

# NORTH CAROLINA REGISTER

VOLUME 39 • ISSUE 07 • Pages 339 – 453

October 1, 2024

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**PUBLISHED BY**

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## Contact List for Rulemaking Questions or Concerns

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

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

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**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 <sup>th</sup> 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.



# State of North Carolina

**ROY COOPER**  
GOVERNOR

August 5, 2024

## EXECUTIVE ORDER NO. 311

### DECLARATION OF A STATEWIDE STATE OF EMERGENCY AND TEMPORARY WAIVER AND SUSPENSION OF MOTOR VEHICLE REGULATIONS

**WHEREAS**, Hurricane Debby, downgraded to Tropical Storm Debby (“Debby”) will likely cause significant impacts to the State of North Carolina and the southeastern United States; and

**WHEREAS**, Debby could have a significant impact on public and private property and could seriously disrupt essential utility services and systems; and

**WHEREAS**, the anticipated impacts from Debby constitute a state of emergency as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(20); and

**WHEREAS**, certain measures are necessary to ensure the protection and safety of North Carolina residents and to coordinate the emergency response among state and local government officials; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.1(3) provides that it is the responsibility of the undersigned, state agencies, and local governments to “provide for the rapid and orderly rehabilitation of persons and restoration of property”; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.1(4) provides that it is the responsibility of the undersigned, state agencies, and local governments to “provide for cooperation and coordination of activities relating to emergency mitigation preparedness, response, and recovery among agencies and officials of this state and with similar agencies and officials of other states and with other private and quasi-official organizations”; and

**WHEREAS**, N.C. Gen. Stat. §§ 166A-19.10 and 166A-19.20 authorize the undersigned to declare a state of emergency and exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

**WHEREAS**, Debby will create a statewide emergency area, as that term is defined in the Emergency Management Act to mean an “emergency applicable to two-thirds or more of the counties in North Carolina”; and

**WHEREAS**, the undersigned has sought and obtained Concurrence of the Council of State, as that term is defined in N.C. Gen. Stat. §19.3(2d), in the declaration of the State of Emergency for the emergency area identified herein; and

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

**WHEREAS**, under N.C. Gen. Stat. § 166A-19.30(b)(3) the undersigned, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

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

**WHEREAS**, the anticipated impacts from Debby may result in extensive damage, including widespread power outages throughout the state that will require vehicles bearing equipment and supplies for utility restoration and debris removal to be moved through North Carolina on the interstate and intrastate highways; and

**WHEREAS**, the uninterrupted supply of electricity, fuel oil, diesel oil, gasoline, kerosene, propane, liquid petroleum gas, food, water, and medical supplies to residential and commercial establishments is essential before, during, and after Debby, and any interruption in the delivery of those commodities threatens the public welfare; and

**WHEREAS**, the prompt restoration of utility services is essential to the safety and well-being of the State's residents; and

**WHEREAS**, the undersigned has found that residents may suffer losses and further widespread damage within the meaning of N.C. Gen. Stat. §§ 166A-19.3 and 166A-19.21(b); and

**WHEREAS**, 49 C.F.R. § 390.23 allows the Governor of a State to suspend the rules and regulations under 49 C.F.R. Parts 390 if the Governor determines that an emergency condition exists; and

**WHEREAS**, nothing contained in this declaration shall be construed as an exemption from the controlled substances and alcohol use and testing requirements (49 C.F.R. Part 382), the commercial driver's license requirements (49 C.F.R. Part 383), the financial responsibility (insurance) requirements (49 C.F.R. Part 387), operating authority (49 C.F.R. Part 365), applicable size and weight requirements, ill or fatigued operator (49 C.F.R. Part 392.3) or any other portion of the regulations not specifically identified; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.70(g), upon the recommendation of the North Carolina Commissioner of Agriculture and the existence of an imminent threat of severe economic loss of livestock, poultry, or crops ready to be harvested, the Governor may direct the North Carolina Department of Public Safety ("DPS") to temporarily suspend weighing vehicles used to transport livestock, poultry or crops ready to be harvested; and

**WHEREAS**, this suspension does not permit the gross weight of any vehicle or combination to exceed the safe load-carrying capacity established by the North Carolina Department of Transportation ("DOT") on any bridge pursuant to N.C. Gen. Stat. § 136-72, or to permit the operation of a vehicle when a law enforcement officer has probable cause to believe the vehicle is creating an imminent hazard to public safety; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.70, the Governor may declare that the health, safety, or economic well-being of persons or property requires that the maximum hours of service for drivers prescribed by N.C. Gen. Stat. § 20-381 should be waived for (1) persons transporting essential fuels, food, water, non-alcoholic beverages, medical supplies, feed for livestock and poultry, (2) persons transporting livestock, poultry, and crops ready to be harvested, and (3) vehicles used in the restoration of utility and transportation services; and

**WHEREAS**, the undersigned has sought and obtained Concurrence from the Council of State, as that term is defined in N.C. Gen. Stat. 19.3(2d) on the provisions of this Executive Order requiring concurrence; and

**WHEREAS**, the undersigned has documented the contact and response of each Council of State member and is releasing the concurrence, non-concurrence, or non-response of each member by position on the website in which this Executive Order is published; and

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

**Section 1.**

I hereby declare that a statewide state of emergency, as defined in N.C. Gen. Stat. §§ 166A-19.3(6) exists in the State of North Carolina due to the anticipated impacts from Debby.

For purposes of this Executive Order, the emergency area is the entire State of North Carolina ("the Emergency Area").

**Section 2.**

I order all state and local government entities and agencies to cooperate in the implementation of the provisions of this declaration and the provisions of the North Carolina Emergency Operations Plan ("the Plan").

I delegate to Eddie M. Buffaloe, Jr., the Secretary of DPS, or his designee, all power and authority granted to and required of me by Article 1A of Chapter 166A of the North Carolina General Statutes to implement the Plan and deploy the State Emergency Response Team to take the appropriate actions necessary to promote and secure the safety and protection of the populace in North Carolina.

Secretary Buffaloe, as Chief Coordinating Officer for the State of North Carolina, shall exercise the powers prescribed in N.C. Gen. Stat. § 143B-602.

**Section 3.**

I further direct Secretary Buffaloe, or his designee, to seek assistance from any agencies of the United States Government as may be needed to meet the emergency and to seek reimbursement for costs incurred by the state in responding to this emergency.

**Section 4.**

DPS, in conjunction with DOT, shall waive the maximum hours of service for drivers prescribed by DPS pursuant to N.C. Gen. Stat. § 20-381 for (1) persons transporting essential fuels, food, water, non-alcoholic beverages, medical supplies, feed for livestock and poultry, (2) persons transporting livestock, poultry, and crops ready to be harvested, and (3) vehicles used in the restoration of utility and transportation services. In addition, DPS shall, pursuant to N.C. Gen. Stat. § 166A-19.70(g), temporarily suspend weighing pursuant to N.C. Gen. Stat. § 20-118.1 vehicles used to transport livestock, poultry, livestock or poultry feed, or crops ready to be harvested.

**Section 5.**

With the Concurrence of the Council of State, and subject to Section 8 below, DPS, in conjunction with DOT, shall waive enforcement of certain size and weight restrictions and penalties arising under N.C. Gen. Stat. §§ 20-116, 20-118, and 20-119, certain registration requirements and penalties arising under N.C. Gen. Stat. §§ 20-86.1 and 20-382, and certain registration and filing requirements and penalties arising under N.C. Gen. Stat. §§ 105-449.45, 105-449.47, and 105-449.49 for vehicles supporting emergency relief efforts in the Emergency Area.

**Section 6.**

Notwithstanding the waivers set forth above, size and weight restrictions and penalties have not been waived under the following conditions:

- a. When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer ("GVWR") or 90,000 pounds gross weight, whichever is less.
- b. When the vehicle weight exceeds a single-axle weight of 22,000 pounds, a tandem-axle weight of 42,000 pounds, or a gross weight of 90,000 pounds.
- c. When the vehicle consists of a five or more axle combination vehicle that exceeds a single-axle weight of 26,000 pounds, a tandem-axle weight of 42,000 pounds and a gross weight 90,000 pounds, with a length of at least forty-eight (48) feet between the center of axle one and the center of the last axle of the vehicle and a minimum of eleven (11) feet between the center of axle one and the center of axle two of the vehicle.

- d. When the vehicle consists of a two-axle vehicle that exceeds a gross weight of 37,000 pounds and a single-axle weight of no more than 27,000 pounds, with a length of at least fourteen (14) feet between the center of axle one and the center of axle two of the vehicle.
- e. When a vehicle and vehicle combination exceed twelve (12) feet in width and the total overall vehicle combination's length exceeds seventy-five (75) feet from bumper to bumper.
- f. Vehicles and vehicle combinations subject to exemptions or permits by authority of this Executive Order shall not be exempt from the requirement of having (A) a yellow banner on the front and rear that is seven (7) feet long and eighteen (18) inches wide and bears the legend "Oversized Load" in ten (10) inch black letters, 1.5 inches wide and (B) red flags measuring eighteen (18) inches square on all sides at the widest point of the load. In addition, when operating between sunset and sunrise, a certified escort shall be required for loads exceeding eight (8) feet six (6) inches in width.
- g. Commercial vehicles operating outside the normal weight, height, and length restrictions under the authority of this State of Emergency shall be issued permits by DOT. Said vehicles shall be subject to any special conditions DOT and DPS may list on applicable permits. Nothing in this Executive Order shall be construed to allow any vehicle to exceed weight limits posted for bridges and like structures, nor shall anything in this Executive Order be construed to relieve compliance with restrictions other than those specified in this Executive Order or from any statute, rule, order, or other legal requirement not specifically waived herein.
- h. Oversize permits may be issued by the DOT, Oversize/Overweight Unit, during normal business hours, Monday through Friday by calling 1-888-221-8166 or contacting them through the online portal at <https://connect.ncdot.gov/business/trucking/Pages/overpermits.aspx>

**Section 7.**

With Council of State Concurrence, vehicles referenced under Sections 5 and 6 of this Executive Order shall be exempt from the following registration requirements, except where otherwise noted below:

- a. The requirement to obtain a temporary trip permit in N.C. Gen. Stat. § 105-449.49.
- b. The requirement of filing a quarterly fuel tax return.
- c. The registration requirements under N.C. Gen. Stat. §§ 20-382.1 and 20-382 concerning interstate for-hire authority; however, vehicles shall maintain the required limits of insurance as required.
- d. Non-participants in North Carolina's International Registration Plan and International Fuel Tax Agreement will be permitted to enter North Carolina in accordance with the exemptions identified by this Executive Order.

**Section 8.**

The size and weight exemption for vehicles will be allowed on all DOT designated routes, except those routes designated as light traffic roads under N.C. Gen. Stat. § 20-118. Size and weight exemptions shall not be in effect on bridges posted pursuant to N.C. Gen. Stat. § 136-72.

**Section 9.**

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 4 through 8 of this Executive Order in a manner that does not endanger North Carolina motorists.

**Section 10.**

Pursuant to 49 C.F.R. § 390.23, I hereby waive 49 C.F.R. § 395.3 for vehicles transporting loads that are for use in (1) providing direct assistance supporting emergency relief efforts including transporting essential fuels, food, water, non-alcoholic beverages, medical supplies, feed for livestock and poultry, (2) transporting livestock, poultry, and crops ready to be harvested, or (3) the restoration of

utility and transportation services in response to Debby in North Carolina and affected states for fourteen (14) days.

Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish that their loads are for use in providing direct assistance supporting emergency relief efforts including transporting loads that are for use in (1) providing direct assistance supporting emergency relief efforts including transporting essential fuels, food, water, non-alcoholic beverages, medical supplies, feed for livestock and poultry, (2) transporting livestock, poultry, and crops ready to be harvested, or (3) the restoration of utility and transportation services in response to Debby.

Direct assistance terminates when a driver or commercial motor vehicle is used in intrastate/interstate commerce to transport cargo or provide services that are not in support of emergency relief efforts related to Debby in North Carolina or affected states, or when the motor carrier dispatches a driver or commercial motor vehicle to another location to begin operations in commerce. (49 C.F.R. § 390.23(b)).

Upon termination of direct assistance to emergency relief efforts related to transporting loads that are for use in (1) providing direct assistance supporting emergency relief efforts including transporting essential fuels, food, water, non-alcoholic beverages, medical supplies, feed for livestock and poultry, (2) transporting livestock, poultry, and crops ready to be harvested, or (3) the restoration of utility and transportation services in response to Debby in North Carolina or affected states, the motor carrier and driver are subject to the requirements of 49 C.F.R. § 395.3, except that a driver may return empty to the motor carrier's terminal or the driver's normal work reporting location without complying with 49 C.F.R. § 395.3. When a driver is moving from emergency relief efforts to normal operations a 10-hour break is required if the total time a driver operated, whether conducting emergency relief efforts or a combination of emergency relief efforts and normal operations, equals or exceeds fourteen (14) hours.

**Section 11.**

This Executive Order does not prohibit or restrict lawfully possessed firearms or ammunition or impose any limitation on the consumption, transportation, sale, or purchase of alcoholic beverages.

**Section 12.**

Pursuant to N.C. Gen. Stat. § 166A-19.23, this declaration triggers the prohibition against excessive pricing as provided in N.C. Gen. Stat. §§ 75-37 and 75-38 in the Emergency Area.

**Section 13.**

This Executive Order is effective immediately and shall remain in effect for thirty (30) days, unless earlier terminated, provided, however, that the provisions in Section 10 shall remain in effect for fourteen (14) days.

**IN WITNESS WHEREOF**, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 5<sup>th</sup> day of August in the year of our Lord two thousand and twenty-four.

  
\_\_\_\_\_  
Roy Cooper  
Governor

**ATTEST:**

  
\_\_\_\_\_  
Rodney S. Maddox  
Chief Deputy Secretary of State





# State of North Carolina

**ROY COOPER**  
GOVERNOR

August 29, 2024

## EXECUTIVE ORDER NO. 312

### EXTENSION OF THE JUVENILE JUSTICE PLANNING COMMITTEE

**WHEREAS**, the Executive Organization Act of 1973 established the Governor's Crime Commission; and

**WHEREAS**, N.C. Gen. Stat. § 143B-1102 establishes the Juvenile Justice Planning Committee (the "Committee") as an adjunct committee to advise the Governor's Crime Commission on matters referred to it that are relevant to juvenile justice; and

**WHEREAS**, the federal Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. No. 93-415 (1974), as amended through Pub. L. 115-385 (Dec. 21, 2018), requires states to establish advisory boards to administer juvenile justice and delinquency prevention grants from the United States Department of Justice; and

**WHEREAS**, the Committee is ideally suited to serve as such an advisory board consistent with federal law; and

**WHEREAS**, juvenile justice policies and programs not only improve the health and well-being of juveniles, their families and the broader community, but also improve juveniles' long-term education and employment prospects; and

**WHEREAS**, Exec. Order No. 269, 37 N.C. Reg. 618-619 (October 17, 2022), which was issued on August 31, 2022, is set to expire on August 31, 2024; and

**WHEREAS**, the undersigned has determined that Executive Order No. 269 must be extended; and

**WHEREAS**, pursuant to Article III § 1 of the North Carolina Constitution and N.C. Gen. Stat. §§ 143A-4 and 143B-4, the Governor is the chief executive officer of the state and is responsible for formulating and administering the policies of the executive branch of state government; and

**WHEREAS**, pursuant to N.C. Gen. Stat. §147-12, the Governor has the authority and the duty to supervise the official conduct of all executive and ministerial officers.

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

#### **Section 1. Extending Executive Order No. 269**

Pursuant to N.C. Gen. Stat. § 147-16.2, Executive Order No. 269, which extended the Juvenile Justice Planning Committee is hereby extended to August 31, 2026.

**Section 2. Effect and Duration**

This extension of Executive Order No. 269 is effective immediately and shall remain in effect until August 31, 2026, or until rescinded or superseded by another applicable Executive Order.

**IN WITNESS WHEREOF**, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 29<sup>th</sup> of August in the year of our Lord two thousand and twenty-four.



Roy Cooper  
Governor

ATTEST:



Rodney S. Maddox  
Chief Deputy Secretary of State



The ~~2024~~2025 Low-Income Housing Tax Credit Qualified Allocation Plan  
For the State of North Carolina

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I. INTRODUCTION

The ~~2024~~2025 Qualified Allocation Plan (the Plan) has been developed by the North Carolina Housing Finance Agency (the Agency) as administrative agent for the North Carolina Federal Tax Reform Allocation Committee (the Committee) in compliance with Section 42 of the Internal Revenue Code of 1986, as amended (the Code). For purposes of the Plan, the term “Agency” shall mean the Agency acting on behalf of the Committee, unless otherwise provided.

The Plan was reviewed in one public hearing and met the other legal requirements prior to final adoption by the Committee. The staff of the Agency was present at the hearing to take comments and answer questions.

The Agency will only allocate low-income housing tax credits in compliance with the Plan. The Code requires the Plan contain certain elements. These elements, and others added by the Committee, are listed below.

A. Selection criteria to be used in determining the allocation of tax credits:

- Project location and site suitability.
- Market demand and local housing needs.
- Serving the lowest income tenants.
- Serving qualified tenants for the longest periods.
- Design and quality of construction.
- Financial structure and long-term viability.
- Use of federal project-based rental assistance.
- Use of mortgage subsidies.
- Experience of development team and management agent(s).
- Serving persons with disabilities and persons who are homeless.
- Willingness to solicit referrals from public housing waiting lists.
- Tenant populations of individuals with children.
- Projects intended for eventual tenant ownership.
- Projects that are part of a community redevelopment effort.
- Energy efficiency.
- Historic nature of the buildings.

B. Threshold, underwriting and process requirements.

C. Description of the Agency’s compliance monitoring program, including procedures to notify the Internal Revenue Service of noncompliance with the requirements of the program.

In the process of administering the tax credit, Rental Production Program (RPP) and Workforce Housing Loan Program (WHLP), the Agency will make decisions and interpretations regarding project applications and the Plan. RPP and WHLP are state investments dedicated to making rental developments financially feasible and more affordable for working families and seniors. Unless otherwise stated, the Agency is entitled to the full discretion allowed by law in making all such decisions and interpretations. The Agency reserves the right to amend, modify, or withdraw provisions contained in the Plan that are inconsistent or in conflict with state or federal laws or regulations. In the event of a major:

- natural disaster
- pandemic / epidemic,
- disruption in the financial markets, or
- reduction in subsidy resources available, including tax credits, RPP, and WHLP funding,

the Agency may disregard any section of the Plan, including point scoring and evaluation criteria, that interferes with an appropriate response.

**II. SET-ASIDES, AWARD LIMITATIONS, AND COUNTY DESIGNATIONS**

The Agency will determine whether applications are eligible under Section II(A) or II(B). This Section II only applies to 9% Tax Credit applications.

**A. REHABILITATION SET-ASIDE**

The Agency will award up to ten percent (10%) of tax credits available after forward commitments to projects proposing rehabilitation of existing housing. The Agency may exceed this limitation to completely fund a project request. In the event eligible requests exceed the amount available, the Agency will determine awards based on the evaluation criteria in Section IV(H)(3). The maximum award under this set-aside to any one Principal will be one project.

The following will be considered new construction under Section II(B) below:

- adaptive re-use projects,
- entirely vacant residential buildings,
- proposals to increase and/or substantially re-configure residential units.

**B. NEW CONSTRUCTION SET-ASIDES**

**1. GEOGRAPHIC REGIONS**

The Agency will award tax credits remaining after awards described above to new construction projects, starting with those earning the highest scoring totals within each of the following four geographic set-asides and continuing in descending score order through the last project that can be fully funded. The Agency reserves the right to revise the available credits in each set-aside to award the next highest scoring application statewide under Section II(G)(1).

West 16%		Central 23%		Metro 38%	East 23%	
Alexander	Lincoln	Alamance	Moore	Buncombe	Beaufort	Jones
Alleghany	Macon	Anson	Orange	Cumberland	Bertie	Lenoir
Ashe	Madison	Cabarrus	Person	Durham	Bladen	Martin
Avery	McDowell	Caswell	Randolph	Forsyth	Brunswick	Nash
Burke	Mitchell	Chatham	Richmond	Guilford	Camden	New Hanover
Caldwell	Polk	Davidson	Rockingham	Mecklenburg	Carteret	Northampton
Catawba	Rutherford	Davie	Rowan	Wake	Chowan	Onslow
Cherokee	Surry	Franklin	Scotland		Columbus	Pamlico
Clay	Swain	Granville	Stanly		Craven	Pasquotank
Cleveland	Transylvania	Harnett	Stokes		Currituck	Pender
Gaston	Watauga	Hoke	Union		Dare	Perquimans
Graham	Wilkes	Iredell	Vance		Duplin	Pitt
Haywood	Yadkin	Lee	Warren		Edgecombe	Robeson
Henderson	Yancey	Montgomery			Gates	Sampson
Jackson					Greene	Tyrrell
					Halifax	Washington
					Hertford	Wayne
					Hyde	Wilson
					Johnston	

**2. REDEVELOPMENT PROJECTS**

- (a) If necessary, the Agency will adjust the awards under the Plan to ensure the overall allocation results in awards for two (2) Redevelopment Projects. Specifically, tax credits that would have been awarded to the lowest ranking project(s) that do(es) not meet the criteria below will be

awarded to the next highest ranking Redevelopment Project(s). The Agency may make such adjustment(s) in any geographic set-aside.

- (b) The following are required to qualify as a Redevelopment Project:
- (i) The site currently contains or contained at least one structure used for commercial, residential, educational, or governmental purposes.
  - (ii) The application proposes adaptive re-use with historic rehabilitation credits and/or new construction.
  - (iii) Any required demolition has been completed or is scheduled for completion in ~~2024~~2025 (not including the project buildings). For a Rental Assistance Demonstration (RAD) project under the U.S. Department of Housing and Urban Development (HUD), any required demolition must be scheduled to be completed by June 30, 202~~6~~5.
  - (iv) A unit of local government initiated the project, evidenced by a Request for Proposal, Council minutes, or other documentation stipulating the project was originally envisioned by the local government, and has invested community development resources in the Half Mile area within the last ten years. A resolution will not suffice as evidence of local government initiation.
  - (v) As of the preliminary application deadline, a unit of local government formally adopted a plan to address the deterioration (if any) in the Half Mile area and approved one or more of the following for the project:
    - donation of at least one parcel of land,
    - waiver of impact, tap, or related fees normally charged,
    - commitment to lend/grant at least \$750,000 in the Metro region and \$250,000 in the East, Central or West of its housing development funds (net of any amount paid to the unit of government) as a source of permanent funding, or
    - is part of the RAD program under HUD.

The Agency will require official documentation of each element of local government participation.

C. USDA RURAL DEVELOPMENT

Up to \$750,000 will be awarded to one eligible rehabilitation project with existing U.S. Department of Agriculture, Rural Development (RD) Section 515 financing and project-based rental assistance for at least fifty percent (50%) of the units. This project will count towards the applicable set-asides and limits. Other RD applications will be considered under the applicable set-asides.

D. NONPROFIT AND CHDO SET-ASIDES, NATIONAL HOUSING TRUST FUND, AND CHOICE NEIGHBORHOODS IMPLEMENTATION SET-ASIDE

1. SET-ASIDES AND NATIONAL HOUSING TRUST FUND

If necessary, the Agency will adjust the awards under the Plan to ensure that the overall allocation results in:

- ten percent (10%) of the state's federal tax credit ceiling being awarded to projects involving tax-exempt organizations (nonprofits),
- fifteen percent (15%) of the Agency's HOME funds being awarded to projects involving Community Housing Development Organizations certified by the Agency (CHDOs) and
- all funds available from the National Housing Trust Fund have been awarded.

Specifically, tax credits that would have been awarded to the lowest ranking project(s) that do(es) not fall into one of these categories will be awarded to the next highest ranking project(s) that do(es) until

the overall allocation(s) reach(es) the necessary percentage(s). The Agency may make such adjustment(s) in any set-aside.

(a) Nonprofit Set-Aside

To qualify as a nonprofit application, the project must either:

- not involve any for-profit Principals or
- comply with the material participation requirements of the Code, applicable federal regulations and Section VI(A)(2).

(b) CHDO Set-Aside

To qualify as a CHDO application,

- the project must meet the requirements of subsection (D)(1)(a) above and 24 CFR 92.300(a)(1),
- the Applicant, any Principal, or any affiliate must not undertake any choice-limiting activity prior to successful completion of the U.S. Department of Housing and Urban Development (HUD) environmental clearance review, and
- the project and owner must comply with regulations regarding the federal CHDO set-aside.

The Agency may determine the requirements of the federal CHDO set-aside have been or will be met without implementing subsection (D)(1)(b).

(c) National Housing Trust Fund

To qualify for the National Housing Trust Fund, the project must:

- commit at least twenty-five percent (25%) of qualified low-income units will be affordable to and occupied by households with incomes at or below thirty percent (30%) of area median income. See [Appendix J-G](#) for additional information.

2. CHOICE NEIGHBORHOODS IMPLEMENTATION SET-ASIDE

The Agency will make a forward commitment of ~~2026~~ tax credits for no more than two applications, and no more than one application per housing authority, provided such applications meet all Plan requirements and are not awarded through the regular competition. To be eligible under this set-aside the Agency must have approved the application for submission under this set-aside prior to the preliminary application submission deadline. Any Public Housing Authority involved in more than one application containing CNI funds will be required to indicate their priority project. ~~This set-aside will remain in each QAP through 2025.~~

E. PRINCIPAL AND PROJECT AWARD LIMITS

1. PRINCIPAL LIMITS

- (a) The maximum awards to any one Principal will be a total of \$2,000,000 in tax credits, including all set-asides. New construction awards will be counted towards this limitation first (in score order), then rehabilitation awards. No Principal can receive more than 2 new construction awards.
- (b) The Agency may further limit awards based on unforeseen circumstances.
- (c) For purposes of the maximum allowed in this subsection (E)(1), the Agency may determine that a person or entity not included in an application is a Principal for the project. Such determination would include consideration of relationships between the parties in previously awarded projects and other common interests. Standard fee for service contract relationships (such as accountants or attorneys) will not be considered.

2. PROJECT LIMIT

The maximum award to any one project will be \$1,300,000.

3. AGENCY-DESIGNATED BASIS BOOST

The Agency can boost the eligible basis of new construction projects committing to the targeting in Section IV(B)(2) or that are located in an Opportunity Zone by up to ten percent (10%). Projects using the DDA or QCT basis increase are not eligible under this section.

F. COUNTY AWARD LIMITS AND INCOME DESIGNATIONS

1. AWARD LIMITS

(a) Rehabilitation and East, Central, and West Regions

No county will be awarded more than one project under the rehabilitation set-aside. No county will be awarded more than one project under the new construction set-aside

(b) Metro Region

The initial maximum award(s) for a county will be its percent share of the Metro region based on population (see **Appendix K**), unless exceeding this amount is necessary to complete a project request. If any tax credits remain, the Agency will make awards to the next highest scoring application(s). A county may receive one additional award, even if in excess of its share.

2. INCOME DESIGNATIONS

The Agency is responsible for designating each county as High, Moderate or Low Income. The criteria used as a guide in making this determination was HUD's FY 2024~~23~~ Median Family Income.

High		Moderate		Low	
Buncombe	Johnston	Alamance	Jones	Alleghany	Lenoir
Brunswick	Lincoln	Alexander	Lee	Anson	Martin
Cabarrus	Madison	Beaufort	Macon	Ashe	McDowell
Chatham	Mecklenburg	Burke	Mitchell	Avery	Montgomery
Currituck	Moore	Caldwell	Nash	Bertie	Northampton
Dare	New Hanover	Camden	Onslow	Bladen	Richmond
Durham	Orange	Carteret	Pamlico	Cherokee	Robeson
Franklin	Pender	Caswell	Pasquotank	Chowan	Rutherford
Gaston	Union	Catawba	Perquimans	Clay	Sampson
Henderson	Wake	Craven	Person	Cleveland	Scotland
Iredell	Watauga	Cumberland	Pitt	Columbus	Surry
		Davidson	Polk	Duplin	Tyrrell
		Davie	Randolph	Graham	Vance
		Edgecombe	Rockingham	Greene	Warren
		Forsyth	Rowan	Halifax	Washington
		Gates	Stanly	Hertford	Wilkes
		Granville	Stokes	Hyde	Wilson
		Guilford	Swain		
		Harnett	Transylvania		
		Haywood	Wayne		
		Hoke	Yadkin		
		Jackson	Yancey		

G. OTHER AWARDS AND RETURNED ALLOCATIONS

1. The Agency may award tax credits remaining from the geographic set-asides to the next highest scoring eligible new construction application(s) in the East, Central, and West regions and/or one or more eligible rehabilitation applications. The Agency may also carry forward any amount of tax credits to the next year.
2. An owner who received an award of 9% tax credits in ~~2023~~ ~~2021~~ or ~~2022~~ is eligible to receive an allocation of ~~2024~~2025 tax credits equal to or less than the amount of the original tax credits awarded to the project. The Owner must request an allocation of ~~2024~~2025 credits between November 1, 2024~~3~~ and December 31, 2024~~3~~. The allocation will not count against the ~~2024~~2025 Principal limit.

The following will apply to those owners requesting a new tax credit allocation:

- Owners will return their allocation for an allocation of ~~2024~~2025 tax credits.
  - Projects must comply with the requirements in the Qualified Allocation Plan for the original allocation and all representations made in the original awarded application (unless otherwise waived by the Agency).
  - Any award of 9% tax credits allocated in 2024 or later will be limited to one return of credits for a new allocation
  - The project's design is the same as approved at full application (other than changes approved by the Agency).
  - Projects seeking additional credits will need to re-apply in the ~~2024~~2025 cycle.
3. The Agency may make a forward commitment of the next year's tax credits in an amount necessary to fully fund project(s) with a partial award or to any project application that was submitted in a prior year if such application meets all the minimum requirements of the Plan. In the event that credits are returned or the state receives credits from the national pool, the Agency may elect to carry such credits forward, make an award to any project application (subject only to the nonprofit set aside), or a combination of both.

III. DEADLINES, APPLICATION AND FEES

A. APPLICATION AND AWARD SCHEDULE

The following schedule will apply to the ~~2024~~2025 application process for 9% Tax Credits and the first round of tax-exempt bond volume and 4% Tax Credits.

January <del>17</del> <sup>9</sup>	Deadline for submission of preliminary applications (12:00 noon)
March <del>10</del> <sup>11</sup>	Market analysts will submit studies to the Agency and Applicants
March <del>21</del> <sup>2</sup>	Notification of final site scores
March <del>24</del> <sup>2</sup>	Deadline for market-related project revisions (5:00 p.m.)
April <del>7</del> <sup>5</sup>	Deadline for the Agency and Applicant to receive the revised market study, if applicable
May <del>9</del> <sup>10</sup>	Deadline for full applications (12:00 noon)
August	Notification of tax credit awards

The Agency will also accept tax-exempt bond volume and 4% Tax Credit applications any time between May 1 and October 1 (5:00 p.m.). When a preliminary application has been submitted in this timeframe,

a schedule of milestones will be provided to the Applicant. The preliminary application submission date will determine when those milestones occur which will follow a time frame similar to the 9% Tax Credit round. The Agency will work with the Applicant to determine if the project will receive ~~2024~~2025 or 2026~~5~~ volume cap. Full applications can be submitted no later than January 9, ~~2026~~10, 2025.

The Agency reserves the right to change the schedule to accommodate unforeseen circumstances.

**B. APPLICATION, ALLOCATION, MONITORING, AND PENALTY FEES**

1. All Applicants are required to pay a nonrefundable fee of \$6,180~~60~~ at the submission of the preliminary application. This fee covers the cost of the market study or physical needs assessment and a \$1,480~~60~~ preliminary application processing fee (which will be assessed for every electronic application submitted). The Agency may charge additional fee(s) to cover the cost of direct contracting with other providers (such as appraisers).
2. All Applicants are required to pay a nonrefundable processing fee of \$1,480~~60~~ upon submission of the full application.
3. Entities receiving tax credit awards, including those involving tax-exempt bond volume, are required to pay a nonrefundable allocation fee equal to 0.94~~2~~% of the project's total qualified basis.
4. The allocation fee will be due at the time of either the carryover allocation or bond volume award. Failure to return the required documentation and fee by the date specified may result in cancellation of the allocation. The Agency may assess other fees for additional monitoring responsibilities.
5. Owners must pay a monitoring fee of \$1,300~~280~~ per unit (includes all units, qualified, unrestricted, and employee) prior to issuance of the project's IRS Form 8609. Any project utilizing income averaging or for which the Agency is the bond issuer must pay an additional monitoring fee of \$300 per unit.
6. If expenses for legal services are incurred by the Committee or Agency to correct mistakes of the owner which jeopardize use of the tax credits, such legal costs will be paid by the owner in the amount charged to the Committee or Agency.
7. The Agency may assess Applicants or owners a fee of up to \$2,000 for each instance of failure to comply with a written requirement, whether or not such requirement is in the Plan. The Agency will not process applications or other documentation relating to any Principal who has an outstanding balance of fees owed; such a delay in processing may result in disqualification of application(s).

**C. APPLICATION PROCESS AND REQUIREMENTS**

1. The Agency may require Applicants to submit any information, letter, or representation relating to Plan requirements or point scoring as part of the application process.
2. Any failure to comply with an Agency request under subsection (C)(1) above or any misrepresentation, false information or omission in any application document may result in disqualification of that application and any other involving the same owner(s), Principal(s), consultant(s) and/or application preparer(s). Any misrepresentation, false information or omission in the application document may also result in a revocation of a tax credit allocation.
3. Only one active application can be submitted per site (new construction or rehabilitation).
4. For any rehabilitation application proposing to combine multiple existing properties into one property, the properties must be adjacent or not separated by more than one like parcel, or by more than a road, street, stream, or other similar property..
5. No Principal or Applicant can be in the ownership entity of more than five (5) new construction 9% Tax Credit preliminary or full applications.

6. The Agency will notify the appropriate unit of government about the project after submission of the full application.
7. For each application one individual or validly existing entity must be identified as the Applicant and execute the preliminary and full applications. An entity may be one of the following:
  - (a) corporation, including nonprofits,
  - (b) limited partnership, or
  - (c) limited liability company.

Only the identified Applicant will have the ability to make decisions with regard to that application and be considered under Section IV(D)(1). The Applicant may enter into joint venture or other agreements but the Agency will not be responsible for evaluating those documents to determine the relative rights of the parties. If the application receives an award the Applicant must become a managing member or general partner of the ownership entity.

#### IV. SELECTION CRITERIA AND THRESHOLD REQUIREMENTS

Applications must meet all applicable threshold requirements to be considered for award and funding. Scoring and threshold determinations made in prior years are not binding on the Agency for the 2024/2025 cycle.

##### A. SITE AND MARKET EVALUATION

The Agency will not accept a full application where the preliminary application does not meet all site and market threshold requirements.

##### 1. SITE EVALUATION (MAXIMUM 71 POINTS)

- (a) General Site Requirements:
  - (i) Sites must be sized to accommodate the number and type of units proposed. The Applicant or a Principal must have site control by the preliminary application deadline as evidenced by an option, contract or deed. The documentation of site control must include a plot plan.
  - (ii) Required zoning must be in place by the full application deadline, including special/conditional use permits, and any other discretionary land use approval required (includes all legislative or quasi-judicial decisions).
  - (iii) Water and sewer must be available with adequate capacity to serve the site. Sites should be accessed directly by existing paved, publicly maintained roads. If not, it will be the owner's responsibility to extend utilities and roads to the site. In such cases, the Applicant must explain and budget for such plans and document the right to perform such work.
  - (iv) To be eligible for RPP funds, the preliminary application must contain the Agency's "Notice of Real Property Acquisition" form. The form must be executed by all parties before or at the same time as the option or contract.

##### (b) Criteria for Site Score Evaluation:

Site scores will be based on the following factors. Each will also serve as a threshold requirement; the Agency may remove an application from consideration if the site is sufficiently inadequate in one of the categories. An application must have a minimum total score of 50 points.

##### (i) NEIGHBORHOOD CHARACTERISTICS (MAXIMUM 10 POINTS)

Good: 10 points if structures within a Half Mile are well maintained or the site qualifies as a Redevelopment Project (see Section II(B)(2)(b))

Fair: 5 points if structures within a Half Mile are not well maintained and there are visible signs of deterioration

Poor: 0 points if structures within a Half Mile are Blighted or have physical security modifications (e.g. barbed wire fencing or bars on windows)

Half Mile: The half mile radius from the approximate center of the site (does not apply to Amenities below).

Blighted: A structure that is abandoned, deteriorated substantially beyond normal wear and tear, a public nuisance, or appears to violate minimum health and safety standards.

(ii) AMENITIES (MAXIMUM 49 POINTS)

Other than applications with tribally-appropriated funds or near bus/transit stops (described at the end of this subsection), points will be determined according to the matrix below. For an amenity to be eligible for points, the application must include documentation required by the Agency of meeting the applicable criteria. In all cases the establishment must be open to the general public and operating as of the preliminary application deadline with no announced closing prior to the notification of final site scores.

Driving Distance in Miles

<i>Primary Amenities</i> (maximum 26 points)				
	≤ 1.5	≤ 2	≤ 2.5	≤ 3.5
Grocery	12 pts.	10 pts.	8 pts.	6 pts.
Shopping	7 pts.	6 pts.	5 pts.	4 pts.
Pharmacy	7 pts.	6 pts.	5 pts.	4 pts.
<i>Secondary Amenities</i> (maximum 23 points)				
	≤ 1.5	≤ 2	≤ 2.5	≤ 3.5
Other Primary Amenity	5 pts.	4 pts.	3 pts.	2 pts.
Service	3 pts.	2 pts.	1 pt.	0 pts.
Healthcare	3 pts.	2 pts.	1 pt.	0 pts.
Public Facility	3 pts.	2 pts.	1 pt.	0 pts.
Public School	3 pts.	2 pts.	1 pt.	0 pts.
Senior Center or Community Center	3 pts.	2 pts.	1 pt.	0 pts.
Retail	3 pts.	2 pts.	1 pt.	0 pts.

Driving Distance in Miles, Small Town\*

<i>Primary Amenities</i> (maximum 26 points)				
	≤ 2.5	≤ 3	≤ 3.5	≤ 4.5
Grocery	12 pts.	10 pts.	8 pts.	6 pts.
Shopping	7 pts.	6 pts.	5 pts.	4 pts.
Pharmacy	7 pts.	6 pts.	5 pts.	4 pts.
<i>Secondary Amenities</i> (maximum 23 points)				
	≤ 2.5	≤ 3.	≤ 3.5	≤ 4.5
Other Primary Amenity	5 pts.	4 pts.	3 pts.	2 pts.
Service	3 pts.	2 pts.	1 pt.	0 pts.
Healthcare	3 pts.	2 pts.	1 pt.	0 pts.
Public Facility	3 pts.	2 pts.	1 pt.	0 pts.
Public School	3 pts.	2 pts.	1 pt.	0 pts.

Senior Center or Community Center	3 pts.	2 pts.	1 pt.	0 pts.
Retail	3 pts.	2 pts.	1 pt.	0 pts.

\* A Small Town is a municipality with a population of less than 10,000 people. The list of town sizes can be found on the Office of State Budget and Management web-site at <https://demography.osbm.nc.gov/explore/dataset/2022-certified-population-estimates/table/?disjunctive.county&disjunctive.municipality&sort=county>. The Certified 2022 Population Estimates, Municipal Estimates – Alphabetically by municipality will be used to determine a town’s population. For municipalities listed in multiple counties, the combined population will be used. A site is not required to be within the town limits to qualify but must have an address of a Small Town. Any application in an unincorporated town not appearing on the Small Town list but recognized as a community must have Agency approval to be considered a Small Town prior to the preliminary application deadline.

Only one establishment will count for each row under Primary and Secondary Amenities. For example, an application for a site with a public park and library between one point five (1.5) miles and two (2) miles will receive only 2 points under Public Facility.

The driving distance will be the mileage as calculated by Google Maps and must be a drivable route as of the preliminary application deadline. The drivable route must be shown in satellite view map format (written directions optional). A photo of each amenity must also be provided. The measurement will be:

- the point closest to the site entrance to or from
- the point closest to the amenity entrance.

Driveways, access easements, and other distances in excess of 500 feet between the nearest residential building of the proposed project and road shown on Google Maps will be included in the driving distance. For scattered site projects, the measurement will be from the location with the longest driving distance(s). Scattered site is defined as buildings on separate parcels, not connected by internal drive, and with separate entrances. A scattered site cannot have parcels separated by more than one like parcel, or by more than a road, street, stream, or other similar property.

The following establishments qualify as a Grocery:

Aldi	Galaxy Food Centers	Lowes Foods	Walmart Neighborhood Market
Bi-Lo	The Fresh Market	Piggly Wiggly	Walmart Supercenter
Bo’s Food Stores	Harris Teeter	Publix	Weaver Street Market
Compare Foods	Hopey & Company	Red & White	Wegmans
Earth Fare	IGA	Sav-Mor	Whole Foods
Fairvalue	Ingle’s Market	Save-A-Lot	
Family Foods	Just Save	Sprouts	
Food Lion	Kroger	Super Target	
Food Matters Market	Lidl	Trader Joe’s	

The following establishments qualify as Shopping:

Big Lots	Maxway	Super Target
Dollar General/DGX	Ollie’s Bargain Outlet	Walmart
Dollar Tree	Roses	Walmart Supercenter
Family Dollar	Roses Express	

Fred's Super Dollar	Target
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To qualify as a Pharmacy, the establishment must have non-medical general merchandise items for sale (not including pharmacies within hospitals).

