in G.S. 113-174.3.

(b) It shall be unlawful for a for-hire vessel operator to operate without:

- (1) holding the United States Coast Guard certification required in Rule .0101(a) of this Section;
- (2) having a copy of the for-hire license in possession and ready at hand for inspection; and
- (3) having current picture identification in possession and ready at hand for inspection.

(c) If requested by the Division of Marine Fisheries, it shall be unlawful for a for-hire vessel operator or responsible person to fail to participate in and provide accurate information for data collection in accordance with 15A NCAC 03I .0113 and for survey programs administered by the Division. For the purpose of this Rule, "responsible person" shall mean any licensee or person engaged in regulated activity under Chapter 113, Subchapter IV, of the General Statutes, including regulated activity related to for-hire fishing.

(d) Requirements for display of licenses and registrations for a vessel engaged in for-hire recreational fishing are set forth in Rule .0106 of this Section.

History Note: Authority G.S. 113-134; 113-168.6; 113-174.1; 113-174.3; 113-181; 143B-289.52;

Eff. July 1, 2008;

Readopted Eff. April 1, 2019;

Amended Eff. (Pending legislative review pursuant to S.L. 2019-198).

15A NCAC 030 .0301 ELIGIBILITY AND REQUIREMENTS FOR RECREATIONAL COMMERCIAL GEAR LICENSES

(a) Recreational Commercial Gear Licenses shall only be issued to individuals.

(b) If requested by the Division of Marine Fisheries, it shall be unlawful for a Recreational Commercial Gear License holder to fail to participate in and provide accurate information for data collection in accordance with 15A NCAC 03I .0113 and for survey programs administered by the Division.

History Note: Authority G.S. 113-134; 113-173; 113-182; 143B-289.52;

Temporary Adoption Eff. August 9, 1994, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Eff. February 1, 1995;

Temporary Amendment Eff. July 1, 1999;

Amended Eff. August 1, 2000;

Readopted Eff. March 15, 2023;

Amended Eff. (Pending legislative review pursuant to S.L. 2019-198).

15A NCAC 030 .0501 PROCEDURES AND REQUIREMENTS TO OBTAIN PERMITS

(a) To obtain a Division of Marine Fisheries permit, an applicant, responsible party, or person holding a power of attorney shall provide the following information:

- (1) the full name, physical address, mailing address, date of birth, and signature of the applicant on the application and, if the applicant is not appearing before a license agent or the designated Division of Marine Fisheries contact, the applicant's signature on the application shall be notarized;
- (2) a current picture identification of the applicant, responsible party, or person holding a power of attorney, acceptable forms of which shall include driver's license, North Carolina Identification card issued by the North Carolina Division of Motor Vehicles, military identification card, resident alien card (green card), or passport or, if applying by mail, a copy thereof;
- (3) for permits that require a list of designees, the full names and dates of birth of the designees of the applicant who will be acting pursuant to the requested permit;
- (4) certification that the applicant and his or her designees do not have four or more marine or estuarine resource convictions during the previous three years; and
- (5) for permit applications from business entities:
 - (A) the business name;
 - (B) the type of business entity: corporation, "educational institution" as defined in 15A NCAC 03I .0101, limited liability company (LLC), partnership, or sole proprietorship;
 - (C) the name, address, and phone number of responsible party and other identifying information required by this Subchapter or rules related to a specific permit;
 - (D) for a corporation applying for a permit in a corporate name, the current articles of incorporation and a current list of corporate officers;
 - (E) for a partnership that is established by a written partnership agreement, a current copy of such agreement shall be provided when applying for a permit; and
 - (F) for business entities other than corporations, copies of current assumed name statements if filed with the Register of Deeds office for the corresponding county and copies of current business privilege tax certificates, if applicable.

(b) A permittee shall hold a valid:

- (1) Standard or Retired Standard Commercial Fishing License in order to hold:
 - (A) an Atlantic Ocean Striped Bass Commercial Gear Permit;
 - (B) a Permit for Weekend Trawling for Live Shrimp; or
 - (C) a Pound Net Set Permit.

The master designated on the single vessel corporation Standard Commercial Fishing License is the individual required to hold the Permit for Weekend Trawling for Live Shrimp. Fish Dealer License in the proper category in order to hold dealer permits for monitoring fisheries under a quota or allocation for that category.

- (2) An individual who is assigned a valid Standard Commercial Fishing License with applicable endorsements shall be eligible to hold any permit that requires a Standard Commercial Fishing License except a Pound Net Set Permit.
- (d) If mechanical methods to take shellfish are used, a permittee and his designees shall hold a valid Standard or Retired Standard Commercial Fishing License with a Shellfish Endorsement in order for a permittee to hold a:
 - (1) Depuration Permit;
 - (2) Permit to Transplant Oysters from Seed Oyster Management Areas; or
 - (3) Permit to Use Mechanical Methods for Shellfish on Shellfish Leases or Franchises, except as provided in G.S. 113-169.2.

(e) If mechanical methods to take shellfish are not used, a permittee and his designees shall hold a valid Standard or Retired Standard Commercial Fishing License with a Shellfish Endorsement or a Shellfish License in order for a permittee to hold a:

- (1) Depuration Permit; or
- (2) Permit to Transplant Oysters from Seed Oyster Management Areas.

(f) Aquaculture Operation Permit and Aquaculture Collection Permit:

- (1) A permittee shall hold a valid Aquaculture Operation Permit issued by the Fisheries Director to hold an Aquaculture Collection Permit.
- (2) The permittee or designees shall hold appropriate licenses from the Division of Marine Fisheries for the species harvested and the gear used under the Aquaculture Collection Permit.

(g) Atlantic Ocean Striped Bass Commercial Gear Permit:

- (1) An applicant for an Atlantic Ocean Striped Bass Commercial Gear Permit shall declare one of the following types of gear for an initial permit and at intervals of three consecutive license years thereafter:
 - (A) a gill net;
 - (B) a trawl net; or
 - (C) a beach seine.

For the purpose of this Rule, a "beach seine" shall mean a swipe net constructed of multi-

filament or multi-fiber webbing fished from the ocean beach that is deployed from a vessel launched from the ocean beach where the fishing operation takes place. Gear declarations shall be binding on the permittee for three consecutive license years without regard to subsequent annual permit issuance.

- (2) A person is not eligible for more than one Atlantic Ocean Striped Bass Commercial Gear Permit regardless of the number of Standard Commercial Fishing Licenses, Retired Standard Commercial Fishing Licenses, or assignments held by that person.

(h) Applications submitted without complete and required information shall not be processed until all required information has been submitted. Incomplete applications shall be returned within two business days to the applicant with the deficiency in the application noted.

(i) A permit shall be issued only after the application is deemed complete and the applicant certifies his or her agreement to abide by the permit general and specific conditions established under 15A NCAC 03J .0501 and .0505, 03K .0103 and .0107, Rule .0211 of this Subchapter, and Rules .0502 and .0503 of this Section, as applicable to the requested permit.

(j) In determining whether to issue, modify, or renew a permit, the Fisheries Director or his or her agent shall evaluate the following factors:

- (1) potential threats to public health or marine and estuarine resources regulated by the Marine Fisheries Commission;
- (2) whether the permit application meets the requirements for the permit; and
- (3) whether the applicant has a history of eight or more violations of any provision of Subchapter 113 of the North Carolina General Statutes under the authority of the Marine Fisheries Commission or any rule adopted by the Marine Fisheries Commission pursuant to Subchapter 113 within 10 years.

(k) The Division of Marine Fisheries shall notify the applicant in writing of the denial or modification of any permit application and the reasons therefor. The applicant may submit further information or reasons why the permit application should not be denied or modified.

(l) Permits are valid from the date of issuance through the expiration date printed on the permit. Unless otherwise established by rule, the Fisheries Director may establish the issuance timeframe for specific types and categories of permits based on season, calendar year, or other period based upon the nature of the activity permitted, the duration of the activity, compliance with federal or State fishery management plans or implementing rules, conflicts with other fisheries or gear usage, or seasons for the species involved. The expiration date shall be specified on the permit.

(m) For permit renewals, the permittee's signature on the application shall certify all information is true and accurate. Notarized signatures on renewal applications shall not be required.

(n) It shall be unlawful for a permit holder to fail to notify the Division of Marine Fisheries within 30 days of a change of name or address, in accordance with G.S. 113-169.2.

(o) It shall be unlawful for a permit holder to fail to notify the Division of Marine Fisheries of a change of designee prior to use of the permit by that designee.

(p) Permit applications shall be available at all Division of Marine Fisheries offices.

History Note: Authority G.S. 113-134; 113-169.1; 113-169.2; 113-169.3; 113-182; 113-210; 143B-289.52; Temporary Adoption Eff. September 1, 2000; May 1, 2000; Eff. April 1, 2001; Temporary Amendment Eff. October 1, 2001; Amended Eff. May 1, 2017; May 1, 2015; April 1, 2011; April 1, 2009; July 1, 2008; December 1, 2007; September 1, 2005; April 1, 2003; August 1, 2002; Readopted Eff. April 1, 2019; Amended Eff. (Pending legislative review pursuant to S.L. 2019-198).

15A NCAC 03O .0503 PERMIT CONDITIONS; SPECIFIC

(a) Aquaculture Operation Permit and Aquaculture Collection Permit:

- (1) It shall be unlawful to conduct aquaculture operations using marine and estuarine resources without first securing an Aquaculture Operation Permit from the Fisheries Director.
- (2) It shall be unlawful:
 - (A) to take marine and estuarine resources from Coastal Fishing Waters for aquaculture purposes without first obtaining an Aquaculture Collection Permit from the Fisheries Director;
 - (B) to sell or use for any purpose not related to North Carolina aquaculture marine and estuarine resources taken pursuant to an Aquaculture Collection Permit; or
 - (C) to fail to submit to the Fisheries Director an annual report, due on December 1 of each year on the form provided by the Division of Marine Fisheries, stating the amount and disposition of marine and estuarine resources collected under authority of an Aquaculture Collection Permit.
- (3) Aquaculture Operation Permits and Aquaculture Collection Permits shall be issued or renewed on a calendar year basis.
- (4) It shall be unlawful to fail to provide the Division with a listing of all designees acting pursuant to an Aquaculture Collection Permit at the time of application.

(b) Atlantic Ocean Striped Bass Commercial Gear Permit:

- (1) It shall be unlawful to take striped bass from the Atlantic Ocean in a commercial fishing

operation without first obtaining an Atlantic Ocean Striped Bass Commercial Gear Permit.

- (2) It shall be unlawful to obtain more than one Atlantic Ocean Striped Bass Commercial Gear Permit during a license year, regardless of the number of Standard Commercial Fishing licenses, Retired Standard Commercial Fishing licenses, or assignments.

(c) Blue Crab Shedding Permit: It shall be unlawful to possess more than 50 blue crabs in a shedding operation without first obtaining a Blue Crab Shedding Permit from the Division of Marine Fisheries.

(d) Coastal Recreational Fishing License Exemption Permit:

- (1) It shall be unlawful for the responsible party seeking exemption from recreational fishing license requirements for eligible individuals to conduct an organized fishing event held in Joint or Coastal Fishing Waters without first obtaining a Coastal Recreational Fishing License Exemption Permit.
- (2) The Coastal Recreational Fishing License Exemption Permit shall only be issued for recreational fishing activity conducted solely for the participation and benefit of one of the following groups of eligible individuals:
 - (A) individuals with physical or mental impairment;
 - (B) members of the United States Armed Forces and their dependents, upon presentation of a valid military identification card;
 - (C) individuals receiving instruction on recreational fishing techniques and conservation practices from employees of state or federal marine or estuarine resource management agencies or instructors affiliated with educational institutions; and
 - (D) disadvantaged youths as set forth in 42 U.S. Code 12511.

For the purpose of this Paragraph, educational institutions include high schools and other secondary educational institutions.

- (3) The Coastal Recreational Fishing License Exemption Permit shall be valid for the date, time, and physical location of the organized fishing event for which the exemption is granted and the duration of the permit shall not exceed one year from the date of issuance.
- (4) The Coastal Recreational Fishing License Exemption Permit shall only be issued if all of the following, in addition to the information required in Rule .0501 of this Section, is submitted to the Fisheries Director, in writing, at least 30 days prior to the event:
 - (A) the name, date, time, and physical location of the event;
 - (B) documentation that substantiates local, state, or federal involvement in

the organized fishing event, if applicable;

- (C) the cost or requirements, if any, for an individual to participate in the event; and
- (D) an estimate of the number of participants.

(e) Dealer permits for monitoring fisheries under a quota or allocation:

- (1) During the commercial season opened by proclamation or rule for the fishery for which a dealer permit for monitoring fisheries under a quota or allocation shall be issued, it shall be unlawful for a fish dealer issued such permit to fail to:
 - (A) fax or send via electronic mail by noon daily, on forms provided by the Division of Marine Fisheries, the previous day's landings for the permitted fishery to the Division. The form shall include the dealer's name, dealer's license number, date the fish were landed, permittee's or designee's signature, date the permittee or designee signed the form, and species-specific information as listed in Parts (e)(2)(A), (e)(3)(A), (e)(4)(A), and (e)(5)(A) of this Rule. Landings for Fridays or Saturdays shall be submitted on the following Monday. If the dealer is unable to fax or electronically mail the required information, the permittee shall call in the previous day's landings to the Division;
 - (B) submit the required form set forth in Part (e)(1)(A) of this Rule to the Division upon request or no later than five days after the close of the season for the fishery permitted;
 - (C) maintain faxes and other related documentation in accordance with 15A NCAC 03I .0114;
 - (D) contact the Division daily, regardless of whether a transaction for the fishery for which a dealer is permitted occurred; and
 - (E) record the permanent dealer identification number on the bill of lading or receipt for each transaction or shipment from the permitted fishery.

