

NORTH CAROLINA REGISTER

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October 15, 2024

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PUBLISHED BY

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

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

Contact List for Rulemaking Questions or Concerns

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

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

Office of Administrative Hearings

Rules Division

1711 New Hope Church Road

984-236-1850

Raleigh, North Carolina 27609

984-236-1947 FAX

contact: Ashley B. Snyder, Codifier of Rules ashley.snyder@oah.nc.gov 984-236-1941
Dana McGhee, Publications Coordinator dana.mcgee@oah.nc.gov 984-236-1937
Cathy Matthews-Thayer, Editorial Assistant cathy.thayer@oah.nc.gov 984-236-1901

Rule Review and Legal Issues

Rules Review Commission

1711 New Hope Church Road

984-236-1850

Raleigh, North Carolina 27609

984-236-1947 FAX

contact: Brian Liebman, Commission Counsel brian.liebman@oah.nc.gov 984-236-1948
William W. Peaslee, Commission Counsel bill.peaslee@oah.nc.gov 984-236-1939
Seth M. Ascher, Commission Counsel seth.ascher@oah.nc.gov 984-236-1934
Travis Wiggs, Commission Counsel travis.wiggs@oah.nc.gov 984-236-1929
Alexander Burgos, Paralegal alexander.burgos@oah.nc.gov 984-236-1940

Fiscal Notes & Economic Analysis

Office of State Budget and Management

116 West Jones Street

Raleigh, North Carolina 27603-8005

Contact: Julie Ventaloro, Economic Analyst osbmruleanalysis@osbm.nc.gov 984-236-0694

NC Association of County Commissioners

919-715-2893

215 North Dawson Street

Raleigh, North Carolina 27603

contact: Amy Bason

amy.bason@ncacc.org

NC League of Municipalities

919-715-2925

424 Fayetteville Street, Suite 1900

Raleigh, North Carolina 27601

contact: Baxter Wells

bwells@nclm.org

Legislative Process Concerning Rulemaking

545 Legislative Office Building

300 North Salisbury Street

919-733-2578

Raleigh, North Carolina 27611

919-715-5460 FAX

Jason Moran-Bates, Staff Attorney

Chris Saunders, Staff Attorney

Aaron McGlothlin, Staff Attorney

NORTH CAROLINA REGISTER
Publication Schedule for January 2024 – December 2024

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

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

September 17, 2024

EXECUTIVE ORDER NO. 313

DECLARATION OF A STATE OF EMERGENCY

WHEREAS, Potential Tropical Cyclone Eight ("PTC 8") has caused significant flooding and impacts to public and private property and critical infrastructure in the State of North Carolina; and

WHEREAS, the impacts from PTC 8 constitute a state of emergency as defined in N.C. Gen. Stat. § 166A-19.3(6); 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, 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.

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 state of emergency, as defined in N.C. Gen. Stat. § 166A-19.3(6) exists in the State of North Carolina due to the impacts from PTC 8.

For purposes of this Executive Order, the emergency area is the following counties: Bladen, Brunswick, Columbus, and New Hanover ("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. Buffalo, Jr., the Secretary of the North Carolina Department of Public Safety ("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 Buffalo, 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 Buffalo, 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.

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 5.

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 6.

This Executive Order is effective immediately and shall remain in effect for thirty (30) days unless earlier terminated.

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 17th day of September in the year of our Lord two thousand and twenty-four.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State





State of North Carolina

ROY COOPER
GOVERNOR

September 18, 2024

EXECUTIVE ORDER NO. 314

AMENDMENT TO EXECUTIVE ORDER NO. 313

**EXPANDING THE EMERGENCY AREA TO ADDITIONAL COUNTIES AND
TEMPORARY SUSPENSION OF MOTOR VEHICLE REGULATIONS TO SUPPORT
THE RECOVERY EFFORTS IN NORTH CAROLINA**

WHEREAS, significant flooding from Potential Cyclone Eight (“PTC Eight”) caused major impacts to the public and private property and critical infrastructure in the State of North Carolina; and