To qualify as a Secondary Amenity, the establishment must meet the applicable requirement(s) below.

Other Primary Amenity: second Grocery, Shopping or Pharmacy (not used as Primary Amenity)

Service: restaurant, bank/credit union, or gas station with convenience store

Healthcare: hospital, urgent care business, general/family practice, or general dentist (not to include orthodontist); does not include medical specialists or clinics within pharmacies

Public Facility (any of the following):

- public park owned and maintained by a local government containing, at a minimum, playground equipment and/or walking/bike trails and listed on a map, website, or other official means; a greenway or trailhead will qualify with dedicated parking
- library operated by a local government open at least five days a week

Public School: non-alternative elementary, middle or high school

Senior Center or Community Center: with scheduled activities operated by a local government

Retail: any Grocery or Shopping not listed as a Primary or Other Primary Amenity; any strip shopping center with a minimum of 4 operating establishments; any grocery or general merchandise establishment

A commitment of at least \$250,000 in tribally-appropriated funds (including through the Native American Housing Assistance and Self Determination Act) qualifies for 6 points, not to exceed the total for subsection (ii). The commitment must meet the requirements of Section VI(B)(6)(b) and be submitted as part of the preliminary application.

A bus/transit stop qualifies for 6 points, not to exceed the total for subsection (ii), if it is:

- in service as of the preliminary application date,
- at a fixed location and has a covered waiting area,
- served by a public transportation system six days a week, including for 10 consecutive hours on weekdays, and
- within 0.25 miles walking distance of the proposed project site entrance using existing continuous sidewalks (excluding the proposed project site) and crosswalks.

A bus/transit stop qualifies for 2 points, not to exceed the total for subsection (ii), if all of the above criteria are met except for a covered waiting area.

(iii) SITE SUITABILITY (MAXIMUM 12 POINTS)

3 points if there is no Incompatible Use, which includes the following activities, conditions, or uses within the distance ranges specified:

Half Mile

- airports
- chemical or hazardous materials storage/disposal
- industrial or agricultural activities with environmental concerns (such as odors or pollution)
- commercial junk or salvage yards

- landfills currently in operation
- sources of excessive noise
- wastewater treatment facilities

A parcel or right of way within 500 feet containing any of the following:

- adult entertainment establishment
- distribution facility
- factory or similar operation
- jail or prison
- large swamp

Any of the following within 250 feet of a proposed project building:

- electrical utility substation, whether active or not
- frequently used railroad tracks (not to include passenger light rail)
- high traffic corridor (500 feet for an interstate)
- power transmission lines and tower

3 points if there are no negative features, design challenges, physical barriers, or other unusual and problematic circumstances that would impede project construction or adversely affect future tenants, including but not limited to: power transmission lines and towers, flood hazards, steep slopes, large boulders, ravines, year-round streams, wetlands, and other similar features (for adaptive re-use projects: suitability for residential use and difficulties posed by the building(s), such as limited parking, environmental problems or the need for excessive demolition)

3 points if the project would be visible to potential tenants using normal travel patterns and is within 500 feet of a building that is currently in use for residential, commercial, educational, or governmental purposes (excluding Blighted structures or Incompatible Uses)

3 points if traffic controls allow for safe access to the site; for example limited sight distance (blind curve) or having to cross three or more lanes of traffic going the same direction when exiting the site would not receive points.

(iv) **SITE NEGATIVE POINTS (NEGATIVE 3 POINTS)**

Up to 3 points will be deducted from a site deemed to be unsuitable for housing. This determination recognizes a site may meet all site evaluation scoring criteria but not be suitable for housing regardless of having required zoning or local government support.

**2. MARKET ANALYSIS**

The Agency will administer the market study process based on this Section and the terms of **Appendix A** (incorporated herein by reference).

- (a) The Agency will contract directly with market analysts to perform studies. Applicants may interact with market analysts and will have an opportunity to revise their project (unit mix, targeting). Any revisions must be submitted in writing to both the market analyst and to the Agency, following the schedule in Section III(A), and will be binding on the Applicant for the full application. Only one request for revisions by the Applicant will be allowed.
- (b) The Agency will limit the number of projects awarded in the same application round to those that it determines can be supported in the market.
- (c) The following four criteria are threshold requirements for new construction applications:
  - (i) the project's capture rate,
  - (ii) the project's absorption rate,

- (iii) the vacancy rate at comparable properties (what qualifies as a comparable will vary based on the circumstances), and
- (iv) the project's effect on existing or awarded properties with 9% Tax Credits or Agency loans.
- (d) Applicants may not increase the total number of units after submission of the preliminary application. Unless ~~2024~~2025 rent and income limits are released by the 9% preliminary application deadline, 2024~~3~~ rent and income limits must be used for the preliminary application, market study, and any market study revision. After the deadline for completing market-related project revisions Applicants may not increase:
  - (i) rents, irrespective of a decrease in utility allowances,
  - (ii) the number of income targeted units in any bedroom type, or
  - (iii) the number of units in any bedroom type.
- (e) The Agency is not bound by the conclusions or recommendations of the market analyst(s), and will use its discretion in evaluating the criteria listed in this subsection (A)(2).
- (f) Projects may not give preferences to potential tenants based on:
  - (i) residing in the jurisdiction of a particular local government,
  - (ii) having a particular disability, or
  - (iii) being part of a specific occupational group (e.g. artists).
- (g) Age-restricted (senior) projects may not contain three or more bedroom units.
- (h) No project can have more than four (4) income bands consisting of: 20%, 30%, 40%, 50%, 60%, 70%, 80% of area median income, and market rate.

**B. RENT AFFORDABILITY**

**1. FEDERAL RENTAL ASSISTANCE**

Applicants proposing to convert tenant-based Housing Choice Vouchers (Section 8) to a project-based subsidy (pursuant to 24 CFR Part 983) must submit a letter from the issuing authority in a form approved by the Agency. Conversion of vouchers will be treated similar to a funding source under Section VI(B)(6)(e); a project will be ineligible for an allocation if it does not meet requirements set by the Agency as part of the application and award process. Such requirements may involve the public housing authority's (PHA's) Annual Plan, selection policy, and approval for advertising.

**2. TENANT RENT LEVELS AND RPP (MAXIMUM 2 POINTS)**

An application may earn points under one of the following scenarios:

- (a) If the project is in a High Income county:
  - 2 points will be awarded if at least twenty-five percent (25%) of qualified low-income units will be affordable to and occupied by households with incomes at or below thirty percent (30%) of area median income.
  - 1 point will be awarded if at least fifteen percent (15%) of qualified low-income units will be affordable to and occupied by households with incomes at or below thirty percent (30%) of area median income.
- (b) If the project is in a Moderate Income county:
  - 2 points will be awarded if at least twenty-five percent (25%) of qualified low-income units will be affordable to and occupied by households with incomes at or below forty percent (40%) of area median income.

- 1 point will be awarded if at least fifteen percent (15%) of qualified low-income units will be affordable to and occupied by households with incomes at or below forty percent (40%) of area median income.
- (c) If the project is in a Low Income county:
- 2 points will be awarded if at least twenty-five percent (25%) of qualified low-income units will be affordable to and occupied by households with incomes at or below fifty percent (50%) of area median income.
  - 1 point will be awarded if at least fifteen percent (15%) of qualified low-income units will be affordable to and occupied by households with incomes at or below fifty percent (50%) of area median income.

To qualify for an RPP loan, at least forty percent (40%) of qualified low-income units in a project will be affordable to and occupied by households with incomes at or below fifty percent (50%) of area median income. Targeting in subsection (a), (b) or (c) above counts towards this requirement.

3. INCOME AVERAGING

Only new construction projects and rehabilitation projects not subject to an existing Declaration of Land Use Restrictive Covenants for Low-Income Housing Tax Credits are eligible to utilize income averaging. Applicants electing to use income averaging must comply with the following:

- (a) The income average for the property cannot exceed 60% of area median income,
- (b) The income average for any bedroom type cannot exceed 60% of area median income,
- (c) At least ten percent (10%) of qualified low-income units will be affordable to and occupied by households with incomes at or below thirty percent (30%) of area median income.
- (d) Market rate units are prohibited, and
- (e) For projects with more than one building, Owners must select that each building is part of a multiple building set-aside on line 8b in Part II of IRS Form 8609.

C. PROJECT DEVELOPMENT COSTS, RPP LIMITATIONS, AND WHLP

1. MAXIMUM PROJECT DEVELOPMENT COSTS (NEGATIVE 10 POINTS)

- (a) The Agency will assess negative points to applications listing more than the following in lines 5 and 6 of the Project Development Costs (PDC) description, as outlined in Chart A below. The point structure in Chart B will apply to the following:
  - all units are detached single family houses or duplexes,
  - serving persons with severe mobility impairments,
  - development challenges resulting from being within or adjacent to a central business district,
  - public housing redevelopment projects, or
  - building(s) with both steel and concrete construction and at least four stories of housing.

The per-unit amount calculation includes all items covered by the construction contract, ENERGY STAR, certifications for green programs, and any other costs not unique to the specific proposal.

Chart A	Chart B
\$130,000 -10	\$145,000 -10

- (b) The Agency will review proposed costs for historic adaptive re-use projects and approve the amount during the full application review process.

See Section VI(B) for other cost restrictions.

**2. RESTRICTIONS ON RPP AWARDS**

- (a) Projects requesting RPP funds must submit the Agency’s “Notice of Real Property Acquisition” form with the preliminary application and may not:

- (i) request RPP funds in excess of the following amounts per unit: \$15,000 in High Income counties; \$20,000 in Moderate Income counties; \$25,000 in Low Income counties,
- (ii) include market-rate units,
- ~~(iii) involve Principals who have entered into a workout or deferment plan within the previous year for an RPP loan awarded after January 1, 2013,~~
- (iii) request less than \$150,000 or more than \$1,600,000 per project,
- (iv) have a commitment of funds from a local government under terms that will result in more repayment than determined under subsection (C)(2)(b) below,
- (v) have a federally insured loan or one which would require the RPP loan to have a term of more than 20 years or limits repayment, or
- (vi) have a Principal or General Contractor listed on SAM.gov as being ineligible to receive federal funds.

The maximum award of RPP funds to any one Principal will be a total of \$3,200,000. Requesting an RPP loan may result in an application being ineligible under Section VI(B)(6)(e) if the Agency has inadequate funds.

- (b) Projects may only request an RPP loan if the principal and interest payments for RPP and any local government financing will be equal to the anticipated net operating income divided by 1.15, less conventional debt service:

Repayment of RPP and local government loans = (NOI / 1.15) – conventional debt service.

The amount of repayment will be split between the RPP loan and local government lenders based on their relative percentage of loan amounts. For example:

RPP Loan = \$400,000  
 Local government loan = \$200,000

	Year 1	Year 2	Year 3	Year 4
Anticipated amount available for repayment	\$10,000	\$8,000	\$6,000	\$4,000
RPP principal and interest payments	\$6,667	\$5,333	\$4,000	\$2,667
Local government P&I payments	\$3,333	\$2,667	\$2,000	\$1,333

	Year 1	Year 2	Year 3	Year 4
Anticipated amount available for repayment	\$10,000	\$8,000	\$6,000	\$4,000
RPP principal and interest payments	\$6,667	\$5,333	\$4,000	\$2,667

local government P&I payments ~~\$3,333~~ ~~\$2,667~~ ~~\$2,000~~ ~~\$1,333~~

Lien position will be determined by loan amount: the larger loan will have the higher lien position. For equal loan amounts, the local government will have the higher lien position.

- (c) Loan payments made to the Applicant, any Principal, member or partner of the ownership entity, or any affiliate thereof, will be taken out of cash flow remaining after RPP payments.
- (d) An application may be ineligible for RPP funds due to one or more of the listed parties (including but not limited to members/partners, general contractor, and management agent) having failed to comply with the Agency's requirements on a prior loan.

3. WORKFORCE HOUSING LOAN PROGRAM (Subject to appropriation)

- (a) Projects with 9% Tax Credits which meet the Agency's loan criteria are eligible for WHLP. As required under the legislation, these criteria support the financing of projects similar to those created under G.S. 105-129.42.
- (b) A loan will not be closed until the outstanding balance on the first-tier construction financing exceeds the principal amount and the entire loan must be used to pay down a portion of the then existing construction debt.
- (c) The terms will be zero percent (0%) interest, thirty year balloon (no payments). The Agency will take all eligible sources into consideration in setting the amount. The following percent of eligible basis will be the calculated loan amount. In no event will the loan amount exceed the statutory maximum.

County Income Designation	Percent of Eligible Basis	Statutory Maximum
High	4%	\$500,000
Moderate	10%	\$2,000,000
Low	16%	\$3,000,000

Requesting a WHLP loan may result in an application being ineligible under Section VI(B)(6)(e) if the Agency has inadequate funds. The maximum award of WHLP funds to any one Principal will be a total of \$3,000,000.

4. ~~GOLDEN LEAF AFFORDABLE WORKFORCE HOUSING INITIATIVE~~

~~The Golden LEAF (Long-term Economic Advancement Foundation), Inc., a 501(c)(3) organization, promotes the social welfare and lessens the burdens of government by providing economic impact assistance to economically affected or tobacco dependent regions of North Carolina. In collaboration with the Agency, Golden LEAF has created the Affordable Workforce Housing Initiative and is providing up to \$6,000,000 to assist in financing the development of federal low-income housing tax credit projects located in the following designated counties:~~

Bladen	Jones	Rutherford
Burke	Lenoir	Sampson
Caswell	Martin	Seotland
Columbus	Nash	Surry
Cumberland	Northampton	Warren
Duplin	Onslow	Wayne
Edgecombe	Pitt	Wilkes
Greene	Randolph	Wilson
Halifax	Robeson	
Hoke	Rockingham	

~~Any 9% new construction family application in these designated counties that elects the income averaging option may apply up to \$2,000,000 per eligible project under the Initiative, subject to funding availability. The terms will be zero percent (0%) interest, up to 30 years, payment deferred, until the end of the loan term.~~

~~Requesting a Golden LEAF loan may result in an application being ineligible under Section VI(B)(6)(e) if the Agency has inadequate funds.~~

**D. CAPABILITY OF THE PROJECT TEAM**

**1. DEVELOPMENT EXPERIENCE**

- (a) To be eligible for an award of 9% Tax Credits, at least one Principal must have successfully developed, operated and maintained in compliance either one (1) 9% Tax Credit project in North Carolina or six (6) separate 9% Tax Credit projects totaling in excess of 200 units. The project(s) must have been placed in service between January 1, ~~2017~~<sup>2016</sup> and January 1, ~~2023~~<sup>2025</sup>. Such Principal must:
  - (i) be identified in the preliminary application as the Applicant under Section III(C)(7),
  - (ii) become a general partner or managing member of the ownership entity, and
  - (iii) remain responsible for overseeing the project and operation of the project for a period of at least two (2) years after placed in service. The Agency will determine what qualifies as successful and who can be considered as involved in a particular project.
- (b) All owners and Principals must disclose all previous participation in the low-income housing tax credit program. Additionally, owners and Principals that have participated in an out of state tax credit allocation may be required to complete an Authorization for Release of Information form.
- (c) The Agency reserves the right to determine that a particular development team does not meet the threshold requirement of subsection (D)(1)(a) due to differences between its prior work and the proposed project. Particularly important in this evaluation is the type of subsidy program used in the previous experience (such as tax-exempt bonds, RD).

**2. MANAGEMENT EXPERIENCE**

The management agent must be eligible to be on the Approved Management Company List. To be Approved, the management agent must:

- (a) have at least one similar tax credit project in their current portfolio,
- (b) have a valid North Carolina real estate license and be registered with the North Carolina Secretary of State as of the full application deadline (excluding public housing authorities),
- (c) be requesting Key assistance timely and accurately (if applicable),
- (d) be reporting in the Agency's Rental Compliance Reporting System (RCRS) timely and accurately (if applicable),
- (e) have at least one staff person in a supervisory capacity with regard to the project who has attended at least three Agency sponsored trainings within the past 12 months (currently named Compliance 101, Advanced Compliance and DHHS Targeting and Key) as of the full application. This requirement will only be reviewed at the end of the calendar year and
- (f) have at least one staff person serving in a supervisory capacity with regard to the project who has been certified as a tax credit compliance specialist.

Such certification must be from an organization approved by the Agency (see **Appendix C**). None of the persons or entities serving as management agent may have in their portfolio a project with material or uncorrected noncompliance beyond the cure period unless there is a plan of action to address the issue(s). Any management agent found to have implemented a rent increase on an existing tax credit property without the required Agency approval may be prohibited from serving as management agent for an application. Should a management agent be removed from the Approved Management Company list for failure to comply with the above requirements, and the issue is not resolved following an opportunity to cure, the management agent will remain off of the Approved Management list for a period of no less than one year. The management agent listed on the application must be retained by the ownership entity for at least two (2) years after project completion, unless the Agency approves a change.

### 3. PROJECT TEAM DISQUALIFICATIONS

The Agency may disqualify any owner, Principal or management agent, who:

- (a) has been debarred or received a limited denial of participation in the past ten years by any federal or state agency from participating in any development program;
- (b) within the past ten years has been in a bankruptcy; an adverse fair housing settlement, judgment or administrative determination; an adverse civil rights settlement, judgment or administrative determination; or an adverse federal, state or local government proceeding and settlement, judgment or administrative determination;
- (c) has been in a mortgage default or arrearage of three months or more within the last five years on any publicly subsidized project;
- (d) has been involved within the past ten years in a project which previously received an allocation of tax credits but failed to meet standards or requirements of the tax credit allocation or failed to fulfill one of the representations contained in an application for tax credits;
- (e) has been found to be directly or indirectly responsible for any other project within the past five years in which there is or was uncorrected noncompliance more than three months from the date of notification by the Agency or any other state allocating agency;
- (f) interferes with a tax credit application for which it is not an owner or Principal at a public hearing or other official meeting;
- (g) has outstanding flags in HUD's national 2530 National Participation system;

- (h) has been involved in any project awarded tax credits after 2000 where there has been a change in general partners or managing members during the last five years that the Agency did not approve in writing beforehand;
- (i) would be removed from the ownership of a project that is the subject of an application under the rehabilitation set-aside in the current cycle;
- (j) requested a qualified contract for a North Carolina tax credit property; or
- (k) is not in good standing with the Agency.

A disqualification under this subsection (D)(3) will result in the individual or entity involved not being allowed to participate in the ~~2024~~2025 cycle and removing from consideration any application where they are identified.

E. UNIT MIX AND PROJECT SIZE

1. Ten (-10) points will be subtracted from any full application that includes market-rate units. This penalty will not apply where either
  - the rents for all market rate units are at least five percent (5%) higher than the maximum allowed for a unit at 80% AMI and the market study indicates that such rents are feasible, or
  - there is a commitment for a grant or no-payment financing equal to at least the amount of foregone federal tax credit equity.
2. New construction 9% Tax Credit projects may not exceed the following:
  - Metro Region - one hundred and twenty (120) units
  - Central, East, and West Regions - eighty-four (84) units.
3. New construction tax-exempt bond projects may not exceed two hundred (200) units unless approved by the Agency prior to the preliminary application submission.
4. All new construction projects must have at least twenty-four (24) qualified low-income units.

The Agency reserves the right to waive the penalties and limitations in this Section IV(E) for proposals that reduce low-income and minority concentration, including public housing projects, and subsection (E)(2) for proposals that are within a transit station area as defined by the Charlotte Region Transit Station Area Joint Development Principles and Policy Guidelines or adaptive re-use projects where made necessary by the building(s) physical structure.

F. SPECIAL CRITERIA AND TIEBREAKERS

1. ENERGY STAR CERTIFICATION

New construction residential buildings must achieve ENERGY STAR Multifamily New Construction Program certification and comply with all energy efficiency standards as defined in **Appendix B** (incorporated herein by reference). Adaptive re-use and rehabilitation projects must comply to the extent doing so is economically feasible and as allowed by historic preservation rules.

2. APPLICANT BONUS POINTS (MAXIMUM 2 POINTS)

An Applicant is entitled to two bonus points as part of the full application submission. No application can receive more than one bonus point. No Principal or Applicant is entitled to more than two bonus points for all applications in which they may be involved. Should an Applicant or Principal use more than 2 bonus points, the Agency will determine which application, if any, receives the bonus point(s).

3. UNITS FOR THE MOBILITY IMPAIRED

Five percent (5%) of all units in new construction projects must meet the accessibility standards as defined in **Appendix B** (incorporated herein by reference). THESE UNITS ARE IN ADDITION TO MOBILITY IMPAIRED UNITS REQUIRED BY FEDERAL AND STATE LAW (INCLUDING BUILDING CODES). If laws or codes do not require mobility impaired units for a project, a total of ten percent (10%) of the units must be fully accessible. Units for the mobility impaired should be available to all tenants who would benefit from their design and are not necessarily reserved under the Targeting Program requirements of subsection (F)(4).

4. TARGETING PROGRAM

All projects will be required to target ten percent (10%) of the total units to persons with disabilities and persons who are homeless. Projects with federal project-based rental assistance must target at least five (5) units regardless of size. Projects that have targeted units under this subsection are not required to provide onsite supportive services or a service coordinator.

Owners must submit the following documents, all of which are fully described in **Appendix D** (incorporated herein by reference).

- (a) Targeting Unit Agreement
- (b) Owner Agreement to Participate (if applicable)
- (c) Property Profile
- (d) Tenant Selection Plan
- (e) Rental Assistance Plan (if applicable)
- (f) Affirmative Fair Housing Marketing Plan

These documents must be submitted to the Agency no later than the times specified in **Appendix D** but in no case later than six months prior to the project's placed in service date. The Agency may set additional requirements, as needed. The requirements of this subsection (F)(4) may be fully or partially waived to the extent the Agency determines they are not feasible.

5. OLMSTEAD SETTLEMENT INITIATIVE (MAXIMUM 4 POINTS)

- (a) Projects proposing 1 bedroom units as a percentage of the total project units will be awarded points based on the following:

7.5% of total units	1 point
10% of total units	2 points
15% of total units	3 points

Tax-exempt bond projects must contain 1 bedroom units totaling a minimum of 10% of total project units.

- (b) Projects proposed in the following DHHS priority counties will be awarded 1 point.

Alamance	Gaston	Orange
Buncombe	Guilford	Pitt
Burke	Henderson	Robeson
Cabarrus	Iredell	Wake
Cumberland	Mecklenburg	Wayne
Durham	New Hanover	Wilson
Forsyth		

6. SECTION 1602 EXCHANGE PROJECTS (NEGATIVE 40 POINTS)

The Agency may deduct up to forty (-40) points from any application if the Applicant, any owner, Principal or affiliate thereof is also involved in a Section 1602 Exchange project with uncorrected material noncompliance.

7. TIEBREAKER CRITERIA

The following will be used to award tax credits in the event that the final scores of more than one project are identical.

- (a) First Tiebreaker: The county with the highest cost burden low income renters per 9% tax credit unit funded over the last 5 years (see **Appendix L**).
- (b) Second Tiebreaker: The project with the highest percentage of non-Agency awarded and non-related party funding (excluding federal equity and bank loans) as a percentage of total replacement costs at time of full application submission. The total non-Agency awards must exceed \$50,000.
- (c) Third Tiebreaker: The project with the lowest average income targeting at time of preliminary application submission. Overall targeting may not increase more than five percent (5%) as of the full application.
- (d) Fourth Tiebreaker: Tenants with Children: Projects that can serve tenant populations with children. Projects will qualify for this designation if at least twenty-five (25%) of the units are three or four bedrooms. This tiebreaker will only apply where the market study shows a clear demand for this population (as determined by the Agency).
- (e) Fifth Tiebreaker: Tenant Ownership: Projects that are intended for eventual tenant ownership. Such projects must utilize a detached single family site plan and building design and have a business plan describing how the project will convert to tenant ownership at the end of the 30-year compliance period.

In the event that a tie remains after considering the above tiebreakers, the project requesting the least amount of federal tax credits will be awarded.

G. DESIGN STANDARDS

All proposed measures must be shown in the application to receive points.

1. THRESHOLD REQUIREMENTS

The minimum threshold requirements for design are found in **Appendix B** (incorporated herein by reference) and must be used for all projects receiving tax credits or RPP funding.

2. CRITERIA FOR SCORE EVALUATION (MAXIMUM 30 POINTS)

The Agency will determine points based on the following criteria as applied to the site drawings submitted with the full application.

(a) Site Layout

The Agency will award up to 5 points based on its evaluation of the site layout. The following characteristics will be considered.

- (i) The location of residential buildings in relation to parking, site amenities, community building, postal facilities and trash collection areas.
- (ii) The degree to which site layout ensures a low, controlled traffic speed through the project.

(b) Quality of Design and Construction

(The points in this subsection are mutually exclusive with Section IV(G)(2)(c) below.)

The Agency will award up to 25 points for new construction projects based on its evaluation of the quality of the building design, and the materials and finishes specified. The following characteristics will be considered:

- (i) The extent to which the design uses multiple roof lines, gables, dormers and similar elements to break up large roof sections.
- (ii) The extent to which the design uses multiple types, styles, and colors of siding and brick veneer to add visual appeal to the building elevations.
- (iii) The level of detail that is achieved through the use of porches, railings, and other exterior features.
- (iv) Use of brick veneer or masonry products on building exteriors.

(c) Adaptive Re-Use

(The points in this subsection are mutually exclusive with Section IV(G)(2)(b) above.)

The Agency will award up to 25 points based on the following characteristics:

- (i) The extent to which the building(s) fit with surrounding streetscape after adaptation or have problems with orientation, sightlines, bulk and scale.
- (ii) Aesthetics after adaptation.
- (iii) Presence of special design elements or architectural features that may not be physically or financially available if new construction was introduced on the same site.

H. CRITERIA FOR SELECTION OF REHABILITATION PROJECTS

1. GENERAL THRESHOLD REQUIREMENTS

To be eligible for an allocation under Section II(A), a project must:

- (a) have either (i) received a tax credit allocation and be in the extended use period or (ii) federal project-based rental assistance for at least thirty percent (30%) of the total units,
- (b) have been placed in service on or before December 31, ~~2009~~2008,
- (c) require rehabilitation expenses in excess of \$ 50,000 per unit (as supported by a physical needs assessment conducted or approved by the Agency),
- (d) not have an acquisition cost in excess of sixty percent (60%) of the total replacement costs,
- (e) not be feasible using tax-exempt bonds (as determined by the Agency),
- (f) not have received an Agency loan in the last five years,
- (g) not be deteriorated to the point of requiring demolition,
- (h) not have begun or completed a full debt restructuring under the Mark to Market process (or any similar HUD program) within the last five years, and
- (i) have total replacement costs of less than \$190,000 per unit, including all Agency-required rehabilitation work.

Rehabilitation expenses include hard construction costs directly attributable to the project, excluding costs for a new community building, as calculated using lines 2 through 7 (less line 6) in the PDC description.

2. THRESHOLD DESIGN REQUIREMENTS

In addition to the relevant sections of **Appendix B** (incorporated herein by reference), the Agency will require owners to complete the following as appropriate for their project.

- (a) Improve site amenities and common areas by upgrading or adding a freestanding community building, making repairs and additions to landscaping, adding new site amenities such as playgrounds, and repairing parking areas.
- (b) Improve building exteriors by replacing deteriorated siding, replacing aged roofing, adding gutters and downspouts, and adding new architectural features to improve appearance.
- (c) Upgrade unit interiors by replacing flooring, installing new cabinets and countertops, replacing damaged interior doors, replacing light fixtures, and repainting units.
- (d) Replace and upgrade mechanical systems and appliances including HVAC systems, water heaters and plumbing fixtures, electrical panels, refrigerators, and ranges.
- (e) Improve energy efficiency by replacing inefficient doors and windows, adding additional insulation in attics, and upgrading the efficiency of mechanical systems and appliances.
- (f) Improve site and unit accessibility for persons with disabilities by making necessary alterations at common areas, alterations at single story ground floor units, adding or improving handicapped parking areas, and repairing or replacing sidewalks along accessible routes.

3. EVALUATION CRITERIA

The Agency will evaluate applications under Section II(A) based on the following criteria, which are listed in order of importance. Each one will serve both to determine awards and as a threshold requirement; the Agency may remove an application from consideration if the proposal is sufficiently inadequate in any of the categories. For purposes of making awards, the Agency will not consider subsections (d) through (f) below if the outcome is determined by the criteria in subsections (a) through (c).

- (a) The Agency will give the highest priority to applications proposing to rehabilitate the most distressed housing with a tax credit allocation, particularly buildings with accessibility or life, health and safety problems.
- (b) Applications will have a reduced likelihood of receiving an award of tax credits if the Agency determines the property has not been properly maintained and any current owner will remain part of the new ownership.
- (c) Applications will have a reduced likelihood of being awarded tax credits to the extent that the purpose is to subsidize an ownership transfer.
- (d) Shortcomings in the above criteria will be mitigated to the extent that a tax credit allocation is necessary to prevent (i) conversion of units to market rate rents or (ii) loss of government resources (including past, present and future investments).
- (e) The Agency will give priority to applications that have mortgage subsidy resources committed as part of the application.
- (f) Applications will have priority to the extent that the rehabilitation improvements are a part of a community revitalization plan or will benefit the surrounding community. However, projects in severely distressed areas will have a reduced likelihood of being awarded tax credits.
- (g) Applications will have a reduced likelihood of being awarded tax credits based on the number of tenants that would be permanently relocated (including market-rate).

- (h) While the rehabilitation set-aside is not subject to any regional set-aside, the Agency will consider the geographic distribution of this resource and will attempt to avoid a concentration of awards in any one area of the state.

V. ALLOCATION OF BOND CAP

A. ORDER OF PRIORITY

The Committee will allocate the multifamily portion of the state's tax-exempt bond authority in the following order of priority:

1. Projects that serve as a component of an overall public housing revitalization effort.
2. Rehabilitation of existing rent restricted housing.
3. Rehabilitation of projects consisting of entirely market-rate units.
4. Adaptive re-use projects.
5. Other new construction projects.

Applications will only be allocated bond authority if there is enough remaining after awarding all eligible applications in higher priority levels. Within each category, applications seeking the least amount of authority per low-income unit will have priority.

B. ELIGIBILITY FOR AWARD

Except as otherwise indicated, owners of projects with tax-exempt bonds and 4% Tax Credits must meet all requirements of the Plan. Even with an allocation of bond authority, projects must meet the threshold requirements to be eligible for tax credits.

1. All projects must meet the requirements under Section IV(F)(4).
2. Rehabilitation applications must:
  - (a) have been placed in service on or before December 31, ~~2009~~2008,
  - (b) require rehabilitation expenses in excess of \$30,000 per unit,
  - (c) not have an acquisition cost in excess of seventy percent (70%) of the total replacement costs,
  - (d) not have begun or completed a full debt restructuring under the Mark to Market process (or any similar HUD program) within the last five years, and
  - (e) not be deteriorated to the point of requiring demolition.
3. The inducement resolution must be submitted with the full application.
4. To be eligible for an award of tax-exempt bond volume, at least one Principal must have successfully developed, operated and maintained in compliance either one 9% Tax Credit project in North Carolina or one tax-exempt bond project in any state. The project must have been placed in service between January 1, 2016 and January 1, ~~2024~~2023. Such Principal must:
  - be identified in the preliminary application as the Applicant under Section III(C)(7),
  - become a general partner or managing member of the ownership entity, and
  - remain responsible for overseeing the project and operation of the project for a period of two (2) years after placed in service.

The Agency will determine what qualifies as successful and who can be considered as involved in a particular project.

**VI. GENERAL REQUIREMENTS**

**A. GENERAL THRESHOLD REQUIREMENTS FOR PROJECT PROPOSALS**

**1. PROJECTS WITH HISTORIC TAX CREDITS**

Buildings either must be on the National Register of Historic Places or approved for the State Historic Preservation Office's study list at the time of the full application. Evidence of meeting this requirement should be provided.

**2. NONPROFIT SET-ASIDE**

For purposes of being considered as a nonprofit sponsored application under Section II(D)(1)(a), at least one nonprofit entity (or, where applicable, its qualified corporation) involved in a project must:

- (a) be qualified under Section 501(c)(3) or (4) of the Code,
- (b) materially participate, as defined under federal law, in the acquisition, development, ownership, and ongoing operation of the property for the entire compliance period,
- (c) have as one of its exempt purposes the fostering of low-income housing,
- (d) be a managing member or general partner of the ownership entity.

The Agency reserves the right to make a determination that the nonprofit owner is not affiliated with or controlled by a for-profit entity or entities other than a qualified corporation. There can be no identity of interest between any nonprofit owner and for-profit entity, other than a qualified corporation.

**3. REQUIRED REPORTS**

All projects involving use of existing structures must submit the following:

- (a) For projects built prior to 1978, a hazardous material report which provides the results of testing for asbestos containing materials, lead based paint, Polychlorinated Biphenyls (PCBs), underground storage tanks, petroleum bulk storage tanks, Chlorofluorocarbons (CFCs), and other hazardous materials. The testing must be performed by professionals licensed to do hazardous materials testing. A report written by an architect or building contractor or developer will not suffice. A plan and projected costs for removal of hazardous materials must also be included.
- (b) A report assessing the structural integrity of the building(s) being renovated from an architect or engineer. Report must be dated no more than six (6) months from the full application deadline.
- (c) A current termite inspection report. Report must be dated no more than six (6) months from the full application deadline.

**4. APPRAISALS**

The Agency will not allow the project budget to include more for land or lease costs than the lesser of its appraised market value or the purchase or lease price. Applicants must submit with the full application a real estate "as is" appraisal that is a) dated no more than six (6) months from the full application deadline, b) prepared by an independent, state certified appraiser and c) complies with the Uniform Standards of Professional Appraisal Practice. The appraisal must encompass all parcels that comprise the project. Comparable properties used in the appraisal must be in reasonable proximity to the project. The Agency may order an additional appraisal with costs to be paid by the Applicant. Appraisals for rehabilitation and adaptive re-use projects must break out the land and building values from the total value.

5. CONCENTRATION

Projects cannot be in areas of minority and low-income concentration (measured by comparing the percentage of minority and low-income households in the site's census tract with the community overall). The Agency may make an exception for projects in economically distressed areas which have community revitalization plans with public funds committed to support the effort.

6. DISPLACEMENT

For rehabilitation projects and in every other instance of tenant displacement, including temporary, the Applicant must supply with the full application a plan describing how displaced persons will be relocated, including a description of the costs of relocation. The owner is responsible for all relocation expenses, which must be included in the project's development budget. Owners must also comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as revised in 49 C.F.R. Part 24.

7. FEASIBILITY

The Agency will not allocate tax credits or RPP funding to applications that may have difficulty being completed or operated for the compliance period. Examples include projects that may not secure an equity investment or a Principal that has inadequate capacity to successfully carry out the development process.

8. SMOKE-FREE HOUSING

Owners must prohibit smoking in all indoor common areas, individual living areas (including patios and balconies), and within 25 feet of building entries or ventilation intakes. A non-smoking clause must be included in the lease for each household.

B. UNDERWRITING THRESHOLD REQUIREMENTS

The following minimum financial underwriting requirements apply to all projects. Projects that cannot meet these minimum requirements, as determined by the Agency, will not receive tax credits or RPP funding. Any documentation required as part of the application must be dated and be within 6 months of the application deadline, unless otherwise stated.

1. LOAN UNDERWRITING STANDARDS

- (a) Projects applying for tax credits only will be underwritten with rents escalating at two percent (2%) and operating expenses escalating at three percent (3%).
- (b) All projects will be underwritten assuming a constant seven percent (7%) vacancy and must reflect a 1.15 Debt Coverage Ratio (DCR) for twenty (20) years.
- (c) Applications requesting RPP funds must use current Low HOME rents for fifteen percent (15%) of the total units (spread proportionally through all bedroom types) and may be required to comply with HOME program requirements, including 42 U.S.C. 12701 et seq., 24 C.F.R. Part 92 and all relevant administrative guidance. Projects awarded RPP funds must also comply with the RPP Guidelines in **Appendix G** (incorporated herein by reference).
- (d) The Agency may determine that the interest rate on a loan must be reduced where an application shows an excessive amount accruing towards a balloon payment.

2. OPERATING EXPENSES

- (a) New construction (excluding adaptive re-use): minimum of ~~\$4,200~~<sup>\$3,800</sup> per unit per year not including taxes, reserves and resident support services.

- (b) Renovation (includes rehabilitation and adaptive re-use): minimum of \$4,400,000 per unit per year not including taxes, reserves and resident support services. For projects with RD loans, the operating expenses will be based upon the current RD approved operating budget.

3. EQUITY PRICING

- (a) Projects will be underwritten using Applicants proposed equity pricing. Pricing above \$0.87 will require a commitment letter from a syndicator or investor with as much detail as is possible. At a minimum, the letter should include the equity pricing, total capital contribution amount, estimated pay-in schedule and any reserve requirements. Should an Applicant receive an allocation of tax credits and fail to receive equity pricing at least equal to the pricing used in the awarded application, any equity shortfall will be the responsibility of the Applicant. The Agency will not approve an increase of the rents stated in the awarded application to support additional debt to cover the equity shortfall.
- (b) Equity should be calculated net of any syndication fees. Bridge loan interest typically incurred by the syndicator to enable an up front payment of equity should not be charged to the project directly, but be reflected in the net payment of equity. Equity should be based on tax credits to be used by the investor(s), excluding those allocated to the Principals unless these entities are making an equity contribution in exchange for the tax credits.

4. RESERVES

- (a) Operating Reserve: Required for all projects except those receiving loan funds from RD. The operating reserve will be the greater of a) \$1,500 per unit or b) six month's debt service and operating expenses (four months for tax-exempt bond projects), and must be maintained for the duration of the extended use period.

The operating reserve can be funded by deferring the developer fees of the project. If this method is utilized, the deferred amounts owed to the developer can only be repaid from cash flow if all required replacement reserve deposits have been made. For tax credit projects where no RPP loan applies, the operating reserve can be capitalized by an equity pay in up to one year after certificate of occupancy is received. This will be monitored by the Agency. This reserve must stay with the project at the time of investor exit.

- (b) Replacement Reserve: All new construction projects must budget replacement reserves of \$250 per unit per year. Rehabilitation and adaptive re-use projects must budget replacement reserves of \$350 per unit per year. The replacement reserve must be capitalized from the project's operations, escalating by four percent (4%) annually. This reserve must stay with the project at the time of investor exit.

In both types of renovation projects mentioned above, the Agency reserves the right to increase the required amount of annual replacement reserves if the Agency determines such an increase is warranted after a detailed review of the project's physical needs assessment.

For those projects receiving RD loan funds, the required funding of the replacement reserve will be established, administered and approved by RD.

5. DEFERRED DEVELOPER FEES (NEGATIVE 2 POINTS)

Developer fees can be deferred to cover a gap in funding sources as long as:

- (a) the entire amount will be paid within fifteen years and meets the standards required by the IRS to stay in basis,
- (b) the deferred portion does not exceed fifty percent (50%) of the total amount as of the full application, and
- (c) payment projections do not negatively impact the operation of the project.

Each of these will be determined by the Agency. Nonprofit organizations must include a resolution from the Board of Directors allowing such a deferred payment obligation to the project. The developer may not charge interest on the deferred amount in excess of the long term AFR.

Deferment of more than twenty-five (25%) of the total developer fee will result in a deduction of 2 points.

6. FINANCING COMMITMENT

- (a) For all projects proposing private permanent financing, a letter of intent is required (see **Appendix E**). This letter must be on lender's letterhead, must clearly state the term of the permanent loan is at least fifteen (15) years, how the interest rate will be indexed and the current rate at the time of the letter, the amortization period, any prepayment penalties, anticipated security interest in the property, and lien position. The interest rate must be fixed and no balloon payments may be due for fifteen years.
- (b) For all projects proposing public permanent financing, binding commitments on lender's letterhead are required to be submitted by the full application deadline (see **Appendix E**). Local governments also must identify the source of funding (e.g. HOME, trust fund). All loans must have a fixed interest rate and no balloon payments for at least fifteen (15) years after project completion. A binding commitment is defined as a letter, resolution or binding contract from a unit of government. The same terms described for the letter of intent (using the format approved by the Agency) from a private lender must be included in the commitment.
- (c) The Agency may request a letter from a construction lender documenting the loan amount, interest rate, and any origination fees.
- (d) Any Owner Investment listed as a source cannot exceed \$10,000.
- (e) Applications may only include one set of proposed funding sources; the Agency will not consider multiple financial scenarios. A project will be ineligible for allocation if any of the listed funding sources will not be available in an amount or under the terms described in the application. The Agency may waive this limitation if the project otherwise demonstrates financial feasibility. Project cash flow may not be used as a source of funds.