(2) Atlantic Ocean Flounder Dealer Permit:

- (A) In addition to the information required in Part (e)(1)(A) of this Rule, the form to record the previous day's landings of Atlantic Ocean flounder shall include the permit number, number of

- vessels used for harvest, and the pounds harvested.
- (B) It shall be unlawful for a fish dealer to allow vessels holding a valid License to Land Flounder from the Atlantic Ocean to land more than 100 pounds of flounder from a single transaction at their licensed location during the open season without first obtaining an Atlantic Ocean Flounder Dealer Permit. The licensed location shall be specified on the Atlantic Ocean Flounder Dealer Permit and only one location per permit shall be allowed.
- (C) It shall be unlawful for a fish dealer to possess, buy, sell, or offer for sale more than 100 pounds of flounder from a single transaction from the Atlantic Ocean without first obtaining an Atlantic Ocean Flounder Dealer Permit.
- (3) **Black Sea Bass North of Cape Hatteras Dealer Permit:**
- (A) In addition to the information required in Part (e)(1)(A) of this Rule, the form to record the previous day's landings of black sea bass north of Cape Hatteras shall include the permit number, number of vessels used for harvest, and the pounds harvested.
- (B) It shall be unlawful for a fish dealer to purchase or possess more than 100 pounds of black sea bass taken from the Atlantic Ocean north of Cape Hatteras (35° 15.0321' N) per day per commercial fishing operation during the open season unless the dealer has a Black Sea Bass North of Cape Hatteras Dealer Permit.
- (4) **Spiny Dogfish Dealer Permit:**
- (A) In addition to the information required in Part (e)(1)(A) of this Rule, the form to record the previous day's landings of spiny dogfish shall include the permit number, number of vessels used for harvest, and the pounds harvested.
- (B) It shall be unlawful for a fish dealer to purchase or possess more than 100 pounds of spiny dogfish per day per commercial fishing operation unless the dealer has a Spiny Dogfish Dealer Permit.
- (5) **Striped Bass Dealer Permit:**
- (A) In addition to the information required in Part (e)(1)(A) of this Rule, the form to record the previous day's landings of striped bass shall include the permit number, number of tags used by area, pounds harvested by area, and for the Atlantic Ocean, type of gear used for harvest.
- (B) It shall be unlawful for a fish dealer to possess, buy, sell, or offer for sale striped bass taken from the following areas without first obtaining a Striped Bass Dealer Permit validated for the applicable harvest area:
- (i) the Atlantic Ocean;
 - (ii) the Albemarle Sound Management Area as designated in 15A NCAC 03R .0201; or
 - (iii) the Joint and Coastal Fishing Waters of the Central/Southern Management Area as designated in 15A NCAC 03R .0201.
- (C) No permittee shall possess, buy, sell, or offer for sale striped bass taken from the harvest areas opened by proclamation without having a valid Division of Marine Fisheries-issued tag for the applicable area affixed through the mouth and gill cover or, in the case of striped bass imported from other states, a similar tag that is issued for striped bass in the state of origin. Division striped bass tags shall not be bought, sold, offered for sale, or transferred. Tags shall be obtained at the Division offices. The Division shall specify the quantity of tags to be issued based on historical striped bass landings. It shall be unlawful for the permittee to fail to surrender unused tags to the Division upon request.
- (f) **Horseshoe Crab Biomedical Use Permit:**
- (1) It shall be unlawful to use horseshoe crabs for biomedical purposes without first obtaining a permit.
 - (2) It shall be unlawful for persons who have been issued a Horseshoe Crab Biomedical Use Permit to fail to submit an annual report on the use of horseshoe crabs to the Division of Marine Fisheries, due on February 1 of each year. Such reports shall be filed on forms provided by the Division and shall include a monthly account of the number of crabs harvested, a statement of percent mortality up to the point of release, the harvest method, the number or percent of males and females, and the disposition of bled crabs prior to release.
 - (3) It shall be unlawful for persons who have been issued a Horseshoe Crab Biomedical Use Permit to fail to comply with the Atlantic States Marine Fisheries Commission Interstate

Fishery Management Plan for Horseshoe Crab. The Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Horseshoe Crab is incorporated by reference including subsequent amendments and editions. Copies of this plan are available via the Internet from the Atlantic States Marine Fisheries Commission at <http://www.asmfc.org/fisheries-management/program-overview> and at the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557, at no cost.

(g) Permit for Weekend Trawling for Live Shrimp:

- (1) It shall be unlawful to take shrimp with trawls from 9:00 p.m. on Friday through 12 noon on Saturday without first obtaining a Permit for Weekend Trawling for Live Shrimp.
- (2) It shall be unlawful for a holder of a Permit for Weekend Trawling for Live Shrimp to use trawls from 12:01 p.m. on Saturday through 4:59 p.m. on Sunday.
- (3) It shall be unlawful for a permit holder during the timeframe specified in Subparagraph (g)(1) of this Rule to:
 - (A) use trawl nets to take live shrimp except from areas open to the harvest of shrimp with trawls;
 - (B) take shrimp with trawls that have a combined headrope length of greater than 40 feet in Internal Coastal Waters;
 - (C) possess more than one gallon of dead shrimp (heads on) per trip;
 - (D) fail to have a functioning live bait tank or a combination of multiple functioning live bait tanks, with aerators or circulating water, with a minimum combined tank capacity of 50 gallons; or
 - (E) fail to call the Division of Marine Fisheries Communications Center at 800-682-2632 or 252-515-5500 prior to each weekend use of the permit, specifying activities and location.

(h) Pound Net Set Permit: The holder of a Pound Net Set Permit shall follow the Pound Net Set Permit conditions as set forth in 15A NCAC 03J .0505.

(i) Scientific or Educational Activity Permit:

- (1) It shall be unlawful for institutions or agencies seeking exemptions from license, rule, proclamation, or statutory requirements to collect, hold, culture, or exhibit for scientific or educational purposes any marine or estuarine species without first obtaining a Scientific or Educational Activity Permit.
- (2) The Scientific or Educational Activity Permit shall only be issued for collection methods and

possession allowances approved by the Division of Marine Fisheries.

- (3) The Scientific or Educational Activity Permit shall only be issued for approved activities conducted by or under the direction of Scientific or Educational institutions as defined in 15A NCAC 03I .0101.
 - (4) It shall be unlawful for the responsible party issued a Scientific or Educational Activity Permit to fail to submit an annual report on collections and, if authorized, sales to the Division, due on December 1 of each year, unless otherwise specified on the permit. The reports shall be filed on forms provided by the Division. Scientific or Educational Activity permits shall be issued on a calendar year basis.
 - (5) It shall be unlawful to sell marine or estuarine species taken under a Scientific or Educational Activity Permit without:
 - (A) the required license for such sale;
 - (B) an authorization stated on the permit for such sale; and
 - (C) providing the information required by 15A NCAC 03I .0114 if the sale is to a licensed fish dealer.
 - (6) It shall be unlawful to fail to provide the Division with a list of all designees acting under a Scientific or Educational Activity Permit at the time of application.
 - (7) The permittee or designees utilizing the permit shall call the Division of Marine Fisheries Communications Center at 800-682-2632 or 252-515-5500 no later than 24 hours prior to use of the permit, specifying activities and location.
- (j) Under Dock Oyster Culture Permit:
- (1) It shall be unlawful to cultivate oysters in containers under docks for personal consumption without first obtaining an Under Dock Oyster Culture Permit.
 - (2) An Under Dock Oyster Culture Permit shall be issued only in accordance with provisions set forth in G.S. 113-210(c).
 - (3) The applicant shall complete and submit an examination, with a minimum of 70 percent correct answers, based on an educational package provided by the Division of Marine Fisheries pursuant to G.S. 113-210(j), demonstrating the applicant's knowledge of:
 - (A) the application process;
 - (B) permit criteria;
 - (C) basic oyster biology and culture techniques;
 - (D) shellfish harvest area closures due to pollution;
 - (E) safe handling practices;
 - (F) permit conditions; and
 - (G) permit revocation criteria.

- (4) Action by an Under Dock Oyster Culture Permit holder to encroach on or usurp the legal rights of the public to access public trust resources in Coastal Fishing Waters shall result in permit revocation.

History Note: Authority G.S. 113-134; 113-169.1; 113-169.2; 113-169.3; 113-182; 113-210; 143B-289.52; Temporary Adoption Eff. September 1, 2000; August 1, 2000; May 1, 2000; Eff. April 1, 2001; Amended Eff. May 1, 2017; May 1, 2015; April 1, 2014; April 1, 2009; July 1, 2008; January 1, 2008; September 1, 2005; October 1, 2004; August 1, 2004; August 1, 2002; Readopted Eff. April 1, 2019; Amended Eff. (Pending legislative review pursuant to S.L. 2019-198).

15A NCAC 03R .0117 OYSTER SANCTUARIES

The Oyster Sanctuaries referenced in 15A NCAC 03K .0209 are delineated in the following Coastal Fishing Waters:

- (1) Pamlico Sound area:
- (a) Croatan Sound: within the area described by a line beginning at a point 35° 48.2842' N - 75° 38.3360' W; running southerly to a point 35° 48.1918' N - 75° 38.3360' W; running westerly to a point 35° 48.1918' N - 75° 38.4575' W; running northerly to a point 35° 48.2842' N - 75° 38.4575' W; running easterly to the point of beginning.
 - (b) Crab Hole: within the area described by a line beginning at a point 35° 43.6833' N - 75° 40.5083' W; running southerly to a point 35° 43.5000' N - 75° 40.5083' W; running westerly to a point 35° 43.5000' N - 75° 40.7500' W; running northerly to a point 35° 43.6833' N - 75° 40.7500' W; running easterly to the point of beginning.
 - (c) Pea Island: within the area described by a line beginning at a point 35° 40.0800' N - 75° 36.7998' W; running southerly to a point 35° 39.8400' N - 75° 36.7998' W; running westerly to a point 35° 39.8400' N - 75° 37.0800' W; running northerly to a point 35° 40.0800' N - 75° 37.0800' W; running easterly to the point of beginning.
 - (d) Long Shoal: within the area described by a line beginning at a point 35° 33.8600' N - 75° 49.7670' W; running southerly to a point 35° 33.7510' N - 75° 49.7670' W; running westerly to a point 35° 33.7510' N - 75° 49.9000' W; running northerly to a point 35° 33.8600' N - 75° 49.9000' W; running easterly to the point of beginning.

- (e) Gibbs Shoal: within the area described by a line beginning at a point 35° 27.3550' N - 75° 55.9190' W; running southerly to a point 35° 27.1010' N - 75° 55.9190' W; running westerly to a point 35° 27.1010' N - 75° 56.2300' W; running northerly to a point 35° 27.3550' N - 75° 56.2300' W; running easterly to the point of beginning.
- (f) Gull Shoal: within the area described by a line beginning at a point 35° 23.4520' N - 75° 58.0533' W; running southerly to a point 35° 22.9481' N - 75° 58.0721' W; running westerly to a point 35° 22.9596' N - 75° 58.5359' W; running northerly to a point 35° 23.4638' N - 75° 58.5173' W; running easterly to the point of beginning.
- (g) Deep Bay: within the area described by a line beginning at a point 35° 22.9126' N - 76° 22.1612' W; running southerly to a point 35° 22.7717' N - 76° 22.1612' W; running westerly to a point 35° 22.7717' N - 76° 22.3377' W; running northerly to a point 35° 22.9126' N - 76° 22.3377' W; running easterly to the point of beginning.
- (h) West Bluff: within the area described by a line beginning at a point 35° 18.3160' N - 76° 10.0690' W; running southerly to a point 35° 18.1290' N - 76° 10.0690' W; running westerly to a point 35° 18.1290' N - 76° 10.2960' W; running northerly to a point 35° 18.3160' N - 76° 10.2960' W; running easterly to the point of beginning.
- (i) Middle Bay: within the area described by a line beginning at a point 35° 14.1580' N - 76° 30.1780' W; running southerly to a point 35° 14.1150' N - 76° 30.1780' W; running northerly to a point 35° 14.1580' N - 76° 30.3320' W; running easterly to the point of beginning.
- (j) Swan Island: within the area described by a line beginning at a point 35° 05.6414' N - 76° 26.7651' W; running southerly to a point 35° 05.4846' N - 76° 26.7638' W; running westerly to a point 35° 05.4992' N - 76° 27.5033' W; running northerly to a point 35° 05.6554' N - 76° 27.5041' W; running easterly to the point of beginning.
- (k) Raccoon Island: within the area described by a line beginning at a point 35° 05.4760' N - 76° 23.4040' W; running southerly to a point 35° 05.3680' N - 76° 23.4040' W; running

westerly to a point 35° 05.3680' N - 76° 23.5370' W; running northerly to a point 35° 05.4760' N - 76° 23.5370' W; running easterly to the point of beginning.

(l) Cedar Island: within the area described by a line beginning at a point 35° 03.4632' N - 76° 22.5603' W; running southerly to a point 35° 03.1653' N - 76° 22.5699' W; running westerly to a point 35° 03.1731' N - 76° 22.9321' W; running northerly to a point 35° 03.4710' N - 76° 22.9226' W; running easterly to the point of beginning.

(m) West Bay: within the area described by a line beginning at a point 34° 58.8517' N - 76° 21.3632' W; running southerly to a point 34° 58.7661' N - 76° 21.3632' W; running westerly to a point 34° 58.7661' N - 76° 21.4735' W; running northerly to a point 34° 58.8517' N - 76° 21.4735' W; running easterly to the point of beginning.

(2) Neuse River area:

(a) Little Creek: within the area described by a line beginning at a point 35° 02.6940' N - 76° 30.7940' W; running southerly to a point 35° 02.5380' N - 76° 30.7940' W; running westerly to a point 35° 02.5380' N - 76° 30.9840' W; running northerly to a point 35° 02.6940' N - 76° 30.9840' W; running easterly to the point of beginning.

(b) Neuse River: within the area described by a line beginning at a point 35° 00.4910' N - 76° 31.9350' W; running southerly to a point 35° 00.3750' N - 76° 31.9350' W; running westerly to a point 35° 00.3750' N - 76° 32.0750' W; running northerly to a point 35° 00.4910' N - 76° 32.0750' W; running easterly to the point of beginning.