WHEREAS, the impacts from PTC Eight have caused damages to the public and private infrastructure through a portion of the state that will require vehicles bearing equipment and supplies for debris removal, and essential commodities in commerce to be moved expeditiously through North Carolina on the intrastate highways; and

WHEREAS, Executive Order No. 313 declares that a state of emergency as defined in N.C. Gen. Stat. § 166A-19.3(6) exists in Bladen, Brunswick, Columbus, and New Hanover counties; and

WHEREAS, additional counties have reported impacts from PTC Eight; and

WHEREAS, expanding the state of emergency to the additional counties named in this Executive Order will assist in federal, state, and local efforts in responding to the flooding from PTC Eight; 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, 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 and any interruption in the delivery of those commodities threatens the public welfare; 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.

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.

The Emergency Area in Section 1 of Executive Order No. 313 is amended to include the following counties: Carteret, Dare, Onslow, and Pender.

Section 2.

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.

The 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. Weight exemptions shall not be in effect on bridges posted pursuant to N.C. Gen. Stat. § 136-72.

Section 3.

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 PTC Eight 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 PTC Eight.

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 PTC Eight in North Carolina, 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 PTC Eight 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 moves from emergency relief efforts to normal operations, a 10-hour break is required if the total time a driver operates, whether conducting emergency relief efforts or a combination of emergency relief efforts and normal operations, equals or exceeds fourteen (14) hours.

Section 4.

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

Section 5.


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 3 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 18th day of September in the year of our Lord two thousand and twenty-four.



Roy Cooper
Governor

ATTEST:



Rodney S. Maddox
Chief Deputy Secretary of State





NORTH CAROLINA
STATE BOARD OF ELECTIONS

Mailing Address:
P.O. Box 27255,
Raleigh, NC 27611
(919) 814-0700 or
(866) 522-4723
Fax: (919) 715-0135

Robert B. Long, Jr.
The Van Winkle Law Firm
11 North Market Street
Asheville, NC 28801

September 13, 2024

Re: Request for an advisory opinion under N.C.G.S. § 163-278.23 regarding contribution limits

Dear Mr. Long,

Thank you for your correspondence on behalf of the Committee the Elect Van Duncan Commission Chair. The following written opinion is provided in accordance with N.C.G.S. § 163-278.23.

You asked whether an unaffiliated candidate seeking to be nominated by petition pursuant to N.C.G.S. § 163-122 may accept \$6,400 from an individual or PAC in the period up to the date of the first primary election (“primary election period”) and an additional sum of up to \$6,400 from that same individual or PAC in the period following the primary election through December 31 of the same year (“general election period”).

In North Carolina, no candidate shall accept or solicit any contribution from any individual, other political committee, or other entity of any money or any other contribution in any election in excess of \$6,400 for that election. N.C.G.S. § 163-278.13(c). For the limited purpose of N.C.G.S. § 163-278.13, an election is defined as:

. . . the period of time from January 1 of an odd-numbered year through the day of the primary, the day after the primary through the day of the second primary, or the day after the primary through December 31 of the next even-numbered year, without regard to whether the candidate is opposed or unopposed in the election, except that where a candidate is not

on the ballot in a second primary, that second primary is not "an election" with respect to that candidate.

Id. § 163-278.13(e).

Participation in a primary election or appearance on a primary ballot is not a prerequisite for accepting a contribution in the primary election period. A contribution may be made during the primary election period or general election period "without regard to whether the candidate is opposed or unopposed in the election." N.C.G.S. § 163-278.13(e).¹ It is the date on which the contribution is received that governs the amount that may be received. A candidate may receive a \$6,400 check during the primary election period and a \$6,400 check during the general election period from the same contributor, but cannot receive two checks of \$6,400 during the general election period from the same contributor.