7. DEVELOPER FEES

- (a) Developer fees shall be up to ~~\$23,000~~<sup>\$2,500</sup> per unit for new construction projects and twenty-eight point five percent (28.5%) of PDC line item 4 for rehabilitation projects, both being set at award.
- (b) Contractor general requirements shall be limited to six percent (6%) of hard costs.
- (c) Contractor profit and overhead shall be limited to ten percent (10%) (8% profit, 2% overhead) of total hard costs, including general requirements.
- (d) Where an identity of interest exists between the owner and contractor, the contractor profit and overhead shall be limited to eight percent (8%) (6% profit, 2% overhead).

8. CONSULTING FEES

The total amount of any consulting fees and developer fees shall be no more than the maximum developer fee allowed to that project.

9. ARCHITECTS' FEES

The architects' fees, including design and inspection fees, shall be limited to three percent (3%) of the total hard costs plus general requirements, overhead, profit and construction contingency (total of lines 2 through 10 on the PDC description). This amount does not include engineering costs.

10. INVESTOR SERVICES FEES

Investor services fees must be paid from net cash flow and not be calculated into the minimum debt coverage ratio.

11. PROJECT CONTINGENCY FUNDING

All new construction projects shall have a hard cost contingency line item of five percent (5%) of total hard costs, including general requirements, contractor profit and overhead. Rehabilitation and adaptive re-use projects shall include a hard cost contingency line item of ten percent (10%) of total hard costs.

12. PROJECT OWNERSHIP

There must be common ownership between all units and buildings within a single project for the duration of the compliance period.

13. SECTION 8 PROJECT-BASED RENTAL ASSISTANCE

For all new construction projects that propose to utilize Section 8 project-based rental assistance, the Agency will underwrite the rents according to the tax credit and HOME limits. These limits are based on data published annually by HUD. If the Section 8 contract administrator is willing to allow rents above these limits, the project may receive the additional revenue in practice, but Agency underwriting will use the lower revenue projections regardless of the length of the Section 8 contract.

Given the uncertainty of long-term federal commitment to Section 8 rental assistance, the Agency considers underwriting to the more conservative revenue levels to best serve the project's long-term financial viability.

14. WATER, SEWER, AND TAP FEES

Any water, sewer, and tap fees charged to the project must be entered on a separate line item of the PDC description. Applications must provide letters from local provider(s) documenting either the amounts or if no fees will be charged.

**VII. POST-AWARD PROCESSES AND REQUIREMENTS**

**A. ALLOCATION TERMS AND REVOCATION**

1. At any time between award and issuance of IRS Form 8609, owners must have approval from the Agency prior to:
  - (a) changing the anticipated or final sources (amount, terms, or provider), including equity;
  - (b) increasing the anticipated or final uses by more than two percent (2%);
  - (c) altering the designs approved by
    - the Agency at full application, or
    - local building code office,including amenities, site layout, floor plans and elevations (Approved Design);
  - (d) starting construction, including sitework;
  - (e) increasing rents for new construction units;
  - (f) increasing rents for rehabilitation units above existing rents at time of award (rents shown in the approved application can be instituted once rehabilitation is complete);
  - (g) occupying units;
  - (h) any other change to the awarded application.

At its discretion, the Agency can request any documentation related to project costs. If an increase in uses or design alteration is due to a local government requirement, owners do not need prior approval but rather must provide the Agency with prompt written notice. Failure to comply with a requirement of this subsection may result in a fine of up to \$25,000, revocation of the reservation or allocation, future disqualification under Section IV(D)(3) of any Principal involved, or other recourse available to the Agency.

2. Ownership entities must submit a completed carryover agreement and expend at least ten percent (10%) of the project's reasonably expected basis, both by dates to be determined by the Agency.
3. IRS Form 8609 will not be issued until:
  - (a) submission of a Final Cost Certification by an independent auditor that complies with the Agency's requirements;
  - (b) the Agency determines the Declaration of Land Use Restrictive Covenants for Low-Income Housing Tax Credits has been recorded prior to all permanent financing in the Office of the Register of Deeds for the county where the project is located;
  - ~~(c)~~the owner documents attendance at an Agency sponsored or approved tax credit compliance seminar sponsored within the previous 12 months (see **Appendix C** for list of approved seminars); the management agent documents attendance at an Agency sponsored tax credit compliance seminar within the previous 12 months;
  - ~~(d)~~monitoring fees have been paid;
  - ~~(e)~~the project has been built according to the Approved Design;
  - ~~(f)~~ the Agency determines the project has adhered to all representations made in the approved application and will meet all relevant Plan requirements;
  - ~~(g)~~ documentation of the ownership entity having paid all applicable state and local taxes for the most recent year due; and
  - ~~(h)~~ submission of a listing of the name and address for all contractors and subcontractors indicating if there exists an identity of interest with the Owner and a statement from each representing the entity will comply with all applicable employment rules and regulations.
4. The actual tax credits allocated will be the lesser of the tax credits reserved, the applicable rate multiplied by qualified basis (as approved by the Agency), or the amount determined by the Agency pursuant to its evaluation as required under Section 42(m)(2) of the Code. Projects will be required to elect a project-based allocation. An allocation does not constitute a representation or warranty by the Agency or Committee that the ownership entity or its owners will qualify for the tax credits. The Agency's interpretation of the Code, regulations, notices, or other guidance is not binding on the federal government.
5. Owners must record, prior to all other liens against the property in the registry of deeds in the county where the project is located, a thirty (30) year Declaration of Land Use Restrictive Covenants for Low-Income Housing Tax Credits (Extended Use Agreement) stating the owner will not apply for relief under Section 42(h)(6)(E)(i)(II) of the Code and will comply with other requirements under the Code, Plan, other relevant statutes and regulations, and all representations made in the approved application. The Extended Use Agreement also may contain other provisions as determined by the Agency. The owner must have good and marketable title and obtain the consent of any prior recorded lienholder (other than for construction financing) to be bound by the Extended Use Agreement terms. Owners may not claim tax credits in any taxable year unless the Extended Use Agreement is in effect and appropriately recorded.

6. The Agency may revoke an allocation if the owner fails to implement all representations in the approved application. In addition to the terms of Section VII(A)(1), owners will acknowledge that the following constitute conditions to their allocation:
  - (a) accuracy of all representations made to the Agency, including application uploads,
  - (b) adherence to the Plan and all applicable federal, state and local laws and ordinances, including the Code and Fair Housing Act,
  - (c) provision and maintenance of amenities for the benefit of the tenants, and
  - (d) not incurring a penalty under N.C.G.S. § 105-236 for failure to file a return, failure to pay taxes, or having a large tax deficiency (as defined under N.C.G.S. § 105-236). The Agency may request documentation demonstrating all project related taxes have been paid.

An owner's or project's failure to comply with all such conditions without written authorization from the Agency will entitle the Agency, in its discretion, to deem the allocation to be cancelled by mutual consent. After any such cancellation, the owner will acknowledge that neither it nor the project will have any right to claim tax credits pursuant to the allocation. The Agency reserves the right, in its discretion, to modify or waive any such failed condition.

**B. COMPLIANCE MONITORING**

1. Owners must comply with Section 42 of the Code, IRS regulations, rulings, procedures, decisions and notices, state statutes, the Fair Housing Act, state laws, local codes, Agency loan documents, **Appendix F** (incorporated herein by reference), and any other legal requirements. The Agency may treat any failure to do so as a violation of the Plan.
2. The Agency will adopt and revise standards, policies, procedures, and other requirements in administering the tax credit program. Examples include training and online reporting. Owners must comply with all such requirements regardless of whether or not they expressly appear in the Plan or **Appendix F**. The Agency will have access to any project information, including physical access to the property, all financial records and tenant information.
3. The Agency must approve all rent increases throughout the extended use period for properties receiving Agency funding and/or tax credits (see Appendix G for more information on rents and rent increases for 9% projects). In no event may rents exceed the published federal guidelines.

**VIII. DEFINITIONS**

The terms listed below will be defined in the Plan as indicated below regardless of capitalization, unless the context clearly indicates otherwise. Terms used in the Plan but not defined below will have the same meaning as under the Code and IRS regulations.

4% Tax Credit: Low-income housing tax credits available pursuant to Section 42(h)(4) of the Code.

9% Tax Credit: Low-income housing tax credits available for allocation under the state's volume cap pursuant to Section 42(h)(3) of the Code.

Affiliate: As to any person or entity (i) any entity of which a majority of the voting interest is owned by such person or entity, (ii) any person or entity directly or indirectly controlling (10% or more) such person or entity, (iii) any person or entity under direct or indirect common control with any such person or entity, or (iv) any officer, director, employee, manager, stockholder (10% or more), partner or member of any such person or entity or of any person or entity referred to in the preceding clauses (i), (ii) or (iii).

Applicant: The entity considered under Section III(C)(7).

Choice-Limiting Activity: Includes leasing or disposition of real property and any activity that will result in a physical change to the property, including acquisition, demolition, movement, rehabilitation, conversion, repair, or construction.

Developer: Any individual or entity responsible for initiating and controlling the development process and ensuring that all, or any material portion of all, phases of the development process are accomplished. Furthermore, the developer is the individual or entity identified as such in the Ownership Entity Agreement and any and all Development Fee Agreements.

Entity: Without limitation, any general partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative, association, public agency or other entity, other than a human being.

Management Agent: Individual(s) or Entity responsible for the day to day operations of the project, which may or may not be related to the Owner(s) or ownership entity.

Market-Rate Units: Units that are not subject to tax credit restrictions; does not include manager units.

Material Participation: Involvement in the development and operation of the project on a basis which is regular, continuous and substantial throughout the compliance period as defined in Code Sections 42 and 469(h) and the regulations promulgated thereunder.

Owner(s): Person(s) or entity(ies) that own an equity interest in the Ownership Entity.

Ownership Entity: The ownership entity to which tax credits and/or any RPP loan funds will be awarded.

Person: Any individual or Entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such Person where the context so requires.

Person with a Disability: An adult who has a permanent physical or mental impairment which substantially limits one or more major life activities as further defined in North Carolina's Persons with Disabilities Protection Act (N.C.G.S. § 168A-3 (7a)).

Person who is Homeless: An adult who is living in places not meant for habitation (such as streets, cars, parks), emergency shelter, or in transitional or temporary housing but originally came from a place not meant for habitation or emergency shelter.

Principal: Principal includes (1) all persons or entities who are or who will become partners or members of the ownership entity, (2) all persons or entities whose affiliates are or who will become partners or members of the ownership entity, (3) all persons or entities who directly or indirectly earn a portion of the development fee for development services with respect to a project and/or earn any compensation for development services rendered to such project, which compensation is funded directly or indirectly from the development fee of such project, and such amount earned exceeds the lesser of twenty-five percent (25%) of the development fee for such project or \$100,000, and (4) all affiliates of such persons or entities in clause (3) who directly or indirectly earn a portion of the development fee for development services with respect to any project in the current year and/or earn any compensation for development services rendered to any project in the current year, which compensation is funded directly or indirectly from the development fee of any such project, and such amount earned exceeds the lesser of twenty-five percent 25% of the development fee for such project or \$100,000. For purposes of determining Principal status the Agency may disregard multiple layers of pass-through or corporate entities. A partner or member will not be a Principal where its only involvement is that of the tax credit equity investor.

Qualified Corporation: Any corporation if, at all times such corporation is in existence, 100% of the stock of such corporation is held by a nonprofit organization that meets the requirements under Code Section 42(h)(5).

Rental Production Program (RPP): Agency loan program for multifamily affordable rental housing.

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

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

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Marine Fisheries Commission intends to adopt the rules cited as 15A NCAC 03M .0523; 03O .0601-.0606 and amend the rule cited as 15A NCAC 03J .0301.*

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

**Proposed Effective Date:**  
 15A NCAC 03J .0301 — Subject to Legislative Review  
 15A NCAC 03M .0523; 03O .0601-.0606 — May 1, 2025

**Public Hearing:**  
**Date:** October 30, 2024  
**Time:** 6:00 p.m.  
**Location:**  
 WebEx Events meeting link:  
<https://ncgov.webex.com/ncgov/j.php?MTID=m104177ff009f62977013418ccb145fa9>  
 Event number: 2425 240 2363  
 Event password: 1234  
 Event phone number: 1-415-655-0003  
 Listening station: Division of Marine Fisheries Central District Office, 5285 Highway 70 West, Morehead City, NC 28557

**Reason for Proposed Action:**

Pot Marking Requirements  
**15A NCAC 03J .0301 POTS**  
*In accordance with N.C.G.S. § 150B-19.1(a)(2), the proposed rule amendments seek to reduce the burden on stakeholders who use pots for fishing by only requiring one form of pot identification, not two forms. The agency coordinated with N.C. Marine Patrol to conclude that one form of identification is sufficient for marking pots. The proposed changes are in response to feedback from stakeholders and internal review of processes.*

False Albacore Management  
**15A NCAC 03M .0523 FALSE ALBACORE**  
*The proposed rule adoption would delegate proclamation authority to the Fisheries Director to issue a proclamation to manage the false albacore fishery if landings exceed a predetermined threshold, with prior consent by the Marine Fisheries Commission (MFC). False albacore (*Euthynnus alletteratus*), also known as "little tunny", is not managed at the state nor federal level in North Carolina nor in any Atlantic waters on the east coast of the United States. North Carolina does not currently have any means to manage this fishery and the MFC is seeking the ability to do so to be prepared if the fishery*

*continues to expand. The need for potential management was identified when there was concern expressed by the recreational fishing industry and the MFC that commercial and recreational landings have increased annually over the last 10 years and that the pressure could continue to increase over time with no tool available to implement management. The proposed rule adoption would be the first regulation for the false albacore fishery implemented in Atlantic waters.*

Interstate Wildlife Violator Compact  
**15A NCAC 03O .0601 WVC GENERAL PROVISIONS**  
**15A NCAC 03O .0602 WVC OPERATIONS MANUAL**  
**15A NCAC 03O .0603 WVC CONDITIONS FOR N.C. VIOLATIONS BY NON-RESIDENTS**  
**15A NCAC 03O .0604 WVC CONDITIONS FOR N.C. RESIDENTS FOR FAILURE TO APPEAR OR FAILURE TO COMPLY IN ANOTHER WVC MEMBER STATE**  
**15A NCAC 03O .0605 WVC RECIPROCAL RECOGNITION OF SUSPENSIONS**  
**15A NCAC 03O .0606 APPEALS**

*The proposed adoption of these six rules would comply with the Wildlife Violator Compact Act (WVC). The N.C. General Assembly enacted the WVC in statute (Article 22B) via Senate Bill 175 in 2008. The bill was signed into law on July 14, 2008, and became effective on October 1, 2008. In 2009, House Bill 105 added the N.C. Marine Fisheries Commission (MFC) and the N.C. Division of Marine Fisheries (DMF) to the WVC and all species of animals they protect or regulate to the definition of "wildlife". This act became effective on October 1, 2009. Article 22B includes G.S. § 113-300.7, which requires the N.C. Wildlife Resources Commission (WRC) and the MFC to adopt rules necessary to carry out the purpose of Article 22B. The legislation requires the WRC to adopt its rules first, which it did, effective August 1, 2017. The WVC would have two primary benefits pertaining to the wildlife resources under the authority of the MFC and the DMF: 1) reciprocal recognition of license suspensions with WVC participating states; and 2) enhanced flexibility for fair and impartial treatment of non-resident violators. North Carolina's participation in the WVC gives N.C. agencies a mechanism to increase accountability on wildlife violators who have been suspended in other jurisdictions. The adoption of MFC rules would allow DMF to hold those wildlife violators accountable and would result in the N.C. Marine Patrol being able to treat all wildlife violators equally, regardless of their state residency. By providing a mechanism to suspend licenses in outside jurisdictions there is a consequence for those charged should they fail to appear in court or fail to comply, thus serving as a deterrent for wildlife violators from outside jurisdictions.*

**Comments may be submitted to:** Catherine Blum, P.O. Box 769, Morehead City, NC 28557 (Written comments may also be

submitted via an online form available at <https://deq.nc.gov/mfc-proposed-rules>.)

Comment period ends: December 2, 2024

Rule is automatically subject to legislative review: S.L. 2019-198: 15A NCAC 03J .0301

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or email. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

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

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

CHAPTER 03 — MARINE FISHERIES

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

SECTION .0300 — POTS, DREDGES, AND OTHER FISHING DEVICES

15A NCAC 03J .0301 POTS

(a) It shall be unlawful to use pots except during time periods and in areas specified herein:

- (1) in Internal Waters from December 1 through May 31, except that:
(A) in the Northern Region designated in 15A NCAC 03R .0118(1) all pots shall be removed from Internal Waters from January 1 through January 31. Fish pots upstream of the U.S. 17 Bridge across Chowan River and upstream of a line across the mouth of Roanoke, Cashie, Middle, and Eastmost Rivers to the Highway 258 Bridge are exempt from this removal requirement.
(B) in the Southern Region designated in 15A NCAC 03R .0118(2) all pots shall be removed from Internal Waters from March 1 through March 15.

- (2) in Internal Waters from June 1 through November 30 in the Northern Region designated in 15A NCAC 03R .0118(1):
(A) in areas described in 15A NCAC 03R .0107(a).
(B) to allow for the variable spatial distribution of crustacea and finfish, the Fisheries Director may, by proclamation, specify time periods for and designate the areas described in 15A NCAC 03R .0107(b) or any part thereof, for the use of pots.
(3) in Internal Waters from May 1 through November 30 in the Southern Region designated in 15A NCAC 03R .0118(2), the Fisheries Director may, by proclamation, specify time periods and areas for the use of pots.
(4) in the Atlantic Ocean from May 1 through November 30 the Fisheries Director may, by proclamation, specify time periods and areas for the use of pots.

(b) It shall be unlawful to use pots:

- (1) in any navigation channel marked by State or Federal agencies; or
(2) in any turning basin maintained and marked by the North Carolina Ferry Division.

(c) It shall be unlawful to use pots in a commercial fishing operation unless each pot is marked by attaching a floating buoy of any color except any shade of yellow or any shade of hot pink, or any combination of colors that include any shade of yellow or any shade of hot pink. Buoys shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. The gear owner's last name and initials One of the following shall be engraved on the attached buoy or identified by attaching engraved metal or plastic tags to the buoy. If a vessel is used, the identification shall also include one of the following: buoy:

- (1) gear owner's current motor boat registration number; or
(2) gear owner's U.S. vessel documentation name; or
(3) gear owner's last name and initials.

(d) Pots attached to shore or a pier shall be exempt from Subparagraphs (a)(2) and (a)(3) of this Rule.

(e) It shall be unlawful to use shrimp pots with mesh lengths smaller than one and one-fourth inches stretch or five-eighths-inch bar.

(f) It shall be unlawful to use pots to take eels with mesh lengths smaller than one-half inch by one-half inch.

(g) Except for unbaited pots or pots baited with a male crab, it shall be unlawful to use crab pots in Coastal Fishing Waters unless each pot contains no less than three unobstructed escape rings that are at least two and five-sixteenth inches inside diameter and:

- (1) for pots with a divider:
(A) two escape rings shall be located on opposite panels of the upper chamber of the pot; and

- (B) at least one escape ring shall be located within one full mesh of the corner and one full mesh of the bottom of the divider in the upper chamber of the pot.
- (2) for pots without a divider:
  - (A) two escape rings shall be located on opposite panels of the pot; and
  - (B) at least one escape ring shall be located within one full mesh of the corner and one full mesh of the bottom of the pot.

For the purpose of this Rule, a "divider" shall mean a panel that separates the crab pot into upper and lower sections.

(h) The Fisheries Director may, by proclamation, impose on a commercial fishing operation and for recreational purposes any of the following restrictions for pots:

- (1) specify time;
- (2) specify area;
- (3) specify means and methods;
- (4) specify record keeping and reporting requirements;
- (5) specify season, including a closed season for removal of all pots from Internal Waters;
- (6) specify species; and
- (7) specify quantity.

(i) It shall be unlawful to use more than 150 crab pots per vessel in Newport River.

(j) It shall be unlawful to remove crab pots from the water or remove crabs from crab pots between one hour after sunset and one hour before sunrise.

(k) It shall be unlawful to use pots to take crabs unless the line connecting the pot to the buoy is non-floating.

(l) It shall be unlawful to use pots with leads or leaders to take shrimp. For the purpose of this Rule, "leads" or "leaders" shall mean any fixed or stationary net or device used to direct fish into any gear used to capture fish. Any device with leads or leaders used to capture fish shall not be a pot.

Authority G.S. 113-134; 113-173; 113-182; 113-221.1; 143B-289.52.

**SUBCHAPTER 03M — FINFISH**

**SECTION .0500 — OTHER FINFISH**

**15A NCAC 03M .0523 FALSE ALBACORE**

(a) If the level of landings of false albacore in a calendar year exceeds 200 percent of the five-year average of North Carolina recreational and commercial landings combined from 2018-2022, the Fisheries Director shall issue a proclamation as set forth in Paragraph (b) of this Rule.

(b) In accordance with Paragraph (a) of this Rule and after prior consent of the Marine Fisheries Commission, the Fisheries Director shall, by proclamation, impose the following requirements on the taking of false albacore:

- (1) for recreational purposes, specify a bag limit not to exceed 10 fish per person per day, not to exceed 30 fish per vessel per day; and

- (2) for a commercial fishing operation, specify a trip limit not to exceed 3,500 pounds in any one day or trip, whichever is more restrictive.

(c) A proclamation issued in accordance with Paragraphs (a) and (b) of this Rule shall become effective January 1 of the year following the year when the determination is made that a proclamation shall be issued. The proclamation shall expire when the level of landings falls below the landings level in Paragraph (a) of this Rule in a subsequent calendar year and after prior consent of the Marine Fisheries Commission.

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

**SUBCHAPTER 03O — LICENSES, LEASES, FRANCHISES, AND PERMITS**

**SECTION .0600 — INTERSTATE WILDLIFE VIOLATOR COMPACT (WVC)**

**15A NCAC 03O .0601 WVC GENERAL PROVISIONS**

(a) The purpose of this Section is to establish the rules necessary to implement G.S. 113 Article 22B, the Interstate Wildlife Violator Compact (hereinafter referred to as WVC).

(b) The rules in this Section shall apply to any person possessing a license, privilege, or right to take, possess, sell, buy, or transport wildlife in the State of North Carolina. Violations under this Section apply only to offenses charged by an inspector as set forth in laws or rules administered by the Division of Marine Fisheries or under G.S. 113-136(d). The rules shall not apply to any offenses committed in North Carolina or any other WVC state prior to July 1, 2025.

(c) The definitions in G.S. 113-300.6 Article II shall apply throughout this Section and to all forms prescribed pursuant to this Section, unless otherwise indicated.

(d) For the purpose of this Section, "member state" shall mean "party state" as defined in G.S. 113-300.6.

Authority G.S. 113-134; 113-300.7.

**15A NCAC 03O .0602 WVC OPERATIONS MANUAL**

The Wildlife Violator Compact Operations Manual and G.S. 113-300.6 hereby establish the administrative and procedural guidelines for participation in the WVC. The Wildlife Violator Compact Operations Manual is incorporated by reference including subsequent amendments and editions, and is available at <http://www.ncwildlife.org> or <http://www.deq.nc.gov/wildlifeviolatorcompact>, at no cost.

Authority G.S. 113-134; 113-300.7.

**15A NCAC 03O .0603 WVC CONDITIONS FOR NORTH CAROLINA VIOLATIONS BY NON-RESIDENTS**

(a) All offenses charged by an inspector as set forth in laws or rules administered by the Division of Marine Fisheries or under G.S. 113-136(d) are subject to the provisions of the WVC.

(b) Non-residents of North Carolina who are residents of a WVC member state at the time of a misdemeanor violation as set forth in Paragraph (a) of this Rule occurring in North Carolina may be

released on personal recognizance when the violation consists of a written citation requiring a violator to resolve the violation directly with the court, either in person, by mail, or through an attorney.

(c) Upon failure to comply with the terms of a citation issued by an inspector, the Division shall send notice of failure to comply. The notice shall be a letter sent by the U.S. Postal Service to the last known address of the wildlife violator or be delivered personally. The Division shall report the failure to comply to the non-resident's home state to start suspension procedures in accordance with the Wildlife Violator Compact Operations Manual.

(d) To have any licenses or permits returned by the Division, the non-resident shall submit to the Division a judgment, receipt, or other official record indicating that the citation has been resolved through the North Carolina Court System. The Division shall return affected licenses and permits.

*Authority G.S. 113-134; 113-300.7.*

**15A NCAC 030 .0604 WVC CONDITIONS FOR NORTH CAROLINA RESIDENTS FOR FAILURE TO APPEAR OR FAILURE TO COMPLY IN ANOTHER WVC MEMBER STATE**

(a) North Carolina residents who commit a wildlife violation as defined by G.S. 113-300.6 in another WVC member state, who upon release on personal recognizance from the issuing state, failed to resolve the terms of his or her citation, shall have any licenses and permits for which the Division of Marine Fisheries has enforcement authority in North Carolina suspended pursuant to G.S. 113-300.7.

(b) If the Division receives notice of an unresolved citation, a Notice of Suspension shall be prepared and sent to the wildlife violator as follows:

- (1) the suspension shall have a delayed effective date of at least 14 business days from the date of the mail used to send the notice of suspension to the wildlife violator, to allow the wildlife violator to contact the court in the issuing state and resolve the citation;
- (2) the notice shall be a letter sent by the U.S. Postal Service to the last known address of the wildlife violator or be delivered personally;
- (3) the notice of suspension shall inform the violator of the issuing state from which the wildlife violator is suspended, the details of the violation provided by that issuing state to the Division, and procedures to be followed in resolving the matter with the court in the issuing state; and
- (4) the notice shall provide the procedure for appealing the suspension.

(c) Any suspension ratified by the Division shall remain in effect until such time as the North Carolina resident resolves the violation in the issuing state.

(d) When a North Carolina resident resolves a violation with the court in the issuing state, it is the responsibility of the resident to notify the Division and present documentation of compliance by submitting a copy of either the court judgment resolving the

matter or a Notice of Compliance from the issuing state. Upon receipt of the required documentation, the Division shall issue an acknowledgement of compliance to the resident. If the acknowledgement is issued before the effective date of the suspension, the suspension shall be rescinded. If the acknowledgment of compliance is issued after the effective date of the suspension, the Division shall return any licenses or permits.

(e) The issuing state shall be notified by the Division if the suspension order is overturned by the Office of Administrative Hearings.

*Authority G.S. 113-134; 113-300.7; 143B-289.52.*

**15A NCAC 030 .0605 WVC RECIPROCAL RECOGNITION OF SUSPENSIONS**

(a) When the Division of Marine Fisheries receives notice of a suspension from a WVC member state of a person's license or permit that is the result of a conviction or an accumulation of convictions of wildlife violations in one or more WVC member states, the Division shall determine whether the conviction, or accumulation of convictions, leading to the suspension could have led to the suspension of licenses and permits for which the Division has enforcement authority pursuant to Chapter 113, Subchapter IV of the General Statutes. If it is determined that the person's licenses and permits would have been suspended under Chapter 113, Subchapter IV of the General Statutes, the person's North Carolina licenses and permits shall be suspended pursuant to G.S. 113-300.7 for the period of suspension imposed by the WVC member state where the violation occurred.

(b) North Carolina shall communicate suspension information to other WVC member states using the WVC database, and may include the following information about the wildlife violator:

- (1) name;
- (2) date of birth;
- (3) last known address;
- (4) violations and convictions upon which the suspension is based;
- (5) scope of the suspension (e.g., fishing, hunting, trapping, all privileges or rights); and
- (6) effective dates of the suspension and term of the suspension.

(c) In the event documentation of a violation and subsequent license suspension is needed by a WVC member state for license suspension hearings or other purposes, the Division may provide certified copies of the citation or other charging instrument, any arrest or investigation reports, suspension orders, and the disposition of the matter.

*Authority G.S. 113-134; 113-300.7; 143B-289.52.*

**15A NCAC 030 .0606 APPEALS**

A person served with a notice of suspension or revocation pursuant to this Section may obtain an administrative review of the suspension or revocation pursuant to G.S. 150B-23. Notice of the right to administrative review shall be included in the notice of suspension or revocation.

*Authority G.S. 113-134; 113-300.7; 143B-289.52.*

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OF ENVIRONMENTAL CONCERN

SECTION .0300 - OCEAN HAZARD AREAS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Coastal Resources Commission intends to adopt the rule cited as 15A NCAC 07H .0314.

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: May 1, 2025

Public Hearing:

Date: October 30, 2024

Time: 1:00 p.m.

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

Reason for Proposed Action: The Coastal Resources Commission proposes a new administrative rule to provide greater flexibility to local governments, large oceanfront homeowners associations, and government agencies in allowing the use of wheat straw bales for dune protection in addition to sand fencing.

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

Comment period ends: December 2, 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

15A NCAC 07H .0314 INSTALLATION AND MAINTENANCE OF WHEAT STRAW BALES FOR SAND FENCING

(a) Wheat straw bales shall only be installed by local, state, or federal government or a local homeowners association as defined in G.S. 47F-1-103(3) that has the authority to approve the locations of structures on lots within the territorial jurisdiction of the association and has jurisdiction over at least one mile of ocean shoreline, for the purpose of building and protecting dunes by trapping windblown sand.

(b) Wheat straw bales shall not impede existing public access to the beach, recreational use of the beach, or emergency vehicle access. Wheat straw bales shall not be installed in a manner that impedes or restricts established common law and statutory rights of public access and use of public trust lands and waters.

(c) Wheat straw bales shall not be installed in a manner that impedes, traps, or otherwise endangers sea turtles, sea turtle nests, or sea turtle hatchlings. CAMA permit applications for wheat straw bales shall be subject to review by the Wildlife Resources Commission and the U.S. Fish and Wildlife Service in order to determine whether the proposed design or installation will have an adverse impact on sea turtles or other threatened or endangered species.

(d) The permittee shall remove any ties or binding from wheat straw bales during installation.

(e) Wheat straw bales shall be placed as far landward as possible to avoid interference with sea turtle nesting, public access, recreational use of the beach, and emergency vehicle access.

Additionally:

- (1) Wheat straw bales shall not be placed on the wet sand beach;
(2) What straw bale sections shall not exceed 2 feet in width, 3 feet in height as measured from the bottom bale, and 10 feet in length;
(3) Wheat straw bales installed on or waterward of the crest of the frontal or primary dune shall be installed at an angle no less than 45 degrees to the shoreline. No portion of a wheat straw bale section shall extend more than 10 feet waterward of the following locations as defined in 15A NCAC 07H .0305: the first line of stable and natural vegetation, the toe of the frontal or primary dune, or the erosion escarpment of the frontal or primary dune;
(4) Wheat straw bales along public accessways may span the length of the structural accessway and may be aligned no less than 45 degrees to the shoreline on the waterward end. The waterward location of the sections shall not exceed 10 feet waterward of the locations identified in Subparagraph (3) of this Paragraph; and
(5) A minimum of seven feet of spacing shall be maintained between any sections of dune building materials.

(f) Non-functioning, damaged, or wheat straw bale sections or stakes that have moved from their authorized alignment shall be repaired or removed by the permittee.

Authority G.S. 113A-107; 113A-113(b)(6).

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Notice is hereby given in accordance with G.S. 150B-21.2 that the Wildlife Resources Commission intends to amend the rule cited as 15A NCAC 10F .0304.

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

Proposed Effective Date: April 1, 2025

Public Hearing:

Date: November 14, 2024

Time: 6:00 p.m.

Location:

Zoom Meeting, Registration Required:

[https://ncwildlife-org.zoomgov.com/webinar/register/WN\\_NiZS42pdRGyWEAmWQIer2Q](https://ncwildlife-org.zoomgov.com/webinar/register/WN_NiZS42pdRGyWEAmWQIer2Q),

or Join by Phone: Toll Free (833) 568-8864, Webinar ID 160 761 1643

Reason for Proposed Action: The agency was recently notified of a serious safety hazard caused by amendments to the Rule allowing for unrestricted directional operation of motorboats within 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 area and the shallow water in that portion of the lake, swimming within the restricted area is common. 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 agency adopted emergency and temporary amendments to this rule and is now proposing permanent modification requiring motorboats to travel perpendicular to the shore and at no wake speed within the restricted area at White Lake.

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

Comment period ends: December 2, 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](mailto: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 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~~ regulatory 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.

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

**TITLE 16 – DEPARTMENT OF PUBLIC INSTRUCTION**

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the State Board of Education intends to adopt the rules cited as 16 NCAC 06C .0603-.0608, repeal the rules cited as 16 NCAC 06C .0372-.0376, and readopt with substantive changes the rules cited as 16 NCAC 06C .0601 and .0602.

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

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

Proposed Effective Date: July 1, 2025

**Public Hearing:**

Date: November 8, 2024

Time: 9:00 a.m.

**Location:**

<https://ncgov.webex.com/ncgov/j.php?MTID=m15fc1e5960476ca40981243512e1a5a8>

Reason for Proposed Action: S.L. 2023-128, effective December 1, 2023, expanded the applicability of the criminal statute related to indecent liberties with a student and increases penalties on school personnel who fail to report certain misconduct by educators. The legislation also gave the State Board of Education (“SBE”) authority to adopt temporary rules to implement the requirements of the legislation, to address disciplinary action against professional educator licenses, and to modify the Standards of Professional Conduct.

The SBE adopted temporary rule changes in March 2024, which included amendments to existing rules 16 NCAC 06C .0601 and 06C .0602 and the adoption of new rules 16 NCAC 06C .0603, 06C .0604, 06C .0605, 06C .0606, 06C .0607, and 06C .0608. These rules include the Standards of Professional Conduct for licensed professional educators and govern the process for denying an application for a professional educator license or taking disciplinary action against an existing license. The SBE simultaneously repealed existing rules on this topic, previously

codified at 16 NCAC 06C .0372, 06C .0373, 06C .0374, 06C .0375, and 06C .0376. The amendments to 16 NCAC 06C .0602 took effect June 6, 2024, and all other changes took effect April 6, 2024.

The SBE has now proposed permanent rules to replace the temporary rules, effective July 1, 2025. Rules 16 NCAC 06C .0601 and 06C .0602 are proposed for re-adoption with substantive changes consistent with the periodic review process required by the APA. See G.S. 150B-21.3A. Rules 16 NCAC 06C .0603, 06C .0604, 06C .0605, 06C .0606, 06C .0607, and 06C .0608 are proposed for adoption as new permanent rules. Rules 16 NCAC 06C .0372, 06C .0373, 06C .0374, 06C .0375, and 06C .0376 are proposed for permanent repeal.

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

Comment period ends: December 6, 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](mailto:oah.rules@oah.nc.gov). If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

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

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

**CHAPTER 06 - ELEMENTARY AND SECONDARY EDUCATION**

**SUBCHAPTER 06C - PERSONNEL**

**SECTION .0300 - CERTIFICATION**

16 NCAC 06C .0372 DENYING A LICENSE APPLICATION OR SUSPENSION OR REVOCATION OF A LICENSE ISSUED BY THE NORTH CAROLINA DEPARTMENT OF PUBLIC INSTRUCTION  
16 NCAC 06C .0373 REPORTING REQUIREMENTS FOR SUSPECTED CHILD ABUSE BY A LOCAL

EDUCATION AGENCY ADMINISTRATOR TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION  
16 NCAC 06C .0374 INVESTIGATION  
REQUIREMENTS TO DETERMINE REASONABLE CAUSE TO SUSPEND OR REVOKE AN EDUCATOR LICENSE

16 NCAC 06C .0375 VOLUNTARY SURRENDER OF AN EDUCATOR LICENSE

16 NCAC 06C .0376 REINSTATEMENT OR ISSUANCE OF A SUSPENDED, REVOKED, OR DENIED LICENSE

Authority G.S. 115C-12; 115C-268.1; 116C-268.5; 115C-270.5; 115C-270.20; 115C-270.35; 115C-325; 115C-325.9; 115C-400.

**SECTION .0600 – CODE OF PROFESSIONAL PRACTICE AND CONDUCT FOR NORTH CAROLINA EDUCATORS  
STANDARDS OF PROFESSIONAL CONDUCT AND  
EDUCATOR DISCIPLINE**

**16 NCAC 06C .0601 PURPOSE AND APPLICABILITY  
DEFINITIONS**

The purpose of these Rules is to establish and uphold uniform standards of professional conduct for licensed professional educators throughout the State. These Rules shall be binding on every person licensed by the SBE, hereinafter referred to as "educator" or "professional educator," and the possible consequences of any willful breach shall include license suspension or revocation. The prohibition of certain conduct in these Rules shall not be interpreted as approval of conduct not specifically cited.

As used in this Section, the following definitions apply:

- (1) "Child" means a person under the age of 16.
- (2) "Convicted" or "conviction" means any of the following
  - (a) A plea of guilty.
  - (b) A plea of no contest, nolo contendere, or the equivalent.
  - (c) A verdict or finding of guilty by a jury, judge, magistrate, or other duly constituted adjudicatory body, tribunal, or official, either civilian or military.
- (3) "License" means a professional educator license issued by the Department of Public Instruction ("DPI") in accordance with this Subchapter and Chapter 115C, Article 17E of the General Statutes.
- (4) "Local superintendent" means the superintendent of a local school administrative unit, as provided in Chapter 115C, Article 18 of the General Statutes, or the staff member with the highest decision-making authority for a PSU, if there is no superintendent.
- (5) "Respondent" means a person who currently holds a license or who has applied for a license.
- (6) "Student" means a person enrolled in pre-kindergarten, kindergarten, or in Grade 1 through Grade 12 in any public school unit, or

who has been enrolled in a public school unit within 6 months of an alleged violation of these Standards.

Authority G.S. 115C-12(9); 115C-270.1; 115C-270.5; 115C-307.

**16 NCAC 06C .0602 STANDARDS OF PROFESSIONAL CONDUCT**

(a) The standards listed in this Section shall be generally accepted for the education profession and shall be the basis for State Board review of performance of professional educators. These standards shall establish mandatory prohibitions and requirements for educators. Violation of these standards shall subject an educator to investigation and disciplinary action by the SBE or LEA.

This Rule establishes uniform Standards of Professional Conduct ("Standards") for professional educators in North Carolina, which apply to all persons who hold a professional educator license issued pursuant to this Subchapter and Chapter 115C, Article 17E of the General Statutes. These Standards shall be the basis for reviewing the performance of professional educators by the State Board of Education ("SBE"). Violation of these Standards shall be grounds for disciplinary sanctions against a professional educator's license as provided in this Section.

(b) Professional educators shall adhere to the standards of professional conduct contained in this Rule. Any intentional act or omission that violates these standards is prohibited.