- (2) repacking plants;
- (3) shellstock plants; and
- (4) shucking and packing plants.

(b) It shall be unlawful to operate as a shellfish dealer without first obtaining a Shellfish Dealer Permit and Certificate of Compliance from the Division.

(c) It shall be unlawful to operate as a reshipper without first obtaining a Shellfish Dealer Permit and Certificate of Compliance from the Division if shellfish are purchased and shipped out of state.

(d) Approval for wet storage of shellstock shall be granted only to persons permitted pursuant to this Rule.

(e) Application for a permit shall be submitted in writing to the Division. Application forms may be obtained from the Division, P.O. Box 769, 3441 Arendell Street, Morehead City, NC 28557. The application shall include the following information:

- (1) permittee's full name;
- (2) permittee's date of birth;
- (3) facility or business name;
- (4) physical address of facility;
- (5) permittee's mailing address;
- (6) season of facility operation;
- (7) permittee's signature; and
- (8) date permittee signed the form.

(f) No permit shall be issued by the Division until an inspection by the Division shows that the facility and equipment comply with all applicable Rules in Sections .0300 through .0800 of this Subchapter. The owner or responsible individual shall sign the completed inspection sheet to acknowledge receipt of the inspection sheet.

(g) All permits shall be posted in a conspicuous place in the facility.

(h) All permits shall expire on April 30 of each year and are non-transferrable.

(i) Plans and specifications for proposed new construction, expansion of operations, or changes in operating processes shall be submitted to the Division for review and approval prior to beginning construction or making a change.

(j) A permit may be revoked or suspended in accordance with 15A NCAC 03O .0504.

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

Eff. February 1, 1987;

Amended Eff. April 1, 1997;

Readopted Eff. March 15, 2023;

Amended Eff. (Pending legislative review pursuant to S.L. 2019-198).

15A NCAC 18A .0901 DEFINITIONS

The following definitions shall apply to this Section.

- (1) "Approved" means shellfish growing waters determined suitable by the Division for the harvesting of shellfish for direct market purposes.
- (2) "Closed-system marina" means a marina constructed in canals, basins, tributaries, or any other area with restricted tidal flow.

History Note: Authority G.S. 113-134; 113-182; 113-201; 113-204; 143B-289.52;

Eff. October 1, 2008;

Amended Eff. April 1, 2011;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;

Amended Eff. August 1, 2024; May 1, 2021.

15A NCAC 18A .0302 PERMITS

(a) It shall be unlawful to operate any of the following facilities without first obtaining a Shellfish Dealer Permit and Certificate of Compliance from the Division of Marine Fisheries:

- (1) depuration facilities;

- | | |
|---|--|
| <p>(3) "Colony forming unit" means an estimate of the number of viable bacteria cells in a sample as determined by a plate count.</p> <p>(4) "Commercial marina" means a marina that offers one or more of the following services: fuel, transient dockage, haul-out facilities, or repair services.</p> <p>(5) "Conditionally approved" means shellfish growing waters that meet the criteria in 15A NCAC 18A .0905 that may be used for harvesting shellfish for direct market purposes when management plan criteria are met.</p> <p>(6) "Division" means the Division of Marine Fisheries or its authorized agent.</p> <p>(7) "Estimated 90th percentile" means a statistic that measures the variability in a sample set that shall be calculated by:</p> <p style="margin-left: 20px;">(a) calculating the arithmetic mean and standard deviation of the sample result logarithms (base 10);</p> <p style="margin-left: 20px;">(b) multiplying the standard deviation in Sub-Item (a) of this Item by 1.28;</p> <p style="margin-left: 20px;">(c) adding the product from Sub-Item (b) of this Item to the arithmetic mean; and</p> <p style="margin-left: 20px;">(d) taking the antilog (base 10) of the results from Sub-Item (c) of this Item to determine the estimated 90th percentile.</p> <p>(8) "Fecal coliform" means bacteria of the coliform group that will produce gas from lactose in a multiple tube procedure liquid medium (EC or A-1) within 24 plus or minus two hours at 44.5° C plus or minus 0.2° C in a water bath.</p> <p>(9) "Geometric mean" means the antilog (base 10) of the arithmetic mean of the sample result logarithm.</p> <p>(10) "Marina" means any water area with a structure, such as a dock, basin, or floating dock, that is utilized for docking or otherwise mooring vessels and constructed to provide temporary or permanent docking space for more than 10 boats.</p> <p>(11) "Marine biotoxins" means any poisonous compound produced by marine microorganisms and accumulated by shellstock.</p> <p>(12) "Median" means the middle number in a given sequence of numbers, taken as the average of the two middle numbers when the sequence has an even number of numbers.</p> <p>(13) "Most probable number (MPN)" means a statistical estimate of the number of bacteria per unit volume and is determined from the number of positive results in a series of fermentation tubes.</p> <p>(14) "National Shellfish Sanitation Program (NSSP)" means the federal and state cooperative program recognized by the U.S.</p> | <p>Food and Drug Administration (FDA) and the Interstate Shellfish Sanitation Conference (ISSC) for the sanitary control of shellfish produced and sold for human consumption.</p> <p>(15) "Open-system marina" means a marina constructed in an area where tidal currents have not been impeded by natural or man-made barriers.</p> <p>(16) "Private marina" means any marina that is not a commercial marina as defined in this Rule.</p> <p>(17) "Prohibited" means shellfish growing waters unsuitable for the harvesting of shellfish for direct market purposes.</p> <p>(18) "Public health emergency" means any condition that may immediately cause shellfish waters to be unsafe for the harvest of shellfish for human consumption.</p> <p>(19) "Restricted" means shellfish growing waters from which shellfish may be harvested only by permit and are subjected to a treatment process through depuration that renders the shellfish safe for human consumption.</p> <p>(20) "Sanitary survey" means the written evaluation of factors that affect the sanitary quality of a shellfish growing area including sources of pollution, the effects of wind, tides, and currents in the distribution and dilution of polluting materials, and the bacteriological quality of water.</p> <p>(21) "Shellfish" means the term as defined in G.S. 113-129, except the term shall not include scallops when the final product is the shucked adductor muscle only.</p> <p>(22) "Shellfish growing area" means a management unit that defines the boundaries of a sanitary survey and that is used to track the location where shellfish are harvested.</p> <p>(23) "Shellfish growing waters" means marine or estuarine waters that support or could support shellfish life.</p> <p>(24) "Shellstock" means live molluscan shellfish in the shell.</p> <p>(25) "Shoreline survey" means an in-field inspection by the Division to identify and evaluate any potential or actual pollution sources or other environmental factors that may impact the sanitary quality of a shellfish growing area.</p> <p>(26) "Systematic random sampling strategy" means a sampling strategy designed to assess the bacteriological water quality of shellfish growing waters impacted by non-point sources of pollution and scheduled sufficiently far in advance to support random collection with respect to environmental conditions.</p> |
|---|--|

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52; Eff. June 1, 1989;

Amended Eff. August 1, 1998; February 1, 1997; September 1, 1990;
Readopted Eff. May 1, 2021;
Amended Eff. (Pending legislative review of 15A NCAC 03K .0104).

15A NCAC 18A .0906 RESTRICTED AREAS

- (a) Shellfish growing waters may be classified as restricted if:
- (1) a sanitary survey indicates there are no sources of pollution that would cause fecal pollution, human pathogens, or poisonous or deleterious substances in shellstock to exceed levels that can be made safe for human consumption by either relaying or depuration; and
 - (2) levels of fecal pollution, human pathogens, or poisonous or deleterious substances are at such levels that shellstock can be made safe for human consumption by either relaying or depuration.
- (b) Depuration of shellfish shall be conducted in accordance with all applicable rules, including 15A NCAC 03K and 15A NCAC 18A .0300 and .0700.
- (c) For shellfish growing waters classified as restricted and used as a source of shellstock for depuration, the microbiological survey, as set forth in Rule .0903(c)(3) of this Section, shall indicate the bacteriological water quality does not exceed the following standards based on results generated using the systematic random sampling strategy:
- (1) a median fecal coliform most probable number (MPN) or geometric mean MPN of 88 per 100 milliliters;
 - (2) a median fecal coliform colony-forming units (CFU) or geometric mean CFU of 88 per 100 milliliters;
 - (3) an estimated 90th percentile of 260 MPN per 100 milliliters for a five-tube decimal dilution test; or
 - (4) an estimated 90th percentile of 163 CFU per 100 milliliters for a membrane filter membrane-Thermotolerant Escherichia coli (mTEC) test.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. June 1, 1989;
Readopted Eff. May 1, 2021;
Amended Eff. (Pending legislative review of 15A NCAC 03K .0104).

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 16 – BOARD OF DENTAL EXAMINERS

21 NCAC 16A .0101 DEFINITIONS

As used in this Chapter:

- (1) "Applicant" means a person applying for any license or permit issued by the Board.

- (2) "Board" means the North Carolina State Board of Dental Examiners.
- (3) "Current license" means a license that is renewed by the licensing board.
- (4) "CPR certification" means the licensee has completed a CPR course that meets American Red Cross or American Heart Association standards for certification and that provides manikin testing of cardiopulmonary resuscitation. The course shall also cover the use of an automatic external defibrillator, unconscious and conscious choking, and rescue breathing. The manikin testing shall be provided by an instructor who is present in the training room with the students.
- (5) "Internship" means practice in an educational training program. Internship does not mean practice under an intern permit while holding an unrestricted general dental or dental specialty license issued by a state, U.S. territory, or the District of Columbia.
- (6) "Secure electronic transmission" means an electronic method of communication that ensures that completeness, integrity, and confidentiality of information are maintained during transmission.
- (7) "Unrestricted license" means a license that is not under suspension or inactivation, or subject to the terms of a consent order or other disciplinary action imposed by the jurisdiction that issued the license, or limited by supervision or location requirements.
- (8) Except where otherwise defined by these Rules or by statute, "supervision," "direct supervision," and "supervision and direction" means that the dentist overseeing treatment is present in the same facility or location and available during the performance of the acts that are being performed pursuant to that dentist's order, control, and approval and that the dentist shall examine and evaluate the results of such acts.
- (9) Except where otherwise defined by these Rules or by statute, "direction" or "under direction" means that the dentist ordering treatment does not have to be present in the same facility or location during the performance of the acts that are being performed pursuant to that dentist's order, control, and approval, but that dentist shall be responsible for all consequences or results arising from such acts.

History Note: Authority G.S. 90-28; 90-29(a); 90-29.3; 90-29.4; 90-29.5; 90-30; 90-48; 90-224; 90-224.1; 90-226;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1991; May 1, 1989; September 1, 1988;
October 1, 1986;
Temporary Amendment Eff. January 1, 2003;

*Amended Eff. May 1, 2011; January 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. January 9, 2018;
Amended Eff. August 1, 2024; October 1, 2019.*

**21 NCAC 16A .0107 BOARD CONTACT
INFORMATION; SUBMISSION OF INFORMATION AND
DOCUMENTS TO THE BOARD**

- (a) To contact or obtain information about the Board:
- (1) Mailing address: 2000 Perimeter Park Drive, Suite 160, Morrisville, North Carolina 27560.
 - (2) Website: www.ncdentalboard.org.
 - (3) Telephone number: (919) 678-8223.
 - (4) Fax number: (919) 678-8472.
 - (5) Email address: info@ncdentalboard.org.
- (b) Unless otherwise stated, all forms required by the rules of this Chapter are available on the Board's website.
- (c) For any rule in this Chapter requiring an applicant or licensee to request a testing agency, educational program, or other entity to send information or documents directly to the Board office, the Board accepts information and documents sent by the entity via secure electronic transmission, as well as documents sent in a sealed envelope directly from the entity to the Board office.

*History Note: Authority G.S. 90-28; 90-48;
Eff. August 1, 2024.*

**21 NCAC 16B .0303 BOARD APPROVED
EXAMINATIONS**

- (a) All applicants for dental licensure shall achieve a passing score of at least 80 percent on the Board's sterilization and jurisprudence examinations. Applicants may take a reexamination in accordance with Rule .0317 of this Section.
- (b) All applicants for dental licensure shall achieve passing scores, as set by the testing agency, on the examination administered by the Joint Commission on National Dental Examinations and clinical examinations developed and administered by Board approved testing agencies. The Board shall determine which testing agencies are approved based on the requirements set forth in Paragraphs (c) and (d) of this Rule.
- (c) To qualify as an approved testing agency, the test-development or test-administration agency shall allow a representative of the Board to serve on the agency's Board of Directors and the Examination Review Committee for the limited purpose of allowing Board input in the development and administration of the examination. When Board members offer to participate as examiners for examinations administered in North Carolina, the test-administration agency shall assign at least one of those Board members to each examination administered in North Carolina.
- (d) To qualify as an approved testing agency, the clinical examination developed or administered by the testing agency shall:
- (1) include procedures performed on human subjects or an alternative method that simulates human subjects, including manikins, as part of the assessment of restorative clinical competencies;

- (2) include evaluations in clinical periodontics and at least three of the following subject matter areas:
 - (A) endodontics, clinical abilities testing;
 - (B) amalgam preparation and restoration;
 - (C) anterior composite preparation and restoration;
 - (D) posterior ceramic or composite preparation and restoration;
 - (E) prosthetics, written or clinical abilities testing;
 - (F) oral diagnosis, written or clinical abilities testing; or
 - (G) oral surgery, written or clinical abilities testing; and
 - (3) provide the following:
 - (A) anonymity between applicants and examination graders;
 - (B) standardization and calibration of graders;
 - (C) a mechanism for post exam analysis;
 - (D) conjunctive scoring, which is scoring that requires applicants to earn a passing grade on all sections or areas tested and that does not allow weighted, averaged, or overall scoring to compensate for failures in individual subject areas;
 - (E) a minimum passing score set by the testing agency for each subject area tested;
 - (F) an annual review of the examination conducted by the testing agency;
 - (G) a task analysis performed by the testing agency at least once every seven years that surveys dentists nationwide to determine the content of the examination;
 - (H) a system of quality assurance to ensure uniform, consistent administration of the examination at each testing site; and
 - (I) a system of quality assurance that does not permit a dental instructor to grade candidates at any institution at which the instructor is employed.
- (e) The Board shall accept examination scores for five years following the date of the examinations. Each applicant shall request the applicable entity to send the applicant's scores to the Board office. Individuals who apply for licensure more than five years after the examination date shall re-take the examination.
- (f) The applicant shall comply with all requirements of the testing agency in applying for and taking the examination.