Like all candidates, an unaffiliated candidate is required to organize a candidate committee once the candidate "has received funds or made payments or given consent for anyone else to receive funds or transfer anything of value for the purpose of bringing about that individual's nomination or election for office." N.C.G.S. § 163-278.7(a). An unaffiliated candidate does not appear on a primary ballot. Instead, during the period before the primary, the candidate is collecting signatures for submission to the board of elections by noon on the day of the primary election. N.C.G.S. § 163-122(a). After verification of the signatures, the board of elections will cause the unaffiliated candidate's name to be placed on the general election ballot. *Id.* In most cases, the signature gathering effort will require the candidate to engage in some fundraising to support expenditures for materials and travel, resulting in the obligation to organize a candidate committee during the primary election period.

In comparison, when only one candidate of a political party files for office, that person is declared the nominee without having their name printed on the primary ballot. N.C.G.S. § 163-110. The agency has long recognized that these declared party nominees may accept contributions during the primary election period, in addition to any contribution that may be received during the general election period, even though they do not appear on the primary ballot. While becoming a party nominee without a primary due to no opposition is distinct from becoming a general election candidate by virtue of an unaffiliated petition, N.C.G.S. § 163-278.13 does not distinguish between unaffiliated petitioners and declared party

¹ Appearance on the ballot *is* relevant in determining whether an additional \$6,400 contribution may be received during the second primary. N.C.G.S. § 163-278.13(e) (emphasis added).

nominees. Ultimately, for both types of candidates, the primary period and general election period are distinct “elections” for the purposes of contributions to these candidates, regardless of these candidates’ appearance on a primary ballot.

An unaffiliated candidate who organizes a committee on or before the date of the primary may accept a contribution of up to \$6,400 from an individual or PAC during the primary election period. During the general election, the certified unaffiliated candidate may accept an additional \$6,400 from the same individual or PAC in the general election period.

The opinion will be filed with the Codifier of Rules to be published in the North Carolina Register.

Sincerely,



Karen Brinson Bell
Executive Director
State Board of Elections

Cc: Ashley B. Snyder, Codifier of Rules



July 16, 2024

VIA EMAIL ONLY
lindsey.wakely@ncsbe.gov

Ms. Wakely:

As stated in the email I sent to you earlier, the Committee to Elect Van Duncan Commission Chair believes that under all of the definitions and provisions applicable to an unaffiliated candidate seeking to be nominated by Petition pursuant to N.C.G.S. 163-122(a)(3), N.C.G.S. 163-278.13 which provides the limits on campaign contributions allows an individual to contribute, and a validly organized political committee to accept, donations by the individual of, \$6,400.00 for the period of time up to the first primary election when the Petitions must be submitted to the County Board of Elections and an additional contribution by the individual of \$6,400.00 allowed to be given and accepted for the period of time following the first primary up to the general election. The Committee belief this to be so is based on the wording of N.C.G.S. 163-278.13 and the definitions contained in N.C.G.S. 163-278.6 for "candidate," "contribute or contribution," "election," "political committee," and "public office."

For the purposes of Part 1 of Article 22A of Chapter 163 of the North Carolina General Statutes, an unaffiliated candidate subject to the provisions of that Article and Part is an individual who takes "positive action for the purpose of bringing about that individual's nomination, or election to public office" which includes making a public announcement of a definite intent to run for a specific public office in a particular election, or receiving funds, etc. such as through a political committee.

Receiving funds and making expenditures in support of the nomination of the unaffiliated candidate by petition would qualify as "contributions" under the definition contained in N.C.G.S. 163-278.6(13).

Further, under N.C.G.S. 163-278.6(30) an "election" means "a first" or "second" primary and a "general election."

The "political committee" is a group accepting things of value with the characteristic of having its major purpose to support or oppose the nomination or election of a clearly identified candidate as provided in N.C.G.S. 163-278.6(74).

Finally for these purposes, a public office is any office filled by election by the people on a County basis.

To sum up the position of the Committee, Van Duncan became a "candidate" immediately upon making his announcement of a definite intent to run unaffiliated for the specified office of Chairman of County Commissioners and the valid establishment of a political committee to accept contributions from individuals to support that effort in December 2023. The purpose of the Committee was to aid the candidate to secure the requisite number of signatures of qualified voters in support of his unaffiliated candidacy to be turned in by noon on first primary day as provided in N.C.G.S. 136-122(c) and thereafter to aid his campaign in the general election. Obtaining the requisite number of valid signatures of voters in that time frame qualifies the unaffiliated candidate to go on the general election ballot and would be determined the same as a winning candidate in a primary election would be certified as winner to go on the ballot for the ensuing general election.