- (1) Generally recognized professional standards. Recognized Professional Standards. The educator shall adhere to and practice the professional standards of all federal, state, and local governing bodies. bodies with public education oversight.
- (2) Personal conduct. The educator shall serve as a positive role model for students, parents, and the community. Because the educator is entrusted with the care and education of small children and adolescents, the educator shall demonstrate a high standard of personal character and conduct.
- (2) Conduct with Students. The educator shall treat all students with respect and maintain appropriate professional boundaries with all students, regardless of whether that student is directly under the care or supervision of the educator. Specifically, the educator shall not engage in any of the following conduct toward or in the presence of a student:
  - (a) Use of profane, vulgar, or demeaning language.
  - (b) Intentional or reckless exposure of students to profane, vulgar, or sexually explicit material except as part of age-appropriate classroom instruction or other pedagogical practice.
  - (c) Solicitation, encouragement, or consummation of a romantic, physical, or sexual relationship with a student in any form, whether written, verbal, or physical. As used in this

- context, "solicitation" or "encouragement" shall include engaging in a pattern of flirtatious behavior; efforts to gain access to, or time alone with, a student with no clear educational or school-related objective; provision of individualized or specialized treatment, including tangible or monetary gifts, to a student that does not comply with generally recognized professional standards for educators; or any other behavior that could be perceived by a rational observer as excessively personal or intimate in the context of the educator-student relationship.
- (d) Solicitation, encouragement, or consummation of sexual contact with a student.
- (e) Sexual harassment, as defined in 34 C.F.R. 106.30(a).
- (f) Child abuse, as defined in G.S. 14-318.2 or G.S. 14-318.4.
- (3) Alcohol and Controlled Substances. The educator shall not be under the influence of, possess, use, or consume an alcoholic beverage or a controlled substance, as defined in G.S. 90-95, on school premises, at a school-sponsored activity, or when otherwise discharging the educator's professional duties, unless the educator has a prescription from a licensed medical professional authorizing such use. The educator shall not furnish alcoholic beverages or controlled substances to a student, except for the administration of medication prescribed by a licensed medical professional in accordance with the educator's professional duties.
- (3)(4) Honesty. The educator shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation in the performance of the educator's professional duties, including the following:
- (A)(a) statement statements or representations of professional qualifications;
- (B)(b) application or recommendation for professional employment, promotion, or licensure;
- (C)(c) application or recommendation applications or recommendations for college or university admission, scholarship, grant, academic award, or similar benefit;
- (D)(d) representation statements or representations of completion of college or staff development credit;
- (E)(e) evaluation or grading of students or school personnel;
- (F)(f) submission of financial or program compliance reports submitted to state, federal, or other governmental agencies;
- (G)(g) submission of information in the course of an official inquiry by the employing LEA or the SBE related to facts of unprofessional misconduct, provided, however, SBE or the educator's employing PSU into allegations of professional misconduct, provided that an educator shall be given adequate notice of the allegations and may be represented by legal counsel; and
- (H)(h) submission of information in the course of an investigation into school related criminal activity by a law enforcement agency, child protective services, or any other agency with the right authority to investigate, regarding school related criminal activity; provided, however, investigate, provided that an educator shall be entitled to decline to give evidence may decline to provide information to law enforcement if such evidence may tend to incriminate the educator as that term is defined by the Fifth Amendment to the U.S. Constitution. in violation of the educator's rights under the United States Constitution or North Carolina Constitution.
- (5) Compliance with Criminal Laws. The educator shall not violate the criminal laws of this State, the United States, or any other state or territory under the jurisdiction of the United States.
- (4)(6) Proper remunerative conduct. Remunerative Conduct. The educator shall not solicit current students or parents of students to purchase equipment, supplies, or services from the educator in a private remunerative capacity. An educator shall not tutor for remuneration students currently assigned to the educator's classes, unless approved by the local superintendent. An educator shall not accept any compensation, benefit, or thing of value other than the educator's regular compensation for the performance of any service that the educator is required to render in the course and scope of the educator's employment. This Rule shall not restrict performance of any overtime or supplemental services at the request of the LEA; PSU, nor shall it apply to or restrict the acceptance of gifts or tokens of minimal value offered and accepted openly from students, parents, or other persons in recognition or appreciation of service. the educator's

- professional service, provided the gift is given and received freely, openly, and without expectation of favor or advantage to the donor in return.
- (5) Conduct with students. The educator shall treat all students with respect. The educator shall not commit any abusive act or sexual exploitation with, to, or in the presence of a student, whether or not that student is or has been under the care or supervision of that educator, as defined below:
- (A) ~~any use of language that is considered profane, vulgar, or demeaning;~~
  - (B) ~~any sexual act;~~
  - (C) ~~any solicitation of a sexual act, whether written, verbal, or physical;~~
  - (D) ~~any act of child abuse, as defined by law;~~
  - (E) ~~any act of sexual harassment, as defined by law; and~~
  - (F) ~~any intentional solicitation, encouragement, or consummation of a romantic or physical relationship with a student, or any sexual contact with a student. The term "romantic relationship" shall include dating any student.~~
- (6)(7) Confidential information. ~~Information.~~ The educator shall keep ~~in confidence~~ confidential all personally identifiable information regarding students or their family members that ~~the educator has been~~ obtained in the course of professional service, unless disclosure is required or permitted by law ~~or professional standards~~, or is necessary for the personal safety of the student or others.
- (7)(8) Rights of others. ~~Others.~~ The educator shall not willfully or maliciously violate the constitutional or civil rights of a student, ~~parent/legal~~ parent or legal guardian, or colleague.
- (8)(9) Required reports. Reports. The educator shall make all reports required by ~~G.S. 115C, Chapter 115C of the General Statutes.~~
- (9) Alcohol or controlled substance abuse. The educator shall not:
- (A) ~~be under the influence of, possess, use, or consume on school premises or at a school sponsored activity a controlled substance as defined by G.S. 90-95, the Controlled Substances Act, without a prescription authorizing such use;~~
  - (B) ~~be under the influence of, possess, use, or consume an alcoholic beverage or a controlled substance on school premises or at a school sponsored activity involving students; or~~
  - (C) ~~furnish alcohol or a controlled substance to any student except as indicated in the professional duties of administering legally prescribed medications.~~
- (10) Compliance with criminal laws. The educator shall not commit any act referred to in G.S. 115C-332 and any felony under the laws of the United States or of any state.
- (11)(10) Public funds and property. Funds and Property. The educator shall not misuse public funds or property, ~~funds of a school related organization, or colleague's funds.~~ property or any funds belonging to an organization affiliated with the school or PSU. The educator shall account for funds collected from students, colleagues, ~~or parents/legal guardians.~~ parents, or legal guardians of students. The educator shall not submit fraudulent requests for reimbursement, expenses, or pay.
- (12)(11) Scope of professional practice. Professional Practice. The educator shall not perform any act as ~~an employee in a position~~ professional duty or function for which licensure is required by ~~the rules of the SBE or by G.S. 115C or the North Carolina General Statutes this Chapter or by Chapter 115C of the General Statutes~~ during any period in which the educator's license ~~has been~~ is suspended or revoked.
- (8)(12) Conduct related to ethical violations. Abuse of Authority. The educator shall not directly or indirectly use or threaten to use any official authority or influence in any manner that ~~tends to discourage, restrain, interfere with, coerce, or discriminate~~ discourages, restrains, coerces, interferes with, or discriminates against any subordinate or any licensee who in good faith ~~reports, discloses, divulges, reports~~ or otherwise brings to the attention of ~~an LEA, a PSU, the SBE, or any other public agency~~ authorized to take remedial action, any facts or information relative to the actual or suspected violation of any law or rule regulating the duties of persons serving in the public school system, including ~~but not limited to these Rules.~~ those established by this Section.

*Authority G.S. 115C-295.3; 115C-12(9); 115C-270.5; 115C-307.*

**16 NCAC 06C .0603 INVESTIGATION OF ALLEGED MISCONDUCT BY A LICENSED PROFESSIONAL EDUCATOR OR LICENSE APPLICANT**

(a) Upon receipt of allegations and substantiating information regarding a respondent that would provide cause for imposing disciplinary sanctions on a licensee or denying an application for a license under Rule .0604 of this Section, the Superintendent of Public Instruction ("Superintendent") shall investigate the allegations to determine if such action is warranted. The Superintendent shall investigate allegations or information from

any source in a position to provide such information, including a PSU, State agency, court or other tribunal, or other credible person or institution. The Superintendent shall also consider information disclosed by a license applicant in the application.

(b) The Superintendent is authorized to utilize the power conferred upon the State Board of Education ("SBE") under G.S. 115C-270.35(e), including the power to subpoena documents, secure witness testimony, or hire investigators, for the purpose of conducting investigations under this Rule.

(c) If the Superintendent finds cause to impose disciplinary sanctions on a licensee or deny a license application for any of the reasons described in Rule .0604 of this Section, the Superintendent shall prepare a proposed order containing findings of fact, conclusions of law, and the proposed sanction(s) or denial.

(d) The Superintendent shall provide the respondent with a copy of the proposed order and notify the respondent that the proposed sanctions or denial described in the order shall become final unless the respondent commences an administrative proceeding under Chapter 150B, Article 3 of the General Statutes within 60 days of the notice. The Superintendent shall send the notice via electronic mail and certified mail to the latest addresses provided to the SBE, and the 60-day time limitation shall commence on the date of electronic delivery or placement of the notice in an official depository of the United States Postal Service, whichever is earlier, in accordance with G.S. 150B-23(f).

(e) If the respondent commences administrative proceedings, the SBE shall stay the proposed order until receipt of a final decision or order under G.S. 150B-34. If the respondent does not commence proceedings within the 60-day time limitation, the proposed order shall become final, and the Superintendent shall take all necessary actions to enforce the order.

Authority G.S. 115C-12(9); 115C-270.5; 115C-270.30; 115C-270.35; 150B-22; 150B-23.

**16 NCAC 06C .0604 DENYING A LICENSE OR SANCTIONING A LICENSEE**

(a) The State Board of Education ("SBE") may, following an investigation in accordance with Rule .0603 of this Section, impose disciplinary sanctions on a person who holds a license issued by the Department of Public Instruction or deny an application for any such license if the SBE finds, by a preponderance of the evidence, that the respondent has done any of the following:

- (1) Engaged in fraud, material misrepresentation, or concealment in an application for the license.
- (2) Become ineligible for the license due to changes or corrections in the license documentation.
- (3) Been convicted of a crime in any state, federal, or territorial court of the United States, including military tribunals.
- (4) Been dismissed by a local board of education, pursuant to G.S. 115C-325(e)(1) or 115C-325.4, or by the governing body of any other PSU.
- (5) Resigned from employment with a PSU without thirty calendar days' notice, except with the prior consent of the local superintendent.

(6) Had a professional educator license or other occupational license revoked or suspended in North Carolina or another state due to a finding of misconduct by the relevant occupational licensing board or agency.

(7) Failed to report suspected child abuse in accordance with G.S. 115C-400 or other suspicion of professional misconduct by a licensed employee in accordance with Rule .0608 of this Section.

(8) Violated the Testing Code of Ethics, codified at 16 NCAC 06D .0311.

(9) Engaged in any other illegal, unethical, or lascivious conduct, or otherwise violated the Standards of Professional Conduct as described in Rule .0602 of this Section.

(b) When deciding whether to impose disciplinary sanctions or deny an application for a license, the SBE shall consider the following factors:

(1) The existence of a reasonable and adverse relationship between the underlying misconduct and the ability of the respondent to perform the respondent's professional duties as an educator.

(2) The severity of the misconduct.

(3) The impact of the misconduct on students, other educators, and the school community.

(4) The respondent's degree of culpability in the misconduct.

(5) The degree of remorse exhibited by the respondent for the misconduct.

(6) Any evidence of reformed behavior on the part of the respondent.

(7) Subsequent incidents of misconduct by the respondent or the probability of future misconduct.

(c) If the SBE determines that sanctions against a current licensee are warranted, it shall impose sanctions in accordance with Rule .0605 of this Section.

Authority G.S. 115C-12(9); 115C-174.11; 115C-174.12; 115C-270.5; 115C-270.30; 115C-270.35; 150B-22; 150B-23.

**16 NCAC 06C .0605 DISCIPLINARY SANCTIONS**

(a) Upon finding of a basis for imposing disciplinary sanctions against a respondent under Rule .0604 following an investigation under Rule .0603 of this Section, the State Board of Education ("SBE") may impose any of the following sanctions:

(1) Written Warning;

(2) Written Reprimand;

(3) Suspension for a Defined Term; or

(4) Revocation.

(b) In addition to one of the sanctions listed in Paragraph (a), the SBE may impose additional conditions upon a respondent—including requirements that the respondent complete additional continuing education credits beyond those required by G.S. 115C-270.30, community service hours, or other activities—if the purpose of the condition is remedial, relevant to the misconduct

giving rise to the sanction, and designed to reduce the possibility of recidivism.

(c) Notwithstanding Rule .0603 of this Section or Paragraph (a) of this Rule, the SBE shall summarily suspend the license of a respondent if the SBE finds that the public health, safety, or welfare requires emergency action and incorporates those findings in the order prepared in accordance with Rule .0603 of this Section. A finding that a respondent has been charged in the General Court of Justice with any crime, the conviction for which would result in automatic revocation of the respondent's license under G.S. 115C-270.35(b), shall be considered prima facie evidence in satisfaction of this Paragraph. Following the summary suspension, the SBE shall promptly commence a disciplinary investigation and proceedings in accordance with Rules .0603 and .0604 of this Section.

(d) The Department of Public Instruction ("DPI") shall, upon expiration of the 60-day time limitation described in Rule .0603(e) of this Section, publish the sanction and a brief description of the basis for the sanction on its website and report it to the National Association of State Directors of Teacher Education and Certification, except that this requirement shall not apply to a Written Warning. DPI shall not disclose any information related to the sanction that is considered confidential under Chapter 115C, Article 21A of the General Statutes or is otherwise protected from disclosure under State or federal law.

*Authority G.S. 115C-12(9); 115C-270.5; 115C-270.30; 115C-270.35; 150B-3; 150B-22; 150B-23.*

**16 NCAC 06C .0606 VOLUNTARY SURRENDER OF A LICENSE**

(a) An individual licensed under Chapter 115C, Article 17E of the General Statutes may notify the State Board of Education in writing of the individual's intention to voluntarily surrender the individual's license to the SBE.

(b) The SBE may accept the voluntary surrender of a license in lieu of pursuing revocation of the license if, following an investigation in accordance with Rule .0603 of this Section, the SBE determines that the surrender of the license will not compromise public safety. The Superintendent of Public Instruction shall prepare a proposed order containing findings of fact and conclusions of law demonstrating that circumstances exist that would justify pursuing revocation of the respondent's license. The Superintendent shall provide the respondent with a copy of the proposed order and notify the respondent that the respondent's license will be revoked within 10 days of the notice. The Superintendent shall send the notice via electronic mail and certified mail to the latest addresses provided to the SBE.

(c) The Department of Public Instruction ("DPI") shall, upon expiration of the 10-day time limitation described in Paragraph (b), publish the revocation and a brief description of the basis for the revocation on its website and report it to the National Association of State Directors of Teacher Education and Certification. DPI shall not disclose any information related to the revocation that is considered confidential under Chapter 115C, Article 21A of the General Statutes or is otherwise protected from disclosure under State or federal law.

*Authority G.S. 115C-12(9); 115C-270.5; 115C-270.30; 115C-270.35; 150B-22; 150B-23.*

**16 NCAC 06C .0607 REINSTATEMENT OF OR RECONSIDERATION FOR A LICENSE**

(a) A respondent whose license has been revoked or whose application for a license has been denied under this Section may seek reinstatement of the revoked license or reconsideration of the license application no sooner than 12 months after the effective date of the revocation or denial.

(b) The respondent shall submit a request to the State Board of Education in writing that includes a statement describing why the circumstances that led to the revocation or denial do not or no longer justify prohibiting the respondent from holding a license.

(c) The SBE may deny the request, grant the request, or grant the request on a probationary basis. If the SBE grants the request on a probationary basis, the respondent's license status shall be subject to review by the SBE one year from the date that the license is granted, and the respondent shall comply with any conditions the SBE may impose.

*Authority G.S. 115C-12(9); 115C-270.5; 115C-270.30; 115C-270.35; 150B-22; 150B-23.*

**16 NCAC 06C .0608 REPORTING REQUIREMENTS FOR PSU ADMINISTRATORS**

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

(1) "Administrator" means a superintendent, associate superintendent, assistant superintendent, personnel administrator, principal, school director, or head of school employed by a PSU.

(2) "Misconduct" means either:

(A) Conduct that justifies automatic revocation of a license under G.S. 115C-270.35(b);

(B) Conduct that has resulted in a criminal charge or indictment for any of the crimes listed in G.S. 115C-270.35(b); or

(C) Conduct involving the physical or sexual abuse of a child or a student. "Physical abuse" means the infliction of physical injury other than by accident or in self-defense. "Sexual abuse" means any sexual contact with a child or student, regardless of the presence or absence of consent.

(b) In addition to any duty to report suspected child abuse under G.S. 115C-400 or other provision of law, any administrator who knows, has reason to believe, or has actual notice of a complaint that a professional educator licensed under Chapter 115C, Article 17E of the General Statutes has engaged in misconduct, as defined in Part (a)(2) of this Rule, that results in the suspension without pay, termination of employment, non-renewal of the employment contract, or resignation of the educator shall report the misconduct in writing to the State Board of Education within five calendar days of the dismissal, suspension, nonrenewal, or acceptance of the educator's resignation by the governing body of the PSU or its

authorized designee. If an educator resigns within 30 days of a complaint for misconduct or during an ongoing investigation of a complaint, the alleged misconduct is presumed to have resulted in the resignation.

(c) If a PSU governing body or its authorized designee demotes, dismisses, declines to renew the employment contract of, or accepts the resignation of a professional educator licensed under Chapter 115C, Article 17E of the General Statutes as a result of conduct that is not covered by Paragraph (b) of this Rule but that may otherwise justify disciplinary sanctions against the educator under Rule .0604 of this Section, an administrator for the PSU shall report the conduct in writing to the SBE within 30 calendar days of the demotion, dismissal, nonrenewal, or acceptance of the educator's resignation by the governing body of the PSU or its authorized designee.

(d) If one administrator submits a single report on behalf of the PSU pursuant to the requirements of this Rule, that report shall satisfy the reporting obligations of all administrators who may have reporting obligations under this Rule or under G.S. 115C-326.20.

(e) If a PSU terminates the employment of an educator, does not renew the educator's contract, or accepts the educator's resignation for any reason that may require a report under this Rule, an administrator for the PSU shall notify the educator of the reporting requirement upon separation from employment.

(f) In accordance with G.S. 115C-13 and notwithstanding Chapter 115C, Article 21A of the General Statutes, local boards of education and their officers and employees shall provide to the SBE or the Superintendent of Public Instruction, upon request, all personnel records and other investigative records associated with any educator reported to the SBE pursuant to this Rule. This provision does not apply to communications between an attorney and the local board or its officers or employees that is subject to attorney-client privilege.

Authority G.S. 115C-12(9); 115C-270.5; 115C-270.30; 115C-270.35; 115C-326.20; 150B-22; 150B-23.

\*\*\*\*\*

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of Education intends to adopt the rules cited as 16 NCAC 06E .0201, .0205, .0207-.0211, .0215 and amend the rules cited as 16 NCAC 06E .0204 and .0206.

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

Proposed Effective Date: July 1, 2025

Public Hearing:
Date: November 8, 2024
Time: 10:00 a.m.

Location:
https://ncgov/webex.com/ncgov/j.php?MTID=ma19c71472de33ac8cec17bf2559eb11d

Reason for Proposed Action: On October 3, 2023, the General Assembly enacted S.L. 2023-133, which required the State Board of Education to adopt new rules governing interscholastic athletics conducted by public school units. These rules addressed a variety of topics related to athletics, including administration of interscholastic athletics by administering organizations and public school units, student health and safety, student participation (eligibility) requirements, amateur rules, penalties, limitations on recruiting and undue influence, and appealing decisions related to the enforcement of these rules to an independent appeals board.

In compliance with that legislation, the SBE adopted temporary rules for the 2024-2025 school year, codified in Title 16, Subchapter 06E, Section .0200 of the North Carolina Administrative Code. The SBE is now proposing permanent rules to replace the temporary rules, which will apply beginning with the 2025-2026 school year. The proposed permanent rules include amendments to two existing rules and the adoption of eight new rules. In addition to the subject matter covered by the temporary rules, the proposed permanent rules also include regulations related to Name, Image, and Likeness ("NIL").

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

Comment period ends: December 6, 2024

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit a written objection to the Rules Review Commission. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

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

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

CHAPTER 06 - ELEMENTARY AND SECONDARY EDUCATION

SUBCHAPTER 06E – STUDENTS

**SECTION .0200 - SCHOOL ATHLETICS AND SPORTS  
MEDICINE INTERSCHOLASTIC ATHLETICS**

**16 NCAC 06E .0201 DEFINITIONS**

As used in this Section, the following definitions apply:

- (1) "Administering organization" is defined in G.S. 115C-407.50(1).
- (2) "Aggrieved party" means a student, coach, participating school, PSU, or other party that is directly and adversely affected by a final decision of a rule administrator including a determination of ineligibility under Rule .0207 of this Section, a penalty imposed under Rule .0209 of this Section, or a finding of undue influence or a recruiting violation under Rule .0210 of this Section. If a student is affected, the student's parent shall be allowed to appeal the final decision pursuant to Rule .0215 of this Section.
- (3) "Bona fide purpose" means a purpose not primarily related to participation in interscholastic athletics.
- (4) "Final decision" means a written decision of a rule administrator regarding the application or enforcement of rules under this Section to a set of facts or circumstances.
- (5) "Initial entry" means:
  - (A) a student's first day of attendance at a participating school in which the student is enrolled as recorded by that school; or
  - (B) the first day on which a student practices or otherwise participates as a member of an interscholastic athletics team at a participating school.
- (6) "Interscholastic athletics" or "interscholastic athletic activity" means any extracurricular athletic activity that:
  - (A) involves students in any Grades 6 through 12;
  - (B) is sponsored by an individual school, PSU, or administering organization; and
  - (C) includes students from more than one school or PSU.
- (7) "Local superintendent" means the superintendent of a local school administrative unit, as provided in Chapter 115C, Article 18 of the General Statutes, or the staff member with the highest decision-making authority for a PSU, if there is no superintendent.
- (8) "NFHS" means the National Federation of State High School Associations.
- (9) "Parent" is defined in G.S. 115C-407.50(6).
- (10) "Participating school" means a middle school, junior high school, or high school that elects to participate in interscholastic athletic activities.
- (11) "Principal" means a school administrator employed as the principal of a school, as

provided in Chapter 115C, Article 19 of the General Statutes, or the staff member with the highest decision-making authority at a school, if there is no principal.

- (12) "Rule administrator" means any of the following:
  - (A) An administering organization, when administering and enforcing the rules provided by this Section at the high school level.
  - (B) A local superintendent or his or her authorized designee, when administering and enforcing the rules provided by this Section at the middle and junior high school level.
  - (C) The Superintendent of Public Instruction, if necessary pursuant to 16 NCAC 06E .0204(e).

*Authority G.S. 115C-12(12);115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60; 115C-407.65; 116-235(b).*

**16 NCAC 06E .0204 INTERSCHOLASTIC ATHLETICS AND ADMINISTERING ORGANIATIONS FOR HIGH SCHOOL ATHLETICS ADMINISTRATION OF INTERSCHOLASTIC ATHLETICS**

(a) Definitions:

- (1) "Administering organization" is defined in G.S. 115C-407.50(1).
- (2) "Participating school" is defined in G.S. 115C-407.50(7).
- (3) "Public school unit" (PSU) is defined in G.S. 115C-5(7a).

~~(b) PSUs are authorized to determine whether and to what extent students in grades 6 through 12 may participate in interscholastic athletics, provided students in grade 6 are not eligible to participate in tackle football. This Rule shall not apply to charter school athletic programs in kindergarten through grade 8.~~

~~(c) To participate in public school interscholastic athletics, a student shall meet the following requirements:~~

- (1) ~~A student who attends a school supervised by a local board of education shall only participate in the school to which the student is assigned under G.S. 115C 366. A student enrolled in a charter, regional, statewide public school, or school operated by the University of North Carolina, shall meet all the enrollment criteria for that school and attend that school. If a student is over the age requirements for the school the student attends, the student may participate at the school to which the student would be assigned or attend at the next higher grade level.~~
- (2) ~~A student shall meet the age requirements at each grade level to participate. PSUs shall determine the age of participating students based on a preponderance of the evidence known to them. A student ineligible to participate at one grade level due to age shall be~~

eligible to participate at the next higher grade level only, provided no student shall be eligible to participate at the middle school level for a period lasting longer than six consecutive semesters, beginning with the student's entry into grade 6, and no student shall be eligible to participate at the high school level for more than eight consecutive semesters, beginning with the student's first entry into grade 9 or participation on a high school team, whichever occurs first.

(A) A student shall not participate on a grade 6, 7, or 8 team if the student becomes 15 years of age on or before August 31 of that school year.

(B) A student shall not participate on a grade 9 through 12 team if the student becomes 19 years of age on or before August 31 of that school year.

(d) To be eligible to participate during any semester in grades 6, 7, or 8, the student shall have passed at least one less course than the number of required core courses the prior semester and meet promotion standards established by the PSU, provided a student who is promoted from grade 5 to grade 6 shall be deemed to have satisfied the requirement set forth in this Paragraph to participate in the first semester of grade 6. To be eligible to compete during any semester in grades 9 through 12, the student shall have passed at least five courses (or the equivalent for non-traditional school schedules) the prior semester and meet promotion standards established by the PSU, provided a student who is promoted from grade 8 to grade 9 shall be deemed to have satisfied the requirement set forth in this Paragraph to participate in the first semester of grade 9.

(e) To be eligible to participate, a student shall receive a medical examination every 395 days by a licensed physician, nurse practitioner, or physician assistant, subject to the provisions of G.S. 90-9.1, G.S. 90-9.2, G.S. 90-9.3, G.S. 90-18.1, and G.S. 90-18.2.

(f) A student shall not participate in interscholastic athletics after any of the following:

- (1) graduation, except that the student may continue to participate in playoff and state championship contests in spring sports after graduation;
- (2) signing a professional athletic contract, except that the student may continue to participate in any sport for which the student has not signed a professional contract;
- (3) receiving remuneration as a participant in an athletic contest, except that the student may accept a gift, merchandise, trophy, or other thing of value, provided:
  - (A) the value does not exceed two hundred fifty dollars (\$250.00) per student per sports season;
  - (B) the item is totally consumable and nontransferable, or labeled in a permanent manner, for example, monogrammed or engraved items; and

(C) the item is approved by the student's principal and superintendent; or

(4) participating on an all-star team or in an all-star game that is not sanctioned by the administering organization of which the student's school is a member, provided the student shall be ineligible only for the specific sport involved.

(g) Each PSU shall require the principal of a school that participates in interscholastic athletics to sign and date a list of eligible students for each sport. The PSU shall maintain copy of the most current list in the principal's office and the office of the superintendent.

(h) A PSU shall impose at least the following penalties on a student, coach, or school official in grades 6 through 12 who is ejected from an interscholastic athletic contest:

- (1) for the first offense, the person shall be reprimanded and suspended from participating in the next game at that level of play (varsity or junior varsity);
- (2) for a second offense, the person shall be placed on probation and suspended from participating in for the next two games at that level of play (varsity or junior varsity);
- (3) for a third offense, the person shall be suspended for one calendar year; and
- (4) a coach who is suspended shall not coach any team for any grade level during the period of suspension.

Penalties are cumulative from sport to sport and from sport season to sport season. If no member of the school's coaching staff is present to assume an ejected coach's duties, the contest shall be terminated by a forfeit.

(i)(a) PSUs. The governing body of a PSU may allow high schools under their its jurisdiction to belong to an administering organization designated by the State Board of Education. Superintendent of Public Instruction.

(j)(b) An administering organization that has entered into a memorandum of understanding with the State Board of Education Superintendent for the purpose of administering interscholastic athletics under this Rule Section shall apply and enforce all of the requirements of this Rule. Section. An administering organization shall provide training and resources to ensure that all students, parents, and PSU personnel involved in the administration of interscholastic athletics understand and comply with the provisions of this Section.

(k)(c) The If the Superintendent enters a memorandum of understanding with one or more administering organizations consistent with G.S. 115C-407.61, the State Board of Education shall delegate to an administering organization the administering organization(s) its authority over participating schools that are members of the administering organization to:

- (1) waive any student eligibility requirement contained in this Rule, if it finds in a particular case that the requirement fails to promote academic progress, health, safety, and fair play, or it works an undue hardship on a student who has lost eligibility due to circumstances that made participation impossible such as

~~prolonged illness or injury or if a waiver is necessary to reasonably accommodate a student's disability, as required under the Americans with Disabilities Act, U.S.C. 1201 et seq.;~~

- (1) Apply and enforce student participation rules, as established in Rule .0207 of this Section.
- (2) Waive any student participation rule as applied to a specific student, in accordance with Rule .0207(k) of this Section.
- (3) Apply and enforce student health and safety requirements, as established in Rule .0205 of this Section.
- ~~(2)(4)~~ adopt; Adopt, apply, and enforce penalty rules, as defined in G.S. 115C-407.55(3) 115C-407.55(3), that establish a system of demerits that includes reprimands, probations, suspensions, forfeitures of contests, forfeitures of titles, and disqualifications; disqualifications, consistent with Rule .0209 of this Section.
- ~~(3)(5)~~ adopt; Adopt, apply, and enforce administrative rules, as defined in G.S. 115C-407.55(5); 115C-407.55(5).
- ~~(4)(6)~~ adopt; Adopt, apply, and enforce gameplay rules, as defined in G.S. 115C-407.55(6); 115C-407.55(6).
- ~~(5)(7)~~ establish and collect Collect from all its members a uniform membership fee of either:
  - (A) one thousand dollars (\$1,000) for each participating school, or
  - (B) one dollar (\$1.00) for each student enrolled in a participating school.

~~(4)(d)~~ An administering organization shall:

- (1) ~~enter~~ Enter into a memorandum of ~~understanding~~ understanding, consistent with the requirements of G.S. 115C-407.55(8) and 115C-407.61, with the State Board of Education Superintendent no later than March 15 prior to the ~~academic~~ start of the school year in which it is to begin administering interscholastic athletics and no later than the March 15 before the expiration of an existing memorandum of understanding;
- (2) ~~submit~~ Submit an audit report signed by an independent certified public accountant or accounting firm, which is in good standing with the North Carolina State Board of Certified Public Accountant Examiners and performs no other tasks or functions for the administering organization besides the annual audit, to the State Board of Education no later than March 15 each year;
- (3) ~~broadcast~~ Broadcast the meetings of its membership and board of directors in a manner that is announced on its website and which may be viewed electronically by any member of the public;

- (4) ~~provide~~ Provide to the State Board of Education within 30 days any requested organizational records, such as, financial information, annual audit reports, and any matters related to or impacting participating schools;
- (5) ~~enter~~ Enter into written agreements with PSUs that allow their eligible schools to participate in interscholastic athletics, which agreements shall include an explanation of the fees to be charged, the obligations of the PSU and participating schools, penalties for the violation of this ~~Rule~~ Section that may be imposed, and an explanation of the process to ~~contest or appeal~~ adverse decisions; and file an appeal pursuant to Rule .0215 of this Section; and ~~publish~~ Publish the organization's rules through a link on the home page of its website.

~~(m) State Board of Education will appoint an appeals board to hear and act upon appeals from final decisions of an administering organization, or from the Department of Public Instruction if necessary pursuant to G.S. 115C-407.60(b), regarding student eligibility, penalties, fees imposed, retaliation, or discrimination. Panels of no fewer than three members of the appeals board may hear and decide matters on behalf of the board. A PSU aggrieved by a final decision of the administering organization may file an appeal with the State Board of Education's Office of General Counsel within five days after receipt of the administering organization's final decision. The final decision shall be mailed to the Superintendent or board of trustees of the PSU.~~

- (1) ~~The administering organization's final decision shall contain:~~
  - ~~(A) findings of fact;~~
  - ~~(B) conclusions of law, including citation to any rules related to the decision;~~
  - ~~(C) a description of any penalties; and~~
  - ~~(D) a statement that the PSU may file a notice of appeal within five days of receipt of the administering organization's decision by mailing the notice to the State Board of Education's Office of General Counsel, 301 S. Wilmington Street, Raleigh, N.C. 27601, and emailing a copy of the notice of appeal to Office of General for the State Board of Education.~~
- (2) ~~The PSU's appeal shall:~~
  - ~~(A) be in writing;~~
  - ~~(B) include a description of the facts of the dispute;~~
  - ~~(C) include any evidence submitted to the administering organization; and~~
  - ~~(D) present an argument explaining why the PSU believes the administering organization's final decision was not based on substantial evidence as defined in G.S. 150B-2(8c) or is affected by an error of law.~~

- ~~(3) The administering organization may file a response to the PSU's submissions within five days. The panel may shorten the time for filing the administering organization's response if the decision affects a student's or coach's eligibility to participate in an intervening athletic contest.~~
- ~~(4) All documents filed in the appeal shall be simultaneously served on all parties in the manner prescribed in G.S. 1A-1, Rule 5 of the North Carolina Rules of Civil Procedure.~~
- ~~(5) Any hearing shall be recorded.~~
- ~~(6) No later than 30 days after the State Board of Education's receipt of the appeal, a panel of the appeals board shall issue its decision. The panel shall affirm the administering organization's final decision unless a majority of the panel determines that the final decision is not supported by substantial evidence or is affected by an error of law.~~
- ~~(7) The panel's decision shall be final.~~
- ~~(n) The PSU that has jurisdiction over a school may impose penalties in addition to those required by an administering organization.~~
- (e) In the event that the Superintendent is unable to enter a memorandum of understanding with one or more administering organizations in accordance with this Rule, the SBE shall delegate all authority and responsibility provided to an administering organization by this Section to the Superintendent.
- (f) A PSU, participating school, PSU employee, or student seeking to report allegations of intimidation or harassment by an administering organization shall file a report with the Superintendent. The report shall be in writing and include a detailed description of the factual basis for the allegations.
- (g) The Superintendent shall be responsible for general oversight of interscholastic athletic activities at participating middle and junior high schools. The local superintendent or his or her authorized designees shall apply and enforce the requirements of this Section for participating middle and junior high schools under the jurisdiction of a PSU. The local superintendent or his or her authorized designee may also waive any student participation rule as applied to a specific student enrolled at a middle or junior high school under the jurisdiction of the PSU, in accordance with Rule .0207 of this Section.
- (h) Any person or PSU seeking to inquire about or report a violation of any rule enforced by a rule administrator shall direct the initial inquiry or report to the appropriate rule administrator in accordance with the policies and procedures adopted by the rule administrator.
- (i) For any question or dispute involving the enforcement of any interscholastic athletics rule provided by this Section, the relevant rule administrator shall render a final decision within 10 business days. The rule administrator's final decision shall contain:
  - (1) Findings of fact.
  - (2) Conclusions of law, including a citation to and copy of any rules related to the decision.
  - (3) A description of any penalties imposed.
  - (4) Instructions on how the aggrieved party may file a notice of appeal with the Superintendent

and a notice that the appeal must be filed within five days after receipt of the final decision.

(j) An aggrieved party seeking to appeal a final decision with the Superintendent shall do so in accordance with Rule .0215 of this Section.

(k) Nothing in this Section shall be construed as restricting the independent authority of a PSU to further limit or regulate student participation in interscholastic athletics or other extracurricular activities in accordance with local policies adopted by the governing body of the PSU. Limitations or regulations imposed under local policies shall not be subject to appeal under Rule .0215.

*Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50, 115C-407.55; 115C-407.60; 115C-407.65; 116-235(b).*

**16 NCAC 06E .0205 STUDENT HEALTH AND SAFETY**

(a) For purposes of this Rule, a concussion is defined as a traumatic brain injury caused by a direct or indirect impact to the head that results in disruption of normal brain function, which may or may not result in loss of consciousness.

(b) An administering organization shall, on an annual basis, provide a concussion and head injury information sheet to all coaches, school nurses, athletic directors, first responders, volunteers, and students who participate interscholastic athletic activities, and the parents or legal guardians of those students. The information shall include:

- (1) The definitions and symptoms of concussions and head injuries;
- (2) A description of the physiology and the potential short-term and long-term effects of concussions and other head injuries;
- (3) The medical return-to-play protocol for post-concussion participation in interscholastic athletic activities; and
- (4) Any other information deemed necessary by the PSU.

(c) School employees, first responders, volunteers, and students shall sign the information sheet and return it to the coach before participating in interscholastic athletic activities, including tryouts, practices, or competition. Parents shall sign the information sheet and return it to the coach before a child may participate in any such interscholastic athletic activities. The signed sheets shall be maintained in accordance with .0207(b) of this Section.

(d) If a student participating in an interscholastic athletic activity exhibits signs or symptoms consistent with concussion, the student shall be removed from the activity at the time and shall not be allowed to return to play or practice that day. A student removed from play for exhibiting signs or symptoms consistent with concussion shall not return to play or practice on a subsequent day until the student is evaluated by and receives written clearance for such participation from one of the following:

- (1) A physician licensed under Chapter 90, Article 1 of the General Statutes with training in concussion management;
- (2) A neuropsychologist licensed under Chapter 90, Article 18A of the General Statutes with

training in concussion management and working in consultation with a physician licensed under Chapter 90, Article 34 of the General Statutes;

- (3) An athletic trainer licensed under Chapter 90, Article 34 of the General Statutes;
- (4) A physician assistant, consistent with the limitations of G.S. 90-18.1; or
- (5) A nurse practitioner, consistent with the limitations of G.S. 90-18.2.

(e) Each participating school shall develop a venue-specific emergency action plan to deal with serious injuries and acute medical conditions in which the condition of the patient may deteriorate rapidly. The plan must be:

- (1) In writing;
- (2) Reviewed by an athletic trainer licensed under Chapter 90, Article 34 of the General Statutes;
- (3) Approved by the principal of the school;
- (4) Distributed to all appropriate personnel;
- (5) Posted conspicuously for community and parental awareness at all athletic-sponsored venues; and
- (6) Reviewed and rehearsed annually by all licensed athletic trainers, first responders, coaches, school nurses, athletic directors, and volunteers for interscholastic athletic activities.

(f) Each participating school's emergency management plan shall include:

- (1) A delineation of roles;
- (2) Methods of communication;
- (3) Available emergency equipment; and
- (4) Access to and plan for emergency transport.

(g) Each school shall maintain complete and accurate records of its compliance with the requirements of this Rule.

*Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.57; 115C-407.58; 115C-407.60.*

**16 NCAC 06E .0206 ATHLETIC TRAINERS**

(a) Each ~~Local Education Agency (LEA)~~ PSU shall designate for each participating high school within its jurisdiction either a licensed athletic trainer who is qualified pursuant to ~~Article 34 of Chapter 90~~ Chapter 90, Article 34 of the General Statutes of North Carolina or a first responder. These persons may be employed on a full-time or part-time basis or may serve as a volunteer.

- (b) If not a licensed athletic trainer, a first responder shall:
- (1) ~~have completed and continue to~~ Complete and maintain certification in cardiopulmonary resuscitation as certified by an organization such as the American Red Cross or the American Heart Association;
  - (2) ~~have completed and continue to~~ Complete and maintain certification in first aid as certified by an organization such as the American Red Cross or the American Heart Association;
  - (3) ~~have completed and continue to~~ Complete and maintain training in concussion management as offered by an organization such as the National

~~Federation of State High School Associations (NFHS); NFHS;~~

- (4) ~~have completed and continue to~~ Complete and maintain continuing education in injury prevention and management as offered by an organization such as the National Federation of State High School Associations (NFHS); NFHS; and
- (5) ~~complete~~ Complete 10 hours total of staff development each school year specific to first aid and injury recognition and prevention. The 10 hours may include hours necessary for recertifications or renewals.

(c) The licensed athletic trainer or first responder shall not have concurrent coaching responsibilities during the time in which the person is working as a licensed athletic trainer or first responder.

(d) A licensed athletic trainer or first responder shall attend all ~~football games and practices~~, practices and games for football and all matches and tournaments for wrestling, unless excused by the local superintendent due to emergency.

(e) Each ~~LEA~~ PSU shall monitor the school athletic trainer's or first responder's compliance with this Rule.

*Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60; 115C-407.65; 116-235(b).*

**16 NCAC 06E .0207 STUDENT PARTICIPATION RULES**

(a) A student shall not participate in interscholastic athletics on behalf of a North Carolina public school unless the student has satisfied the eligibility requirements set forth in this Rule. PSUs are authorized to determine whether and to what extent students under their jurisdiction may participate in interscholastic athletics, not inconsistent with the requirements of this Rule.

(b) Each PSU shall require the principal of a participating school to sign and date a list of eligible students for each sport. The PSU shall maintain a copy of the most current list in the principal's office and the office of the local superintendent.

(c) Residency Requirements

- (1) For purposes of this Rule, a student's primary residence shall be determined as follows:
  - (A) If both of the student's parents live together, the residence of both parents.
  - (B) If the student's parents are separated or divorced, the residence of the parent to whom a court of competent jurisdiction has awarded primary custody of the student. If no custody order has been entered, the student and the student's parents shall designate one parent's residence as the primary residence and communicate that designation to the participating school prior to participation in interscholastic athletic activities. The designated primary residence shall be one that would otherwise render the student eligible to attend that school in accordance with state law and the

policies of the governing body of the PSU.

(C) If the student has only one living parent, the residence of that parent.

(D) If a student lives with an individual to whom a court of competent jurisdiction has awarded legal guardianship of the student, the residence of that individual.

(E) If a student has been emancipated in accordance with Chapter 7B, Article 35 of the General Statutes, the student's residence at the time of emancipation.

(F) If a student is a foreign national participating in a foreign exchange program authorized by federal and state law, the residence to which the student is assigned by the program or host PSU.

(2) A student shall not participate in interscholastic athletics following a change in primary residence unless the change was made for a bona fide purpose and with the intent that it be permanent. The relevant administering organization shall resolve, by a preponderance of the evidence, any disputes regarding a high school student's primary residence or whether a change in a student's primary residence was for a bona fide purpose.

(3) Notwithstanding Subparagraph (2) and absent a transfer between participating schools as provided in Paragraph (e), a student shall be eligible to participate in interscholastic athletics on behalf of a participating school in which the student is enrolled if the student has attended any school within the jurisdiction of the same PSU as the participating school for the two preceding semesters.

(d) Enrollment Requirements

(1) A student enrolled in a school supervised by a local board of education shall only participate in interscholastic athletics on behalf of the school to which the student is assigned under G.S. 115C-366.

(2) A student enrolled in a charter school, regional school, or school operated by the University of North Carolina shall meet all the enrollment criteria for that school and attend that school. A student who attends a school described in this Subparagraph shall not participate in interscholastic athletics on behalf of that school unless the student's primary residence is within either:

(A) the county in which the school is located, or

(B) twenty-five miles of the school as determined by an administering organization.

(3) A local board of education may by policy allow a person who is enrolled in Grade 6 through 12 in a home school, as defined in G.S. 115C-563(a), and whose primary residence is within the board's jurisdiction to participate in interscholastic athletics on behalf of a participating school under the board's jurisdiction, provided that the board either agrees to cover any such person whom it allows to participate under its catastrophic athletic accident insurance policy or verifies that the person is independently covered by catastrophic accident insurance.

(e) Transfer Requirements

(1) After a student's initial entry into Grade 9, and absent a change in residence for a bona fide purpose as provided in Paragraph (c) of this Rule:

(A) A student who transfers from one participating school to another participating school within the same PSU shall not participate in interscholastic athletics for 365 calendar days following the student's enrollment in the new school, unless the governing body of the PSU has adopted a policy allowing immediate eligibility for students who are assigned by the PSU to a different school within the same PSU.

(B) A student who transfers from a participating school in one PSU to a participating school in a different PSU shall not participate in interscholastic athletics for 365 calendar days following the student's enrollment in the new school, unless the governing bodies of both PSUs agree that the transfer was for a bona fide purpose.