*History Note: Authority G.S. 90-30; 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. September 1, 2014; June 1, 2009; March 1, 2006;
August 1, 1998; March 1, 1988;*

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; Amended Eff. August 1, 2024; December 1, 2022; October 1, 2019.

21 NCAC 16C .0303 BOARD APPROVED EXAMINATIONS

(a) All applicants for dental hygiene licensure shall achieve a passing score of at least 80 percent on the Board's sterilization and jurisprudence examinations. Reexamination shall be governed by Rule .0311 of this Section.

(b) All applicants for dental hygiene licensure shall achieve passing scores, as set by the testing agency, on the examination administered by the Joint Commission on National Dental Examinations and clinical examinations developed and administered by Board approved testing agencies. The Board shall determine which testing agencies are approved based on the requirements set forth in Paragraphs (c) and (d) of this Rule.

(c) To qualify as an approved testing agency, the test-development or test-administration agency shall allow a representative of the Board to serve on the agency's Board of Directors and Examination Review Committee for the limited purpose of allowing Board input in the development and administration of the examination. When Board members offer to participate as examiners for examinations administered in North Carolina, the test-administration agency shall assign at least one of those Board members to each examination administered in North Carolina.

(d) To qualify as an approved testing agency, the clinical examination developed or administered by the testing agency shall:

- (1) include procedures performed on human subjects or an alternative method that simulates human subjects, including manikins, as part of the assessment of clinical competency;
- (2) include probing, supra- and subgingival scaling, and soft tissue management; and
- (3) provide the following:
 - (A) anonymity between applicants and examination graders;
 - (B) standardization and calibration of graders;
 - (C) a mechanism for post exam analysis;
 - (D) conjunctive scoring, which is scoring that requires applicants to earn a passing grade on all sections or areas tested and that does not allow weighted, averaged, or overall scoring to compensate for failures in individual subject areas;
 - (E) a minimum passing score set by the testing agency for each subject area tested;
 - (F) an annual review of the examination conducted by the testing agency;
 - (G) a task analysis performed by the testing agency at least once every seven years that surveys dentists

nationwide to determine the content of the examination;

- (H) a system of quality assurance to ensure uniform, consistent administration of the examination at each testing site; and
- (I) a system of quality assurance that does not permit a dental hygiene instructor to grade candidates at any institution at which the instructor is employed.

(e) The Board shall accept examination scores for five years following the date of the examination. Individuals who apply for licensure more than five years after the examination date shall re-take the examination. Each applicant shall request the applicable entity to send the applicant's scores to the Board office.

(f) The applicant shall comply with all requirements of the testing agency in applying for and taking the examination.

History Note: Authority G.S. 90-223; 90-224; Eff. September 3, 1976; Readopted Eff. September 26, 1977; Amended Eff. September 1, 2014; June 1, 2009; June 1, 2006; May 1, 1989; March 1, 1988; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; Amended Eff. August 1, 2024; December 1, 2022; September 1, 2020.

21 NCAC 16H .0104 APPROVED EDUCATION AND TRAINING PROGRAMS

(a) To be classified as a Dental Assistant II, an assistant shall have and maintain an unexpired CPR certification and shall complete:

- (1) a dental assisting program accredited by the Commission on Dental Accreditation ("CODA"), a list of which is available at no cost at coda.ada.org/find-a-program/search-dental-programs and is incorporated by reference, including subsequent amendments and editions;
- (2) one complete school year or longer in a CODA-accredited dental hygiene program;
- (3) a dental assisting program offered through a branch of the U.S. armed forces at the Medical Education & Training Campus that includes a clinical rotation providing dental assisting for live patients;
- (4) the Certified Dental Assistant certification examinations administered by the Dental Assisting National Board ("DANB") with a passing score as set by DANB; or
- (5) the following:
 - (A) employment as a Dental Assistant I for two years of the preceding five, consisting of at least 3,000 hours total; and
 - (B) a 3-hour course in sterilization and infection control, and a 3-hour course in dental office emergencies. The courses shall be offered by Board-

approved course sponsors as set out in 21 NCAC 16I .0202.

(b) A Dental Assistant I who has completed the requirements of Part (a)(5)(B) of this Rule but not completed the employment hours required pursuant to Part (a)(5)(A) may be trained by a licensed dentist and allowed to perform the functions of a Dental Assistant II, as specified in Rule .0203 of this Subchapter, under the direct control and supervision of a licensed dentist.

(c) For purposes of this Rule, an unexpired CPR certification is one that is in effect and valid at the time of classification as a Dental Assistant II and remains so at all times while employed as a Dental Assistant II or while performing any of the permitted functions under Rule .0203 of this Subchapter.

(d) A dental assistant shall not take radiographs before completing radiology training consistent with G.S. 90-29(c)(12).

History Note: Authority G.S. 90-29(c)(9); 90-48; Eff. September 3, 1976;

Readopted Eff. September 26, 1977;

Amended Eff. August 1, 2016; April 1, 2015; August 1, 2000; November 1, 1996; January 1, 1994; September 1, 1998; May 1, 1989; October 1, 1986.

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;

Amended Eff. August 1, 2024; September 1, 2020.

21 NCAC 16N .0202 NOTICE OF MAILING LIST

The Board maintains a mailing list of persons that have requested notice of rulemaking, and sends notices of rulemaking to persons on the mailing list by electronic mail. Any person or agency desiring to be placed on the mailing list for the Board's rulemaking notices may submit a written request by email, fax, or first-class mail to the Board's office. The request shall provide the email address to which notices will be sent. If circumstances require that rulemaking notices be sent by first-class mail, the Board may require reasonable postage and stationery costs to be paid by those requesting the notices.

History Note: Authority G.S. 90-48; 150B-21.2(d); Eff. August 25, 1977;

Amended Eff. May 1, 1989; March 1, 1985;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;

Amended Eff. August 1, 2024.

21 NCAC 16N .0501 RIGHT TO HEARING

(a) When the Board acts or proposes to act in a manner that will affect the rights, duties, or privileges of a licensee or applicant, the licensee or applicant has a right to an administrative hearing.

(b) Except in contested cases for which the Board serves a notice of hearing in accordance with G.S. 150B-3 and 150B-38, the Board shall give the affected person notice of the right to a hearing by mail to the affected person's last known address. If the affected person desires a hearing, they shall request a hearing within 30 days of the date of the Board's notice of right to a hearing. The request shall be in writing, and shall contain a clear and specific statement of request for a hearing. The request shall be sent to the Board's office by email, fax, or delivery to the Board's mailing address, as set out in 21 NCAC 16A .0107. Upon receipt of the

affected person's request for a hearing, the Board shall issue a notice of hearing in accordance with G.S. 150B-38 and Rule .0504 of this Section.

(c) The right to an administrative hearing does not apply to rulemaking or declaratory ruling proceedings, to applicants for reinstatement after revocation, or to applicants for license by comity or credentials pursuant to G.S. 90-36.

History Note: Authority G.S. 90-41.1; 150B-3; 150B-38; Eff. August 25, 1977;

Amended Eff. May 1, 1989; November 20, 1980;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;

Amended Eff. August 1, 2024; October 1, 2019.

21 NCAC 16N .0502 REQUEST FOR HEARING

(a) A licensee or applicant who believes their rights, duties, or privileges have been affected by the Board's administrative action, and who has not received a notice of a hearing or notice of a right to an administrative hearing, may submit to the Board a request for a hearing within 30 days of the date of the action taken by the Board which is challenged.

(b) The licensee or applicant shall submit the request to the Board's office by email, fax, or delivery to the Board's mailing address, as set out in 21 NCAC 16A .0107. The request shall contain:

- (1) the name and address of the petitioner;
- (2) a concise statement of the action taken by the Board which is challenged;
- (3) a concise statement of the way in which petitioner has been aggrieved; and
- (4) a clear and specific statement of request for a hearing.

History Note: Authority G.S. 150B-38;

Eff. August 25, 1977;

Amended Eff. April 1, 2015; May 1, 1989; March 1, 1985; November 20, 1980;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;

Amended Eff. August 1, 2024.

21 NCAC 16N .0503 GRANTING OR DENYING HEARING REQUEST

(a) Upon receipt of a request for a hearing submitted in accordance with Rule .0502 of this Section, the Board will decide whether to grant the request. Whenever the Board finds good cause exists to deny a request for a hearing, the Board may deny the request. For purposes of this Rule, good cause for denial of a hearing request exists when:

- (1) the petitioner has not demonstrated a right to an administrative hearing pursuant to Rule .0501 of this Section;
- (2) the request does not satisfy all the requirements set out in Rule .0502 of this Section; or
- (3) the Board determines that the request should be denied for some other reason consistent with the Board's prior decisions, the Board's rules,

and applicable laws including those found in Chapter 90 of the General Statutes.

(b) The denial of a request for a hearing will be issued in writing upon decision, no later than 60 days after the submission of the request. The denial shall state the reasons leading the Board to deny the request.

(c) Approval of a request for a hearing will be signified by the Board issuing a notice of hearing in accordance with G.S. 150B-38 and Rule .0504 of this Section.

History Note: Authority G.S. 90-28; 90-48; 150B-38; Eff. August 25, 1977; Amended Eff. May 1, 1989; April 1, 1988; October 1, 1986; November 20, 1980; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; Amended Eff. August 1, 2024.

21 NCAC 16N .0504 NOTICE OF HEARING

(a) The Board shall give the party or parties in a contested case a notice of hearing by one of the following methods:

- (1) a signed acceptance of service from the party;
(2) delivery to the party's attorney of record who accepts service on behalf of the party; or
(3) any method of service permitted pursuant to G.S. 150B-38(c).

(b) If the Board determines that the public health, safety, or welfare requires emergency action, it may issue an order summarily suspending a license pursuant to G.S. 150B-3. The licensee to whom the order is directed shall cease practicing in North Carolina effective on the date of service of the order. The Board shall give notice of hearing pursuant to G.S. 150B-3 and 150B-38 following service of the order. The suspension shall remain in effect pending issuance by the Board of a final agency decision pursuant to G.S. 150B-42.

History Note: Authority G.S. 90-41.1; 150B-3; 150B-38; Eff. August 25, 1977; Amended Eff. April 1, 2015; May 1, 1989; April 1, 1988; October 1, 1986; November 20, 1980; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; Amended Eff. August 1, 2024.

21 NCAC 16U .0104 COOPERATION WITH BOARD INQUIRY

(a) A licensee shall cooperate with the Board in connection with any inquiry it shall make. Cooperation includes:

- (1) acknowledging and responding in a timely manner to all inquiries from the Board or its representatives;
(2) claiming Board correspondence in a timely manner from the U. S. Postal Service or other delivery service, including correspondence by email;
(3) being available in a timely manner for investigative interviews with Board representatives; and

(4) providing accurate and complete information in response to all Board inquiries.

(b) For purposes of this Rule, an "inquiry" means any request from the Board or its representatives for information or documentation, including investigative subpoenas and interview requests. "Timely" means within the time specified by the Board for response to an inquiry or, if no time is specified, within five business days of receipt.

(c) A licensee shall notify the Board in writing within 10 business days of any change in the licensee's addresses or telephone numbers, and shall provide the Board with an email address through which the Board may communicate inquiries to the licensee.

History Note: Authority G.S. 90-27; 90-28; 90-41; 90-48; Eff. August 1, 2024.

CHAPTER 46 – BOARD OF PHARMACY

21 NCAC 46 .2201 HOURS: RECORDS: PROVIDERS: CORRESPONDENCE: RECIPROCITY

(a) As a condition of license renewal, a pharmacist shall accumulate 15 hours of continuing education annually.

(b) Five of these continuing education hours shall be obtained through contact programs. Contact programs are those in which there is an opportunity for live two-way communication between the presenter and attendee. An online continuing education course may satisfy this contact-hour requirement provided that the continuing education course includes live two-way communication between the presenter and attendee.

(c) A pharmacist who accumulates more than the required 15 hours of continuing education in a single year may carry forward up to five surplus hours to be applied to the following year's continuing education requirements.

(d) A pharmacist shall preserve all continuing education records for three years. If a continuing education provider approved in Paragraph (f) of this Rule maintains an electronic database of all pharmacists granted continuing education credits accredited by the provider, then the storage of that information in the provider's database shall be deemed to satisfy the pharmacist's recordkeeping requirement.

(e) Upon license renewal, the pharmacist shall report continuing education hours through the Board's online license renewal portal. The Board shall require a pharmacist to submit records, reports of accredited hours and certificates of credit as part of any continuing education audit.

(f) All continuing education shall be obtained through continuing education courses accredited by the Accreditation Council for Pharmacy Education or the North Carolina Association of Pharmacists. Pharmacists may also acquire five hours continuing education credit for precepting, for at least 160 hours, a student enrolled in the University of North Carolina Eshelman School of Pharmacy, the Campbell University College of Pharmacy and Health Sciences, the Wingate University School of Pharmacy, or the High Point University Fred Wilson School of Pharmacy as part of these schools' academic program.

(g) A pharmacist shall be exempt from the requirements of this Rule if:

- (1) The pharmacist is eligible for a waiver of continuing education requirements under 21 NCAC 46 .1613; or
- (2) For the entire year preceding license renewal, the pharmacist resided in another state, did not practice pharmacy in North Carolina, and satisfied the state of residence's continuing education requirements for pharmacist licensure. For the purposes of this Rule, a pharmacist's residence is determined by where the individual is a resident for state income tax purposes under G.S. 105-153.3(15).

(h) Continuing education shall not serve as a barrier to reciprocity; however, all licensees by reciprocity shall observe the continuing education standards specified in Paragraphs (a), (b), (c), (d), (e), (f), and (g) of this Rule within the first renewal period after licensure in this state.