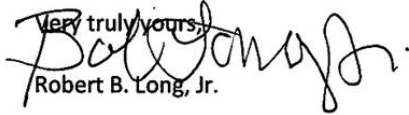
11 North Market Street, Asheville, NC 28801 | PO Box 7376, Asheville, NC 28802 | (828) 258-2991
422 South Main Street, Hendersonville, NC 28792 | (828) 697-6196
www.vwlawfirm.com

There is no statutory exception for filing the requisite campaign contribution and expenditure reports for either unopposed or unaffiliated candidates as campaign contribution reports are required regardless of whether a candidate is opposed, unopposed, or wins during the first primary election reporting and expenditure period.

Finally, N.C.G.S. 163-278.13 setting the current limit of \$6,400.00 per "election" defines "election" as time periods within which to compute the contribution limit and does not limit in any ways the contributions to already qualified individuals. Thus, if nominated by obtaining the required number of signatures, the unaffiliated candidate enters a new time period for calculation of the amount of contributions.

There is nothing in any other definition applicable to Part 1 of Article 22A of Chapter 163 of the General Statutes that contradicts this straight forward interpretation of the statute.

From Mr. Larimore, I understand this is a terribly busy time for you and would like to schedule a time when we might speak. What are your available times to do so?

Very truly yours,

Robert B. Long, Jr.

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 11 – DEPARTMENT OF INSURANCE

Comment period ends: December 16, 2024

Notice is hereby given in accordance with G.S. 150B-21.2 that the Code Officials Qualification Board intends to adopt the rules cited as 11 NCAC 08 .0737-.0741 and amend the rules cited as 11 NCAC 08 .0602, .0706 and .0707.

Link to agency website pursuant to G.S. 150B-19.1(c): https://www.ncdoi.gov/insurance-industry/rules-rules-review-and-legislative-reports/rules#ProposedRulesforAmendment-1115

Proposed Effective Date: February 1, 2025

Public Hearing:

Date: November 13, 2024

Time: 10:00 a.m.

Location: 1429 Rock Quarry Rd., Raleigh, NC 27610

Reason for Proposed Action: The North Carolina Code Officials Qualification Board, based on statutory changes to the General Statutes that create a new Residential Code Council and input from the regulated public gathered from surveys and feedback sessions, seeks to promulgate amended and proposed rules as follows:

11 NCAC 08 .0602 - allows probationary certificates to be placed on inactive status without leaving jurisdiction employment.

11 NCAC 08 .0706 - removes occupancy tables for Level I, II, and III standard certificates and trade education and experience requirements; creates five-year transition period; and provides for separation of commercial and residential buildings to align with International Code Council certifications and the newly-created Residential Code Council.

11 NCAC 08 .0707 - removes county electrical inspector provision; clarifies conditions for granting standard certificates to comity applicants; and adds provision for case-by-case review of applications.

11 NCAC 08 .0737 - creates new rule for Building Inspector Level I, II, and III.

11 NCAC 08 .0738 - creates new rule for Electrical Inspector Level I, II, and III.

11 NCAC 08 .0739 - creates new rule for Mechanical Inspector Level I, II, and III.

11 NCAC 08 .0740 - creates new rule for Plumbing Inspector Level I, II, and III.

11 NCAC 08 .0741 - creates new rule for Fire Inspector Level I, II, and III.

Comments may be submitted to: Kyle Heuser, Office of State Fire Marshal, 1202 Mail Service Center, Raleigh, NC 27699-1202; email OSFM.Rulemaking@ncdoi.gov

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 08 - ENGINEERING AND BUILDING CODES DIVISION