(C) If the governing bodies of the PSU disagree that the transfer was for a bona fide purpose, the relevant administering organization shall resolve the dispute by a preponderance of the evidence.

(2) After a student's initial entry into Grade 9, if a student transfers to a new school within 365 calendar days after that school hires a coach for an interscholastic athletics team who was previously employed as a coach for an equivalent sport by the school from which the student is transferring, the student shall be ineligible to participate in interscholastic athletics for that sport for 365 calendar days following the student's enrollment in the new school. An administering organization may waive this restriction if it determines by a preponderance of the evidence that the student's transfer was for a bona fide purpose.

- (3) A student who receives priority enrollment as the child of a full-time employee of a charter school pursuant to G.S. 115C-218.45(f)(3) shall not be eligible to participate in interscholastic athletics for that charter school if the Department of Public Instruction determines that the parent's employment was a fraudulent basis for the student's priority enrollment. A student determined to be ineligible under this Subparagraph shall be ineligible to participate in interscholastic athletics for 365 calendar days following discovery of the violation.
- (4) For purposes of this Paragraph, if a student transfers from a public school to a nonpublic school, including a home school as defined in G.S. 115C-563(a), and within 365 calendar days transfers to a different public school, the transfer from the nonpublic school shall be treated as a transfer from a public school.
- (5) A student who transfers to the North Carolina School of Science and Mathematics is exempt from the requirements of this Paragraph upon initial entry into that school.
- (6) No student shall participate in more than one season of interscholastic athletics per year in the same sport, regardless of the school on behalf of which the student participated.

(f) Scholastic Requirements

- (1) To be eligible to participate in interscholastic athletics, a student must be in good academic standing. For purposes of this Rule, a student shall be deemed to be in good academic standing under the following circumstances:
  - (A) The student attended at least 85 percent of the total number of instructional days in the PSU during the previous semester;
  - (B) The student passed at least 70 percent of the courses taken in the preceding semester; and
  - (C) The student is making sufficient progress toward meeting the academic and curricular requirements of the PSU and the State Board of Education to be promoted to the next grade level or to graduate within the next calendar year.
- (2) For the purpose of determining good academic standing during the fall semester, a student may count any course that the student passed in a summer school session toward the total number of courses passed in the preceding spring semester. The summer school course shall not affect the total number of courses attempted in the preceding spring semester.
- (3) A student who is promoted from Grade 5 to Grade 6 shall be deemed to have satisfied the requirements set forth in this Paragraph to participate in the first semester of Grade 6.

- (4) A student who is promoted from Grade 8 to Grade 9 shall be deemed to have satisfied the requirements set forth in this Paragraph to participate in the first semester of Grade 9.

(g) Age Requirements

- (1) Each PSU shall determine the age of a student participating in interscholastic athletics based on a preponderance of the evidence known to the PSU.
- (2) A student who is ineligible to participate at one grade level due to age shall be eligible to participate at the next higher grade level only, provided that a student:
  - (A) Shall be eligible to participate at the middle school level for no more than six consecutive semesters, beginning with the student's initial entry into Grade 6.
  - (B) Shall be eligible to participate at the high school level for no more than eight consecutive semesters, beginning with the student's initial entry into Grade 9.
  - (C) Shall not participate on a middle school team if the student becomes 15 years of age before August 31 of that school year.
  - (D) Shall not participate on a junior high school team if the student becomes 16 years of age on or before August 31 of that school year.
  - (E) Shall not participate on a high school team if the student becomes 19 years of age on or before August 31 of that school year.
- (3) A student in Grade 6 shall not participate in tackle football.

(h) Biological Requirements. All students participating in interscholastic athletics shall comply with the biological participation requirements as provided in G.S. 115C-407.59.

(i) Medical Requirements. To be eligible to participate in interscholastic athletics, a student shall receive a medical examination every 395 days by a licensed physician, nurse practitioner, or physician assistant, subject to the provisions of Chapter 90 of the General Statutes.

(j) A student shall not participate in interscholastic athletics after pleading guilty or "no contest" to, or being convicted of, a felony under the laws of North Carolina, the United States, or any other state. Prior to deeming the student ineligible, an administering organization shall obtain a certified copy of a criminal record reflecting the conviction and verify that the student is the same individual identified in the criminal record.

(k) An administering organization shall, in an individual student's case, waive any eligibility requirement contained in this Rule if it finds by a preponderance of the evidence that enforcing the requirement:

- (1) fails to promote academic progress, health, safety, and fair play;

- (2) works an undue hardship on a student who has lost eligibility due to circumstances that made participation impossible, such as prolonged illness or injury; or
- (3) prevents the reasonable accommodation of a student's disability, as required by the Americans with Disabilities Act, 42 U.S.C. 12101 et seq. or the Individuals with Disabilities in Education Act, 20 U.S.C. 1400 et seq.

- activities, playground, or camp, whether or not affiliated with a PSU.
- (3) Receipt of an Operation Gold Grant from the United States Olympic Committee.

Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60; 115C-407.65; 116-235(b).

**16 NCAC 06E .0208 AMATEUR RULES**

(a) A student shall not participate in interscholastic athletics after any of the following:

- (1) Graduation, except that the student may continue to participate in playoff and state championship contests in spring sports after graduation.
- (2) Signing a professional athletic contract, except that the student may continue to participate in any sport for which the student has not signed a professional contract.
- (3) Receiving remuneration as a participant in an athletic contest, except that the student may accept a gift, merchandise, or other thing of value, provided that:
  - (A) The value does not exceed two hundred-fifty dollars (\$250.00) per student per season;
  - (B) The item is totally consumable and nontransferable, or labeled in a permanent manner (e.g., an engraved or monogrammed item); and
  - (C) The item is approved by the principal of the student's school and the local superintendent.
- (4) Participating on an all-star team or in all-star game or bowl game that is not sanctioned by the administering organization of which the student's school is a member, provided that the student shall be ineligible only for that sport.
- (5) Entering into an NIL agreement, unless the student has complied with the requirements of Rule .0211 of this Section.

(b) A student shall not be deemed ineligible under this Rule for any of the following:

- (1) Payment by an administering organization, PSU, or athletic booster club affiliated with the student's school or PSU for essential expenses arising from a specific interscholastic athletic contest in which the student participates. Essential expenses shall include the reasonable cost of meals, lodging, and transportation.
- (2) Receipt of a nominal, standard fee or salary for instructing, supervising, or officiating an organized youth sports program, recreational

Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60; 115C-407.65; 116-235(b).

**16 NCAC 06E .0209 PENALTY RULES**

(a) A rule administrator shall impose at least the following penalties on a student, coach, or school official in Grades 6 through 12 who is ejected from an interscholastic athletic contest:

- (1) for the first offense, the person shall be reprimanded and suspended from participating in the next game;
- (2) for a second offense, the person shall be placed on probation and suspended from participating in the next two games;
- (3) for a third offense, the person shall be suspended from participation in interscholastic athletics for one calendar year;
- (4) a coach who is suspended shall not coach any team for any grade level during the period of suspension.

(b) Penalties shall be cumulative from sport to sport and from sport season to sport season. If no member of the participating school's coaching staff is present to assume the duties of a head coach who has been ejected from an interscholastic athletic contest, the contest shall be terminated by forfeit.

(c) The PSU that has jurisdiction over a participating school may impose penalties in addition to those imposed by an administering organization.

Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60; 115C-407.65; 116-235(b).

**16 NCAC 06E .0210 LIMITATIONS ON RECRUITING AND UNDUE INFLUENCE**

(a) No student, coach, professional educator, or other employee of a PSU or administering organization shall subject a student to undue influence for the purpose of inducing or causing the student to transfer from one participating school to another to participate in interscholastic athletics on behalf of the receiving school.

(b) For purposes of this Rule, "undue influence" means communication or conduct undertaken for the purpose and intent of soliciting or encouraging a student to enroll in a participating school, including the following:

- (1) Initiating or arranging communication or contact in any form, including letters, email, or phone calls, with the student or a member of the student's family.
- (2) Visiting or entertaining the student or a member of the student's family.
- (3) Providing or arranging for transportation for the student or member of the student's family to visit a participating school or meet with anyone associated with the participating school.
- (4) Communicating to a student or a member of the student's family, either implicitly or explicitly,

that a participating school's athletic program or sports team is superior to that of another participating school, or that it would be advantageous for the student to participate in athletics at a specific participating school. Such communication may be oral, written, or audiovisual in format.

(c) A party alleging undue influence shall direct the initial inquiry or report to the appropriate administering organization in accordance with the procedures adopted by the administering organization. The party alleging undue influence bears the burden of proving undue influence by a preponderance of the evidence.

(d) If the administering organization finds by a preponderance of the evidence that the accused party has engaged in undue influence, the administering organization shall impose penalties consistent with its regulations and with Rule .0209 of this Section.

*History Note: Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60; 115C-407.65; 116-235(b).*

**16 NCAC 06E .0211 NAME, IMAGE, AND LIKENESS**

(a) As used in this Section, the phrase "name, image, or likeness" or "NIL" shall refer to the use of a student's name, image, or likeness for commercial purposes and in exchange for compensation to the student or an immediate family member of the student. Compensation is defined as anything of value to the student or an immediate family member of the student, including cash, in-kind gifts, discounts, and other tangible benefits.

(b) A student participating in interscholastic athletics may enter an agreement to use the student's name, image, or likeness (hereinafter "NIL agreement") subject to the following restrictions:

- (1) The NIL agreement shall not condition the receipt, type, or extent of any compensation to the student on the extent or quality of the student's athletic performance.
- (2) If the student is under 18 years of age, the student's parent or legal guardian shall be a party to the NIL agreement.
- (3) The NIL agreement shall hold the following parties harmless from any liability related to, or arising from the NIL agreement:
  - (A) The governing body of the PSU in which the student is enrolled, as well as its officers and employees.
  - (B) Any administering organization with which the PSU is affiliated, as well as its officers and employees.
  - (C) The State Board of Education and the Department of Public Instruction, as well as their officers and employees.
- (4) The NIL agreement shall otherwise comply with state and federal law.

(c) Prior to a student's entry into an NIL agreement:

- (1) The student shall provide a copy of the NIL agreement to the principal and athletic director of the student's school, the local superintendent, the chairperson of the PSU governing body, and

the head coach of any sport in which the student participates during the terms of the NIL agreement.

- (2) The student shall complete the NIL education course offered by the NFHS. If the student is under 18 years of age, the student's parent or legal guardian shall also complete the course. Those persons required to complete the course shall provide the relevant administering organization with a certificate of completion from the NFHS.

(d) A student participating in interscholastic athletics may enter into an NIL agreement to use the student's name, image, or likeness in any of the following ways:

- (1) Public appearances or commercials.
- (2) Autograph signings.
- (3) Athletic camps and clinics.
- (4) Sale of non-fungible tokens ("NFTs").
- (5) Product or service endorsements.
- (6) Promotional activities, including in-person events and social media advertisements.

(e) No student engaged in an NIL agreement-related activity shall do any of the following:

- (1) Make any reference to a school, PSU, conference, or administering organization.
- (2) Receive compensation for the use of intellectual property of any school, PSU, conference, administering organization, or the NFHS. Intellectual property includes the name, uniform, mascot, mark, or logo of the entity that owns the intellectual property.
- (3) Appear in the uniform of the student's school or the school's sports team, or otherwise display the intellectual property of any school, PSU, conference, administering organization, or the NFHS.

(f) No student shall endorse or promote the goods or services of any third-party entity with which the student has entered an NIL agreement during interscholastic athletic competition or other school-based activities or events. This restriction applies to the wearing of apparel displaying the mark, logo, brand, or other identifying insignia of the third-party entity, unless it is part of the standard uniform for the school or sport.

(g) No student participating in interscholastic athletics shall enter into an NIL agreement or otherwise use the student's name, image, or likeness to promote any of the following:

- (1) An adult establishment, as defined in G.S. 14-202.10(2), or adult entertainment services.
- (2) Alcohol or alcoholic products.
- (3) Tobacco, vaping or other electronic smoking devices, or other nicotine products.
- (4) Cannabis or cannabis products.
- (5) Controlled substances, as defined in G.S. 90-87(5).
- (6) Opioids or prescription pharmaceuticals.
- (7) Weapons, firearms, or ammunition.
- (8) Casinos or gambling, including sports betting.
- (9) Activities that would disrupt the operations of a school or PSU.

(h) The school athletic director shall submit a current copy of any NIL agreement involving a student at the school to any administering organizations of which the student's school is a member within 30 days of the disclosure of the NIL agreement by the student or disclosure of any amendment to an existing NIL agreement. The administering organization shall maintain accurate records of all NIL agreements received and provide a summary report of all NIL agreements to the State Board of Education no later than June 30 of each year.

(i) No athletic director, coach, other employee of a PSU, representative of an athletic booster club, or representative of an NIL collective shall use the promise of an NIL agreement to recruit a student to attend a specific participating school or participate in a specific sport. No athletic director, coach, other employee of a PSU, representative of an athletic booster club, or representative of an NIL collective shall act as a student's agent or marketing representative or otherwise facilitate an NIL agreement between a student and a third party. If the relevant administering organization finds a violation of this Paragraph by a preponderance of the evidence, the administering organization shall impose penalties consistent with its regulations and with Rule .0209 of this Section.

(j) This rule shall apply to any NIL agreement that a student or the student's parent or legal guardian execute during the time the student is enrolled in a PSU, even if the benefits of said agreement do not accrue to the student or an immediate family member of the student until after the student has graduated.

*Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60; 115C-407.65; 116-235(b).*

**16 NCAC 06E .0215 APPEALS**

(a) The Superintendent of Public Instruction shall appoint an independent interscholastic athletics appeals board ("appeals board") to hear and act upon appeals from the final decision of a rule administrator regarding student eligibility to participate in interscholastic athletics; violations of limitations on recruiting or undue influence; penalties or fees imposed on students, coaches, or participating schools; or other enforcement of rules provided by this Section.

(b) An aggrieved party may file an appeal with the Superintendent within five days after receipt of the final decision by completing an appeal form provided by the Superintendent. The aggrieved party shall submit the following information required by the form:

- (1) The name of the aggrieved party's participating school and PSU.
- (2) The name, address, and phone number of the aggrieved party. If the aggrieved party is a school or PSU, the aggrieved party shall also provide the name, address, phone number, and title of an employee who will serve as the official representative of the school or PSU during the appeal.
- (3) The names, email addresses, and phone numbers of the principal and local superintendent.

(3) The names of any students affected by the final decision and the sports in which the student participates.

(4) A description of the facts underlying the final decision.

(5) A description of the final decision, the date it was issued, and the name, email, and phone number of the rule administrator or staff member thereof who issued the final decision.

(6) An argument explaining why the aggrieved party believes the rule administrator's final decision was not based on substantial evidence or was affected by an error of law.

(7) If applicable, the date of any imminent interscholastic athletic activity that the final decision may affect.

(8) Any relevant documents or other evidence that the aggrieved party deems relevant to the appeal and that the aggrieved party provided to the rule administrator for consideration prior to the final decision.

(c) Panels of no fewer than three members of the appeals board may hear and decide matters on behalf of the appeals board. The panel may conduct a live hearing in person or via teleconference. Any hearing so conducted shall be recorded.

(d) The rule administrator may file a response to the aggrieved party's submissions within five days. The panel may shorten the time for filing the rule administrator's response if the decision affects a student's or coach's eligibility to participate in an intervening interscholastic athletic activity.

(e) All parties shall simultaneously provide copies of all records submitted as part of the appeal to the other parties involved. If the aggrieved party is a student, parent, or coach, the parties shall also provide copies of the documents and forms to the local superintendent and principal with jurisdiction over the aggrieved party.

(f) No later than 30 days after the Superintendent's receipt of the appeal, the panel shall issue its judgment.

(g) The panel shall affirm the rule administrator's final decision unless a majority of the panel determines that the final decision is not supported by substantial evidence, as defined in G.S. 150B-2(8c), or is affected by an error of law. The panel may also remand the final decision to the rule administrator for reconsideration in light of new information or evidence that was not provided to the rule administrator prior to its final decision, if there is an intervening change in any relevant law, or if the panel determines that additional information is necessary to inform its judgment. The panel shall not consider information or evidence presented that was not presented to the rule administrator in the first instance.

(h) The Superintendent, or the Superintendent's authorized designee, may stay a determination of ineligibility or a penalty imposed by the rule administrator pending the judgment of the appeals board.

(i) The panel's judgment shall be conclusive and not subject to further appeal.

*Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60; 115C-407.65; 116-235(b).*

TITLE 26 – OFFICE OF ADMINISTRATIVE HEARINGS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Rules Review Commission intends to adopt the rule cited as 26 NCAC 05 .0304.

Link to agency website pursuant to G.S. 150B-19.1(c): https://www.oah.nc.gov/rules-division/rules-review-commission

Proposed Effective Date: January 1, 2025

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): Any person requesting a public hearing may send a written request within 15 days of publication of the N.C. Register to Brian Liebman at brian.liebman@oah.nc.gov.

Reason for Proposed Action: The Commission seeks to adopt a rule guiding when agencies filing temporary rules may also file requests to waive the requirement that temporary rulemaking required by a "recent" act of the General Assembly, act of the U.S. Congress, change to a federal regulation, or court order be submitted to the Commission within 210 days.

Comments may be submitted to: Brian Liebman, 1711 New Hope Church Rd, Raleigh, NC 27609; phone (984) 236-1948; email brian.liebman@oah.nc.gov

Comment period ends: December 2, 2024

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 05 - RULES REVIEW COMMISSION

SECTION .0300 - TEMPORARY RULES FOR RRC REVIEW

26 NCAC 05 .0304 WAIVER PURSUANT TO G.S. 150B-21.1(A2)

- (a) Agencies seeking a waiver of the 210-day requirement pursuant to G.S. 150B-21.1(a2) shall submit their request concurrently with the filing of the temporary rule for which the waiver is sought by emailing the request to Commission staff counsel.
(b) In the written waiver request, the agencies shall address all factors which the Commission is required to consider pursuant to G.S. 150B-21.1(a2).

Authority G.S. 143B-30.1.

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**APPROVED RULES**

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*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 August 28, 2024 Meeting.

**REGISTER CITATION TO THE  
NOTICE OF TEXT**

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

<u>Definitions</u>	10A NCAC 14E .0101	38:21 NCR
<u>Application</u>	10A NCAC 14E .0106*	38:21 NCR
<u>Issuance of License</u>	10A NCAC 14E .0107*	38:21 NCR
<u>Renewal</u>	10A NCAC 14E .0109*	38:21 NCR
<u>Inspections</u>	10A NCAC 14E .0111	38:21 NCR

**SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION**

<u>Verification of Records to the Division</u>	12 NCAC 10B .0408*	38:20 NCR
<u>Certification Forms</u>	12 NCAC 10B .2201	38:20 NCR

**PUBLIC SAFETY, DEPARTMENT OF**

<u>Applications for Grants</u>	14B NCAC 05B .0201	38:20 NCR
<u>Waiver</u>	14B NCAC 05B .0501	38:20 NCR

**PRIVATE PROTECTIVE SERVICES BOARD**

<u>Complaints</u>	14B NCAC 16 .0115	38:19 NCR
<u>Application for License and Trainee Permits</u>	14B NCAC 16 .0201	38:19 NCR
<u>Renewal or Re-issue of Licenses and Trainee Permits</u>	14B NCAC 16 .0203*	38:19 NCR
<u>Experience Requirements/Security Guard and Patrol License</u>	14B NCAC 16 .0301	38:19 NCR
<u>Experience Requirements for Guard Dog Service License</u>	14B NCAC 16 .0302	38:19 NCR
<u>Experience Requirements for a Private Investigator License</u>	14B NCAC 16 .0401	38:19 NCR
<u>Experience Requirements for an Electronic Countermeasures...</u>	14B NCAC 16 .0402	38:19 NCR
<u>Experience Requirements for a Polygraph License</u>	14B NCAC 16 .0501	38:19 NCR
<u>Application for Unarmed Security Guard Registration</u>	14B NCAC 16 .0701	38:19 NCR
<u>Fees for Unarmed Security Guard Registration</u>	14B NCAC 16 .0702	38:19 NCR
<u>Renewal of Unarmed Security Guard Registration</u>	14B NCAC 16 .0706	38:19 NCR
<u>Application/Armed Security Guard Firearm Registration Permit</u>	14B NCAC 16 .0801	38:19 NCR
<u>Fees for Armed Security Guard Firearm Registration Permit</u>	14B NCAC 16 .0802	38:19 NCR
<u>Renewal of Armed Security Guard Firearm Registration Permit</u>	14B NCAC 16 .0806	38:19 NCR
<u>Application for Firearms Trainer Certificate</u>	14B NCAC 16 .0902	38:19 NCR
<u>Renewal of a Firearms Trainer Certificate</u>	14B NCAC 16 .0904	38:19 NCR
<u>Application for an Unarmed Trainer</u>	14B NCAC 16 .0910	38:19 NCR
<u>Definitions</u>	14B NCAC 16 .1101	38:19 NCR
<u>Training and Supervision Required in Level One</u>	14B NCAC 16 .1102	38:19 NCR
<u>Training and Supervision Required in Level Two</u>	14B NCAC 16 .1103	38:19 NCR
<u>Training and Supervision Required in Level Three</u>	14B NCAC 16 .1104	38:19 NCR
<u>Educational Degrees and Non-Degreed Training</u>	14B NCAC 16 .1105	38:19 NCR
<u>Application for Unarmed Armored Car Service Guard Registr...</u>	14B NCAC 16 .1301	38:19 NCR
<u>Fees for Unarmed Armored Car Service Guard Registration</u>	14B NCAC 16 .1302	38:19 NCR

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*APPROVED RULES*

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<u>Renewal or Reissue of Unarmed Car Service Guard Registration</u>	14B NCAC 16 .1306	38:19 NCR
<u>Application/Armed Armored Car Service Guard Firearm Regis...</u>	14B NCAC 16 .1401	38:19 NCR
<u>Fees for Armed Armored Car Service Guard Firearm Registra...</u>	14B NCAC 16 .1402	38:19 NCR
<u>Renewal of Armed Armored Car Service Guard Firearm Regist...</u>	14B NCAC 16 .1406	38:19 NCR
<u>Experience Requirements for a Close Personal Protection L...</u>	14B NCAC 16 .1501	38:19 NCR
<u>Probationary Employees</u>	14B NCAC 16 .1709	38:19 NCR

**ALARM SYSTEMS LICENSING BOARD**

<u>Application for License</u>	14B NCAC 17 .0201*	38:20 NCR
<u>Fees for License</u>	14B NCAC 17 .0203*	38:20 NCR
<u>Application for Registration</u>	14B NCAC 17 .0301	38:20 NCR
<u>Fees for Registration</u>	14B NCAC 17 .0302*	38:20 NCR
<u>Renewal or ReRegistration of Registration</u>	14B NCAC 17 .0306	38:20 NCR

**ENVIRONMENTAL MANAGEMENT COMMISSION**

<u>Parameters for Which Certification May be Requested</u>	15A NCAC 02H .0804	38:17 NCR
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**ELECTRICAL CONTRACTORS, BOARD OF EXAMINERS OF**

<u>Continuing Education Requirements: Listed Qualified Indiv...</u>	21 NCAC 18B .1101*	38:14 NCR
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**OPTOMETRY, BOARD OF EXAMINERS IN**

<u>Fees</u>	21 NCAC 42J .0101	38:21 NCR
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**PHARMACY, BOARD OF**

<u>Patient Counseling</u>	21 NCAC 46 .2504*	38:20 NCR
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**PLUMBING, HEATING AND FIRE SPRINKLER CONTRACTORS, BOARD OF EXAMINERS OF**

<u>Qualifications Determined by Examination</u>	21 NCAC 50 .0301*	38:18 NCR
<u>Applications: Issuance of License</u>	21 NCAC 50 .0306*	38:18 NCR
<u>License in Good Standing</u>	21 NCAC 50 .0318	38:18 NCR

**VETERINARY MEDICAL BOARD**

<u>Boarding Kennel Records</u>	21 NCAC 66 .1001	38:19 NCR
<u>Inspection Records</u>	21 NCAC 66 .1002	38:19 NCR
<u>Definitions</u>	21 NCAC 66 .1003*	38:19 NCR
<u>Permits and Registrations</u>	21 NCAC 66 .1004*	38:19 NCR
<u>General</u>	21 NCAC 66 .1101*	38:19 NCR
<u>Indoor Facilities</u>	21 NCAC 66 .1102*	38:19 NCR
<u>Outdoor Facilities</u>	21 NCAC 66 .1103*	38:19 NCR
<u>Primary Enclosures</u>	21 NCAC 66 .1104*	38:19 NCR
<u>Feeding</u>	21 NCAC 66 .1105*	38:19 NCR
<u>Watering</u>	21 NCAC 66 .1106*	38:19 NCR
<u>Sanitation</u>	21 NCAC 66 .1107*	38:19 NCR
<u>Classification and Separation</u>	21 NCAC 66 .1108*	38:19 NCR
<u>Veterinary Care</u>	21 NCAC 66 .1109*	38:19 NCR
<u>Discipline of Boarding Kennel Permits</u>	21 NCAC 66 .1110*	38:19 NCR

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

**10A NCAC 14E .0101 DEFINITIONS**

The following definitions will apply throughout this Subchapter:

- (1) "Abortion" means the termination of a pregnancy as defined in G.S. 90-21.81(1c).
- (2) "Clinic" means a freestanding facility neither physically attached nor operated by a licensed hospital for the performance of abortions completed during the first 12 weeks of pregnancy.
- (3) "Division" means the Division of Health Service Regulation of the North Carolina Department of Health and Human Services.
- (4) "Gestational age" means the length of pregnancy as indicated by the date of the first day of the last normal monthly menstrual period, if known, or as determined by ultrasound.
- (5) "Governing authority" means the individual, agency, group, or corporation appointed, elected or otherwise designated, in which the ultimate responsibility and authority for the conduct of the abortion clinic is vested pursuant to Rule .0318 of this Subchapter.
- (6) "Health Screening" means an evaluation of an employee or contractual employee, including tuberculosis testing, to identify any underlying conditions that may affect the person's ability to work in the clinic.
- (7) "New clinic" means one that is not certified as an abortion clinic by the Division as of July 1, 2023, and has not been certified or licensed within the previous six months of the application for licensure.
- (8) "Registered Nurse" means a person who holds a valid license issued by the North Carolina Board of Nursing to practice professional nursing in accordance with the Nursing Practice Act, G.S. 90, Article 9A.

*History Note: Authority G.S. 131E-153.2; Eff. February 1, 1976; Readopted Eff. December 19, 1977; Amended Eff. October 1, 2015; July 1, 1994; December 1, 1989; June 30, 1980; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019; Codifier determined that agency's findings of need did not meet criteria for emergency rule on June 22, 2023; Emergency Rule Eff. June 30, 2023; Repealed Eff. July 1, 2023 pursuant to G.S. 150B-21.7; Temporary Adoption Eff. October 27, 2023; Eff. September 1, 2024.*

**10A NCAC 14E .0106 APPLICATION**

(a) Prior to the admission of patients, an applicant for a new clinic shall submit an application for licensure and receive approval from the Division.

(b) Application forms may be obtained by contacting the Division at 2712 Mail Service Center Raleigh, NC 27699-2712.

(c) The application form shall set forth:

- (1) Legal identity of the applicant;
- (2) The name or names under which the facility or services are advertised or presented to the public;
- (3) The facility's mailing address;
- (4) The facility's physical address;
- (5) The ownership of the facility, including a description of the legal character of the operating ownership;
- (6) The owner of the premises from which services are offered including the name and address of the owner of the premises if different from the owner of the facility;
- (7) If the facility is operated under a management contract, the name and address of the building's management company;
- (8) A description of the arrangements that have been made for the disposal of pathological waste, products of conception, and sharps, and the name and address of the provider of such services if not performed by the facility;
- (9) The name, specialty, board certifications, and medical license number of the Medical Director;
- (10) The name, specialty, board certifications, and medical license number of each member of the medical staff;
- (11) The name, nursing certificate number, and renewal number of the Director of Nursing;
- (12) The name, nursing certificate number, and renewal number of each nursing staff member; and
- (13) The name of the consulting pathologist, the name of the consulting pathologist's laboratory, and the address of the laboratory.

(d) After construction requirements in 10A NCAC 13S .0200 have been met and the application for licensure has been received and approved, the Division shall conduct an on-site, licensure survey.

*History Note: Authority G.S. 131E-153.2; Eff. February 1, 1976; Readopted Eff. December 19, 1977; Amended Eff. July 1, 1994; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019; Codifier determined that agency's findings of need did not meet criteria for emergency rule on June 22, 2023; Emergency Rule Eff. June 30, 2023; Repealed Eff. July 1, 2023 pursuant to G.S. 150B-21.7; Temporary Adoption Eff. December 22, 2023; Eff. September 1, 2024.*

**10A NCAC 14E .0107 ISSUANCE OF LICENSE**

- (a) The Division shall issue a license if it finds the facility can comply with all requirements described in this Subchapter and 10A NCAC 13S.
- (b) Each license shall be issued only for the premises and persons or organizations named in the application and shall not be transferable.
- (c) The governing authority shall notify the Division in writing, within 10 working days, of any change in the name of the facility or change in the name of the administrator.
- (d) The facility shall report to the Division all incidents, within 10 working days, of vandalism to the facility such as fires, explosions, or other action that prevent a facility from providing abortion services.

*History Note: Authority G.S. 131E-153.2; Eff. February 1, 1976; Readopted Eff. December 19, 1977; Amended Eff. July 1, 1994; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019; Codifier determined that agency's findings of need did not meet criteria for emergency rule on June 22, 2023; Emergency Rule Eff. June 30, 2023; Repealed Eff. July 1, 2023 pursuant to G.S. 150B-21.7; Temporary Adoption Eff. December 22, 2023; Eff. September 1, 2024.*

**10A NCAC 14E .0109 RENEWAL**

- (a) Each license shall be renewed at the beginning of each calendar year on the renewal application forms provided by the Department.
- (b) The renewal application form shall set forth:
  - (1) Legal identity of the applicant;
  - (2) The name or names under which the facility or services are advertised or presented to the public;
  - (3) The facility's mailing address;
  - (4) The facility's physical address;
  - (5) The ownership of the facility, including a description of the legal character of the operating ownership;
  - (6) The owner of the premises from which services are offered including the name and address of the owner of the premises if different from the owner of the facility;
  - (7) If the facility is operated under a management contract, the name and address of the building's management company;
  - (8) A description of the arrangements that have been made for the disposal of pathological waste, products of conception, and sharps, and the name and address of the provider of such services if not performed by the facility;
  - (9) The name, specialty, board certifications, and medical license number of the Medical Director;

- (10) The name, specialty, board certifications, and medical license number of each member of the medical staff;
- (11) The name, nursing certificate number, and renewal number of the Director of Nursing;
- (12) The name, nursing certificate number, and renewal number of each nursing staff member;
- (13) The name of the consulting pathologist, the name of the consulting pathologist's laboratory, and the address of the laboratory,
- (14) The number of abortion procedures performed since initial licensure or the most recent licensure renewal, whichever is later; and
- (15) The number of patients that were transferred to a hospital since initial licensure or the most recent licensure renewal, whichever is later.

- (c) Upon the filing of a renewal application, the clinic must pay a non-refundable renewal fee as defined in G.S. 131E-153.2.
- (d) An application for renewal of licensure must be filed with the Division at least 30 days prior to the date of expiration. Renewal application forms shall be furnished by the Division.
- (e) Failure to file a renewal application shall result in expiration of the license to operate.

*History Note: Authority G.S. 131E-153.2; Eff. February 1, 1976; Readopted Eff. December 19, 1977; Amended Eff. October 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019; Codifier determined that agency's findings of need did not meet criteria for emergency rule on June 22, 2023; Emergency Rule Eff. June 30, 2023; Repealed Eff. July 1, 2023 pursuant to G.S. 150B-21.7; Temporary Adoption Eff. December 22, 2023; Eff. September 1, 2024.*

**10A NCAC 14E .0111 INSPECTIONS**

- (a) Any clinic licensed by the Division to perform abortions shall be inspected by representatives of the Division annually and as it may deem necessary as a condition of holding such license. An inspection may be conducted whenever the Division receives a complaint alleging the clinic is not in compliance with the rules of the Subchapter.
- (b) Representatives of the Division shall make their identities known to the clinic staff prior to inspection of the clinic.
- (c) Representatives of the Division may review any records in any medium necessary to determine compliance with the rules of this Subchapter. The Department shall maintain the confidentiality of the complainant and the patient, unless otherwise required by law.
- (d) The clinic shall allow the Division to have immediate access to its premises and the records necessary to conduct an inspection and determine compliance with the rules of this Subchapter.
- (e) A clinic shall file a written plan of correction for cited deficiencies within 10 business days of receipt of the report of the survey. The Division shall review and respond to a written plan of correction within 10 business days of receipt of the corrective action plan.

*History Note: Authority G.S. 131E-153.6; Eff. February 1, 1976; Readopted Eff. December 19, 1977; Amended Eff. October 1, 2015; July 1, 1994; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019; Codifier determined that agency's findings of need did not meet criteria for emergency rule on June 22, 2023; Emergency Rule Eff. June 30, 2023; Repealed Eff. July 1, 2023 pursuant to G.S. 150B-21.7; Temporary Adoption Eff. October 27, 2023; Eff. September 1, 2024.*

**TITLE 12 - DEPARTMENT OF JUSTICE**

**12 NCAC 10B .0408 VERIFICATION OF RECORDS TO DIVISION**

(a) Prior to issuing certification of each justice officer, for the purpose of verifying compliance with these Rules, the employing agency shall submit to the Division, along with the Report of Appointment (F-4), the following documents:

- (1) documentation consisting of diplomas, school transcripts, or certificates from the educational institution attended by the applicant confirming the applicant's compliance with the educational requirement pursuant to Rule .0302(a) of this Subchapter;
- (2) certified copy of the applicant's Oath of Office, if applying for certification as a deputy sheriff;
- (3) the applicant's Medical History Statement (F-1);
- (4) the applicant's Medical Examination Report (F-2);
- (5) the applicant's Psychological Screening Examination form (F-2C);
- (6) the applicant's notarized Personal History Statement (F-3);
- (7) the Commission-mandated Background Investigation Form (F-8) with all accompanying documentation set out in Rule .0305 of this Subchapter;
- (8) documentation of negative results on a drug screen pursuant to Rule .0301(6) of this Subchapter; and
- (9) documentation of the applicant's compliance with the probationary certification requirements pursuant to Rule .0403(b) of this Section, if the applicant is a deputy sheriff or a detention officer and is authorized by the agency to carry a firearm.

(b) Compliance with this Rule is waived, with the exception of the requirements of Subparagraph (a)(9) of this Rule for officers applying for dual certification as defined in Rule .0103(9) of this Subchapter provided that:

- (1) the officer holds a valid certification issued by this Commission as either a deputy sheriff, detention officer, or telecommunicator, with the

employing agency requesting dual certification; and

- (2) the officer has continuously been employed as a justice officer with the agency.

(c) Where the Division has previously received a complete Background Investigation Form (F-8) with all accompanying documentation set out in Rule .0305 of this Subchapter in connection with another application for certification to this Commission, the Background Investigation need only be updated from the date of the last background investigation on file in the Division with documentation of compliance with Subparagraphs (f)(1), (2), and (3) of this Rule, and a certified criminal record check from each jurisdiction in which the person has resided in and for each name the applicant has used since the initial Background Investigation (Form F-8) was completed. The criminal record check shall be from the Clerk of Court, a law enforcement agency within the jurisdiction, or other governmental entity that maintains or has access to criminal records for the jurisdiction. The criminal record check shall be certified by the entity providing the record with either a raised seal or other visible verification that the document is an authentic copy. In addition:

- (1) if the applicant has been issued an out-of-state driver's license by a state other than North Carolina since obtaining certification, then compliance with Subparagraph (f)(4) of this Rule, is required; and
- (2) if the applicant has resided in a state other than North Carolina since obtaining certification, a certified criminal record check from each jurisdiction shall be provided, if available. The criminal record check shall be from the Clerk of Court, a law enforcement agency within the jurisdiction, or other governmental entity that maintains or has access to criminal records for the jurisdiction. The criminal record check shall be certified by the entity providing the record with either a raised seal or other visible verification that the document is an authentic copy.

(d) If the Personal History Statement (F-3) required in Subparagraph (a)(6) of this Rule was completed more than 120 days prior to the applicant's date of appointment, the Personal History Statement (F-3) shall be updated by the applicant, who shall initial and date all changes, or a new Personal History Statement (F-3) shall be completed.

(e) If the Mandated Background Investigation Form (F-8) required in Subparagraph (a)(7) of this Rule was completed more than 120 days prior to the applicant's date of appointment, the Mandated Background Investigation Form (F-8) shall be updated by the background investigator who shall initial and date all changes or a new Mandated Background Investigation Form (F-8), must be completed.

(f) The Background Investigation Form (F-8) shall have the following records checks attached to it when submitted:

- (1) a Statewide search of the Administrative Office of the Courts (AOC) computerized system;

- (2) the national criminal record database accessible through the Division of Criminal Information (DCI) network;
  - (3) the North Carolina Division of Motor Vehicles, if the applicant has ever possessed a driver's license issued in North Carolina;
  - (4) an out-of-state motor vehicles check obtained through the Division of Criminal Information or obtained through another state's division of motor vehicles agency for any state in which the applicant held a license within the 10 year period prior to the date of appointment; and
  - (5) the applicant's Administrative Office of the Courts' AOC-CR-280 form as set forth in Rule .0305 of this Subchapter.
- (g) The Background Investigation shall include records checks from jurisdictions where the applicant resided within the 10 year period prior to the date of appointment and where the applicant attended high school, as follows:
- (1) where the applicant resided in jurisdictions in North Carolina, Clerk of Court records checks shall be acceptable;
  - (2) where the applicant resided in another country:
    - (A) an Interpol records check shall be acceptable provided the country is a member of Interpol;
    - (B) if the applicant was in the United States military, a military records check shall be acceptable; or
    - (C) if neither an Interpol or United States military record check are available, subject to the limits of United States and North Carolina law, the employing agency shall make a good faith effort to obtain a records check from the national law enforcement authority, judicial authority, or other governmental entity charged with maintaining criminal records for the country where the applicant resided and submit the record check if available. If the employing agency cannot obtain the records check it shall submit documentation consisting of the correspondence with the foreign governmental entity and a written report from the assigned background investigator explaining the employing agency's efforts to obtain the record and why the record could not be obtained. The following steps are required to show a good faith effort to obtain the record check:
      - (i) contacting and requesting the record from the foreign governmental entity or entities the employing agency believes are likely to possess the records by mail, telegram, telephone, facsimile or electronic mail;
      - (ii) if referred to another foreign governmental entity, contacting and requesting the record from that foreign governmental entity; and
      - (iii) if requested, providing and submitting any formal requests, forms, or documentation required by the foreign governmental entity before it will provide the record check;
  - (3) where the applicant resided in a state other than North Carolina, a records check through the Division of Criminal Information using the Out-of-State Computer Name Query (IQ) shall be acceptable provided the state will respond to an Out-of-State Computer Name Query. If not, then either a records check response from both the municipality, city, or town where the applicant resided and the county-wide Sheriff's Office or Police Department obtained by mail, telegram, facsimile, or electronic mail, or a records check from the county-wide or state-wide record holding agency shall be acceptable.
  - (h) If the applicant had prior military service, the Background Investigation shall also include a copy of the applicant's DD214, Certificate of Release from Active Duty, that shows the characterization of discharge for each discharge that occurred and military discipline received, if any. If the DD214 indicates a discharge characterization of any type other than Honorable, then a military records check shall also be required.
    - (i) All records checks shall be performed on each name by which the applicant for certification has ever been known since the age of 12. If the applicant has had an official name change that occurred after the applicant had reached the age of 12 years of age, then a copy of the legal document effecting the name change with either a raised seal or other visible verification that the document is an authentic copy from the governmental entity that issued the document or is charged with maintaining the record of the document shall be submitted by the employing agency.
    - (j) The employing agency shall forward to the Division certified copies of any criminal charges and dispositions known to the agency or listed on the applicant's Personal History Statement (F-3). The employing agency shall identify any charges or other violations on the records checks required in Paragraph (f) of this Rule that are for individuals other than the applicant for certification and explain why the employing agency believes another individual is responsible for the charge or violation.
- History Note: Authority G.S. 17E-4; 17E-7; Eff. January 1, 1989; Recodified from 12 NCAC 10B .0407 Eff. January 1, 1991; Amended Eff. January 1, 1996; January 1, 1994; January 1, 1993; January 1, 1992; Temporary Amendment Eff. March 1, 1998; Amended Eff. August 1, 2002; August 1, 1998;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018; Amended Eff. September 1, 2024; February 1, 2024; December 1, 2023; April 1, 2023; February 1, 2023; January 1, 2023.*

**12 NCAC 10B .2201 CERTIFICATION FORMS**

(a) The following are Commission approved forms to be used by agencies in making reports, applications, or requests for certification of justice officers:

- (1) Form F-1, Medical History Statement, is completed by an applicant and consists of the applicant's medical information including medication, allergies, and immunizations, present and past physical conditions, injuries, diseases, or operations.
- (2) Form F-2, Medical Examination Report, is a form provided to the examining physician to record the results of the applicant's medical examination. The form consists of information about the applicant's vision, hearing, cardiovascular and circulatory health, urinalysis, TB skin test, other medical conditions relevant to the applicant's physical fitness to perform the duties of a justice officer, biographical information about the applicant, and the medical professional's recommendation and concerns as to an applicant's physical fitness to perform the duties of a justice officer.
- (3) Form F-2C, Psychological Screening Examination, is a form completed by the psychologist completing the examination. The form consists of the name of the psychologist completing the examination, the psychologist's license number, date of the examination, the psychologist's recommendation of suitability, and information disclosed by the applicant involving any reported criminal offenses, drug use, involuntary commitments, or employment terminations due to misconduct or rule violations.
- (4) Form F-3, the Personal History Statement, is completed by the applicant and consists of information regarding the applicant's work, residential, military, and criminal history; financial condition; and references.
- (5) Form F-4 and F-4T, Report of Appointment, is completed by the reporting agency for the appointment of justice officers and shall contain a checklist indicating the applicant's progress toward completing the requirements for certification; the applicant's appointment date, position title, and status; the applicant's contact information; and prior certification history. The F-4 form is utilized for appointments as a deputy sheriff or detention officer. The form F-4T is utilized for appointments as a telecommunicator.
- (6) Form F-6 and F-6R, Professional Certificate/Service Award, consists of

information regarding the education, training, and experience qualifying the applicant for various levels of professional recognition under the Sheriffs' Education and Training Standards Commission's Professional Certificate Program. The F-6 form is utilized for full-time justice officers and the F-6R form is utilized for reserve justice officers.