History Note: Authority G.S. 90-85.6; 90-85.17; 90-85.18; Eff. January 1, 1985; Amended Eff. January 1, 2008; April 1, 2005; August 1, 2004; August 1, 1998; September 1, 1993; May 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017; Amended Eff. August 1, 2024; January 1, 2018.

21 NCAC 46 .2516 EMERGENCY CLOSURE

(a) The pharmacist-manager of a pharmacy has the responsibility and authority to cease some or all of the pharmacy operations when doing so is necessary to fill the pharmacist-manager's responsibility (a) for the safe, lawful and secure receipt of prescription orders and delivery of prescription drugs under Rule .1804(a) of this Chapter, or (b) to ensure that adequate qualified personnel are in place to properly render pharmaceutical service in compliance with state and federal law under Rule .1601(a)(1) of this Chapter.

(b) In the event that a pharmacist-manager anticipates that a pharmacy will be closed for more than two hours, either to receive prescription orders or to dispense prescription drugs, during the regular hours that it has posted that it is open under Rule .1601(a)(2) of this Chapter, the pharmacist-manager shall take the following actions before closing:

- (1) Post a notice in a location conspicuous to the public of (a) which services the pharmacy has ceased providing, and (b) the date and time that the pharmacist-manager anticipates that the pharmacy will resume providing those services. The pharmacist-manager shall change the posted notice in the event that the pharmacist-manager determines that it is no longer accurate.
- (2) Send an e-mail to emergencyclosure@ncbop.org with the information provided in Paragraph (b)(1) of this Rule, including any changes to the required notice.

(3) Offer to transfer any prescriptions at the patient's request during any time when the pharmacy is not dispensing prescription drugs, and post a notice in a location conspicuous to the public of the process for having those prescriptions transferred. This includes prescriptions that have been filled but not delivered before the pharmacy is closed. However, the pharmacy is not required to transfer prescriptions at any time at which there is no pharmacist or certified technician who is able to transfer prescriptions. For the purposes of this rule, a pharmacist or certified technician is able to transfer prescriptions if that person either:

- (A) is present at the pharmacy, or
- (B) has remote access to the pharmacy's systems, either because that person is employed by the pharmacy, or employed by a pharmacy with a remote medication order processing services arrangement with the closed pharmacy under Rule .1816 of this Section.

(c) In the event that the pharmacist-manager is unable to exercise the authority in this Rule, a pharmacist who is on duty at the pharmacy has the responsibility and authority set out in Paragraph (a) of this Rule if the pharmacist follows the procedures set out in Paragraph (b) of this Rule.

(d) This Rule does not apply in the following circumstances:

- (1) Permanent closures or temporary closures lasting more than 14 consecutive days, which are instead governed by the provisions of Rule .2502(h) and (i) of this Section;
- (2) Pharmacies located outside the State of North Carolina, which should follow any closure rules of their home states; or
- (3) During the duration of time when the Governor or any county or municipality has declared a state of emergency in the pharmacy's location pursuant to Chapter 166A of the North Carolina General Statutes.

(e) In the event that the either (a) the pharmacist-manager suffers an emergency that renders the pharmacist-manager unable to exercise the responsibilities in Paragraph (b) of this Rule, or (b) the pharmacist-manager is unavailable and the only pharmacist(s) on duty suffers an emergency that renders the pharmacist unable to exercise the responsibilities in Paragraph (b) of this Rule, the exercise of the responsibilities in Paragraph (b) of this Rule shall be excused until such time as an employee authorized by the pharmacist-manager or permit holder can exercise those responsibilities.

History Note: Authority G.S. 90-85.6; 90-85.15A; 90-85.21; 90-85.25; 90-85.32; Eff. August 1, 2024.

CHAPTER 57 - APPRAISAL BOARD**21 NCAC 57A .0204 CONTINUING EDUCATION**

(a) All registered trainees, real estate appraiser licensees, and certificate holders shall, upon the renewal of their registration, license, or certificate in every odd-numbered year, have obtained continuing education, as required by this Rule. Trainees and appraisers who initially registered with the Board after January 1 of an odd-numbered year are not required to obtain continuing education for renewal of their registration in that odd-numbered year.

(b) Each trainee, licensee, and certificate holder who is required to obtain continuing education pursuant to Paragraph (a) of this Rule shall complete 28 hours of continuing education before June 1 of every odd-numbered year. Specific topics required as part of the 28 hours of continuing education are outlined in Paragraph (d) of this Rule. Except as provided in Paragraphs (g) and (h) of this Rule, such education shall have been obtained by taking courses approved by the Board for continuing education credit, at schools approved by the Board to offer such courses, as set forth in 21 NCAC 57B .0603. Such education shall relate to real estate appraisers maintaining and increasing their skill, knowledge, and competency in real property appraising. There is no exemption from the continuing education requirement for trainees or appraisers whose status has been upgraded to the level of licensed residential, certified residential, or certified general appraiser, since the issuance or most recent renewal of their registration, license, or certificate. Trainees, licensees, and certificate holders shall not take the same continuing education course more than once during the two-year continuing education cycle.

(c) Each appraisal continuing education course shall include a minimum of two classroom hours of instruction on real estate appraisal or related topics, as set forth in the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board, which is hereby incorporated by reference, including subsequent amendments and editions, and can be found at www.appraisalfoundation.org, at no cost.

(d) Each trainee, licensee, and certificate holder who is required to obtain continuing education pursuant to Paragraph (a) of this Rule shall, as part of the 28 hours of continuing education required in Paragraph (b) of this Rule, complete the seven-hour National Uniform Standards of Professional Appraisal Practice (USPAP) Continuing Education course, as required by the Appraiser Qualifications Board of the Appraisal Foundation, between October 1 of an odd-numbered year and June 1 of an even numbered year. Beginning June 1, 2025, each trainee, licensee, and certificate holder shall complete a course which meets the content requirements of the Valuation Bias and Fair Housing Laws and Regulations outline, as set forth in the Real Property Appraiser Qualification Criteria, every continuing education cycle. The course length must be at least seven-hours the first time a trainee, licensee, or certificate holder completes the continuing education requirements of the Valuation Bias and Fair Housing Laws and Regulations requirement. If an appraiser completes the seven-hour (plus one hour exam) course as part of their qualifying education, they have met this requirement. Each continuing education cycle thereafter, the course length shall be at least four-hours.

(e) A trainee, licensee, or certificate holder who completes approved continuing education courses in excess of the requirement shall not carry over any continuing education credits from those courses into the subsequent years.

(f) Course sponsors shall provide a certificate of course completion to each trainee, licensee, and certificate holder who completes a course, as set forth in 21 NCAC 57B .0603. Course sponsors shall send to the Board a roster of all who completed the course. This roster shall be sent within 15 days of completion of the course. In order to renew a registration, license, or certificate in a timely manner, the Board shall receive proof of completion of the continuing education requirement prior to processing a registration, license, or certificate renewal application. Proof of completion shall be receipt by the Board of a roster from a school or course sponsor showing the courses completed by the applicant. If proof of having completed the continuing education requirement is not provided, the registration, license, or certificate shall expire and the trainee, licensee, or certificate holder shall be subject to the provisions of Rules .0203(e) and .0206 of this Section.

(g) A current or former trainee, licensee, or certificate holder may request that the Board grant continuing education credit for a course that has been completed but is not approved by the Board, or for appraisal education activity equivalent to a Board approved course, by making such request and submitting a non-refundable fee of fifty dollars (\$50.00) as set out in G.S. 93E-1-8(d) for each course or type of appraisal education activity to be evaluated. Such requests shall be received before June 15 of an odd-numbered year to be credited towards the continuing education requirement for that odd-numbered year. Continuing education credit for a non-approved course shall be granted only if the trainee, licensee, or certificate holder provides proof of course completion and the Board finds that the course satisfies the requirements for approval of appraisal continuing education courses with regard to subject matter, course length, instructor qualifications, and student attendance, as set forth in 21 NCAC 57B .0603. Appraisal education activities for which credit may be awarded include teaching appraisal courses, authorship of appraisal textbooks, and development of instructional materials on appraisal subjects. Up to 14 hours of continuing education credit may be granted in each continuing education cycle for participation in appraisal education activities. Trainees, and licensed or certified appraisers who have taught an appraisal course approved by the Board for continuing education credit, are deemed to have taken an equivalent course and are not subject to the fee prescribed in G.S. 93E-1-8(d), provided they submit verification of having taught the course(s). A trainee, licensee, or certificate holder who teaches a Board approved continuing education course shall not receive continuing education credit for the same course more than once every two years, regardless of how often he or she teaches the course.

(h) A trainee, licensee, or certificate holder may receive continuing education credit by taking any of the Board approved precertification courses, other than Basic Appraisal Principles and Basic Appraisal Procedures, or their approved equivalents. Trainees, licensees, and certificate holders who wish to use a precertification course for continuing education credit shall comply with the provisions of 21 NCAC 57B .0604.

(i) A licensee or certificate holder who resides in another state, and is currently credentialed in another state, may satisfy the continuing education requirements by submitting an affidavit prior to renewal which lists the course provider, title, hours, and date of completion of all continuing education completed within the current continuing education cycle. The affidavit form may be found on the Board's website at www.ncappraisalboard.org. The Board will audit no less than ten percent of licensees who renew with an affidavit. A licensee or certificate holder selected for a continuing education audit shall make the certificates available to the Board upon request. A licensee or certificate holder who became licensed in North Carolina by licensure or certification with another state and now resides in North Carolina, may renew by affidavit for his or her first renewal as a resident of North Carolina only if the appraiser moved to North Carolina on or after January 1 of an odd-numbered year. If an appraiser was a resident of this state before January 1 of an odd-numbered year, the appraiser shall comply with the requirements of this section regardless of how the license or certificate was obtained.

(j) A trainee, licensee, or certificate holder who returns from active military duty on or after February 1 of an odd-numbered year, may renew his or her registration, license, or certificate in that odd-numbered year even if the required continuing education is not completed before June 1 of that year. When a trainee, licensee, or certificate holder returns from active duty, all required continuing education shall be completed pursuant to the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board. The Board shall immediately place any licensee or certificate holder enrolled in the Appraisal Subcommittee's National Registry in an inactive status and may revoke the registration, license, or certificate, in accordance with G.S. 93E-1-12, if the required continuing education is not completed pursuant to the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board. This Paragraph applies to an individual who is serving in the armed forces of the United States and to whom G.S. 105-249.2 grants an extension of time to file a tax return.

History Note: Authority G.S. 93B-15; 93E-1-7(a); 93E-1-10; Eff. July 1, 1994; Amended Eff. July 1, 2014; January 1, 2013; July 1, 2011; July 1, 2010; January 1, 2008; March 1, 2007; March 1, 2006; July 1, 2005; July 1, 2003; August 1, 2002; April 1, 1999; Pursuant to G.S. 150B.21.3A, rule is necessary without substantive public interest Eff. October 3, 2017; Amended Eff. August 1, 2024; July 1, 2022; July 1, 2019; July 1, 2018.

21 NCAC 57A .0206 EXPIRED REGISTRATION, LICENSE OR CERTIFICATE

(a) Expired registrations, licenses, and certificates may be reinstated within 12 months after expiration upon payment to the Board of the renewal and late filing fees as set out in G.S. 93E-1-7, and proof of having completed the continuing education that would have been required had the registration, license, or certificate been renewed. This includes the most recent seven-hour National Uniform Standards of Professional Appraisal Practice (USPAP) Continuing Education course and the required

number of hours of a course which meets the content requirements of the Valuation Bias and Fair Housing Laws and Regulations outline, as set forth in the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board, which is hereby incorporated by reference, including subsequent amendments and editions, and can be found at www.appraisalfoundation.org at no cost.

(b) If a registration, license, or certificate has been expired for more than 12 months, but less than five years, an applicant may apply for reinstatement. In order to be considered for reinstatement, the applicant shall pay the filing fee as set out in G.S. 93E-1-7 and include in the application proof that the applicant has completed the continuing education that would have been required had the registration, license, or certificate been continuously renewed. This includes the most recent edition of the seven-hour National USPAP Continuing Education course and the required number of hours of a course which meets the content requirements of the Valuation Bias and Fair Housing Laws and Regulations outline, as required by the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board. In addition, the Board shall consider whether the applicant for reinstatement has any prior or current disciplinary actions, and shall examine the applicant's fitness for registration, licensure, or certification before granting the request for reinstatement. A completed application for reinstatement shall be received by June 1 of the fifth year after the registration, license, or certificate expired.

(c) The reinstatement application is available on the Board's website at www.ncappraisalboard.org, and shall include the following:

- (1) the applicant's name, address, phone number, email, date of birth, social security number and driver's license number;
- (2) the applicant's license number;
- (3) the applicant's previous places of residence and employment for the past five years;
- (4) whether the applicant is a citizen of the United States of America, active military, military veteran, or a military spouse;
- (5) the name of the applicant's high school, location, and year graduated;
- (6) whether the applicant has ever had any disciplinary actions taken against them in connection with any appraiser, real estate, or other professional license held;
- (7) whether the applicant has ever been convicted of any criminal offense, or has any criminal charges pending;
- (8) a criminal background check; and
- (9) the signature of the applicant.

(d) An application for reinstatement shall not be granted if the registration, license, or certificate has been expired for more than five years.

(e) Reinstatement of a registration, license or certification is effective on the date it is issued by the Board. It is not retroactive.

(f) A trainee or appraiser whose registration, license, or certification has expired, and who is returning from active military duty, may renew his or her registration, license, or certificate when the trainee or appraiser returns from active duty, without

payment of a late filing fee, as long as the trainee or appraiser renews the registration, license, or certificate within the timeframe outlined in the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board. This Rule applies to an individual who is serving in the armed forces of the United States and to whom G.S. 105-249.2 grants an extension of time to file a tax return.

History Note Authority G.S. 93E-1-6; 93E-1-7; 93E-1-10; 93E-1-11; 93E-1-12; Eff. July 1, 1994; Amended Eff. September 1, 2014; July 1, 2014; July 1, 2011; September 1, 2008; March 1, 2007; July 1, 2005; August 1, 2002; April 1, 1999; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017; Amended Eff. August 1, 2024; July 1, 2022.

21 NCAC 57A .0301 TIME AND PLACE

(a) Applicants who have completed the education and experience requirements for licensure or certification as set forth in G.S. 93E-1-6 shall be issued an examination authorization by the Board. The examination authorization is valid for 24 months from date of issuance.

(b) Examination results are valid for 24 months from the date the examination is completed, as set forth in the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board, which is hereby incorporated by reference, including subsequent amendments and editions, and can be found at www.appraisalfoundation.org at no cost.

History Note: Authority G.S. 93E-1-6(c); 93E-1-10; Eff. July 1, 1994; Amended Eff. July 1, 2014; January 1, 2013; September 1, 2008; January 1, 2008; April 1, 2006; July 1, 2005; August 1, 2002; April 1, 1999; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017; Amended Eff. August 1, 2024; May 1, 2020.

21 NCAC 57A .0303 RE-EXAMINATION

(a) Applicants for an appraiser license or certificate who fail to pass or appear for any examination for which the applicant has been scheduled by the Board-approved private testing service, may schedule a subsequent examination and shall pay the prescribed examination testing fees to the Board-approved private testing service.

(b) If an applicant fails the examination, the applicant shall wait a minimum of 30 days before retaking the examination. If the applicant does not pass the examination within 24 months from the date of issuance of the examination authorization, the applicant shall reapply for licensure or certification.

History Note: Authority G.S. 93E-1-6; 93E-1-10; Eff. July 1, 1994; Amended Eff. July 1, 2014; January 1, 2013; September 1, 2008; July 1, 2005; August 1, 2002; April 1, 1999;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017; Amended Eff. August 1, 2024.

21 NCAC 57A .0406 BUSINESS PRACTICES

History Note: Authority G.S. 93E-1-3(b); 93E-1-10; Eff. July 1, 1994; Amended Eff. July 1, 2005; August 1, 2002; April 1, 1999; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017; Repealed Eff. August 1, 2024.

21 NCAC 57A .0501 APPRAISAL STANDARDS

(a) Every registered trainee, and licensed and certified real estate appraiser, shall comply with the following provisions of the "Uniform Standards of Professional Appraisal Practice" (USPAP), promulgated by the Appraisal Standards Board of the Appraisal Foundation, all of which are incorporated by reference, including subsequent amendments and editions:

- (1) Definitions;
- (2) Preamble;
- (3) Ethics Rule;
- (4) Record Keeping Rule;
- (5) Competency Rule;
- (6) Scope of Work Rule;
- (7) Jurisdictional Exception Rule; and
- (8) Standards Rules 1, 2, 3, and 4.

(b) A copy of the USPAP document may be obtained from the Appraisal Foundation at <https://www.appraisalfoundation.org>. The cost for a copy of the USPAP document shall be no more than the fee set by the Appraisal Foundation.

History Note: Authority G.S. 93E-1-10; Eff. July 1, 1994; Amended Eff. July 1, 2016; January 1, 2013; January 1, 2008; July 1, 2005; August 1, 2002; April 1, 1999; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017; Amended Eff. August 1, 2024; July 1, 2022; August 1, 2018.

21 NCAC 57B .0302 COURSE CONTENT

(a) All courses shall consist of instruction in the subject areas outlined in the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board, which is hereby incorporated by reference, including subsequent amendments and editions, and can be found at www.appraisalfoundation.org at no cost.

(b) Partial credit shall be awarded when only part of the course covers the subject areas outlined in the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board.

(c) On or before the first class meeting day of the Basic Appraisal Principles course, the instructor shall give to each student a handout prepared by the Board regarding the trainee registration process and the process to upgrade to a licensed or certified appraiser. The student handout may be accessed on the Board's website at www.ncappraisalboard.org.

History Note: Authority G.S. 93E-1-6; 93E-1-8(a); 93E-1-10; Eff. July 1, 1994; Amended Eff. July 1, 2014; September 1, 2008; January 1, 2008; July 1, 2005; August 1, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017; Amended Eff. August 1, 2024; May 1, 2020; September 1, 2019.

21 NCAC 57D .0101 FORM

An appraisal management company that wishes to file an application for an appraisal management company certificate of registration may obtain the required form upon request to the Board or on the Board's website at www.ncappraisalboard.org. The appraisal management company shall submit an application to the Board by mail that includes the following information:

- (1) the legal name of the applicant;
- (2) the name under which the applicant will do business in North Carolina;
- (3) the type of business entity;
- (4) the address of its principal office;
- (5) the applicant's NC Secretary of State Identification Number if required to be registered with the Office of the NC Secretary of State;
- (6) a completed application for approval of the compliance manager, as set forth in G.S. 93E-2-5;
- (7) any past criminal conviction of and any pending criminal charge against the compliance manager and any person or entity that owns over 10 percent of the appraisal management company;
- (8) any past revocation, surrender in lieu of revocation, cancellation, refusal, or denial of an appraisal license of any person or entity that owns any part, directly or indirectly, of the appraisal management company;
- (9) any disciplinary action taken against the applicant, including the effective date of the disciplinary action and whether the applicant has complied;
- (10) other States where the applicant is registered to operate, if applicable;
- (11) applicant's employer identification number (EIN);
- (12) if a general partnership, a description of the applicant entity, including a copy of its written partnership agreement or, if no written agreement exists, a written description of the rights and duties of the several partners;
- (13) if a business entity other than a corporation, limited liability company, or partnership, a description of the organization of the applicant entity, including a copy of its organizational documents;
- (14) if a foreign business entity, a certificate of authority to transact business in North Carolina and an executed consent to service of process and pleadings;

- (15) a certification that the applicant has obtained a surety bond as required by G.S. 93E-2-4(g);
- (16) the name, address, and contact information for any individual or business entity that directly or indirectly owns over 10 percent of the appraisal management company; and
- (17) the annual size of the appraisal panel, in this state and nationwide, of the appraisal management company for the previous calendar year.

History Note: Authority G.S. 93E-2-4; 93E-2-5; 93E-2-8; Eff. January 1, 2011; Amended Eff. July 1, 2014; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017; Amended Eff. August 1, 2024; May 1, 2020.

21 NCAC 57D .0202 REGISTRATION RENEWAL

- (a) All registrations shall expire on June 30 of each year, unless renewed during the renewal period. The renewal period shall be from May 1 through June 30 of each year.
- (b) A holder of an appraisal management company registration applying for renewal of registration shall apply in writing upon the form provided by the Board or log into the licensee login section on the Board's website and shall pay the renewal fee. The renewal fee shall be two-thousand dollars (\$2,000). The renewal fee is not refundable on or after July 1.
- (c) The renewal form shall include the following:
 - (1) The appraisal management company's name and registration number;
 - (2) the contact person for renewal;
 - (3) the updated address for the company, service of process agent, direct and indirect owners of more than 10 percent, and compliance manager, if applicable;
 - (4) whether the company owner(s) or compliance manager, as set forth in G.S. 93E-2-5, have had an appraiser credential refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any state;
 - (5) a copy of the surety bond that expires no sooner than June 30th of the year following renewal;
 - (6) the signature of the applicant; and
 - (7) the operation type, total number of appraisers on the panel in North Carolina for the previous calendar year, the total number of appraisers on the panel nationwide for the previous calendar year, and the number of appraisers on the panel who performed one or more appraisals in connection with a covered transaction in North Carolina for the previous calendar year.
- (d) In addition to the renewal fee, an appraisal management company shall submit with its renewal the annual appraisal management company registry fee required by the Appraisal Subcommittee pursuant to 12 C.F.R. 1102.402. The fee shall then be transmitted by the Board to the Appraisal Subcommittee.
- (e) Any company who acts or holds itself out as a registered appraisal management company while its appraisal management

company registration is expired shall be subject to disciplinary action and penalties in G.S. 93E-2-8 and G.S. 93E-2-10.

History Note: Authority G.S. 93E-2-3; 93E-2-4; 93E-2-5; 93E-2-6; 93E-2-8; 93E-2-10;

Eff. January 1, 2011;

Amended Eff. July 1, 2014;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017;

Amended Eff. August 1, 2024; July 1, 2022; July 1, 2018.

21 NCAC 57D .0302 CHANGE IN REGISTRATION & REPORTING REQUIREMENTS

(a) Appraisal management companies shall notify the Board in writing of each change of name, trade name, federal identification number, organizational status, ownership structure, compliance manager, surety bond, registered agent, business address, telephone number, or email address within 10 business days of said change. The business address and email address provided shall enable the Board to electronically correspond with and physically locate the appraisal management company.

(b) If an appraisal management company intends to change its designated compliance manager or direct or indirect owner, it must notify the Board at least 10 business days before the effective date of the intended change and submit an application for approval of the designated compliance manager or any new direct or indirect owner who will own more than ten percent of the appraisal management company. The application shall include a criminal records check pursuant to G.S. 93E-2-11.

(c) If the appraisal management company has an unexpected change to its designated compliance manager or direct or indirect owner and is unable to provide at least 10 business days' notice of the change, the company shall have 10 business days from the unexpected change to notify the Board. An unexpected change shall consist of: death, sudden termination or resignation, injury, or illness. An application shall be submitted to the Board, which shall include a criminal records check pursuant to G.S. 93E-2-11, within 15 business days of when an interim designated compliance manager, a new designated compliance manager, or any new direct or indirect owner that owns more than ten percent of the appraisal management company as a result of the unexpected change, is appointed, hired, or otherwise determined.

(d) Appraisal management companies shall notify the Board in writing within 10 business days of any event that may cause the applicant or registration to be disciplined in accordance with G.S. 93E-2-8(a).

History Note: Authority G.S. 93E-2-3; 93E-2-4; 93E-2-5; 93E-2-8; 93E-2-9;

Eff. January 1, 2011;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017;

Amended Eff. August 1, 2024.

TITLE 25 - STATE HUMAN RESOURCES COMMISSION

25 NCAC 01C .0405 TEMPORARY APPOINTMENT

(a) A temporary appointment is an appointment to fill a workforce need for a limited period of time. Temporary employees shall not be used to permanently expand the workforce beyond authorized levels set in the authorized budget as defined in G.S. 143C-1-1(d)(1a). Temporary appointments shall not exceed 11 consecutive months, subject to the following exemptions:

- (1) Full-time students, defined as those undergraduate students taking at least 12 credit hours or graduate students taking at least 9 credit hours;
- (2) Retired employees, defined as those individuals drawing a retirement income or Social Security benefits and who have signed a statement that they are not available for, nor seeking, permanent employment;
- (3) Inmates that are on a work-release program;
- (4) Interns, defined as those students who, regardless of the number of credit hours enrolled, work to gain occupational experience for a period of at least one academic semester; and
- (5) Externs, defined as those students who, regardless of the number of credit hours enrolled, are employed as part of a written agreement between the State and an academic institution through which the student is paid and earns course credit.

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

(c) This Rule applies to all temporary employees employed by the State.

(d) The calculation of consecutive months in Paragraph (a) of this Rule shall restart only after a separation of at least 31 consecutive calendar days after the last day that person worked for the State in a temporary appointment. After a separation of this length, and only after such a separation, an individual who was employed for 11 consecutive months by temporary appointment shall be eligible for a new or reinstated temporary appointment.

History Note: Authority G.S. 126-4(5); 126-4(6); 126-4(7a); 126-4(19);

Eff. February 1, 1976;

Amended Eff. December 1, 2021; August 1, 1995; November 1, 1991; December 1, 1978;

Readopted Eff. April 1, 2016;

Amended Eff. August 1, 2024; December 1, 2021.

25 NCAC 01E .1901 DEFINITIONS

For the purposes of this Section, the following definitions shall apply:

- (1) "Agency" means any State agency, department, institution, office, board, or commission, including institutions and offices of the University of North Carolina, but excluding the legislative branch, the judicial branch,

community college institutions, and public schools.

- (2) "Child" means a child as defined at G.S. 126-8.6(a)(1).
- (3) "Parent" means:
 - (a) the mother or father of a child through birth or legal adoption; or
 - (b) an individual who cares for a child through foster or other legal placement under the direction of a government authority.
- (4) "Qualifying event" means when an employee becomes a parent to a child.

History Note: Authority G.S. 126-5(c19); 126-8.6; Temporary Adoption Eff. August 25, 2023; Eff. August 1, 2024.

25 NCAC 01E .1902 RELATIONSHIP TO OTHER RULES AND POLICIES

- (a) This Section states the terms and conditions only for paid parental leave that is provided under G.S. 126-8.6 by an agency, as defined in Rule .1901 of this Section.
- (b) The paid parental leave provided under this Section is in addition to any other leave authorized by state or federal law.

History Note: Authority G.S. 126-8.6; Temporary Adoption Eff. August 25, 2023; Eff. August 1, 2024.

25 NCAC 01E .1903 ELIGIBILITY FOR PAID PARENTAL LEAVE

- (a) This Section applies to all agency employees subject to G.S. 126-8.6, whether or not those employees are exempt from other sections of the State Human Resources Act.
- (b) Employees may receive paid parental leave under this Section only if they are in a permanent, time-limited, or probationary appointment. Temporary employees are not eligible for paid parental leave under this Section.
- (c) An agency shall allow an employee to take paid parental leave under this Section only if, at the time of the qualifying event, the employee meets each of the following conditions.

- (1) For the immediate 12 preceding months, the employee has been employed without a break in service as defined by 25 NCAC 01D .0114 in a permanent, time-limited, or probationary appointment, aggregating employment at any of these employers:
 - (A) the State of North Carolina agencies, departments, and institutions, including without limitation the University of North Carolina;
 - (B) public school units that provide paid parental leave in accordance with G.S. 126-8.6; or
 - (C) community college institutions of the State of North Carolina.
- (2) The employee has been in pay status for at least 1,040 hours during the previous 12-month

period, aggregating employment at any of these employers:

- (A) the State of North Carolina agencies, departments, and institutions, including without limitation the University of North Carolina;
- (B) public school units that provide paid parental leave in accordance with G.S. 126-8.6; or
- (C) community college institutions of the State of North Carolina.