- (7) Form F-7 and F-7T, Request for Certification, is completed by institutions and agencies requesting certification to deliver Detention Officer and Telecommunicator Courses. The form consists of information regarding the institution name, institution or agency head, school director, and facilities. Form F-7 is used when requesting certification to deliver Detention Officer courses and Form F-7T is used when requesting certification to deliver Telecommunicator courses.
- (8) Form F-7A and F-7A-T, Pre-Delivery Report of Training Course Presentation, is completed by the institution or agency delivering Detention Officer and Telecommunicator Training Courses and consists of information on the course delivery location, school director, class schedule, anticipated date of the State Comprehensive Exam, and any planned instructional hours exceeding the minimum requirements. Form F-7A is utilized for Detention Officer courses and Form F-7A-T is utilized for Telecommunicator courses.
- (9) Form F-7B and F-7B-T, Post-Delivery Report of Training Course Presentation, is completed by the institution or agency delivering Detention Officer and Telecommunicator Training Courses and consists of information on any substitutions of instructors as originally reported on the Pre-Delivery Report, any trainees who were not recommended for the state exam due to withdrawal or deficiencies, and the students who participated in and completed the course. Form F-7B is utilized for Detention Officer courses and Form F-7B-T is utilized for Telecommunicator courses.
- (10) Form F-8, the Mandated Background Investigation Form, is completed by an agency's background investigator and consists of the applicant's biographical data, family data, scholastic data, employment data, criminal history, interviews and references, and a summary of the background investigator's findings.
- (11) Form F-9 and F-9T, Change in Status, is completed by the employing agency and consists of any change in status for justice officers including full-time or part-time status, active or inactive status, changes to identifying information, and changes to firearms status. Form F-9 is utilized for any change in status for

justice officers appointed as a deputy sheriff or detention officer. Form F-9T is utilized for any change in status for a justice officer appointed as a telecommunicator.

- (12) Form F-9A, Firearms Qualification Record, is completed by the employing agency to record the annual In-Service Firearms Training and Qualifications for justice officers who are authorized by the Sheriff to carry a shotgun, rifle, automatic weapon, or handgun. The form consists of training and qualification scores completed by the officer.
- (13) Form F-16, Criminal Justice Instructor Evaluation, is completed by the Certified School Director and In-Service Coordinator of the school and consists of a rating of instructional ability, student participation, and presentation of the lesson plan by the Instructor.
- (14) Form F-20, School Resource Officer Certification, is completed by an employing agency requesting certification of a justice officer as a School Resource Officer. The form consists of the officer's name, date of birth, name of agency and address, date awarded general certification, completion date of School Resource Officer training, and date assigned as a School Resource Officer.
- (15) Form I-2 and I-2-T, Request for Instructor Certification, is completed by an applicant for certification as an Instructor to deliver Detention Officer and Telecommunicator courses. The form consists of information about the applicant's experience and qualifications. Form I-2 is utilized by an applicant for certification as an Instructor to deliver Detention Officer courses and Form I-2-T is utilized by an applicant for certification as an Instructor to deliver Telecommunicator courses.

(b) All forms contained in this Rule may be accessed on the agency's website at <http://ncdoj.gov/law-enforcement-training/sheriffs/all-commission-forms-publications/>.

*History Note: Authority G.S. 17E-4; 17E-7; Eff. April 1, 2023; Amended Eff. September 1, 2024; November 1, 2023.*

**TITLE 14B - DEPARTMENT OF PUBLIC SAFETY**

**14B NCAC 05B .0201 APPLICATIONS FOR GRANTS**

- (a) Funding priorities, as determined by the Commission, shall be listed on the Commission's website prior to the opening of an application period.
- (b) Grant application submission dates shall be announced on the Commission website, <https://www.ncdps.gov/about-dps/boards-and-commissions/governors-crime-commission/grant-process> before the application is due.

(c) Grant applications shall be electronically submitted to the Commission through the Grants Management System (GMS) on or before the date announced on the Commission website.

(d) To be considered for funding, applicants shall complete the grant application, which shall include the following information:

- (1) names, mailing addresses, and telephone numbers of the applicant;
- (2) project information, including the following:
  - (A) a description of the project, its goals and objectives, and outcomes;
  - (B) the issues or problems addressed by the project; and
  - (C) a sustainability plan;
- (3) a proposed budget;
- (4) a project time line; and
- (5) any other information required by these Rules or requested by the Department in order to make a decision on the grant proposal.

(e) Applicants seeking funding for a two-year project shall submit two one-year budgets.

*History Note: Authority G.S. 143B-1103; 143B-602 Eff. March 1, 2019; Amended Eff. September 1, 2024; April 1, 2023.*

**14B NCAC 05B .0501 WAIVER**

The Secretary may waive any rule in this Subchapter that is not statutorily required. Factors the Secretary shall use in determining whether to waive a rule are:

- (1) the need to comply with a State or federal regulation or legislative mandate;
- (2) the nonrecurring use of expiring funds;
- (3) an emergency declared pursuant to the North Carolina Emergency Management Act; or
- (4) when, pursuant to a contract with a state or federal agency, the Commission is limited to providing only administrative support for the processing of a grant.

*History Note: Authority G.S. 143B-602(5); 143B-602(8)(b); Eff. September 1, 2024.*

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**14B NCAC 16 .0115 COMPLAINTS**

(a) Any person may file a complaint against any licensee, trainee, registrant or certificate holder, or any unlicensed or unregistered person; acting as or holding himself or herself out as a licensee or registrant, for any violation of G.S. 74C or 14B NCAC 16, or any violation of State or federal criminal law. A complaint form is available on the Board's website at [www.ncdps.gov/dps-services/complaint/private-protective-services-board](http://www.ncdps.gov/dps-services/complaint/private-protective-services-board) or a copy may be requested from the Board's office.

(b) The complaint shall set forth all relevant facts and the basis for the complainant's belief that the licensee, trainee, registrant, certificate holder, or unlicensed or unregistered person, is in violation. The complainant shall be willing to be interviewed by the Board's investigator, provide any information or documentation to support the allegation, and appear and testify

necessary before the Grievance Committee or at any hearing if requested by the attorney prosecuting the case. An anonymous complaint shall not be accepted unless the Director determines the alleged violation may pose a threat to the public health, safety or welfare.

(c) The complaint shall be filed with the Board online via e-mail, by U.S. Mail, or by hand-delivery to the Board's office.

(d) The complaint shall be evaluated by the Director or the Director's designee and if it alleges a violation of G.S. 74C or 14B NCAC 16, shall be assigned to an investigator for further substantiation. The results of the investigation shall be reported to the Board's Grievance Committee for review and action.

(e) The Director shall notify the complainant and the licensee, trainee, registrant, or certificate holder of the initial complaint and its final disposition.

*History Note: Authority G.S. 74C-5; 74C-6; 74C-7; 74C-12; Eff. March 1, 2022; Amended Eff. September 1, 2024.*

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

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

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

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

(c) Private investigator and digital forensics examination trainees applying for a license shall make available for inspection a log of experience on a form provided by the Board as required by Rule .0403 of this Chapter.

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

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

*History Note: Authority G.S. 74C-2; 74C-5; 74C-8; 74C-8.1; 74C-12; Eff. June 1, 1984; Amended Eff. May 1, 2012; July 1, 2011; August 1, 1998; December 1, 1995; July 1, 1987; December 1, 1985; Transferred and Recodified from 12 NCAC 07D .0201 Eff. July 1, 2015; Amended Eff. November 1, 2017; Readopted Eff. March 1, 2020; Emergency Amendment Eff. May 6, 2020; Temporary Amendment Eff. July 24, 2020; Temporary Amendment Expired May 14, 2021; Amended Eff. January 1, 2022; July 1, 2021; Temporary Amendment Eff. April 28, 2023; Amended Eff. September 1, 2024; November 1, 2023.*

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

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

- (1) one head and shoulders digital color photograph of the applicant in JPG, JPEG, or PNG format of sufficient quality for identification, taken within six months prior to online application and submitted by uploading the photograph online with the application submission;
- (2) upload online a statement of the result of a statewide criminal history records search by the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state

where the applicant has resided within the preceding 24 months;

- (3) the applicant's renewal fee, along with the convenience fee charged by the Board's on-line application vendor and credit card transaction fee;
- (4) for license applicants, proof of liability insurance as set out in G.S. 74C-10(e); and
- (5) proof of having completed continuing education as require by Rule .1202 of this Chapter.

(b) If there is a criminal charge pending against the applicant for renewal that constitutes a deniable offense under G.S. 74C-8(d)(2), consideration of the application shall be deferred until the criminal charge is adjudicated.

(c) If a licensee has maintained a license at least two years and then allows the license to expire, the license may be re-issued if application is made within two years of the expiration date and the following documentation is submitted to the Board:

- (1) an online Application For Reinstatement of an Expired License;
- (2) one set of classifiable fingerprints on an applicant fingerprint card that shall be mailed separately to the Board's office;
- (3) one head and shoulders digital color photograph of the applicant in JPG, JPEG, or PNG format of sufficient quality for identification, taken within six months prior to online application and submitted by uploading the photograph online with the application submission;
- (4) upload online a statement of the result of a statewide criminal history records search by the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding 60 months;
- (5) the applicant's non-refundable application fee, along with the convenience fee charged by the Board's on-line application vendor and credit card transaction fee;
- (6) proof of liability insurance as set out in G.S. 74C-10(e);
- (7) payment to the State Bureau of Investigations to cover the cost of criminal record checks performed by the State Bureau of Investigations, with payment to be paid online through the Board's online application process; and
- (8) proof of having completed continuing education as required by Rule .1202 of this Chapter.

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

*History Note: Authority G.S. 74C-5; 74C-8; 74C-8.1; 74C-9; Eff. June 1, 1984;*  
*Amended Eff. October 1, 2013; May 1, 2012; October 1, 2010; November 1, 2007; January 4, 1994; July 1, 1987; December 1, 1985;*  
*Transferred and Recodified from 12 NCAC 07D .0203 Eff. July 1, 2015;*  
*Amended Eff. November 1, 2017;*  
*Readopted Eff. March 1, 2020;*  
*Amended Eff. September 1, 2024; July 1, 2022; July 1, 2021.*

**14B NCAC 16 .0301 EXPERIENCE REQUIREMENTS/SECURITY GUARD AND PATROL LICENSE**

(a) In addition to the requirements of Section .0200 of this Chapter, applicants for a security guard and patrol license shall:

- (1) establish three years of verifiable experience as a manager, supervisor, or administrator with a contract security company or a proprietary security organization performing guard and patrol functions;
- (2) establish three years of experience as a manager, supervisor, or administrator in security with any federal, state, county, or municipal law enforcement agency performing guard and patrol functions; or
- (3) establish a military occupational specialty and two years of experience within the past five years in the U.S. Armed Forces as a manager, supervisor, or administrator performing guard and patrol functions.

(b) In addition to the requirements of Section .0200 of this Chapter, an applicant for a security guard and patrol license that is the spouse of an active duty member of the U.S. Armed Forces shall establish to the Board's satisfaction:

- (1) the spouse holds a current license, certification, or registration from another jurisdiction and the other jurisdiction's requirements are substantially equivalent to or exceed the Board's requirements; and
- (2) the spouse has two years verifiable experience within the past five years as a manager, supervisor, or administrator performing guard and patrol functions as set forth in G.S. 74C-3(a)(8) while serving in an official capacity with any entity described in Paragraph (a) of this Rule.

(c) Using the formula in Rule .0204(d) of this Chapter, the Board shall give credit toward the experience requirements set forth in Subparagraphs (a)(1) and (2) and Subparagraph (b)(2) of this Rule as follows:

- (1) An applicant shall receive a minimum of 400 hours of experience credit for an associate's degree. The Board shall grant up to 100 additional hours if the applicant can demonstrate that further training or course-work related to the private protective services industry was received while obtaining the associate's degree.

- (2) An applicant shall receive 800 hours of experience credit for a bachelor's degree. The Board shall grant up to 200 additional hours if the applicant can demonstrate that further training or course-work related to the private protective services industry was received while obtaining the bachelor's degree.
- (3) An applicant shall receive 1,200 hours of experience credit for a graduate degree. The Board shall grant an additional 300 additional hours if the applicant can demonstrate that further training or course-work related to the private protective services industry was received while obtaining the graduate degree.

(d) Persons licensed under Chapter 74D of the General Statutes of North Carolina may be issued a limited guard and patrol license exclusively for providing armed alarm responders.

*History Note: Authority G.S. 74C-5; 74C-8; 93B-15.1; Eff. June 1, 1984; Amended Eff. October 1, 2013; February 1, 2009; December 1, 1995; January 4, 1994; January 1, 1990; August 1, 1988; Transferred and Recodified from 12 NCAC 07D .0301 Eff. July 1, 2015; Readopted Eff. August 1, 2020; Amended Eff. September 1, 2024.*

**14B NCAC 16 .0302 EXPERIENCE REQUIREMENTS FOR GUARD DOG SERVICE LICENSE**

(a) In addition to the requirements of Section .0200 of this Chapter, applicants for a guard dog service license shall:

- (1) establish two years of verifiable experience as a manager, supervisor, administrator, or dog handler with a contract security company or proprietary security organization performing guard dog functions;
- (2) establish two years of experience as a manager, supervisor, administrator, or dog handler with any federal, state, county, or municipal agency performing guard dog functions; or
- (3) establish a military occupational specialty and two years of experience within the past five years in the U.S. Armed Forces as a manager, supervisor, or administrator or dog handler performing guard dog functions.

(b) In addition to the requirements of Section .0200 of this Chapter, an applicant for a guard dog service license that is the spouse of an active duty member of the U.S. Armed Forces shall establish to the Board's satisfaction:

- (1) the spouse holds a current license, certification, or registration from another jurisdiction and the other jurisdiction's requirements are substantially equivalent to or exceed the Board's requirements; and
- (2) the spouse has two years of verifiable experience within the past five years as a manager, supervisor, or administrator or dog handler performing guard dog functions.

*History Note: Authority G.S. 74C-5; 74C-8; 93B-15.1; Eff. June 1, 1984; Amended Eff. October 1, 2013; February 1, 2009; January 4, 1994; Transferred and Recodified from 12 NCAC 07D .0302 Eff. July 1, 2015; Readopted Eff. August 1, 2020; Amended Eff. September 1, 2024.*

**14B NCAC 16 .0401 EXPERIENCE REQUIREMENTS FOR A PRIVATE INVESTIGATOR LICENSE**

(a) In addition to the requirements of G.S. 74C-8 and Section .0200 of this Chapter, applicants for a private investigator license shall:

- (1) establish three years of verifiable experience while conducting investigations as set forth in G.S. 74C-3(a)(8) with a contract security company or with a private person, firm, association, or corporation;
- (2) establish three years of verifiable experience while conducting investigations as set forth in G.S. 74C-3(a)(8) while serving in an investigative capacity as defined in Rule .0103(10) of this Chapter with any federal, state, county, municipal law enforcement agency, or other governmental agency; or
- (3) establish a military occupational specialty and two years of verifiable experience within the past five years in the U.S. Armed Forces while conducting investigations as set forth in G.S. 74C-3(a)(8) while serving in an investigative capacity as defined in Rule .0103(10) of this Chapter.

(b) In addition to the requirements of Section .0200 of this Chapter, an applicant for a private investigator license that is the spouse of an active duty member of the U.S. Armed Forces shall establish to the Board's satisfaction:

- (1) the spouse holds a current license, certification, or registration from another jurisdiction and the other jurisdiction's requirements are substantially equivalent to or exceed the Board's requirements; and
- (2) the spouse has two years verifiable experience within the past five years while conducting investigations as set forth in in G.S. 74C-3(a)(8) while serving in an investigative capacity as defined in Rule .0103(10) of this Chapter.

(c) Using the formula in Rule .0204(d) of this Chapter the Board shall give credit toward the experience requirements set forth in Paragraphs (a) and (b) of this Rule as follows:

- (1) An applicant shall receive of 400 hours of experience credit for an associate's degree. The Board shall grant up to 100 additional hours if the applicant can demonstrate that further training or course-work related to the private protective services industry was received while obtaining the associate's degree.
- (2) An applicant shall receive 800 hours of experience credit for a bachelor's degree. The

Board shall grant up to 200 additional hours if the applicant can demonstrate that further training or course-work related to the private protective services industry was received while obtaining the bachelor's degree.

- (3) An applicant shall receive 1,200 hours of experience credit for a graduate degree. The Board shall grant an additional 300 additional hours if the applicant can demonstrate that further training or course-work related to the private protective services industry was received while obtaining the graduate degree.

*History Note: Authority G.S. 74C-5(2); 93B-15.1; Eff. June 1, 1984; Amended Eff. December 1, 1987; Temporary Amendment Eff. October 1, 1989 For a Period of 180 Days to Expire on March 31, 1990; Amended Eff. October 1, 2013; February 1, 2009; December 1, 1995; January 4, 1994; February 1, 1990; Transferred and Recodified from 12 NCAC 07D .0401 Eff. July 1, 2015; Readopted Eff. August 1, 2020; Amended Eff. September 1, 2024.*

**14B NCAC 16 .0402 EXPERIENCE REQUIREMENTS FOR AN ELECTRONIC COUNTERMEASURES LICENSE**

In addition to the requirements of Section .0200 of this Chapter, applicants for an electronic countermeasures license shall:

- (1) establish three years of experience in electronic countermeasures; or
- (2) have successfully completed a course in electronic countermeasures given by a school specializing in electronic countermeasures that consists of a minimum of 40 hours of actual classroom instruction.

*History Note: Authority G.S. 74C-5; Eff. June 1, 1984; Amended Eff. July 1, 2009; January 4, 1994; July 1, 1987; Transferred and Recodified from 12 NCAC 07D .0402 Eff. July 1, 2015; Readopted Eff. August 1, 2020; Amended Eff. September 1, 2024.*

**14B NCAC 16 .0501 EXPERIENCE REQUIREMENTS FOR A POLYGRAPH LICENSE**

(a) In addition to the requirements of Section .0200 of this Chapter, applicants for a polygraph license shall:

- (1) pass an examination and a performance test administered by a panel of polygraph examiners appointed by an entity designated by the Board;
- (2) successfully complete a course of instruction at any polygraph school approved by the American Polygraph Association, the American Association of Police Polygraphists, or the Board; and
- (3) have either:

- (A) one year of verifiable polygraph experience; or
- (B) complete at least six months of training as a holder of a polygraph trainee permit, and have administered no fewer than 50 polygraph examinations; or

- (4) a military occupational specialty and two years of verifiable experience within the past five years in the U.S. Armed Forces performing polygraph examinations.

(b) In addition to the requirements of Section .0200 of this Chapter, an applicant for a polygraph license who is the spouse of an active duty member of the U.S. Armed Forces shall establish:

- (1) the spouse holds a current license, certification, or registration from another jurisdiction and the other jurisdiction's requirements are substantially equivalent to or exceed the Board's requirements; and
- (2) the spouse has two years of verifiable experience within the past five years performing polygraph examinations.

(c) Applicants for a polygraph license may take the examination required in Subparagraph (a)(1) of this Rule no more than twice within a 12 month period. All portions of the examination must be completed within that 12 month period. Any applicant who fails the polygraph examination four times shall retake the polygraph course of instruction required in Subparagraph (a)(2) of this Rule before taking the polygraph examination again.

(d) Polygraph operators who are duly licensed in another state may perform up to three examinations in this State without being licensed, provided that those examinations are for the purpose of an evaluation of that examiner and the Director has given authorization for this evaluation in advance.

*History Note: Authority G.S. 74C-5; 93B-15.1; Eff. June 1, 1984; Amended Eff. May 1, 2014; October 1, 2013; July 1, 2009; December 1, 1985; Transferred and Recodified from 12 NCAC 07D .0501 Eff. July 1, 2015; Readopted Eff. August 1, 2020; Amended Eff. September 1, 2024; February 1, 2022.*

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

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

- (1) electronic submission of fingerprints from a Live Scan or similar system approved by the State Bureau of Investigations or one set of classifiable fingerprints on an applicant fingerprint card that shall be mailed separately to the Board's office;
- (2) one head and shoulders color digital photograph of the applicant in JPG, JPEG, or PNG format of sufficient quality for identification, taken within six months prior to online application

- (3) and submitted by uploading the photograph online with the application submission;
- (3) a statement of the results of a statewide criminal history records search by the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding 60 months;
- (4) the applicant's non-refundable registration fee, along with the convenience fee charged by the Board's on-line application vendor and a separate credit card transaction fee;
- (5) the actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected online by the Private Protective Services Board;
- (6) one original signed SBI release of information form that shall be uploaded online with the original mailed to the Board's administrative office;
- (7) a statement signed by a certified trainer that the applicant has completed the training requirements of Rule .0707 of this Section; and
- (8) a completed affidavit form and public notice statement form.

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

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

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

*History Note: Authority G.S. 74C-5; 74C-8.1; 74C-11; Eff. June 1, 1984; Amended Eff. May 1, 2012; July 1, 2011; August 1, 1998; December 1, 1995; June 1, 1994; February 1, 1990; May 1, 1988; Transferred and Recodified from 12 NCAC 07D .0701 Eff. July 1, 2015; Amended Eff. November 1, 2017; Readopted Eff. March 1, 2020; Amended Eff. September 1, 2024; January 1, 2024; July 1, 2021.*

**14B NCAC 16 .0702 FEES FOR UNARMED SECURITY GUARD REGISTRATION**

(a) Fees for unarmed security guards are as follows, along with the convenience fee charged by the Board's on-line application vendor and credit card transaction fee:

- (1) thirty dollar (\$30.00) non-refundable initial registration fee;

- (2) thirty dollar (\$30.00) annual renewal, or reissue fee;
- (3) fifteen dollar (\$15.00) transfer fee; and
- (4) twenty-five dollars (\$25.00) late renewal fee to be paid within 90 days from the date the registration expires and to be paid in addition to the renewal fee.

(b) Fees shall be paid online by credit card or other form of electronic funds transfer.

*History Note: Authority G.S. 74C-9; Eff. June 1, 1984; Amended Eff. December 1, 1985; Temporary Amendment Eff. January 1, 1990 for a Period of 180 Days to Expire on July 1, 1990; ARRC Objection Lodged January 18, 1990; Amended Eff. July 1, 2010; May 1, 2010; December 1, 2003; July 1, 1990; Transferred and Recodified from 12 NCAC 07D .0702 Eff. July 1, 2015; Amended Eff. January 1, 2018; Readopted Eff. March 1, 2020; Amended Eff. September 1, 2024.*

**14B NCAC 16 .0706 RENEWAL OF UNARMED SECURITY GUARD REGISTRATION**

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

- (1) one head and shoulders color digital photograph of the applicant in JPG, JPEG, or PNG format of sufficient quality for identification, taken within six months prior to online application and submitted by uploading the photograph online with the application submission;
- (2) upload online a statement of the results of a statewide criminal history records search by the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding 12 months;
- (3) the applicant's renewal fee, along with the convenience fee charged by the Board's on-line application vendor and credit card transaction fee; and
- (4) upload a completed affidavit form and public notice statement form.

(b) If there is a criminal charge pending against the applicant for renewal that constitutes a deniable offense under G.S. 74C-8(d)(2), consideration of the application shall be deferred until the criminal charge is adjudicated.

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

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

*History Note: Authority G.S. 74C-5; 74C-11; Eff. June 1, 1984; Amended Eff. May 1, 2012; October 1, 2010; December 1, 1995; February 1, 1990; July 1, 1987; December 1, 1985; Transferred and Recodified from 12 NCAC 07D .0706 Eff. July 1, 2015; Amended Eff. November 1, 2017; Readopted Eff. March 1, 2020; Amended Eff. September 1, 2024; July 1, 2022.*

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

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

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

Investigation, collected online by the Private Protective Services Board; and  
(8) a completed affidavit form and public notice statement form.

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

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

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

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

*History Note: Authority G.S. 74C-5; 74C-9; 74C-13; Eff. June 1, 1984; Amended Eff. May 1, 2012; April 1, 2008; August 1, 1998; December 1, 1995; February 1, 1990; May 1, 1988; July 1, 1987; Transferred and Recodified from 12 NCAC 07D .0801 Eff. July 1, 2015; Amended Eff. November 1, 2017; Readopted Eff. March 1, 2020; Amended Eff. September 1, 2024; July 1, 2021.*

**14B NCAC 16 .0802 FEES FOR ARMED SECURITY GUARD FIREARM REGISTRATION PERMIT**

(a) Fees for armed security guard firearm registration permits are as follows, along with the convenience fee charged by the Board's on-line application vendor and credit card transaction fee:

- (1) thirty dollars (\$30.00) non-refundable initial registration fee;
- (2) thirty dollars (\$30.00) annual renewal, or reissue fee; and
- (3) fifteen dollar (\$15.00) application fee.

(b) Fees shall be paid online by credit card or other form of electronic funds transfer.

*History Note: Authority G.S. 74C-9; Eff. June 1, 1984; Amended Eff. December 1, 1985; Temporary Amendment Eff. January 1, 1990 for a Period of 180 Days to Expire on July 1, 1990; ARRC Objection Lodged January 18, 1990; Amended Eff. July 1, 2010; December 1, 2003; July 1, 1990; Transferred and Recodified from 12 NCAC 07D .0802 Eff. July 1, 2015; Amended Eff. January 1, 2018; Readopted Eff. March 1, 2020; Amended Eff. September 1, 2024.*

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

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

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

(b) If there is a criminal charge pending against the applicant for renewal that constitutes a deniable offense under G.S. 74C-8(d)(2), consideration of the application shall be deferred until the criminal charge is adjudicated.

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

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

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

(f) During a national or State declared state of emergency that restricts or prohibits a registered armed security guard from requalifying, the Board shall, upon written request to the Director

by the licensee, extend the deadline for requalification up to 90 days beyond the effective period of the state of emergency. Any registration renewed pursuant to this Paragraph shall be issued conditionally and shall automatically expire on the 90<sup>th</sup> day if requalification requirements have not been met.

*History Note: Authority G.S. 74C-5; 74C-8.1; 74C-9; 74C-13; Eff. June 1, 1984; Amended Eff. May 1, 2012; October 1, 2010; December 1, 1995; February 1, 1990; December 1, 1985; Transferred and Recodified from 12 NCAC 07D .0806 Eff. July 1, 2015; Amended Eff. January 1, 2018; November 1, 2017; Readopted Eff. November 1, 2019; Amended Eff. March 1, 2020; Emergency Amendment Eff. May 6, 2020; Temporary Amendment Eff. July 24, 2020; Temporary Amendment Expired Eff. May 14, 2021; Amended Eff. September 1, 2024; October 1, 2022; July 1, 2022; January 1, 2022.*

**14B NCAC 16 .0902 APPLICATION FOR FIREARMS TRAINER CERTIFICATE**

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

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

this Section or acceptable certificate of other current certification as set forth in Rule .0901(c) and (d) of this Section; and

- (8) the actual cost charged to the Private Protective Services Board by the North Carolina Justice Academy or other entity to cover the cost of the firearms training course given by the N.C. Justice Academy or other entity and collected as part of the online application process by the Private Protective Services Board.

*History Note:* Authority G.S. 74C-5; 74C-8(d); 74C-8.1(a); 74C-13;

*Eff. June 1, 1984;*

*Amended Eff. August 1, 1998; December 1, 1995; July 1, 1987; December 1, 1985;*

*Temporary Amendment Eff. July 17, 2001;*

*Amended Eff. January 1, 2013; May 1, 2012; August 1, 2002;*

*Transferred and Recodified from 12 NCAC 07D .0902 Eff. July 1, 2015;*

*Amended Eff. November 1, 2017;*

*Readopted Eff. March 1, 2020;*

*Amended Eff. September 1, 2024; January 1, 2024; July 1, 2021.*

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

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

- (1) uploaded online a certificate of successful completion of a firearms trainer refresher course approved by the Board and the Secretary of Public Safety consisting of a minimum of eight hours of classroom and practical range training in safety and maintenance of the applicable firearm (i.e. handgun, shotgun, or rifle), range operations, control and safety procedures, and methods of firing. This training shall be completed within 180 days of the submission of the renewal application;
- (2) a statement of the results of a criminal history records search by the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding 24 months; and
- (3) the applicant's renewal fee, along with the convenience fee charged by the Board's on-line application vendor and a separate credit card transaction fee.

(b) If there is a criminal charge pending against the applicant for renewal that constitutes a deniable offense under G.S. 74C-8(d)(2), consideration of the application shall be deferred until the criminal charge is adjudicated.

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

education requirements prescribed by the Board. The applicant shall furnish the Board a copy of the military order or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue.

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

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

(f) During a national or State declared state of emergency that restricts or prohibits a certified firearms trainer from requalifying, the Board shall, upon written request to the Director by the licensee, extend the deadline for requalification up to 90 days beyond the effective period of the state of emergency. Any certificate renewed pursuant to this Paragraph shall be issued conditionally and shall automatically expire on the 90th day if requalification requirements have not been met.

*History Note:* Authority G.S. 74C-5; 74C-8.1(a); 74C-9; 74C-13; 93B-15;

*Eff. June 1, 1984;*

*Amended Eff. January 1, 2013; October 1, 2010; June 1, 2009; December 1, 1995; December 1, 1985;*

*Transferred and Recodified from 12 NCAC 07D .0904 Eff. July 1, 2015;*

*Amended Eff. November 1, 2017; February 1, 2016; October 1, 2015;*

*Readopted Eff. November 1, 2019;*

*Amended Eff. March 1, 2020;*

*Emergency Amendment Eff. May 6, 2020;*

*Temporary Amendment Eff. July 24, 2020;*

*Temporary Amendment Expired Eff. May 14, 2021;*

*Amended Eff. September 1, 2024; January 1, 2024; October 1, 2022; July 1, 2022; January 1, 2022.*

**14B NCAC 16 .0910 APPLICATION FOR AN UNARMED TRAINER**

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

- (1) electronic submission of fingerprints from a Live Scan or similar system approved by the State Bureau of Investigations or one set of classifiable fingerprints on an applicant fingerprint card that shall be mailed separately to the Board's office;
- (2) one head and shoulders color digital photograph of the applicant in JPG, JPEG, or PNG format of sufficient quality for identification, taken within six months prior to online submission and submitted by uploading online with the application submission;
- (3) a statement of the results of a statewide criminal history records search by the reporting service designated by the Board pursuant to G. S. 74C-8.1(a) for each state where the applicant has resided within the preceding 60 months;

- (4) the actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected online by the Private Protective Services Board;
- (5) the applicant's non-refundable application fee, along with the convenience fee charged by the Board's on-line application vendor and a separate credit card transaction fee;
- (6) a certificate of successful completion of the training required by Rule .0909(a)(3) or current certificate of other acceptable certification as set forth in Rule .0909(b) of this Section.
- (7) the actual cost charged to the Private Protective Services Board by Wake Technical Community College, or other entity, to cover the cost of the unarmed guard trainer course and collected as part of the online application process by the Private Protective Services Board.

- (3) on-one supervision from another licensed Private Investigator.  
"Training Checklist" means the documents that shall state all areas of training and work that the Associate has performed. The sponsor is responsible for maintaining the training checklist and providing a copy of the checklist to the Associate. The Training Checklist must reflect the date the Associate advances from one level to another. The training checklist must be signed by the Associate and the sponsor at the end of each reporting period. In the event the Associate transfers employment to another Private Investigator, the Associate must provide the new sponsor with the training checklist and the new sponsoring Private Investigator will then be responsible for the maintenance of the checklist. The Training Checklist must be updated on a quarterly basis for Level One Associates and on a yearly basis for Level Two and Level Three Associates. The training checklist must be maintained pursuant to Rule .0108 of this Chapter. When an Associate completes Level Three, the Training Checklist must be made a part of the Associate's application for a Private Investigator's license. The Board shall have immediate access to the training checklist upon request.
- (4) "Associate Log" means the documents maintained by the Associate which shall list each case the Associate has worked, the number of hours spent on the case, and the type of work performed.

*History Note:* Authority G.S. 74C-8; 74C-9; 74C-11; 74C-13; Eff. October 1, 2004;  
*Amended Eff.* January 1, 2013;  
*Transferred and Recodified from 12 NCAC 07D .0910 Eff.* July 1, 2015;  
*Readopted Eff.* March 1, 2020;  
*Amended Eff.* September 1, 2024; January 1, 2024.

**14B NCAC 16 .1101 DEFINITIONS**

In addition to the definitions set forth in G.S. 74C, the following definitions shall apply to this Section:

- (1) "Private Investigator Associate" means an individual training to become a Private Investigator. A Private Investigator Associate may also be referred to as a "trainee" in these Rules. A Private Investigator Associate must complete three training levels as set out in this Section.
- (2) "One-on-one Supervision" means person-to-person contact whereby the licensed investigator is personally and directly supervising or training the Associate. The training investigator must be the sponsoring licensed Private Investigator or any licensed Private Investigator who is a member of the sponsoring Private Investigator's firm, association, or corporation. The Private Investigator Associate may not subcontract his or her employment to another Private Investigator. However, the sponsoring Private Investigator may subcontract the Private Investigator Associate if the sponsor obtains prior written approval from the Board's Director by showing that the Private Investigator Associate will receive an educational benefit from the subcontract employment and the Associate will receive one-

*History Note:* Authority G.S. 74C-2(c); 74C-5(2); Eff. July 1, 1994;  
*Transferred and Recodified from 12 NCAC 07D .1101 Eff.* July 1, 2015;  
*Readopted Eff.* July 1, 2020;  
*Amended Eff.* September 1, 2024; November 1, 2023.

**14B NCAC 16 .1102 TRAINING AND SUPERVISION REQUIRED IN LEVEL ONE**

- (a) If upon sponsorship, the Associate has less than one year or 1,000 hours of verifiable training or experience, the Associate shall be classified as a Level One Associate and undergo 160 hours of one-on-one supervision training.
- (b) The first 40 hours of employment shall be one-on-one supervision. The remaining 120 hours of one-on-one supervision shall be gathered over the first year of employment or the first 1,000 hours of work, whichever comes first.
- (c) A Level One Associate cannot, independently of the sponsor, accept or contract employment. The Associate shall have direct face-to-face or telephone contact with the sponsor or another licensed Private Investigator within the firm, association, or corporation before accepting employment or before accepting a new case.
- (d) The sponsor or another licensed Private Investigator associated with the sponsor's firm, association, or corporation

shall meet with the Level One associate to review the Associate's work product. The sponsor's review may be by telephone or face-to-face and shall occur at least four times per month. The sponsor shall review each case on which the Associate is working or has worked since the last review. Review sessions may encompass more than one case.

*History Note: Authority G.S. 74C-5(2); Eff. July 1, 1994; Transferred and Recodified from 12 NCAC 07D .1102 Eff. July 1, 2015; Readopted Eff. July 1, 2020; Amended Eff. September 1, 2024.*

**14B NCAC 16 .1103 TRAINING AND SUPERVISION REQUIRED IN LEVEL TWO**

- (a) If upon initial application for an Associate permit, the applicant has at least one year or 1,000 hours of verifiable training or experience, the applicant will skip Level One and be classified as a Level Two Private Investigator Associate. An applicant that skips Level One shall undergo 80 hours of one-on-one training. The first 40 hours of one-on-one supervision shall occur within the first 40 hours of employment. The remaining 40 hours shall be gathered over the first year of employment or the first 1,000 hours of work, whichever comes first.
- (b) A Level Two Associate cannot, independently of the sponsor, accept or contract employment. The Associate shall have direct face-to-face or telephone contact with the sponsor or another licensed Private Investigator within the firm, association, or corporation before accepting employment or before accepting a new case.
- (c) The sponsor or another licensed Private Investigator associated with the sponsor's firm, association, or corporation shall meet with the Level Two Associate to review the Associate's work product. The sponsor's review may be by telephone or face-to-face and shall occur at least four times per month. The sponsor shall review each case on which the Associate is working or has worked since the last review. Review sessions may encompass more than one case.

*History Note: Authority G.S. 74C-5(2); Eff. July 1, 1994; Transferred and Recodified from 12 NCAC 07D .1103 Eff. July 1, 2015; Readopted Eff. July 1, 2020; Amended Eff. September 1, 2024.*

**14B NCAC 16 .1104 TRAINING AND SUPERVISION REQUIRED IN LEVEL THREE**

- (a) If upon sponsorship the Associate has at least two years or 2,000 hours of verifiable training or experience, the Associate will be classified as a Level Three Private Investigator Associate and shall undergo 40 hours of one-on-one training.
- (b) The first 40 hours of employment for the Level Three Private Investigator Associate shall be one-on-one supervision.
- (c) When the Level Three Associate completes the requirements of Level Three by fulfilling the licensing requirements set forth in Rules .0204 and .0401 of this Chapter, the Associate may apply for a private investigator's license.

(d) The sponsor or another licensed Private Investigator associated with the sponsor's firm, association, or corporation shall meet with the Level Three Associate to review the Associate's work product. The sponsor shall review each case on which the Associate is working or has worked since the last review. Review sessions may encompass more than one case.

(e) The sponsor shall ensure the Level Three Associate remains in compliance with G.S. 74C.

*History Note: Authority G.S. 74C-5(2); Eff. July 1, 1994; Transferred and Recodified from 12 NCAC 07D .1104 Eff. July 1, 2015; Readopted Eff. July 1, 2020; Amended Eff. September 1, 2024.*

**14B NCAC 16 .1105 EDUCATIONAL DEGREES AND NON-DEGREEED TRAINING**

(a) Using the formula in Rule .0204 of this Chapter, the Board shall give credit toward the educational and training requirements of this Section as follows:

- (1) An applicant shall receive a minimum of 400 hours of experience credit for an associate's degree. The Board shall grant up to 100 additional hours if the applicant can demonstrate that further training or course-work related to the private protective services industry was received while obtaining the associate's degree.
- (2) An applicant shall receive 800 hours of experience credit for a bachelor's degree. The Board shall grant up to 200 additional hours if the applicant can demonstrate that further training or course-work related to the private protective services industry was received while obtaining the bachelor's degree.
- (3) An applicant shall receive 1,200 hours of experience credit for a graduate degree. The Board shall grant an additional 300 additional hours if the applicant can demonstrate that further training or course-work related to the private protective services industry was received while obtaining the graduate degree.

(b) During the first 40 hours of one-on-one supervision, a Level One Associate may receive up to 4 hours of one-on-one supervision credit for time spent in the courtroom observing a docketed trial. Of the remaining 120 hours of one-on-one supervision required in Level One, the Associate may receive up to 12 hours of credit for time spent in the courtroom observing a trial. Of the thousand hours of training required in Level One, the Associate cannot receive more than 100 hours of credit for time spent in the courtroom observing a trial. To receive credit for courtroom observation, the Level One Associate must state in the Associate's Log the docket number of the trial and the time spent observing the trial.

(c) During the first 40 hours of one-on-one supervision, a Level Two Associate may receive up to 4 hours of one-on-one supervision credit for time spent in the courtroom observing a docketed trial. Of the remaining 80 hours of one-on-one

supervision required in Level Two, the Associate may receive up to 8 hours of credit for time spent in the courtroom observing a trial. Of the thousand hours of training required in Level Two, the Associate cannot receive more than 100 hours of credit for time spent in the courtroom observing a trial. To receive credit for courtroom observation, the Level Two Associate must state in the Associate's Log the docket number of the trial and the time spent observing the trial.

(d) During the first 40 hours of one-on-one supervision, a Level Three Associate may receive up to 4 hours of one-on-one supervision credit for time spent in the courtroom observing a docketed trial. Of the one thousand hours of training required in Level Three, the Associate cannot receive more than 100 hours of credit for time spent in the courtroom observing a trial. To receive credit for courtroom observation, the Level Three Associate must state in the Associate's Log the docket number of the trial and the time spent observing the trial.