(d) This Section applies to requests for paid parental leave related to qualifying events occurring on or after July 1, 2023.

History Note: Authority G.S. 126-8.6; Temporary Adoption Eff. August 25, 2023; Temporary Adoption Eff. December 22, 2023; Eff. August 1, 2024.

25 NCAC 01E .1904 LEAVE AVAILABLE TO FULL-TIME EMPLOYEES

(a) Full-time employees eligible for paid parental leave under this Section may take, in their discretion, up to the following amounts of leave:

- (1) For a parent who gives birth to a child, eight total weeks of paid parental leave, made up of:
 - (A) Four weeks for physical and mental recuperation, and
 - (B) Four additional weeks for bonding with the child.
- (2) For any other qualifying event, four weeks of paid parental leave for bonding with the child.

(b) Each week of paid parental leave under this Section shall result in compensation at 100 percent of the eligible employee's regular pay on a straight-time basis (without including overtime pay or paid time off, on the employee's regular weekly schedule).

History Note: Authority G.S. 126-8.6; Temporary Adoption Eff. August 25, 2023; Eff. August 1, 2024.

25 NCAC 01E .1905 LEAVE AVAILABLE TO PART-TIME EMPLOYEES

(a) Part-time employees (regardless whether they work half-time or more) shall receive paid parental leave under this Section if they meet all other requirements for eligibility.

(b) Part-time employees eligible for paid parental leave under this Section may take, in their discretion, a prorated amount of leave based on the hours worked in the employee's regular, weekly schedule compared to the hours worked by a full-time employee in a similar position at that agency.

(c) Each week of paid parental leave under this Section shall result in compensation at 100 percent of the eligible employee's regular pay on a straight-time basis (without including overtime pay or paid time off, on the employee's regular weekly schedule).

History Note: Authority G.S. 126-8.6; Temporary Adoption Eff. August 25, 2023; Eff. August 1, 2024.

25 NCAC 01E .1906 USE OF OTHER LEAVE

The paid parental leave provided under this Section shall not be counted against or deducted from the employee's sick, vacation, bonus, or other accrued leave. For agency employees, the paid parental leave provided under this Section is in addition to any other leave authorized by law, rule, or policy, including but not limited to leave without pay provided under 25 NCAC 01E .1110, voluntary shared leave under G.S. 126-8.3 and 25 NCAC 01E .1300, or family and medical leave. However, when an employee becomes eligible, as described in 25 NCAC 01E .1400, for family and medical leave, the paid parental leave under this Section shall run concurrently with the family and medical leave.

History Note: Authority G.S. 126-8.6; Temporary Adoption Eff. August 25, 2023; Eff. August 1, 2024.

25 NCAC 01E .1907 REQUESTING USE OF PAID PARENTAL LEAVE

(a) Eligible employees may take paid parental leave in one continuous period or may take intermittent use of paid parental leave. Requests for intermittent use of paid parental leave are subject to the agency's approval as stated in Paragraph (d) of this Rule.

(b) Whenever possible, eligible employees shall notify their employing agencies at least 10 weeks in advance of their intention to use paid parental leave. This requirement is so that agencies can secure backfill coverage.

(c) The agency shall not deny, delay, or require intermittent use of paid parental leave to employees who gave birth and seek to use paid parental leave in one continuous period.

(d) For all other employees, the agency may delay providing paid parental leave or may provide paid parental leave intermittently if it determines that providing the leave will cause a public safety concern, meaning a significant impairment to the agency's ability to conduct its operations in a manner that protects the health and safety of North Carolinians. For example, the extension of paid parental leave to an eligible employee who did not give birth may constitute a public safety concern if:

- (1) Providing the paid parental leave would result in agency staffing levels below what is required by federal or state law to maintain operational safety; or
- (2) Providing the paid parental leave may impact the health or safety of staff, patients, residents, offenders, or other individuals the agency is required by law to protect; and
- (3) The agency has been unable to secure supplemental staffing after requesting or diligently exploring alternative staffing options.

(e) If the agency determines that it must delay paid parental leave, or make paid parental leave intermittent, because of a public safety concern under Paragraph (d) of this Rule, the agency shall provide paid parental leave as soon as practical following the qualifying event.

History Note: Authority G.S. 126-8.6; Temporary Adoption Eff. August 25, 2023; Eff. August 1, 2024.

25 NCAC 01E .1908 LEAVE ADMINISTRATION

(a) Paid parental leave under this Section may be used only once by an eligible employee within a rolling 12-month period.

(b) The birth or other qualifying event of twins, triplets, or other multiple children shall produce only one award of paid parental leave under this Section.

(c) Both parents may receive paid parental leave under this Section if they are both eligible agency employees. Both parents may take their leave simultaneously or at different times, subject to Rule .1907 of this Section.

(d) Employees shall submit documentation that they will use paid parental leave for a qualifying event under this Section. An agency may take appropriate action if an employee fraudulently requested or used paid parental leave. This action may include revoking approval and disciplinary action up to and including dismissal, pursuant to 25 NCAC 01J .0600.

(e) Employees shall not be paid for the leave provided by this Section upon separation from the employer. The leave provided by this Section shall not be used for calculating an employee's retirement benefits and shall not accrue or be donated as voluntary shared leave.

(f) Paid parental leave provided under this Section shall be reported separately from all other paid leave. Employees and supervisors are responsible for accurate reporting of the use of this leave on the employee's time record.

History Note: Authority G.S. 126-4(6); 126-8.6; 126-35(a); Temporary Adoption Eff. August 25, 2023; Eff. August 1, 2024.

25 NCAC 01E .1909 LEAVE ADMINISTRATION FOR ADOPTIONS OR FOSTER CARE PLACEMENTS

(a) When a child is given up for adoption or placed in foster care, from that point forward:

- (1) The birth parent shall continue to be eligible for the paid parental leave listed in Rule .1904(a)(1)(A) of this Section for physical and mental recuperation; and
- (2) Each parent shall not be eligible for further use of the paid parental leave listed in Rule .1904(a)(1)(B) of this Section for bonding with the child.

(b) When a prospective adoptive parent or foster parent expects an adoption or placement, but it does not occur, it does not produce paid parental leave under this Section. However, agencies can allow adequate time for bereavement to the persons who would have become parents, using sick leave, vacation leave, bonus leave, compensatory time, and any other leave options that may be available to the employee.

History Note: Authority G.S. 126-8.6; Eff. August 1, 2024.

25 NCAC 01E .1910 MISCARRIAGE OR STILLBIRTH

(a) When a fetus dies before 12 weeks of the pregnancy were complete, it is not a qualifying event for paid parental leave under this Section.

(b) When a fetus dies after the 12th completed week of pregnancy, but before childbirth is complete:

- (1) If the birth parent meets the eligibility requirements in Rule .1903 of this Section, the birth parent may receive the paid parental leave listed in Rule .1904(a)(1)(A) of this Section. This leave is four weeks for a full-time eligible state employee.
- (2) The parents shall not receive the paid parental leave for bonding with the child that is listed in Rule .1904(a)(1)(B) and Rule .1904(a)(2) of this Section.

(c) When a child dies after childbirth is complete, each parent of the child who meets the eligibility requirements in Rule .1903 of this Section shall receive the full paid parental leave listed in Rule .1904(a)(1) and (a)(2) of this Section. The paid parental leave will not be ended at the time of the child's death.

(d) In any of the situations in this Rule, agencies can allow adequate time to the parents for bereavement and recovery, using sick leave, vacation leave, bonus leave, compensatory time, and any other leave options that may be available to the employee.

*History Note: Authority G.S. 126-8.6;
Eff. August 1, 2024.*

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission July 31, 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

September 25, 2024	November 26, 2024
October 30, 2024	December 19, 2024

**RULES REVIEW COMMISSION MEETING
MINUTES
July 31, 2024**

The Rules Review Commission met on Wednesday, July 31, 2024, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via Webex.

Commissioners Wayne R. Boyles III, Jeanette Doran, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker were present in the Commission Room.

Staff member Alexander Burgos, Commission Counsel Seth Ascher, Brian Liebman, Bill Peaslee, and Travis Wiggs were present in the room.

The meeting was called to order at 10:00 a.m. with Chair Doran presiding.

Chair Doran introduced Judge Chris Dillon of the North Carolina Court of Appeals, to the Commission.

Judge Chris Dillon administered the Oath of Office to newly appointed Commissioner John S. Hahn.

Judge Chris Dillon administered the Oath of Office to Commissioners Jeanette Doran, Jeff Hyde, and Randy Overton.

The Chair read into the record the Evaluation of Statement of Economic Interest for John S. Hahn, which states the NC Ethics Commission did not find an actual conflict of interest but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

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

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the minutes from the July 9, 2024 special meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the special meeting minutes were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None.

The Chair asked for any discussion, comments, or corrections concerning the minutes from the June 26, 2024 meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the minutes were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None.

FOLLOW UP MATTERS

Criminal Justice Education and Training Standards Commission

Upon the call of the Chair, the Commission found that the agency had satisfied the Commission's June 2024 objection and temporary rule 12 NCAC 09C .0401 was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None.

Board of Examiners in Optometry

21 NCAC 42D .0102 was withdrawn at the request of the agency. No action was required by the Commission.

LOG OF FILINGS (PERMANENT RULES)

Marine Fisheries Commission

Upon the call of the Chair, 15A NCAC 03I .0101, .0113; 03K .0101, .0104, .0110, .0301, .0401, .0403, .0405; 03O .0101, .0109, .0112, .0301, .0501, .0503; 03R .0117; 18A .0302, .0901, and .0906 were approved by roll-call vote, ayes 6, noes 1 as follows: Voting in the affirmative: John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 6. Voting in the negative: Wayne R. Boyles III - 1.

Pursuant to Session Law 2019-37, s.3.(d), 15A NCAC 03O .0201 is exempt from RRC review and will become effective under G.S. 150B-21.3(b1) as if the rule had received 10 letters requesting legislative review. The agency withdrew the Rule from Commission review, and no action was required by the Commission.

Christine Ryan with the Department of Justice and representing the Department of Environmental Quality, addressed the Commission.

Jennifer Everett, the rulemaking coordinator with the agency, addressed the Commission.

Board of Dental Examiners

Upon the call of the Chair, 21 NCAC 16A .0101, .0107; 16B .0303; 16C .0303; 16H .0104; 16N .0202; .0501, .0502, .0503, .0504; and 16U .0104 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None.

Board of Pharmacy

Upon the call of the Chair, 21 NCAC 46 .2201 and .2516 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None

Appraisal Board

Upon the call of the Chair, 21 NCAC 57A .0204, .0206, .0301, .0303, .0406, .0501; 57B .0302; 57D .0101, .0202 and .0302 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None

State Human Resources Commission

Upon the call of the Chair, 25 NCAC 01C was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None

State Human Resources Commission

Upon the call of the Chair, 25 NCAC 01E .1901, .1902, .1903, .1904, .1905, .1906, .1907, .1908, .1909, and .1910 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None

Building Code Council

Upon the call of the Chair, the 2024 NC Residential Code/Referenced Standards, Chapter 44 was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None

LOG OF FILINGS (TEMPORARY RULES)

State Board of Elections

Upon the call of the Chair, 08 NCAC 02 .0110; 09 .0107, and .0110 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None

Wildlife Resources Commission

Upon the call of the Chair, 15A NCAC 10C .0307 and 10D .0252 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None

EXISTING RULES REVIEW

Division of Mental Health/DD/SAS and Commission for Mental Health/DD/SAS

10A NCAC 27G Division, 10A NCAC 27G Commission, and 10A NCAC 27G Commission/Division

Prior to the review of the reports from the Division of Mental Health/DD/SAS and Commission for Mental Health/DD/SAS, Commissioner Leebrick recused himself and did not participate in the discussion or vote concerning the reports because of the potential for a conflict of interest.

Upon the call of the Chair, the reports for 10A NCAC 27G Division, 10A NCAC 27G Commission, and 10A NCAC 27G Commission/Division were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Bill Nelson, Randy Overton, and Jake Parker – 6. Voting in the negative: None

Industrial Commission

Upon the call of the Chair, the report for 11 NCAC 23 was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None

Irrigation Contractors' Licensing Board

Upon the call of the Chair, the report for 21 NCAC 23 was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None

Board of Examiners for Nursing Home Administrators

Upon the call of the Chair, the report for 21 NCAC 37 was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None

Onsite Wastewater Contractors and Inspectors Certification Board

Upon the call of the Chair, the report for 21 NCAC 39 was approved contingent upon a typographical correction to column K of the report for Rule 21 NCAC 39 .0601 from "One or more comments with merit" to "No comment with merit" by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None. The correction was made after the meeting.

COMMISSION BUSINESS

The Chair read into the record the Letter of Appreciation for Service to outgoing Commissioner John (Jay) Hemphill to the Commission.

Staff presented to the RRC a memo regarding instructions to counsel regarding the return of rules under G.S. 150B-21.12. Upon Commissioner Hyde's motion, and Commissioner Overton's second, the Commission voted to adopt the following resolution:

Pursuant to G.S. 150B-21.12(d), staff is authorized on behalf of the Commission to return rules to agencies without delay and without further Commission consideration when the agency submits a response to a Commission objection which clearly indicates that the agency has decided not to change the rule or if the agency fails to submit any response within the time limit established by G.S. 150B-21.12(b). Otherwise, staff shall bring the question before the Commission for its consideration.

The motion carried by roll-call vote, ayes 7, noes 0, as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None.

At 10:53 a.m., upon a motion by the Chair and a second by Commissioner Overton, the Commission voted to enter into closed session pursuant to G.S. 143-318.11(a)(3) to consult with counsel regarding CJETS v. RRC and Ashley Snyder in her official capacity as Codifier of Rules, as well as CRC v. RRC and Ashley Snyder in her official capacity as Codifier of Rules by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None.

At 11:36 a.m., upon a motion by Commissioner Overton and a second by Commissioner Hyde, the Commission voted to come out of closed session and reconvene the public meeting of the Rules Review Commission by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None.

The meeting was adjourned at 11:37 a.m.

The next regularly scheduled meeting of the Commission is Wednesday, August 28, 2024, at 10:00 a.m.

Alexander Burgos, Paralegal

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

RULES REVIEW COMMISSION

Rules Review Commission Meeting July 31, 2024

Via WebEx

Name	Agency
Sophie Plott	Labor
Elizabeth Hawley	Treasurer
Julie Ventaloro	OSBM
Joelle Burleson	DEQ
Neal McHenry	Auditor
Emily Jones	DOT
Paul Cox	Elections
Grace Hardwick	OSBM
Jonathan Howell	DEQ
Virginia Niehaus	DHHS
Sharon Martin	Commerce
Dana McGhee	OAH
Arthur Harrell	OAH
Ashley Snyder	OAH
Denise Mazza	SHRC
Stephanie McFadden	SHRC
Shannon Jenkins	DEQ
Michelle Brodeur	DEQ
Jesse Bisette	DEQ
Andrew Valmassoi	DEQ
Lori Hend	odu.edu
Cindy Daniels	waketech.edu
Genevieve Kaplan	stateside.com
Rachael Hoch	WRC
Cathy Mathews Thayer	OAH
Tara Muller	disabilityrightsnc.org
Chris Millis	NCHBA
Sam Hayes	NCLEG
Corey Oakley	WRC
Seavers, Dennis	Barber Board
Janice Peterson	Optometry
Laura Lansford	DOR
Alex Ward	DOJ
William Rafferty	Optometry
Laura Rowe	Treasurer
Don Rodgers	NCAB
Blum, Catherine	DEQ
Martha N Bell	NCBENHA
Brandy March	NCAB
Dauna Bartley	Brockner Law Firm

RULES REVIEW COMMISSION

Brandi Salmon	DEQ
Michelle Schilling	CJETS
Barbara Geiger	NCICLB
Jennifer Grady	BCBSNC
Emily Urch	DOJ
Sondra Panico	DOJ

MEMORANDUM OF ABSTENTION FROM
PARTICIPATION IN OFFICIAL ACTION
RULES REVIEW COMMISSION

In accordance with N.C. General Statute G.S. 138A-15(e), I have abstained from taking any verbal or written action, including voting, on the agenda item regarding

IV. 1. Review of Reports - HHS - Division of Mental Health / DMSAS and Commission for Mental Health / DMSAS
I have abstained because of potential conflict of interest

This the 31st day of July, 2024.

[Signature]
Signature of Commission Member

No public servant authorized to perform an official action requiring the exercise of discretion shall knowingly participate in an official action by the board if the public servant, a member of the public servant's extended family, or a business with which the public servant is associated has an economic interest in, or a reasonably foreseeable benefit from, the matter under consideration, which would impair the public servant's independence of judgment or from which it could be reasonably inferred that the interest or benefit would influence the public servant's participation. A potential benefit includes a detriment to a business competitor or (1) the public servant; (2) a member or the public servant's extended family, or (3) a business with which the public servant is associated. The public servant shall abstain from taking any verbal or written action and shall submit in writing to the board the reasons for the abstention.



STATE ETHICS COMMISSION

POST OFFICE BOX 27685
RALEIGH, NC 27611
PHONE: 919-814-3600

Via Email

July 8, 2024

The Honorable Phil Berger
President Pro Tempore of the Senate
16 West Jones Street, Room 2008
Raleigh, North Carolina 27601

**Re: Evaluation of Statement of Economic Interest Filed by Mr. John S. Hahn
Appointee to the Rules Review Commission**

Dear Senator Berger:

Our office has received **Mr. John S. Hahn's** 2024 Statement of Economic Interest as an appointee to the **Rules Review Commission (the "Commission")**. We have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act (the "Act").

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter, meanwhile, is not meant to impugn the integrity of the covered person in any way. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The Rules Review Commission has authority to review all temporary and permanent rules proposed by North Carolina government agencies, including the authority to veto rules that fail to satisfy specific statutory criteria. Generally speaking, those rules are intended to implement or interpret laws adopted by the General Assembly or Congress or certain federal regulations. Temporary or permanent rules approved by the Commission are filed with the Office of Administrative Hearings to be included in the North Carolina Administrative Code.

The Act establishes ethical standards for certain public servants and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

The Honorable Phil Berger
July 8, 2024
Page 2 of 2

Mr. Hahn is an attorney who owns John S. Hahn PLLC. In addition, he receives professional fees from the law firm of Mayer Brown LLP which could represent clients that come before the Commission during the rulemaking process. As such, Mr. Hahn has the potential for a conflict of interest and should exercise appropriate caution in the performance of his public duties should issues involving his clients, the law firm of Mayer Brown LLP or their clients come before the Commission for official action.

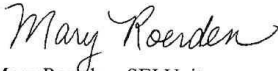
In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts from (1) a lobbyist or lobbyist principal, (2) a person or entity that is seeking to do business with the public servant's agency, is regulated or controlled by that agency, or has financial interests that might be affected by their official actions, or (3) anyone in return for being influenced in the discharge of their official responsibilities. N.C.G.S. § 138A-32. Exceptions to the gifts restrictions are set out in N.C.G.S. § 138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. § 138A-24(e), the conflict must be recorded in the minutes of the applicable board and brought to the membership's attention by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. N.C.G.S. § 138A-15(c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation. N.C.G.S. § 138A-14. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,



Mary Roerden, SEI Unit
State Ethics Commission

cc: John S. Hahn
Alexander Burgos, Ethics Liaison

Attachment: Ethics Education Guide



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

OATH

I, John S. Hahn, do solemnly swear (affirm) that I will support the Constitution of the United States.

I, John S. Hahn, do solemnly swear (affirm) that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said state, not inconsistent with the Constitution of the United States.

I, John S. Hahn, do solemnly swear (affirm) that I will well and truly execute the duties of my office as a member of the Rules Review Commission according to the best of my skill and ability, according to law, so help me God.

A handwritten signature in blue ink that reads "John S. Hahn".

Signature

Sworn to and subscribed before me, this
the 31st day of July 2024.

A handwritten signature in black ink that reads "Chris Dillon".

Chief Judge Chris Dillon
North Carolina Court of Appeals

1711 NEW HOPE CHURCH ROAD / TELEPHONE: (984) 236-1850 / RALEIGH, NORTH CAROLINA 27609



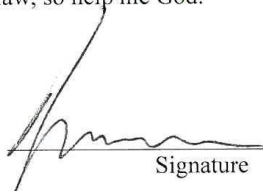
STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

OATH

I, Jeanette K. Doran, do solemnly swear (affirm) that I will support the Constitution of the United States.

I, Jeanette K. Doran, do solemnly swear (affirm) that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said state, not inconsistent with the Constitution of the United States.

I, Jeanette K. Doran, do solemnly swear (affirm) that I will well and truly execute the duties of my office as a member of the Rules Review Commission according to the best of my skill and ability, according to law, so help me God.


Signature

Sworn to and subscribed before me, this
the 31st day of July 2024.



Chief Judge Chris Dillon
North Carolina Court of Appeals

1711 NEW HOPE CHURCH ROAD / TELEPHONE: (984) 236-1850 / RALEIGH, NORTH CAROLINA 27609



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

OATH

I, Randy O. Overton, do solemnly swear (affirm) that I will support the Constitution of the United States.

I, Randy O. Overton, do solemnly swear (affirm) that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said state, not inconsistent with the Constitution of the United States.

I, Randy O. Overton, do solemnly swear (affirm) that I will well and truly execute the duties of my office as a member of the Rules Review Commission according to the best of my skill and ability, according to law, so help me God.

A handwritten signature in black ink, appearing to read "Randy O. Overton", is written above a horizontal line.

Signature

Sworn to and subscribed before me, this
the 31st day of July 2024.

A handwritten signature in black ink, appearing to read "Chris Dillon", is written above a horizontal line.

Chief Judge Chris Dillon
North Carolina Court of Appeals

1711 NEW HOPE CHURCH ROAD / TELEPHONE: (984) 236-1850 / RALEIGH, NORTH CAROLINA 27609



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

OATH


I, Jeffrey T. Hyde, do solemnly swear (affirm) that I will support the Constitution of the United States.

I, Jeffrey T. Hyde, do solemnly swear (affirm) that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said state, not inconsistent with the Constitution of the United States.

I, Jeffrey T. Hyde, do solemnly swear (affirm) that I will well and truly execute the duties of my office as a member of the Rules Review Commission according to the best of my skill and ability, according to law, so help me God.


Signature

Sworn to and subscribed before me, this
the 31st day of July 2024.



Chief Judge Chris Dillon
North Carolina Court of Appeals

1711 NEW HOPE CHURCH ROAD / TELEPHONE: (984) 236-1850 / RALEIGH, NORTH CAROLINA 27609

LIST OF APPROVED PERMANENT RULES

July 31, 2024 Meeting

MARINE FISHERIES COMMISSION

<u>Definitions</u>	15A NCAC 03I .0101
<u>Data Collection</u>	15A NCAC 03I .0113
<u>Prohibited Activities in Polluted Shellfish Areas</u>	15A NCAC 03K .0101
<u>Permits for Relaying Shellfish from Polluted Areas</u>	15A NCAC 03K .0104
<u>Public Health and Control of Oysters, Clams, Scallops and...</u>	15A NCAC 03K .0110
<u>Size and Harvest Limits of Clams</u>	15A NCAC 03K .0301
<u>Polluted Area Permit Requirements</u>	15A NCAC 03K .0401
<u>Disposition of Meats</u>	15A NCAC 03K .0403
<u>Oysters, Hard Clams, or Mussels Prohibited</u>	15A NCAC 03K .0405
<u>Procedures and Requirements to Obtain Licenses, Endorseme...</u>	15A NCAC 03O .0101
<u>Assignment of Standard Commercial Fishing License</u>	15A NCAC 03O .0109
<u>For-Hire License Requirements</u>	15A NCAC 03O .0112
<u>Eligibility and Requirements for Recreational Commercial ...</u>	15A NCAC 03O .0301
<u>Procedures and Requirements to Obtain Permits</u>	15A NCAC 03O .0501
<u>Permit Conditions: Specific</u>	15A NCAC 03O .0503
<u>Oyster Sanctuaries</u>	15A NCAC 03R .0117
<u>Permits</u>	15A NCAC 18A .0302
<u>Definitions</u>	15A NCAC 18A .0901
<u>Restricted Areas</u>	15A NCAC 18A .0906

DENTAL EXAMINERS, BOARD OF

<u>Definitions</u>	21 NCAC 16A .0101
<u>Board Contact Information; Submission of Information and ...</u>	21 NCAC 16A .0107
<u>Board Approved Examinations</u>	21 NCAC 16B .0303
<u>Board Approved Examinations</u>	21 NCAC 16C .0303
<u>Approved Education and Training Programs</u>	21 NCAC 16H .0104
<u>Notice of Mailing List</u>	21 NCAC 16N .0202
<u>Right to Hearing</u>	21 NCAC 16N .0501
<u>Request for Hearing</u>	21 NCAC 16N .0502
<u>Granting or Denying Hearing Request</u>	21 NCAC 16N .0503
<u>Notice of Hearing</u>	21 NCAC 16N .0504
<u>Cooperation with Board Inquiry</u>	21 NCAC 16U .0104

PHARMACY, BOARD OF

<u>Hours: Records: Providers: Correspondence: Reciprocity</u>	21 NCAC 46 .2201
<u>Emergency Closure</u>	21 NCAC 46 .2516

APPRAISAL BOARD

<u>Continuing Education</u>	21 NCAC 57A .0204
<u>Expired Registration, License or Certificate</u>	21 NCAC 57A .0206
<u>Time and Place</u>	21 NCAC 57A .0301
<u>Re-Examination</u>	21 NCAC 57A .0303
<u>Business Practices</u>	21 NCAC 57A .0406
<u>Appraisal Standards</u>	21 NCAC 57A .0501

RULES REVIEW COMMISSION

<u>Course Content</u>	21 NCAC 57B .0302
<u>Form</u>	21 NCAC 57D .0101
<u>Registration Renewal</u>	21 NCAC 57D .0202
<u>Registration and Reporting Requirements</u>	21 NCAC 57D .0302

STATE HUMAN RESOURCES COMMISSION

<u>Temporary Appointment</u>	25 NCAC 01C .0405
<u>Definitions</u>	25 NCAC 01E .1901
<u>Relationship to Other Rules and Policies</u>	25 NCAC 01E .1902
<u>Eligibility for Paid Parental Leave</u>	25 NCAC 01E .1903
<u>Leave Available to Full-Time Employees</u>	25 NCAC 01E .1904
<u>Leave Available to Part-Time Employees</u>	25 NCAC 01E .1905
<u>Use of Other Leave</u>	25 NCAC 01E .1906
<u>Requesting Use of Paid Parental Leave</u>	25 NCAC 01E .1907
<u>Leave Administration</u>	25 NCAC 01E .1908
<u>Leave Administration for Adoptions or Foster Care Placements</u>	25 NCAC 01E .1909
<u>Miscarriage or Stillbirth</u>	25 NCAC 01E .1910

BUILDING CODE COUNCIL

<u>2024 NC Residential Code/Referenced Standards</u>	Chapter 44
--	------------

LIST OF APPROVED TEMPORARY RULES
July 31, 2024 Meeting

ELECTIONS, STATE BOARD OF

<u>Actions of County Board as to Election Protests</u>	08 NCAC 02 .0110
<u>First Recount</u>	08 NCAC 09 .0107
<u>Secondary Recounts</u>	08 NCAC 09 .0110

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Certification of Criminal Justice Schools</u>	12 NCAC 09C .0401
--	-------------------

WILDLIFE RESOURCES COMMISSION

<u>Flounder</u>	15A NCAC 10C .0307
<u>Needmore Game Land in Macon and Swain Counties</u>	15A NCAC 10D .0252