*History Note: Authority G.S. 74C-5(2); Eff. July 1, 1994; Transferred and Recodified from 12 NCAC 07D .1105 Eff. July 1, 2015; Readopted Eff. July 1, 2020; Amended Eff. September 1, 2024.*

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

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

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

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

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

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

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

*History Note: Authority G.S. 74C-3; 74C-5; 74C-8.1(a); Eff. January 1, 2013; Transferred and Recodified from 12 NCAC 07D .1401 Eff. July 1, 2015; Amended Eff. November 1, 2017; Readopted Eff. March 1, 2020; Amended Eff. September 1, 2024; July 1, 2021.*

**14B NCAC 16 .1302 FEES FOR UNARMED ARMORED CAR SERVICE GUARD REGISTRATION**

(a) Fees for unarmed armored car service guards are as follows, along with the convenience fee charged by the Board's on-line application vendor and credit card transaction fee:

- (1) thirty dollar (\$30.00) non-refundable initial registration fee;
- (2) thirty dollar (\$30.00) annual renewal, or reissue fee;
- (3) fifteen dollar (\$15.00) transfer fee; and
- (4) twenty-five dollars (\$25.00) late renewal fee to be paid within 90 days from the date the registration expires and to be paid in addition to the renewal fee.

(b) Fees shall be paid by credit card or other form of electronic funds transfer.

*History Note: Authority G.S. 74C-3; 74C-5; 74C-9; Eff. January 1, 2013; Transferred and Recodified from 12 NCAC 07D .1402 Eff. July 1, 2015; Amended Eff. January 1, 2018; Readopted Eff. March 1, 2020; Amended Eff. September 1, 2024.*

**14B NCAC 16 .1306 RENEWAL OR REISSUE OF UNARMED ARMORED CAR SERVICE GUARD REGISTRATION**

(a) Each applicant for renewal of an unarmed armored car service guard registration identification card or his or her employer shall complete an online form provided by the Board. This online form

shall be submitted not fewer than 90 days prior to the expiration of the applicant's current registration and shall be accompanied by:

- (1) upload online a statement of the results of a statewide criminal history records search obtained from the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding 12 months;
- (2) the applicant's renewal fee, along with the convenience fee charged by the Board's on-line application vendor and credit card transaction fee.
- (3) one head and shoulders color digital photograph of the applicant in JPG, JPEG, or PNG format of sufficient quality for identification, taken within six months prior to online application and submitted by uploading the photograph online with application submission; and
- (4) a completed affidavit form and public notice statement form.

(b) If there is a criminal charge pending against the applicant for renewal that constitutes a deniable offense under G.S. 74C-8(d)(2), consideration of the application shall be deferred until the criminal charge is adjudicated.

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

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

*History Note: Authority G.S. 74C-3; 74C-5; 78C-8.1(a); Eff. January 1, 2013; Transferred and Recodified from 12 NCAC 07D .1406 Eff. July 1, 2015; Amended Eff. November 1, 2017; Readopted Eff. March 1, 2020; Amended Eff. September 1, 2024; July 1, 2022.*

**14B NCAC 16 .1401 APPLICATION/ARMED ARMORED CAR SERVICE GUARD FIREARM REGISTRATION PERMIT**

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

- (1) one set of classifiable fingerprints on an applicant fingerprint card that shall be mailed separately to the Board's office;

- (2) one head and shoulders color digital photograph of the applicant in JPG, JPEG, or PNG format of sufficient quality for identification, taken within six months prior to online application and submitted by uploading the photograph online with application submission;
- (3) upload online a statement of the result of a statewide criminal history records search from the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding 60 months;
- (4) the applicant's non-refundable registration fee, along with the convenience fee charged by the Board's on-line application vendor and credit card transaction fee;
- (5) a statement signed by a certified trainer that the applicant has successfully completed the training requirements of Rule .1407 of this Section;
- (6) a certification by the applicant that he or she is at least 18 years of age;
- (7) the actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected online by the Private Protective Services Board; and
- (8) a completed affidavit form and public notice statement form.

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

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

(d) Online applications submitted without proof of completion of a Board approved firearms training course shall not serve as temporary registration cards unless the armored car employer has obtained prior approval from the Director. The Director shall grant prior approval if the armored car employer provides proof that the applicant has received prior Board approved firearms training.

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

*History Note: Authority G.S. 74C-3; 74C-5; 74C-8.1(a); 74C-13; Eff. January 1, 2013; Transferred and Recodified from 12 NCAC 07D .1501 Eff. July 1, 2015; Amended Eff. November 1, 2017; Readopted Eff. March 1, 2020; Amended Eff. September 1, 2024.*

**14B NCAC 16 .1402 FEES FOR ARMED ARMORED CAR SERVICE GUARD FIREARM REGISTRATION PERMIT**

(a) Fees for armed armored car service guard firearm registration permits are as follows, along with the convenience fee charged by the Board's on-line application vendor and credit card transaction fee:

- (1) thirty dollars (\$30.00) non-refundable initial registration fee;
- (2) thirty dollars (\$30.00) annual renewal, or reissue fee; and
- (3) fifteen dollars (\$15.00) application fee.

(b) Fees shall be paid by credit card or other form of electronic funds transfer.

*History Note: Authority G.S. 74C-3; 74C-5; 74C-9; 74C-13; Eff. January 1, 2013; Transferred and Recodified from 12 NCAC 07D .1502 Eff. July 1, 2015; Amended Eff. January 1, 2018; Readopted Eff. March 1, 2020; Amended Eff. September 1, 2024.*

**14B NCAC 16 .1406 RENEWAL OF ARMED ARMORED CAR SERVICE GUARD FIREARM REGISTRATION PERMIT**

(a) Each applicant for renewal of an armed armored car service guard firearm registration permit identification card his or her employer or designee shall complete an online form provided by the Board. This online form shall be submitted not more than 90 days nor fewer than 30 days prior to expiration of the applicant's current armed registration and shall be accompanied by:

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

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

(b) If there is a criminal charge pending against the applicant for renewal that constitutes a deniable offense under G.S. 74C-8(d)(2), consideration of the application shall be deferred until the criminal charge is adjudicated.

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

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

*History Note: Authority G.S. 74C-3; 74C-5; 74C-8.1(a); 74C-13; Eff. January 1, 2013; Transferred and Recodified from 12 NCAC 07D .1506 Eff. July 1, 2015; Amended Eff. November 1, 2017; Readopted Eff. March 1, 2020; Amended Eff. September 1, 2024; July 1, 2022.*

**14B NCAC 16 .1501 EXPERIENCE REQUIREMENTS FOR CLOSE PERSONAL PROTECTION LICENSE**

(a) In addition to the requirements of G.S. 74C-8 and Section .0200 of this Chapter, applicants for a close personal protection license shall:

- (1) establish three years of verifiable experience while conducting close personal protection services as set forth in G.S. 74C-3(a)(3a) with a private person, firm, association, or corporation within the last 10 years;
- (2) establish three years of verifiable experience while conducting close personal protection services as set forth in G.S. 74C-3(a)(3a) with any federal, state, county or municipal law enforcement agency, or other governmental agency within the last 10 years;
- (3) establish a military occupational specialty and two years of verifiable experience within the past five years in the U.S. Armed Forces while conducting close personal protection services as set forth in G.S. 74C-3(a)(3a) while serving in an official capacity; or
- (4) have completed a course in close personal protection approved by the Board given by a school specializing in close personal protection (or "executive protection") that consists of a minimum of 40 hours of actual classroom and practical instruction within the last two years as required by Rule .1502 of this Chapter.

- (5) possess a basic first aid certificate from the American Red Cross and a valid CPR and AED certification from the American Red Cross, American Heart Association, American Safety and Health Institute, or National Safety Council.

(b) In addition to the requirements of Section .0200 of this Chapter, an applicant for a close personal protection license that is the spouse of an active duty member of the U.S. Armed Forces shall establish to the Board's satisfaction:

- (1) the spouse holds a current license, certification, or registration from another jurisdiction and the other jurisdiction's requirements are substantially equivalent to or exceed the Board's requirements; and
- (2) the spouse has two years verifiable experience within the past five years while conducting close personal protection as set forth in in G.S. 74C-3(a)(3a) while serving in an official capacity with any entity described in Paragraph (a) of this Rule.

*History Note: Authority G.S. 74C-5(2); 93B-15.1; Temporary Adoption Eff. April 28, 2023; Eff. November 1, 2023; Amended Eff. September 1, 2024.*

**14B NCAC 16 .1709 PROBATIONARY EMPLOYEES**

- (a) A digital forensic examiner licensee may employ a potential trainee as a probationary employee for 60 consecutive calendar days. The Director, upon written request of the licensee, shall extend the probationary period by 30 additional days.
- (b) A digital forensic examiner licensee may supervise an intern as a probationary employee concurrent with the intern's educational institution's schedule.
- (c) A digital forensic examiner licensee may employ an apprentice participating in a North Carolina registered apprentice program as set forth in G.S. 93B-8.6 as a probationary employee for the period prescribed in the federal guidelines as set forth therein.
- (d) To qualify as an "intern" the potential probationary employee must be enrolled as a student in a high school, community college, college, or university, be in good standing with the educational institution, and the internship must be for credit towards a degree, diploma, or certificate issued by the educational institution.
- (e) Upon completion of the probationary period and the desire of the licensee to supervise the probationary employee as a digital forensic examiner trainee, the potential trainee shall apply pursuant to Section .0200 of this Chapter.
- (f) For hours gained during probationary employment, an internship, or apprenticeship to be considered for licensure the probationary employee shall comply with Rule .1702 of this Section.
- (g) Before a probationary employee engages in any activity defined as digital forensic examination or has access to any confidential client information, the employee shall complete 40 hours of one-on-one supervision by the supervising licensee, and the licensee shall conduct a criminal record check on the employee.

- (h) Before engaging the probationary employee, intern, or apprentice the licensee shall submit to the Director in writing the name, address, last four digits of social security number, confirmation that the results of the criminal history record check contain no prohibitions as set forth in G.S. 74C-8(d)(2), and anticipated start date and ending date of employment of the probationary employee. The Director shall confirm receipt within three business days of receipt.

(i) Probationary employment which does not comply with this Rule is a violation of Rule .0204(c)(2) of this Chapter.

(j) Any probationary employee, intern, or apprentice shall be a minimum of 18 years of age.

(k) The use of the terms "employee" and "employment" in this Rule does not require or mandate compensation for any probationary employment, internship, or apprenticeship.

*History Note: Authority G.S. 74C-5(2); 93B-8.6; Eff. September 1, 2024.*

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**14B NCAC 17 .0201 APPLICATION FOR LICENSE**

(a) Each applicant for a license shall submit an online application on the website provided by the Board. When this online application is submitted, it shall be accompanied by:

- (1) electronic submission of fingerprints from a Live Scan or similar system approved by the State Bureau of Investigation or one set of classifiable fingerprints on an F.B.I. fingerprint card provided by the Board and mailed separately to the Board's office;
- (2) one head and shoulders digital photograph of the applicant in JPG format of sufficient quality for identification, taken within six months prior to the online submission;
- (3) statements of the results of a statewide criminal history records search by the reporting service designated by the Board pursuant to G.S. 74D-2.1(a) for any state where the applicant has resided within the preceding 60 months;
- (4) a minimum of three letters attesting to the good character and reputation of the applicant using the online character letter submission process; and
- (5) the applicant's application fee, along with the convenience fee charged by the Board's on-line application vendor and the credit card transaction fee charged by the applicant's credit card provider and collected online.

(b) Each applicant shall upload evidence of high school graduation either by diploma, G.E.D. certificate, or other equivalent documentation.

(c) Each applicant for a license shall meet personally with either a Board investigator, the Screening Committee, the Director, or a Board representative designated by the Director prior to being issued a license. The applicant shall discuss the provisions of G.S. 74D and the administrative rules in this Chapter during the personal meeting. The applicant shall sign a form provided by the Board stating that the applicant has reviewed the information with

the Board's representative and that the applicant understands G.S. 74D and the administrative rules in this Chapter. During a national or State declared state of emergency that restricts or prohibits travel, the personal meeting requirement may be waived if requested by the applicant in favor of alternative means of communication.

(d) Each applicant for a branch office license shall submit an online application on the website provided by the Board containing the physical address and telephone number of the branch office, the Qualifying Agent responsible for the branch office, the proposed branch manager, the parameters or scope of duties of the branch office, and the anticipated number of employees. This online application shall be accompanied by the branch office application fee.

(e) All photographs, record checks, proof of insurance, explanations of criminal charges, explanations of credit history, or requested documents shall be submitted online through the Board's website by any applicant for a permit, license, registration, or certificate within 60 days of the Board's receipt of the application form or a request from Board staff, whichever is later. Any failure to submit required or requested documents to complete the application process within this 60-day period shall void the application and require re-application.

*History Note: Authority G.S. 74D-2; 74D-2.1; 74D-3; 74D-5; 74D-7; 74D-8;*  
*Temporary Rule Eff. January 9, 1984, for a period of 120 days to expire on May 7, 1984;*  
*Eff. May 1, 1984;*  
*Amended Eff. December 1, 2012; February 1, 2012; January 1, 2007; September 1, 2006; March 1, 1993; July 1, 1987; January 1, 1986;*  
*Transferred and Recodified from 12 NCAC 11 .0201 Eff. July 1, 2015;*  
*Amended Eff. December 1, 2017;*  
*Readopted Eff. June 1, 2018;*  
*Amended Eff. September 1, 2019;*  
*Emergency Amendment Eff. June 9, 2020;*  
*Amended Eff. August 1, 2020;*  
*Temporary Amendment Eff. August 28, 2020;*  
*Temporary Amendment Expired Eff. June 12, 2021;*  
*Amended Eff. September 1, 2024; August 1, 2022; November 1, 2021.*

**14B NCAC 17 .0203 FEES FOR LICENSE**

(a) Application license fees are as follows plus the convenience fee charged by the Board's on-line application vendor and credit card transaction fee charged by the applicant's credit card provider and collected online:

- (1) one hundred fifty dollars (\$150.00) non-refundable initial application fee.
- (2) five hundred dollar (\$500.00) biennial fee for a new or renewal license.
- (3) one hundred fifty dollars (\$150.00) branch office license fee.
- (4) one hundred dollars (\$100.00) late renewal fee to be paid in addition to the renewal fee if the license has not been renewed on or before the expiration date.

(b) Fees shall be paid by credit card or electronic funds transfer.

*History Note: Authority G.S. 74D-7;*  
*Temporary Rule Eff. January 9, 1984, for a period of 120 days to expire on May 7, 1984;*  
*Eff. May 1, 1984;*  
*Amended Eff. January 1, 1986;*  
*Temporary Amendment Eff. October 6, 1992 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;*  
*Amended Eff. February 1, 2010; March 1, 1993;*  
*Transferred and Recodified from 12 NCAC 11 .0203 Eff. July 1, 2015;*  
*Amended Eff. January 1, 2018;*  
*Readopted Eff. June 1, 2018;*  
*Amended Eff. September 1, 2024; September 1, 2019.*

**14B NCAC 17 .0301 APPLICATION FOR REGISTRATION**

(a) Each licensee or qualifying agent shall submit an online application for the registration of his or her employee on the website provided by the Board. When this online application is submitted, it shall be accompanied by:

- (1) electronic submission of fingerprints from a Live Scan or similar system approved by the State Bureau of Investigation or one set of classifiable fingerprints on a standard F.B.I. fingerprint card mailed separately to the Board's office;
- (2) one original signed S.B.I. release of information form uploaded online and the original mailed separately to the Board's office;
- (3) one head and shoulders digital photograph of the applicant of sufficient quality for identification, taken within six months prior to online submission, and uploaded with the application submission;
- (4) statements of the results of a statewide criminal history records search by the reporting service designated by the Board pursuant to G.S. 74D-2.1(a) for any state where the applicant has resided within the preceding 60 months;
- (5) the registration fee required by Rule .0302 of this Section, along with the convenience fee charged by the Board's on-line application vendor and the credit card transaction fee charged by the applicant's credit card provider and collected online; and
- (6) a completed affidavit form attesting to the truth of the information provided and public notice statement form.

(b) The employer of an applicant who is currently registered with another alarm business shall complete an online application form provided by the Board. This form shall be accompanied by the applicant's multiple registration fee along with the convenience fee charged by the Board's on-line application vendor and the credit card transaction fee charged by the applicant's credit card provider and collected online. This online application shall be

accompanied by a completed affidavit form and public notice statement form.

(c) The employer of each applicant for registration shall print and retain a copy of the applicant's online application in the individual applicant's personnel file in the employer's office.

*History Note: Authority G.S. 74D-2.1; 74D-5; 74D-8; Temporary Rule Eff. January 9, 1984 for a Period of 120 Days to Expire on May 7, 1984; Eff. May 1, 1984; Amended Eff. December 1, 2012; January 1, 2007; July 1, 1993; March 1, 1993; September 1, 1990; November 1, 1988; Transferred and Recodified from 12 NCAC 11 .0301 Eff. July 1, 2015; Amended Eff. December 1, 2017; Readopted Eff. June 1, 2018; Amended Eff. September 1, 2024; August 1, 2022; August 1, 2020; September 1, 2019.*

**14B NCAC 17 .0302 FEES FOR REGISTRATION**

(a) Registration fees are as follows, plus the convenience fee charged by the Board's on-line application vendor and credit card transaction fee charged by the applicant's credit card provider and collected online.

- (1) Fifty dollar (\$50.00) non-refundable biennial registration fee.
- (2) Ten dollar (\$10.00) non-refundable fee for registration of an employee who changes employment to another licensee.
- (3) Ten dollar (\$10.00) non-refundable annual multiple registration fee.
- (4) Twenty dollar (\$20.00) late renewal fee to be paid for an application submitted no more than 30 days from the date the registration expires and to be paid in addition to the renewal fee.

(b) Fees shall be paid by credit card or electronic funds transfer.

*History Note: Authority G.S. 74D-7; Temporary Rule Eff. January 9, 1984, for a period of 120 days to expire on May 7, 1984; Eff. May 1, 1984; Amended Eff. January 1, 1986; Temporary Amendment Eff. October 6, 1992 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Amended Eff. May 1, 2010; February 1, 2010; April 1, 2005; March 1, 1993; Transferred and Recodified from 12 NCAC 11 .0302 Eff. July 1, 2015; Amended Eff. January 1, 2018; Readopted Eff. June 1, 2018; Amended Eff. September 1, 2024; September 1, 2019.*

**14B NCAC 17 .0306 RENEWAL OR REREGISTRATION OF REGISTRATION**

(a) Each applicant for renewal of a registration identification card or his or her employer shall complete an online form on the website provided by the Board. This online form shall be

submitted not less than 90 days prior to expiration of the applicant's current card and shall be accompanied by:

- (1) one digital head and shoulders color photograph of the applicant of acceptable quality for identification and made within 90 days of the application uploaded online with application submission;
- (2) statements of the result of a statewide criminal history records search by the reporting service designated by the Board pursuant to G.S. 74D-2.1(a) for any state where the applicant has resided within the preceding 24 months; and
- (3) the applicant's renewal fee, along with the convenience fee charged by the Board's on-line application vendor and credit card transaction fee charged by the applicant's credit card provider and collected online.

(b) Each licensee shall provide each applicant for registration or re-registration a copy of the online submitted application form provided by the Board. This form shall be submitted to the Board online and accompanied by:

- (1) one digital head and shoulders color photograph of the applicant of acceptable quality for identification and made within 90 days of the application uploaded online with the application submission; and
- (2) the applicant's registration fee, along with the convenience fee charged by the Board's on-line application vendor and credit card transaction fee charged by the applicant's credit card provider and collected online.

(c) The employer of each applicant for a registration renewal or reregistration shall give the applicant a copy of the online application which will serve as a record of application for renewal and shall retain a copy of the applicant's online renewal application in the individual's personnel file in the employer's office.

(d) Members of the armed forces whose registrations are in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return are granted that same extension of time to pay the registration renewal fee and to complete the continuing education requirements prescribed by Section .0500 of this Chapter. A copy of the military order or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue must be furnished to the Board.

*History Note: Authority G.S. 74D-7; 74D-8; 93B-15; Temporary Rule Eff. January 9, 1984, for a Period of 120 Days to Expire on May 7, 1984; Eff. May 1, 1984; Amended Eff. February 1, 2012; July 1, 2010; March 1, 1993; December 1, 1988; July 1, 1987; Transferred and Recodified from 12 NCAC 11 .0306 Eff. July 1, 2015; Readopted Eff. June 1, 2018; Amended Eff. September 1, 2024; September 1, 2019.*

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

**15A NCAC 02H .0804 PARAMETERS FOR WHICH CERTIFICATION MAY BE REQUESTED**

(a) Commercial Laboratories shall obtain Certification for Parameter Methods used to generate data that will be reported by the client to the State in accordance with the rules of this Section. Municipal and Industrial Laboratories shall obtain Certification for Parameter Methods used to generate data that will be reported to the State in accordance with the rules of this Section. Commercial Laboratories shall obtain Certification for Field Parameter Methods used to generate data that will be reported by the client to the State in accordance with the rules of this Section. Municipal and Industrial laboratories shall obtain Certification for Field Parameter Methods used to generate data that will be reported to the State in accordance with the rules of this Section.

(b) Inorganics: Each of the inorganic, physical characteristic, and microbiological analytes listed in this Paragraph shall be considered a certifiable parameter. Analytical methods shall be determined from the sources listed in Rule .0805(a)(1) of this Section. One or more analytical methods or Parameter Methods may be listed with a laboratory's certified Parameters. Certifiable inorganic, physical characteristic, and microbiological Parameters are as follows:

- (1) Acidity;
- (2) Alkalinity;
- (3) Biochemical Oxygen Demand;
- (4) Bromide;
- (5) Carbonaceous Biochemical Oxygen Demand;
- (6) Chemical Oxygen Demand;
- (7) Chloride;
- (8) Chlorine, Free Available;
- (9) Chlorine, Total Residual;
- (10) Chlorophyll;
- (11) Coliform, Fecal;
- (12) Coliform, Total;
- (13) Color;
- (14) Conductivity/Specific Conductance;
- (15) Cyanide;
- (16) Dissolved Organic Carbon;
- (17) Dissolved Oxygen;
- (18) Enterococci;
- (19) Escherichia Coliform (E. coli);
- (20) Flash Point;
- (21) Fluoride;
- (22) Hardness, Total;
- (23) Ignitability;
- (24) Surfactants as Methylene Blue Active Surfactants;
- (25) Nitrogen, Ammonia;
- (26) Nitrogen, Nitrite plus Nitrate;
- (27) Nitrogen, Nitrate;
- (28) Nitrogen, Nitrite;
- (29) Nitrogen, Total Kjeldahl;
- (30) Oil and Grease;
- (31) Orthophosphate;
- (32) Paint Filter Liquids;
- (33) pH;

- (34) Phenols;
- (35) Phosphorus, Total;
- (36) Residue, Settleable;
- (37) Residue, Total;
- (38) Residue, Total Dissolved;
- (39) Residue, Total Suspended;
- (40) Residue, Volatile;
- (41) Salinity;
- (42) Salmonella;
- (43) Silica;
- (44) Sulfate;
- (45) Sulfide;
- (46) Sulfite;
- (47) Temperature;
- (48) Total Organic Carbon;
- (49) Turbidity;
- (50) Vector Attraction Reduction: Option 1;
- (51) Vector Attraction Reduction: Option 2;
- (52) Vector Attraction Reduction: Option 3;
- (53) Vector Attraction Reduction: Option 4;
- (54) Vector Attraction Reduction: Option 5;
- (55) Vector Attraction Reduction: Option 6;
- (56) Vector Attraction Reduction: Option 7;
- (57) Vector Attraction Reduction: Option 8; and
- (58) Vector Attraction Reduction: Option 12.

(c) Metals: Each of the metals listed in this Paragraph shall be considered a certifiable Parameter. One or more Parameter Methods shall be listed with a laboratory's certified Parameters. Analytical methods shall be determined from the sources listed in Rule .0805(a)(1) of this Section. Certifiable metals are as follows:

- (1) Aluminum;
- (2) Antimony;
- (3) Arsenic;
- (4) Barium;
- (5) Beryllium;
- (6) Boron;
- (7) Cadmium;
- (8) Calcium;
- (9) Chromium, Hexavalent (Chromium VI);
- (10) Chromium, Total;
- (11) Chromium, Trivalent (Chromium III);
- (12) Cobalt;
- (13) Copper;
- (14) Hardness, Total (Calcium + Magnesium);
- (15) Iron;
- (16) Lead;
- (17) Lithium;
- (18) Magnesium;
- (19) Manganese;
- (20) Mercury;
- (21) Molybdenum;
- (22) Nickel;
- (23) Potassium;
- (24) Phosphorus;
- (25) Selenium;
- (26) Silica;
- (27) Silver;
- (28) Sodium;
- (29) Strontium;

- (30) Thallium;
- (31) Tin;
- (32) Titanium;
- (33) Vanadium; and
- (34) Zinc.

(d) Organics: Each of the organic Parameters listed in this Paragraph shall be considered a certifiable Parameter. One or more Parameter Methods shall be listed with a laboratory's certified Parameters. Analytical methods shall be determined from the sources listed in Rule .0805(a)(1) of this Section. Certifiable organic Parameters are as follows:

- (1) 1,2-Dibromoethane (EDB); 1,2-Dibromo-3-chloro-propane (DBCP); 1,2,3-Trichloropropane (TCP);
- (2) Acetonitrile;
- (3) Acrolein, Acrylonitrile;
- (4) Adsorbable Organic Halides;
- (5) Base/Neutral and Acid Organics;
- (6) Benzidines;
- (7) Chlorinated Acid Herbicides;
- (8) Chlorinated Hydrocarbons;
- (9) Chlorinated Phenolics;
- (10) Explosives;
- (11) Extractable Petroleum Hydrocarbons;
- (12) Haloethers;
- (13) N-Methylcarbamates;
- (14) Nitroaromatics and Isophorone;
- (15) Nitrosamines;
- (16) Nonhalogenated Volatile Organics;
- (17) Organochlorine Pesticides;
- (18) Organophosphorus Pesticides;
- (19) Per- and polyfluoroalkyl substances (PFAS);
- (20) Phenols;
- (21) Phthalate Esters;
- (22) Polychlorinated Biphenyls;
- (23) Polynuclear Aromatic Hydrocarbons;
- (24) Purgeable Aromatics;
- (25) Purgeable Halocarbons;
- (26) Purgeable Organics;
- (27) Total Organic Halides;
- (28) Total Petroleum Hydrocarbons – Diesel Range Organics;
- (29) Total Petroleum Hydrocarbons – Gasoline Range Organics; and
- (30) Volatile Petroleum Hydrocarbons.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); Eff. February 1, 1976; Amended Eff. November 2, 1992; December 1, 1984; Temporary Amendment Eff. October 1, 2001; Amended Eff. August 1, 2002; Readopted Eff. July 1, 2019; Amended Eff. September 1, 2024.*

**CHAPTER 18 – BOARD OF EXAMINERS OF ELECTRICAL CONTRACTORS**

**21 NCAC 18B .1101 CONTINUING EDUCATION REQUIREMENTS: LISTED QUALIFIED INDIVIDUALS**

(a) Upon becoming a qualified individual, as defined in G.S. 87-41.1, all qualifiers shall complete a free, four-hour Laws and Rules Course conducted by Board staff within 12 months after becoming a qualified individual or 90 days prior to becoming a qualified individual. Completion of the Laws and Rules Course pursuant to this requirement, shall satisfy 4 of the required contact hours of continuing education for the initial renewal of the individual's qualification.

(b) Every listed qualified individual, as defined in G.S. 41.1(2), including listed qualified individuals pursuant to G.S. 87-50, shall complete continuing education prior to each annual license period to renew the license on which the qualified individual is currently listed, for the next annual license period, except as follows:

- (1) qualified individuals unable to fulfill the required number of hours as the result of illness as certified in writing by the attending physician; or
- (2) persons presenting approved courses of continuing education.

(c) The number of required contact hours for every listed qualified individual shall be determined by the classification of license on which the qualified individual is currently listed or is eligible to be listed as follows:

- (1) qualified individuals currently listed on a license in the limited, intermediate, unlimited and special restricted single family dwelling classifications shall complete at least eight hours of approved continuing education for license renewal, and
- (2) qualified individuals currently listed on a license in the special restricted fire alarm/low voltage (SP-FA/LV), special restricted elevator (SP-EL), special restricted plumbing and heating (SP-PH), special restricted ground water pump (SP-WP), special restricted electric sign (SP-ES) and special restricted swimming pool (SP-SP) classifications shall complete at least four hours of approved continuing education for license renewal.

(d) The Board, pursuant to Rules .1102 and .1103 of the Section, approves courses. Because of differences in the electrical contracting industry and individual needs of listed qualified individuals, each qualified individual must exercise judgment in selecting courses for which continuing education is claimed and in choosing only those courses that will advance the individual's knowledge.

(e) Course sponsors may be colleges or universities, community colleges, trade associations, providers of self-study programs, employers, third party professional examination companies, private instructors and the like.

(f) North Carolina listed qualified individuals residing within the state must obtain the required continuing education hours by taking a course provided by an approved sponsor.

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

(g) North Carolina listed qualified individuals residing outside of North Carolina, including listed qualified individuals pursuant to G.S. 87-50, may obtain credit for courses offered in North Carolina. They may also obtain credit for courses offered in their state, province or country of residence provided the Board subsequently approves the courses taken, pursuant to Rule .1102(b) of this Section.

(h) Effective for renewals on or after July 1, 2008, all persons seeking to renew qualification must demonstrate that a minimum of one-half the continuing education hours for each annual license period were obtained by in-person classroom or seminar attendance.

History Note: Authority G.S. 87-41.1; 87-42; 87-44.1; Eff. October 1, 1990; Amended Eff. January 1, 2010; January 1, 2006; March 1, 1999; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016; Amended Eff. January 1, 2025;

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CHAPTER 42 – BOARD OF EXAMINERS IN OPTOMETRY

21 NCAC 42J .0101 FEES

History Note: Authority G.S. 55B-10; 55B-11; 57D-2-02; 90-117.5; 90-123; Eff. June 1, 1989; Amended Eff. October 1, 1994; March 1, 1992; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015; Amended Eff. November 10, 2016; Repealed Eff. September 1, 2024.

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CHAPTER 46 – BOARD OF PHARMACY

21 NCAC 46 .2504 PATIENT COUNSELING

(a) In order to ensure that a prescription is safe for a patient and to counsel a patient effectively, a reasonable effort shall be made to obtain, record, maintain, and update patient information that, in the pharmacist's professional judgment, is pertinent to safe dispensing, including:

- (1) contact information for reaching the patient or patient's representative;
(2) age and sex; and
(3) medical history relevant to safe use of the drug, device, or medical equipment, which may include:
(A) disease states;
(B) allergies and drug reactions;
(C) current list of non-prescription and prescription medications, devices, and medical equipment; and
(D) past experience with the patient's drug, device or medical equipment.

A "reasonable effort" shall mean an effort that is consistent with a pharmacist's professional judgment under the specific circumstances.

(b) To the extent necessary to undertake a reasonable effort to obtain the information required in Paragraph (a) of this Rule, information shall be obtained from the patient, the patient's representative, or the patient's health care providers. The information required in Paragraph (a) of this Rule shall be obtained, recorded, maintained, and updated by:

- (1) In a pharmacy, either
(A) a pharmacist, or
(B) a pharmacy technician or pharmacy intern supervised by the pharmacist; or
(2) In a device or medical equipment facility, the person-in-charge to whom the permit is issued under Rule .1608(b) of this Chapter, or a person who is trained in obtaining, recording, maintaining, and updating the information required in Paragraph (a) of this Rule.

(c) A pharmacist, pharmacy intern under the supervision of a pharmacist, or person-in-charge of the device or medical equipment facility shall review, interpret, clarify where necessary, and apply the information set out in Paragraph (a) of this Rule before each prescription or order is dispensed to screen for potential therapeutic issues due to:

- (1) therapeutic duplication;
(2) drug-disease contraindication;
(3) drug-drug interactions, including interactions with prescription or over-the-counter drugs;
(4) incorrect drug dosage or duration of drug treatment;
(5) drug-allergy interactions; and
(6) clinical abuse or misuse.

(d) An offer to counsel shall be made as follows:

- (1) An offer to counsel shall be made in the following circumstances:
(A) On any new or transfer prescription; and
(B) On any prescription when deemed necessary in the exercise of the professional judgment of a pharmacist or a person-in-charge of a device or medical equipment facility.
(2) The offer to counsel shall be communicated by:
(A) In a pharmacy, a pharmacist, pharmacy technician, pharmacy intern, or other employee supervised by the pharmacist; or
(B) In a device or medical equipment facility, the person-in-charge or an employee supervised by that person-in-charge.
(3) The offer to counsel shall be communicated:
(A) At the time that in-person delivery occurs at the pharmacy or at a device or medical equipment facility;
(B) With respect to other delivery, by information or materials provided accompanying the delivery, with

instructions on how to access patient counseling via live communication without cost to the patient with one of the persons listed in Subparagraph (e)(2) of this Rule.

(e) Counseling shall be provided as follows:

- (1) Counseling shall be performed in the following circumstances:
  - (A) Unless the offer to counsel is refused;
  - (B) If a patient requests counseling at a time other than when the offer to counsel is conveyed; and
  - (C) If a pharmacist or person-in-charge deems counseling necessary in the exercise of the professional judgment.
- (2) Counseling shall be performed by:
  - (A) With respect to a pharmacy, a pharmacist or a pharmacy intern under the supervision of a pharmacist; or
  - (B) With respect to a device or medical equipment facility, either the person-in-charge; or an employee of the device or medical equipment facility whom the person-in-charge has determined is proficient in explaining the safe and proper use of devices or medical equipment, in the person-in-charge's professional judgment.
  - (C) With respect to instances in which non-pharmacists and non-persons-in-charge are authorized to dispense drugs, devices or medical equipment, by those persons authorized to perform the dispensing.
- (3) Counseling shall be performed on those subjects needed for the safe use of the drug, device or medical equipment, within the professional judgment of a pharmacist or the person-in-charge of a device or medical equipment facility. The pharmacist or person-in-charge shall consider the following subjects for counseling, as appropriate under the specific circumstances:
  - (A) name, description, and purpose of the medication;
  - (B) route, dosage, administration, and continuity of therapy;
  - (C) special directions for use by the patient;
  - (D) common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur;
  - (E) techniques for self-monitoring drug therapy;
  - (F) proper storage;
  - (G) prescription refill information; and

(H) action to be taken in the event of a missed dose.

(4) As an initial matter, upon request by the patient or patient's representative, counseling may be conducted by recorded communication accompanied by instructions on how to access additional follow-up patient counseling via live communication from one of the persons in Subparagraph (2) of this Paragraph unless:

- (A) A pharmacist or person-in-charge may need to receive additional information regarding a patient in order to provide counseling consistent with this Rule in the exercise of professional judgment;
- (B) The recorded communication does not address all subjects of counseling that should be covered under the standard of Subparagraph (3) of this Paragraph; or
- (C) The circumstances require the pharmacist or person-in-charge of the device or medical facility to ensure that the patient understands the subjects of counseling in the exercise of professional judgment.

(5) The person performing counseling under this Paragraph is authorized to use recorded communication and alternative forms of patient information as a supplement to counseling in any circumstance in which it is within the exercise of professional judgment.

(f) With respect to inmates:

- (1) With respect to Paragraphs (a) and (b) of this Rule, a pharmacist or person-in-charge of a device or medical equipment facility, is not required to gather information beyond what may be gathered from records available to the pharmacy, including, for example, from the pharmacy's own records, from the penal institution, from the controlled substance reporting system, or from the health care provider.
- (2) The requirements of Paragraph (c) of this Rule remain in effect as to the information available under Subparagraph (1) of this Paragraph.
- (3) Offers to counsel under Paragraph (d) and patient counseling under Paragraph (e) may be made:
  - (A) Through printed or electronic material, where such material can be provided to the patient; or
  - (B) By a correctional or law enforcement officer, where such material cannot be provided or in addition to such material.

(g) With respect to inpatients of health care facilities, as defined in Rule .1317 of this Chapter, who are administered a drug, device, or medical equipment by an authorized health care professional in the health care facility:

- (1) The requirements of Paragraphs (a), (b) and (c) of this Rule remain in effect, though the information required in Paragraph (a) of this Rule may be gathered by any authorized health care professional, in addition to or instead of the persons set forth in Paragraph (b) of this Rule.
- (2) Paragraphs (d) and (e) of this Rule do not apply.
- (h) In addition to the counseling set forth in this Rule and regardless of patient request, persons-in-charge of device and medical equipment permit holders shall give written notice of warranty, if any, regarding service after the sale.
- (i) Records of compliance with this Rule shall be maintained for three years in accordance with Section .2300 of this Chapter.

*History Note: Authority G.S. 90-85.6; 90-85.22; 90-85.32; 42 U.S.C. 1396r-8(g); Eff. January 4, 1993; Amended Eff. June 1, 2004; July 1, 1996; September 1, 1995; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017; Amended Eff. September 1, 2024.*

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**CHAPTER 50 – BOARD OF EXAMINERS OF PLUMBING, HEATING AND FIRE SPRINKLER CONTRACTORS**

**21 NCAC 50 .0301 QUALIFICATIONS DETERMINED BY EXAMINATION**

(a) In order to determine the qualifications of an applicant, the Board shall administer a written or computer-based examination covering the following categories:

- (1) Plumbing Contracting, Class I
- (2) Plumbing Contracting, Class II
- (3) Heating, Group No. 1 - Contracting, Class I
- (4) Heating, Group No. 1 - Contracting, Class II
- (5) Heating, Group No. 2 - Contracting, Class I
- (6) Heating, Group No. 3 - Contracting, Class I
- (7) Heating, Group No. 3 - Contracting, Class II
- (8) Fuel Piping Contractor
- (9) Fire Sprinkler Installation Contractor
- (10) Fire Sprinkler Inspection Contractor
- (11) Residential Fire Sprinkler Installation Contractor
- (12) Restricted Limited Plumbing Contractor
- (13) Fire Sprinkler Inspection Technician
- (14) Limited Fire Sprinkler Maintenance Technician
- (15) Plumbing Technician, Class I
- (16) Plumbing Technician, Class II
- (17) Heating Group No. 1 Technician, Class I
- (18) Heating Group No. 1 Technician, Class II
- (19) Heating Group No. 2 Technician
- (20) Heating Group No. 3 Technician, Class I
- (21) Heating Group No. 3 Technician, Class II
- (22) Fuel Piping Technician
- (23) Private Educational Institution Plumbing Technician

- (24) Private Educational Institution Heating Group 1 Technician
- (25) Private Educational Institution Heating Group 2 Technician
- (26) Private Educational Institution Heating Group 3 Technician
- (27) Residential Fire Sprinkler Design Contractor

(b) Each person being examined by the Board for a contractor license, other than a Fire Sprinkler Installation or Fire Sprinkler Inspection Contractor license, shall be required to pass both the business and law part and the technical part of the examination required by G.S. 87-21(b).

(c) Applicants for licensure as a Fire Sprinkler Installation Contractor shall submit evidence of current certification by the National Institute for Certification of Engineering Technologies (NICET) for Automated Sprinkler System Layout as a prerequisite for licensure. Applicants for licensure as a Fire Sprinkler Installation Contractor shall pass the business and law part of the examination administered by the Board. Persons licensed based upon NICET certification shall maintain such certification as a condition of license renewal.

(d) Applicants for licensure in the Fire Sprinkler Inspection Technician classification shall pass the technical examination offered by the Board. The Board shall accept the results of NICET examinations resulting in Level II Certification in "Inspection and Testing of Water-based Systems" by NICET. Persons who obtain a license as a Fire Sprinkler Inspection Technician based on NICET certification shall maintain such certification as a condition of license renewal.

(e) Applicants for licensure as a Fire Sprinkler Inspection Contractor shall submit evidence of Level III certification in "Inspection and Testing of Water-based Fire Systems" by NICET in lieu of the technical part of the Board-administered examination. Applicants for licensure as a Fire Sprinkler Inspection Contractor shall also pass the business and law part of the examination administered by the Board. Contractors who obtain a license by NICET certification shall maintain such certification thereafter as a condition of license renewal.

(f) Applicants for licensure in the Limited Fire Sprinkler Maintenance Technician classification shall obtain a license based on maintenance experience, education, and job classification, as set forth in Rule .0306 of this Section and pass a test administered by the Board.

(g) Applicants for licensure as a Residential Fire Sprinkler Installation Contractor shall obtain a license based on experience, as set forth in Rule .0306 of this Section, and shall pass the technical part of the Residential Fire Sprinkler Installation Contractor examination.

(h) Applicants for licensure as a Plumbing, Heating, or Fuel Piping Technician shall obtain a license based on experience, as set forth in Rule .0306 of this Section, and shall pass the Class I or the Class II technical and Board laws and rules parts of the Board-administered examination related to the category for which a technician license is sought.

(i) Applicants who hold an active Plumbing, Heating, or Fuel Piping Technician Class I or Class II license obtained by examination, may obtain the Plumbing, Heating or Fuel Piping Contractor Class I or Class II license in the same category and class by meeting the experience requirement listed in Rule .0306

of this Section for the specific contractor license sought and by passing only the business portion of the examination.

(j) Applicants for licensure as a Restricted Limited Plumbing Contractor shall obtain a license based on experience, as set forth in Rule .0306 of this Section, and shall be required to pass both the business and law part and the technical part of the Restricted Limited Plumbing Contractor examination.

(k) In lieu of the requirements of Paragraph (j) of this Rule, applicants for a Restricted Limited Plumbing Contractor License who present a current active License from the North Carolina Irrigation Contractor Licensing Board may take the examination, provided the applicant demonstrates that he or she holds certification as a Backflow Inspector from one of the municipalities in North Carolina, or demonstrates 500 hours of experience in the maintenance, service, or repair of components of plumbing systems.

(l) In lieu of the requirements of Paragraph (j) of this Rule, applicants for a Restricted Limited Plumbing Contractor License who present a current active certification as an On-site Wastewater Contractor, issued by the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board, may take the examination, provided the applicant demonstrates that he or she has attended a minimum of 8 semester hours of education in a plumbing program through a North Carolina Community College program or demonstrates 500 hours of experience in the maintenance, service, or repair of components of plumbing systems.

*History Note: Authority G.S. 87-18; 87-21(a); 87-21(b); Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. July 1, 1991; May 1, 1989; August 1, 1982; Temporary Amendment Eff. September 15, 1997; Amended Eff. March 1, 2005; January 1, 2004; July 1, 2003; August 1, 2002; July 1, 1998; Emergency Amendment Eff. December 5, 2005; Emergency Amendment Expired February 13, 2006; Amended Eff. April 1, 2014; July 3, 2012; January 1, 2010; May 1, 2006; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015; Amended Eff. October 1, 2024; July 1, 2020.*

**21 NCAC 50 .0306 APPLICATIONS: ISSUANCE OF LICENSE**

(a) All applicants for licensure or examination shall submit an application, setting forth the information required in G.S. 87-21 and the rules of this Chapter, on a form available on the Board website, <http://www.nclicensing.org>. or at the Board office.

(b) Applicants for a plumbing or heating examination shall present evidence when submitting an application to establish completion of two years of full-time experience in the installation, maintenance, service, or repair of plumbing or heating systems related to the category for which a license is sought, whether or not a license was required for the work performed. Applicants for a fuel piping examination shall present evidence when submitting an application to establish completion of one year of experience in the installation, maintenance, service, or repair of fuel piping, whether or not a license was required for the work performed. Up

to one-half of the experience may be in academic or technical training related to the field of endeavor for which examination is requested. The Board shall prorate part-time work of less than 40 hours per week or part-time academic work of less than 15 semester or quarter hours.

(c) The Board shall issue a license certificate bearing the license number assigned to the qualifying individual.

(d) Fire Sprinkler Installation Contractors shall meet experience requirements in accordance with the National Institute for Certification in Engineering Technologies (NICET) examination criteria.

(e) Applicants for examination or licensure in the Fire Sprinkler Inspection Technician classification shall submit evidence adequate to establish that the applicant has either:

- (1) 4000 hours of experience in inspection and testing of previously installed fire sprinkler systems, consistent with NFPA-25: Standard for the Inspection Testing and Maintenance of Water-Based Fire Protection Systems of the National Fire Protection Association, adopted by the North Carolina Building Code, which is hereby incorporated by reference, including all subsequent editions and amendments, as a full-time employee of a Fire Sprinkler Inspection Contractor or fire insurance underwriting organization. The document may be accessed free of charge at <http://www.nfpa.org/codes-and-standards/>;
- (2) 4000 hours of experience as a full-time employee of a hospital, manufacturing, government, or university facility under direct supervision of Fire Sprinkler Inspection Contractor or a Fire Sprinkler Inspection Technician involved in inspection and testing of previously installed fire sprinkler systems, consistent with NFPA 25: Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems of the National Fire Protection Association, which is hereby incorporated by reference, including all subsequent editions and amendments. The document may be accessed free of charge at <http://www.nfpa.org/codes-and-standards/>;
- (3) 4000 hours of experience in installation of fire sprinkler systems as a full-time employee of a Fire Sprinkler Installation Contractor; or
- (4) a combination of 4000 hours of experience in any of the categories listed in this Paragraph.

(f) Applicants for licensure in the Fire Sprinkler Inspection Contractor classification shall meet experience requirements in accordance with the National Institute for Certification in Engineering Technologies (NICET) certification criteria.

(g) Applicants for initial licensure in the Limited Fire Sprinkler Maintenance Technician classification shall submit evidence of 2000 hours experience at the place for which license is sought as a full-time maintenance employee in facility maintenance with experience in periodic maintenance of fire protection systems, as described in Rule .0515 of this Chapter. Applicants who have held a Limited Fire Sprinkler Maintenance Technician license

previously are not required to demonstrate experience in addition to the experience at the time of initial licensure, but shall submit a new application if relocating to a new location.

(h) Applicants for licensure in the Residential Fire Sprinkler Installation Contractor classification shall hold an active Plumbing Class I or Class II Contractor license issued by the Board for a minimum of two years and shall document attendance at a 16-hour course approved by the Board pursuant to the Rules in this Chapter covering NFPA 13D: Standard for the Installation of Sprinkler Systems in One-and Two-Family Dwellings and Manufactured Homes, which is hereby incorporated by reference, including all subsequent editions and amendments. The document may be accessed free of charge at <http://www.nfpa.org/codes-and-standards/>. Residential Fire Sprinkler Installation Contractors shall maintain a Plumbing Contractor license as a condition of renewal of the Residential Fire Sprinkler Installation Contractor license.

(i) Applicants for Licensure as a plumbing or heating Class I technician shall present evidence adequate to establish 3000 hours of full-time experience in the installation, maintenance, service, or repair of plumbing or heating systems related to the category for which a technician license is sought, whether or not a license was required for the work performed. Applicants for a license as a plumbing or heating Class II technician shall present evidence adequate to establish 2500 hours of full-time experience in the installation, maintenance, service, or repair of plumbing or heating systems related to the category for which a technician license is sought, whether or not a license was required for the work performed. Applicants for a license as a fuel piping Class I technician shall present evidence adequate to establish 1500 hours of experience in the installation, maintenance, service, or repair of fuel piping, whether or not a license was required for the work performed. Applicants for a license as a fuel piping Class II technician shall present evidence adequate to establish 1500 hours of experience in the installation, maintenance, service, or repair of fuel piping, whether or not a license was required for the work performed. Up to one-half of the experience may be in academic or technical training related to the field of endeavor for which the examination is requested.

(j) Applicants for a Restricted Limited Plumbing Contractor license shall present evidence at the time of application to establish 1500 hours of full-time experience in the installation, maintenance, service, or repair of plumbing systems, whether or not a license was required for the work performed. Up to one-half of the experience may be in academic or technical training related to the field of endeavor for which examination is requested. The Board shall prorate part-time work of fewer than 40 hours per week or part-time academic work of less than 15 semester or quarter hours.

(k) In lieu of the requirements of Paragraph (j) of this Rule, applicants for a Restricted Limited Plumbing Contractor License who present a current active License from the North Carolina Irrigation Contractor Licensing Board may take the examination, provided the applicant demonstrates that he or she holds certification as a Backflow Inspector from one of the municipalities in North Carolina, or demonstrates 500 hours of experience in the maintenance, service, or repair of components of plumbing systems.

(l) Applicants for license based on completion of an apprenticeship program as described in G.S. 93B-8.6(b) shall meet the same experience and training requirements for the category of license sought as is set forth in this Rule.

*History Note: Authority G.S. 87-18; 87-21(b); Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. January 1, 2004; July 1, 2003; August 1, 2002; July 1, 1998; September 1, 1994; November 1, 1993; April 1, 1991; May 1, 1990; Temporary Amendment Eff. August 31, 2004; Amended Eff. April 1, 2014; July 3, 2012; January 1, 2010; June 1, 2006; March 1, 2005; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015; Amended Eff. October 1, 2024; July 1, 2020; April 1, 2018.*

**21 NCAC 50. 0318 LICENSE IN GOOD STANDING**

A license has been maintained in good standing for the purposes of G.S. 87-21(b)(3) if the license:

- (1) has remained continuously active for 10 years as of the date of the application request;
- (2) is current as to all fees payable to the Board as of the date of the application request; and
- (3) has not been the subject of a disciplinary order that imposed a sanction that included supervised probation, suspension, revocation or restoration of a revoked license during the 10-year period preceding the date of the application request for a Class II plumbing or heating license.

*History Note: Authority: G.S. 87-18; 87-21(b)(3); Eff. October 1, 2024.*

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**CHAPTER 66 - VETERINARY MEDICAL BOARD**

**21 NCAC 66 .1001 BOARDING KENNEL RECORDS**

Operators of a boarding kennel, as defined in G.S. 90-181.1(b)(1a), shall maintain records, as part of the medical record, of all dogs and cats, that include the following information:

- (1) name and address of owner or person responsible for animal, the date of entry and signature of the person leaving the animal; and the date of release and signature and address of individual to whom animal is released;
- (2) description of animal including breed or breed type, sex, age, and color markings;
- (3) veterinary care provided while boarded, which shall include date, times of administration, description of medication and initials of person administering the medication or procedure. The description of the medication shall include the name, strength or concentration, dosage, and dosing regimen. The dosage regimen shall include the frequency and duration, to include

- the number of dosages or days to be given the medication and the reason for the administration;
- (4) all records shall be created and/or updated at the time of the occurrence, such as intake, medication, treatment administration, and/or release. The record shall be accurate; creation of a misleading record, or deliberate or non-incident falsification of a record, including medication administration during or after an investigation or inspection, shall be considered a violation of this regulation;
- (5) an incident file shall be kept within each facility for animals sustaining injury or illness requiring veterinary care; animal death; and/or any animal escape. Each report shall include the date of the incident, the pet's name, breed or breed type/species, age, owner's name and contact information, description of incident and course of action taken; and
- (6) in the event of either an animal death or escape, while boarding not incidental to the practice of veterinary medicine, the licensee shall notify the North Carolina Veterinary Medical Board within 48 hours.

- (3) "Behavioral-control device" means any apparatus used to control a pet animal's behavior.
- (4) "Boarding Kennel" as defined in G.S. 90-181.1(b)(1a).
- (5) "Cage" means a primary enclosure which is enclosed on all sides including the top and bottom.
- (6) "Compatible group" means all animals in the group comingle peacefully without the presence of aggressive, harassing, and/or agitating behaviors toward any other member(s) of the group.
- (7) "Common area(s)" means areas of the facility in which multiple animals may have access such as walkway(s), facility lobby(ies), hallway(s), area(s) around primary enclosures and exercise areas, and other such similar areas.
- (8) "Disposition" means the death, euthanasia, release, or transfer from a facility.
- (9) "Enrichment" means providing objects or activities, appropriate to the needs of the species as well as the age, size, and condition of the animal, that stimulates the pet and promotes the pet's well-being.
- (10) "Exercise area" means an enclosed space in which an animal(s) is confined, and which is large enough for species-appropriate activity such as walking, running, climbing, jumping, socialization and/or play to occur.
- (11) "Husbandry" means the practice of daily care administered to animals.
- (12) "Impervious to moisture" means a surface that prevents the absorption of fluids and that can be thoroughly and repeatedly sanitized, will not retain odors, and from which fluids bead up and run off or can be removed without being absorbed into the surface material.
- (13) "Infirm" means not physically or mentally strong, especially through age or illness.
- (14) "Isolation" means the separation, for the period of communicability, of infected animals from others in such a place and under such conditions to prevent the direct or indirect transmission of the infectious agent from those infected to those that are susceptible or that may spread the agent to others.
- (15) "Isolation area" means a location where animals infected with disease may be placed to contain, control, and limit the spread of the disease.
- (16) "Permit period" means January 1 through December 31.
- (17) "Long term care" means the housing of an animal for a period of more than 30 consecutive days.
- (18) "Potable" means suitable for drinking.
- (19) "Properly cleaned" means the removal of carcasses, debris, food waste, excrement, urine,

*History Note: Authority G.S. 90-185; 90-187.10; S.L. 2023-63; Eff. January 1, 2025.*

**21 NCAC 66 .1002 INSPECTION OF RECORDS**

Boarding kennels shall make all medical records available to the North Carolina Veterinary Medical Board or its authorized representative, on request, during business hours, during an inspection of the facility, and during an investigation. The operator must be able to match each animal to its records upon request. Records shall be maintained for a period of three years after the animal is released from a boarding kennel.

*History Note: Authority G.S. 90-185; 90-186; 90-187.10; S.L. 2023-63; Eff. January 1, 2025.*

**21 NCAC 66 .1003 DEFINITIONS**

As used in this Section:

- (1) "Accessories" means any objects used in cleaning and sanitizing primary enclosures, exercise areas, or objects to which an animal may have access, including, but not limited to toys, blankets, food and water utensils, and bedding.
- (2) "Adequate" means a condition which, when met, does not jeopardize an animal's comfort, safety or health. Adequate veterinary care means provision of veterinary care sufficient to address the relief of pain and/or suffering experienced by the animal and sufficient to address the medical condition.

- dirty or soiled accessories and other organic material with adequate frequency.
- (20) "Social interaction" means friendly physical contact or play between animals of the same species or with a person. Physical contact or play with the caretaker during cage cleaning and/or sanitation is not considered social interaction.
- (21) "Special provisions" means additional procedures, protocols, and/or equipment used when caring for, housing, and/or transporting animals with special needs. Examples of animals with "special needs" include, but are not limited to, brachycephalic breeds, very young or old animals, animals with a medical condition, infirm animals, and/or animals that are compromised or debilitated.
- (22) "Suitable method of drainage" means drainage that allows for the elimination of water and waste products, prevents contamination of animals, allows animals to remain dry, and complies with applicable building codes and local ordinances.
- (23) "Supervision " means at least one person (at least 16 years of age) present, at all times, who is able to constantly and directly view all animals within the entirety of each enclosure or exercise area.

*History Note: Authority G.S. 90-185; 90-187.1; S.L. 2023-63; Eff. January 1, 2025.*

**21 NCAC 66 .1004 PERMITS AND REGISTRATIONS**

All operators of a boarding kennels, as defined in G.S. 90-181.1(b)(1a), shall have a valid veterinary facility permit and a valid boarding kennel permit. Boarding kennel permits shall be submitted with veterinary facility permit applications, or if adding a boarding kennel, then by completion of a boarding kennel application permit. The content of the applications shall include the following:

- (1) the name, physical address, phone number, email address and mailing address for the veterinary facility permit;
- (2) the name, address, phone number, and email address for the owner of the facility;
- (3) the hours and days the facility is open to the public;
- (4) the cleaning hours of the facility;
- (5) the number of enclosures and the maximum number of animals on site;
- (6) the description of the facility's program of veterinary care ('PVC') including the disinfection protocols; vaccination protocols, including rabies vaccination; the isolation of ill or injured animals; the sale/adoption/transfer of animals; and the provision of routine, emergency, and after hours veterinary care;

- (7) statement of presence of an emergency disaster plan for the facility; and
- (8) statement of agreement by the owner or authorized agent of the accuracy of the information contained in the application; of the willingness to comply with the rules of this section and to cooperate as required by law with the Board inspections and investigations; acknowledgement of authority to execute the application; and agreement to notify the Board of any significant change in the operation of the facility.

*History Note: Authority G.S. 90-185; 90-186; 90-187.1; S.L. 2023-63; Eff. January 1, 2025.*

**21 NCAC 66 .1101 GENERAL**

- (a) Housing facilities for dogs and cats shall be structurally sound and maintained to protect the animals from injury, contain the animals, and restrict the entrance of other animals and people.
- (b) All light fixtures and electrical outlets in animal areas shall be in compliance with the State Building Code. Electrical appliances, light fixtures, electrical outlets, and electrical cords shall be located or protected in such a way that animals do not have access to them.
- (c) Facilities shall have adequate, as defined in Rule .1003 of this Chapter, electric power.
- (d) Storage of food and bedding:
  - (1) food and bedding shall be stored in cabinets and/or sealed containers which adequately protect such supplies against infestation or contamination by vermin and insects;
  - (2) all open bags of food and edible treats shall be stored in airtight containers with lids;
  - (3) refrigeration shall be provided for supplies of perishable food including opened cans of food;
  - (4) clean bedding and laundry shall be: stored in cabinets and/or sealed containers; stored separately from soiled laundry and materials; and stored separately from general housing areas for animals; and
  - (5) in areas housing animals being observed or treated for contagious disease, bedding shall only be stored in sealed cabinets if that clean laundry is dedicated solely for the use for those specific animals.
- (e) The facility shall provide for the daily removal and disposal of animal and food waste, soiled bedding, and debris from the facility, in accordance with local ordinances, to assure the facility will be maintained in a clean and sanitary manner.
- (f) Hot and cold running, potable water, as defined in Rule .1003 and compliant with Rule .1106 of this Section, must be available. Facilities such as a washroom, basin, or sink shall be provided to maintain cleanliness among animal caretakers, animals, and animal food and water receptacles.
- (g) Each facility shall have the ability to confirm ambient temperature. A functional room thermometer shall be present in

each separate area of indoor enclosures, common areas, and exercise areas.

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

(i) A suitable method of drainage, as defined in Rule .1003 of this Chapter, must be installed for the facility.

(j) All areas of a facility are subject to review or inspection by the Board or its authorized representative during normal business hours (8:00 a.m. through 5:30 p.m. Monday through Friday).

(k) All animals in a facility are subject to the requirements of this Section, regardless of ownership.

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

(m) All persons of the facility shall be truthful with the Board during all phases of inspections or investigations.

(n) Neither an applicant for a permit or any agent of a facility may abuse, harass, delay, or obstruct any inspector or State official while inspectors or officials are attempting to discharge their official duties. For the purposes of this Rule, the following definitions apply:

- (1) "Abuse" means:
  - (A) Communicating a threat as defined by G.S. 14-277.1;
  - (B) Using profane, indecent, or threatening language to any person over the telephone, annoying or harassing by repeated telephoning or making false statements over the telephone as defined by G.S. 14-196;
  - (C) Cyberstalking as defined by G.S. 14-196.3;
  - (D) Stalking as defined by G.S. 14-277.3A; and/or
  - (E) Disorderly conduct as defined by G.S. 14-288.4.

(2) "Harass" means knowingly conduct, including oral, written, or printed communication or transmission, telephone, cellular, or other wireless telephonic communication, facsimile transmission, page messages or transmissions, answering machine or voice mail messages or transmissions, electronic mail messages, or other computerized or electronic transmissions directed at a specific person that torments, terrorizes or terrifies that person and that serves no legitimate purpose.

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

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

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

(r) All licensed and registered facilities must develop and maintain a plan of action for the continuity of care and/or evacuation of animals in the event of a natural or manmade disaster.

*History Note: Authority G.S. 90-185; 90-186; S.L. 2023-63; Eff. January 1, 2025.*

**21 NCAC 66 .1102 INDOOR FACILITIES**

- (a) Heating and cooling of indoor facilities:
  - (1) indoor facilities for dogs and cats shall be adequately heated and cooled to protect the dogs and cats from cold and heat and provide for their health and comfort;
  - (2) the ambient temperature shall not be allowed to fall below 50 degrees F or exceed 85 degrees F; and
  - (3) special provisions shall be provided to any animal that cannot maintain its normal body temperature. These special provisions shall be sufficient for the animal to maintain its normal body temperature and shall be documented in the animal's record.
- (b) Ventilation of indoor facilities:
  - (1) indoor housing facilities for dogs and cats shall be adequately ventilated to provide for the health and comfort of the animals at all times; the facilities shall be provided with fresh air by means of windows, doors, vents, and/or air conditioning and shall be ventilated so as to minimize drafts;
  - (2) air vents and/or air filters shall be cleaned and/or changed as often as necessary to minimize buildup of debris, dust, and biological material to prevent inhibition or restriction of air flow; and
  - (3) air flow shall be adequate to minimize odors and moisture condensation.
- (c) Indoor housing facilities for dogs and cats shall have sufficient illumination to enable routine inspections, maintenance, cleaning and housekeeping of the facility and observation of the animals. Illumination shall provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the animal facilities.
- (d) Interior building surfaces of indoor facilities with which animals come in contact shall be constructed and maintained so that they are impervious to moisture and can be readily sanitized.
- (e) Drainage of indoor housing facility:
  - (1) a suitable method of drainage shall be installed to rapidly eliminate excess water from an indoor housing facility;
  - (2) if closed drain systems are used, they shall be equipped with traps and installed to prevent odors and backup of sewage; and

- (3) the drainage system shall be constructed with barriers adequate to protect the animals from cross-contamination with urine and fecal material from animals housed in adjacent and/or nearby enclosures and/or exercise areas.

*History Note: Authority G.S. 90-185; 90-187.1; S.L. 2023-63; Eff. January 1, 2025.*

**21 NCAC 66 .1103 OUTDOOR FACILITIES**

(a) In outdoor facilities that are subject to this Section, primary enclosures, common areas and walkways with which an animal comes in contact:

- (1) shall have groundcover constructed of sealed concrete or other surfaces so long as it is impervious to moisture, and/or;
- (2) may use gravel for groundcover so long as it is maintained at a minimum depth of six inches and maintained in a sanitary manner as prescribed in Rule .1107 of this Section.

(b) Exercise areas of outdoor facilities:

- (1) shall have flooring or groundcover constructed of sealed concrete or other surfaces impervious to moisture; and/or
- (2) use gravel for groundcover so long as it is maintained at a minimum depth of six inches and kept in a sanitary manner; and/or
- (3) artificial turf may be allowed so long as it is adequately maintained in good repair, is replaced when damaged, and is cleaned and sanitized in accordance with Rule .1107 of this Section; and/or
- (4) may contain established grass so long as the animal(s) do not have access to bare dirt and the grass covered area(s) must be kept properly cleaned and sanitized as prescribed in Rule .1107 of this Section. In the event of a contagious disease outbreak, the sanitation, management, and use of the grass area shall be documented in the veterinarian's written protocol required by Rule .1109(b) and (c) of this Section.

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

(d) Dogs and cats in outdoor primary enclosures shall be provided housing to allow them to remain dry and comfortable during inclement weather:

- (1) housing shall be constructed of material which is impervious to moisture and which can be cleaned and sanitized in accordance with Rule .1107 of this Section;
- (2) one house shall be available for each animal within each primary enclosure. The house(s) shall be of adequate size for the animal housed in the enclosure. In the case of a mother and her unweaned offspring, one house of adequate size

to comfortably house the mother and all the offspring together must be provided;

- (3) housing structures in outdoor facilities must contain clean, dry bedding or a heat source when the temperature falls below 32 degrees F;
- (4) special provisions shall be provided to any animal that cannot maintain its normal body temperature when housed outside. These special provisions shall be adequate for the animal to maintain its normal body temperature and shall be documented in the animal's record. If the animal cannot maintain its normal body temperature even with special provisions, then that animal shall not be housed outside. No infirm animal may be housed outdoors; and
- (5) in addition to housing, the enclosure shall provide protection from excessive sun and inclement weather.

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

(f) Outdoor common areas used for play, enrichment and elimination shall be maintained in adequate repair and be properly cleaned and sanitized, as set forth in Rule .1107 of this Section, to protect the animals from injury and/or illness.

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

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

*History Note: Authority G.S. 90-185; 90-187.1; S.L. 2023-63; Eff. January 1, 2025.*

**21 NCAC 66 .1104 PRIMARY ENCLOSURES**

(a) Primary enclosures and exercise areas shall be constructed so as to prevent contamination from waste and wastewater from animals in other enclosures. All surfaces where an animal comes in contact shall be impervious to moisture, excluding the ground cover options of gravel and grass allowed for in Rule .1103 of this Section.

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

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

(d) Primary enclosures shall be constructed so as to provide space to allow each dog or cat to walk, turn about freely, stand with their tails erect, and sit or lie in a natural position with their limbs

extended without touching other animals within the enclosure, or the sides or top covering of the enclosure.

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

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

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

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

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

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

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

(l) Pregnant dogs and cats shall be housed singly in a primary enclosure. Nursing dogs and cats shall be housed only with their litter in a primary enclosure until the litter has been weaned. The primary enclosure shall be of sufficient size to allow the dam and all animals in the litter to walk, turn about freely, nurse, to easily stand with their tails erect, and sit or lie in a natural position with their limbs extended without touching other animals within the enclosure, the sides, or top covering of the enclosure, and to leave the whelping/queening area for open exercise.

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

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

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

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

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

*History Note: Authority G.S. 90-185; 90-187.1; S.L. 2023-63; Eff. January 1, 2025.*

**21 NCAC 66 .1105 FEEDING**

(a) Dogs and cats older than six months shall be fed at least once each 24-hour period.

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

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

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

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

(e) The food shall be free from contamination, wholesome, palatable, and of sufficient quality and quantity appropriate of the

given size, age, and condition of an animal to meet the daily requirements for nutritional value.

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

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

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

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

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

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

(l) This Rule is applicable only to animals identified within this Section.

*History Note: Authority G.S. 90-185; 90-186; S.L. 2023-63; Eff. January 1, 2025.*

### **21 NCAC 66 .1106 WATERING**

(a) Animals, subject to this Subchapter, shall have continuous access to fresh, potable water, except when directed by a veterinarian to limit access.

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

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

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

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

(e) Damaged receptacles shall be replaced.

*History Note: Authority G.S. 90-185; 90-187.1; S.L. 2023-63; Eff. January 1, 2025.*

### **21 NCAC 66 .1107 SANITATION**

(a) Waste shall be removed from primary enclosures, exercise areas, and common areas to prevent contamination of the dogs or cats contained therein and to reduce disease hazards and odors. Enclosures and exercise areas for dogs and cats shall be thoroughly cleaned a minimum of two times per day. The animal

must be able to walk or lie down without coming in contact with any waste or debris.

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

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

(d) Sanitation shall be as follows:

- (1) Prior to the introduction of dogs or cats into empty primary enclosures previously occupied, enclosures and accessories shall be sanitized in the manner provided in Subparagraph (d)(3) of this Rule;
- (2) In addition to primary enclosures being properly cleaned a minimum of two times per day, enclosures and accessories shall be sanitized a minimum of once every seven days, in the manner provided in Subparagraph (d)(3) of this Rule, if the same animal is housed in the same enclosure for seven or more days;
- (3) Primary enclosures, cages, rooms, hard-surfaced or artificial turf exercise areas, pens, and runs shall be sanitized by:
  - (A) washing them with hot water (180 degrees F.) and soap or detergent as in a mechanical cage washer; or
  - (B) removal of visible organic matter, precleaning all soiled surfaces with a detergent or degreaser solution, followed by the application, at the correct concentration, of an animal-safe disinfectant labeled to be effective against common pathogens. The disinfectant is to be left on the surfaces for the time indicated by the manufacturer. After such time, all surfaces shall be thoroughly rinsed to remove all residual chemicals and then the area dried prior to returning the animal(s) to this area; or
  - (C) cleaning all soiled surfaces with live steam. The area is to be cooled and dried prior to the return of the animal(s).
- (4) Common areas, any area accessible to multiple animals, and exercise areas not covered by Subparagraph (d)(3) of this Rule shall be kept clean and sanitary. These areas are to be properly cleaned a minimum of two times per day. Hard and/or impervious surfaces of these areas shall be sanitized a minimum of once every seven days in the manner provided in Subparagraph (d)(3) of this Rule;
- (5) Food and water receptacles shall be sanitized daily with hot water, detergent, and

- (6) disinfectant. The disinfectant shall be used consistent with the manufacturer's directions; Soiled linens and cloth products shall be mechanically washed with detergent and sanitized;
- (7) Any area accessible to multiple animals shall be kept clean and sanitary; and
- (8) Fans, including floor fans, ceiling fans, wall fans, and vent fans, shall be kept clean of accumulated debris, dust, and biological material.

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

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

*History Note: Authority G.S. 90-185; 90-186; 90-187.1; S.L. 2023-63; Eff. January 1, 2025.*

**21 NCAC 66 .1108 CLASSIFICATION AND SEPARATION**

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

- (1) Females in season (estrus) shall not be housed in the same primary enclosure or exercise area with intact or neutered males.
- (2) In boarding kennels, animals of different owners shall not have contact with other animals, unless written permission is obtained from the animal's owner. The documentation of this written permission shall be kept as part of the animal's record for one year and must be renewed yearly thereafter.
- (3) Any dog or cat exhibiting an aggressive disposition shall be housed individually in a primary enclosure. Housing of aggressive animals shall be such that the animals are prevented from biting or injuring another animal or human.
- (4) Puppies or kittens less than six months of age shall not be housed in the same primary enclosure with adult dogs or cats other than their dams, except when permanently maintained in breeding colonies, or if requested in writing, by the animals' owner, as in a boarding kennel. Puppies or kittens between 4 and 16 weeks of age shall have daily access to human social interaction in addition to the human interaction during the cleaning and sanitation of the enclosures, excluding animals

which pose a danger to humans or other animals.

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

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

- (7) Animals in long term care must be provided with human interaction other than interaction for enclosure cleaning, same species social interaction, opportunity for play and exercise, and environmental enrichment daily. The provision of these daily interactions and enrichment shall be adequate for the animal's species, age, size and behavior needs. In addition:

- (a) The provision of the daily social interactions and enrichment shall be documented in the animal's records and the records maintained for three years; and
- (b) Exemptions from these long-term care provisions are allowed only for safety or health reasons and must be approved by a veterinarian. This exemption must be reviewed and renewed every 30 days if the continuation is necessary. Documentation of the exemption must include the reason for the exemption, the name and contact information of the veterinarian authorizing the exemption, the original exemption date and the dates of review and renewal and alternative(s) offered, if any.

- (8) All animals shall be confined in primary enclosures or exercise areas. Primary enclosures and exercise areas shall be inspected and in compliance with Rules .1103 and .1104 of this Section before an animal can be confined in the enclosure or area.

*History Note:* Authority G.S. 90-185; 90-187.10; S.L. 2023-63; Eff. January 1, 2025.

**21 NCAC 66 .1109 VETERINARY CARE**

(a) A written Program of Veterinary Care (PVC), to include disease control and prevention, vaccination, euthanasia, disposition of diseased, ill, injured, infirm or deformed animals, and provision of adequate routine and emergency veterinary care, shall be established by the owner and supervising veterinarian at each facility. The following is required of each PVC:

- (1) the PVC for boarding kennels shall be submitted as part of the application and must be approved by the Board;
- (2) the facility shall implement and follow the PVC; and
- (3) changes to the PVC shall be submitted for approval to the Board within 10 days of the effective date.

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

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

(d) Each dog and cat shall be observed daily by the animal caretaker who has been adequately trained, or is experienced in animal care, or is under the direct supervision of a person who has such training or experience. Sick or diseased, injured, lame, or blind dogs or cats shall be provided with veterinary care.

(f) All animals in a facility shall be in compliance with the North Carolina Rabies Law, G.S. 130A, Article 6, Part 6.

(g) Boarding kennels shall not administer a prescription medication, tranquilizer, sedative, or any pharmaceutical drug designed to calm an animal unless the medication or drug is administered under the direction of or by prescription from the animal's veterinarian, and written permission from the animal's owner. In the event a boarding kennel agrees to administer such medications or substances, the medications shall be in the original container issued by the veterinarian or pharmacy and administered according to label directions. The administration of these medications or substances shall be documented as required by Rule .1001 of this Chapter.

*History Note:* Authority G.S. 90-185; 90-187.10; S.L. 2023-63; Eff. January 1, 2025.

**21 NCAC 66 .1110 DISCIPLINE OF BOARDING KENNEL PERMITS**

(a) The Board shall investigate any complaint within its jurisdiction. The investigation and any resulting hearings shall be conducted pursuant to Sections .0600 and .0700 of this Chapter. Following an investigation and the boarding kennel permittee's opportunity to be heard, the Board may:

- (1) revoke or suspend a boarding kennel permit issued under this Chapter;
- (2) discipline the boarding kennel permittee permitted under this Chapter in accordance with the disciplinary measures set forth in Sections .0600 and .0700 of this Chapter;
- (3) deny a boarding kennel permit required by G.S. 90-186(8) and the rules of this Chapter based on violations of Board Rules, including, but not limited to, Rules .1001 - .1004 of this Chapter. For the purpose of this Rule, references to licensee or registrant in the provisions of Sections .0600 and .0700 of this Chapter are treated as references to owner and permittee. References to license are treated as references to boarding kennel permit.

(b) The Board may suspend, revoke, or deny issuance of a boarding kennel permit, without hearing, if:

- (1) A veterinary facility has not had a supervising veterinarian or an interim supervising veterinarian serving in that capacity for more than five business days.
- (2) The Board obtains a summary emergency order pursuant to the provisions of G.S. 90-186(3).
- (3) The owners of the veterinary facility have failed to notify the Board after 10 business days of a change in ownership of the facility or change in the supervising veterinarian.

(c) A boarding kennel permittee shall cease to operate the boarding kennel as of the date the Board notifies the boarding kennel permittee of the revocation of his or her boarding kennel permit. Within 24 hours of receiving notification of revocation, a boarding kennel permittee shall display the following information at the boarding kennel and through any existing medium of communication with the public, such as social media, a telephone answering system, or boarding kennel website:

- (1) information that the boarding kennel is closed;
- (2) the means by which clients may obtain their animal's medical records; and
- (3) notice of the Board's revocation of the boarding kennel permit.

*History Note:* Authority G.S. 90-186; S.L. 2023-63; Eff. January 1, 2025.

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**RULES REVIEW COMMISSION**

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

**RULES REVIEW COMMISSION MEMBERS**

**Appointed by Senate**

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

**Appointed by House**

Barbara A. Jackson (1<sup>st</sup> Vice-Chair)  
Randy Overton (2<sup>nd</sup> 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**

October 30, 2024      December 19, 2024  
November 26, 2024

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**RULES REVIEW COMMISSION MEETING  
MINUTES  
August 28, 2024**

The Rules Review Commission met on Wednesday, August 28, 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, Barbara Jackson, Randy Overton, and Jake Parker were present in the Commission Room. Commissioners Brandon Leebrick and Paul Powell were present via Webex.

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.

**APPROVAL OF MINUTES**

The Chair asked for any discussion, comments, or corrections concerning the minutes from the July 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 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None.

**LOG OF FILINGS (PERMANENT RULES)**

**Department of Health and Human Services**

Upon the call of the Chair, 10A NCAC 14E .0101, .0106, .0107, .0109, and .0111 were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None.

**Sheriffs' Education and Training Standards Commission**

Upon the call of the Chair, 12 NCAC 10B .0408 and .2201 were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

**Department of Public Safety**

Upon the call of the Chair, 14B NCAC 05B .0201 and .0501 were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

**Private Protective Services Board**

Upon the call of the Chair, 14B NCAC 16 .0115, .0201, .0203, .0301, .0302, .0401, .0402, .0501, .0701, .0702, .0706, .0801, .0802, .0806, .0902, .0904, .0910, .1101, .1102, .1103, .1104, .1105, .1301, .1302, .1306, .1401, .1402, .1406, .1501 and .1709 were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

**Alarm Systems Licensing Board**

Upon the call of the Chair, 14B NCAC 17 .0201, .0203, .0301, .0302, and .0306 were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

**Environmental Management Commission**

Prior to the review of the rule from the Environmental Management Commission, Commissioner Hahn recused himself and did not participate in the discussion or vote concerning the rule because of the potential for a conflict of interest.

Upon the call of the Chair, 15A NCAC 02H .0804 was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Randy Overton, Jake Parker, and Paul Powell – 7. Voting in the negative: None

**Board of Examiners of Electrical Contractors**

Upon the call of the Chair, 21 NCAC 18B .1101 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

**Board of Examiners in Optometry**

Upon the call of the Chair, 21 NCAC 42J .0101 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

**Board of Pharmacy**

Upon the call of the Chair, 21 NCAC 46 .2504 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

**Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors**

Upon the call of the Chair, 21 NCAC 50 .0301, .0306, and .0318 were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

**Veterinary Medical Board**

Upon the call of the Chair, 21NCAC 66 .1001, .1002, .1003, .1004, .1101, .1102, .1103, .1104, .1105, .1106, .1107, .1108, .1109, .1110 were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

**LOG OF FILINGS (TEMPORARY RULES)**

**North Carolina Agricultural Finance Authority**

Prior to the review of the rules from the North Carolina Agricultural Finance Authority, Commissioner Parker recused himself and did not participate in the discussion or vote concerning the rules because of the potential for a conflict of interest.

Upon the call of the Chair, the Commission voted to object to 02 NCAC 63 .0101, .0102, .0103, .0104, .0105, and .0106 finding that the rules did not satisfy G.S. 150B-21.9(a)(4). Specifically, the Commission adopted the written opinion of staff dated August 16, 2024 by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Randy Overton, and Paul Powell – 7. Voting in the negative: None

**Existing Rules Review**

**Department of Commerce**

Upon the call of the Chair, the report for 04 NCAC 20 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

**Commerce - Division of Employment Security**

Upon the call of the Chair, the report for 04 NCAC 24 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

**Manufactured Housing Board**

Upon the call of the Chair, the report for 11 NCAC 08 .0900 and .1400 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

**Alcoholic Beverage Control Commission**

Upon the call of the Chair, the report for 14B NCAC 15C was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

**Department of Health and Human Services**

Upon the call of the Chair, the report for 15A NCAC 01O was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

**Board of Certified Public Accountant Examiners**

Upon the call of the Chair, the report for 21 NCAC 08 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

**Board of Podiatry Examiners**

Upon the call of the Chair, the report for 21 NCAC 52 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

**State Human Resources Commission**

Upon the call of the Chair, the reports for 25 NCAC 01A, 01B, and 01C were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

**Office of Americans with Disabilities Act**

The rules for report 25 NCAC 02 automatically expired on July 21, 2024. No action was required by the Commission.

**COMMISSION BUSINESS**

Upon the call of the Chair, the Commission voted to adopt 26 NCAC 05 .0304 and submit the rule for publication in the NC Register by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

Staff presented an overview of proposed dates to the 2025 RRC meeting schedule. The proposed dates will be added to the September agenda for vote.

The Chair reminded the Commission that the annual election of officers will be held at the September meeting.

The meeting was adjourned at 10:57 a.m.

The next regularly scheduled meeting of the Commission is Wednesday, September 25, 2024, at 10:00 a.m.

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Alexander Burgos, Paralegal

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Minutes approved by the Rules Review Commission:  
Jeanette Doran, Chair

DRAFT

**RULES REVIEW COMMISSION**

**August 28, 2024**

Rules Review Commission  
Meeting  
Please **Print** Legibly

Name	Agency
Elly Young	NC DOJ
Reed Fountain	YMH
Margaret McDonald	DPS
Noel Abu Antoh	NC DPS
Sharon J. Martin	NCDOC - DES
Sara Fathi-Nejad	NCDOC - DES
Caroline Farmer	NC DPS
Eric R. Hart	NC DOT
Amber Thiel	NC Dept of Commerce
Christopher McLennan	NC DOT
Jeff M. Saxe	MSB/ASLB
Anga Hayworth	NEDACS
Ann Will	SOS
RAT PREMAKUMAR	NC DHIF
Bethanny Burgen	NC DOJ
Denise Mazza	OSHR
Kristin Mullins	DOJ / MHB
Shanah Blade	DHSR
Melissa Brewman	DOJ

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**RULES REVIEW COMMISSION**

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**Rules Review Commission Meeting August 28, 2024****Via WebEx**

<b>Name</b>	<b>Agency</b>
Todd Crawford	DEQ
Sophie Plott	Labor
Jessica Montie	DEQ
Julie Ventaloro	OSBM
Alisha Benjamin	DOI
Neal McHenry	Auditor
Emily Jones	DOT
Ashley Snyder	OAH
William Rafferty	Optometry
Laura Kilian	NCFB
Clint Pinyan	Pharmacy
Regina Kissinger	DHHS
Joan Sutton	NCBRTL
Laura Rowe	Treasurer
Jennifer Grady	BCBSNC
Laura Lansford	DOR
Nadine Pfeiffer	
Matt Skidmore	Veterinary
Tracy Steadman	NCBPE
Anne Coan	NCFB.
Keith West	NCVMB
David Nance	NCCPA
Lynne Sanders	NCCPA
Renee Metz	ABC
Mcghee, Dana	OAH
Johnny Loper	Optometry
Bob Nauseef	ABC

**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 V. I.

I have abstained because of the potential for a conflict of interest.

This the 28<sup>th</sup> day of August, 2024.

  
\_\_\_\_\_  
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.


**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

EMC Rule 15A NCAC 02H.0804

I have abstained because a potential conflict.

This the 28th day of August, 2024.



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.

**LIST OF APPROVED PERMANENT RULES**

**August 28, 2024 Meeting**

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

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

**SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION**

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

**PUBLIC SAFETY, DEPARTMENT OF**

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

**PRIVATE PROTECTIVE SERVICES BOARD**

<u>Complaints</u>	14B NCAC 16 .0115
<u>Application for License and Trainee Permits</u>	14B NCAC 16 .0201
<u>Renewal or Re-issue of Licenses and Trainee Permits</u>	14B NCAC 16 .0203
<u>Experience Requirements/Security Guard and Patrol License</u>	14B NCAC 16 .0301
<u>Experience Requirements for Guard Dog Service License</u>	14B NCAC 16 .0302
<u>Experience Requirements for a Private Investigator License</u>	14B NCAC 16 .0401
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