SECTION .0600 - QUALIFICATION BOARD-PROBATIONARY CERTIFICATE

11 NCAC 08 .0602 NATURE OF PROBATIONARY CERTIFICATE

(a) A probationary certificate may be issued as a building inspector, electrical inspector, mechanical inspector, plumbing inspector, or fire inspector, as set forth in 11 NCAC 08 .0706, without examination, the rule in this Chapter specific to the type of probationary certificate being sought, to any newly employed or newly promoted code enforcement code-enforcement official who lacks a standard certificate that covers the new position. A probationary certificate shall be issued for three years only and shall not be renewed. During the three-year period, the official shall complete the requirements set forth in 11 NCAC 08 .0706 the rule in this Chapter specific to the type of probationary certificate being sought to qualify for the appropriate standard certificate. A probationary certificate shall authorize the official, during the effective period of the certificate, to hold the position of the type, level, and location jurisdiction specified. A probationary certificate may be placed on inactive status by

written request. While on inactive status, the code-enforcement official shall not administer nor enforce the State Building Code for the probationary certificate held. Once a probationary certificate is placed on inactive status, the three-year effective period is tolled. The certificate shall be conditioned on the applicant's completion of a high school ~~diploma~~ diploma, or a high school equivalency ~~certificate~~ certificate, and meeting one of the following:

- (1) working under supervision sufficient, as determined by a supporting letter provided for in 11 NCAC 08 .0706(b), to protect the public health and safety;
- (2) possessing a minimum of ~~two years~~ one year of design, construction, or inspection experience working under a certified inspector or under a licensed professional engineer, registered licensed architect, or licensed contractor, contractor, or registered interior designer;
- (3) possessing one of the education or experience qualifications listed in ~~11 NCAC 08 .0706~~ the rule in this Chapter specific to the in each area of code enforcement for which the probationary certificate is issued; or
- (4) ~~achieving a minimum score of 70 percent on the probationary prequalification exam administered by the Board~~ making a passing grade of at least 70 percent on courses for certification in building, electrical, fire, mechanical, or plumbing inspection at levels I, II, or III in each area of code enforcement for which the probationary certificate is issued.

(b) A probationary certificate as a residential changeout inspector set forth in 11 NCAC 08 .0734 may be issued to any employed ~~code-enforcement~~ code-enforcement official, whose employment can be verified pursuant to 11 NCAC 08 .0734(d)(2), who lacks a standard certificate as a residential changeout inspector and who successfully completes a residential changeout inspections course set forth in ~~11 NCAC 08 .0734(d)(3)~~ .0734(c)(3). A probationary certificate shall be issued for three years ~~only~~ and shall not be renewed. During the three-year period, the official shall complete the requirements set forth in ~~11 NCAC 08 .0706~~ the rules in this Chapter, specific to an area of code enforcement, to qualify for the appropriate corresponding standard certificate. A probationary certificate as a residential changeout inspector shall authorize the ~~official, inspector,~~ during the effective period of the certificate, to hold the position set forth in 11 NCAC 08 .0734(a). A probationary certificate may be placed on inactive status by written request. While on inactive status, the code-enforcement official shall not administer nor enforce the State Building Code. Once a probationary certificate is placed on inactive status, the three-year effective period is tolled. The probationary certificate shall be conditioned on the applicant's completion of a high school ~~diploma~~ diploma, or a high school equivalency ~~certificate~~ certificate, and working under the direct supervision of a person who possesses, or persons who collectively possess, standard certificates as an electrical inspector III, mechanical inspector III, and plumbing inspector ~~III~~ III, or an individual holding a residential changeout inspector certificate and five years of code enforcement experience.

Authority G.S. 143-151.12(1); 143-151.12(2); 143-151.13; 143-151.13.

SECTION .0700 - QUALIFICATION BOARD-STANDARD CERTIFICATE

11 NCAC 08 .0706 REQUIRED QUALIFICATIONS: TYPES AND LEVELS

- (a) Qualification ~~Levels~~ Levels:
 - (1) ~~With respect to all types of code-enforcement officials, code-enforcement officials certified by the Board prior to January 1, 2025, those with Level I, Level II, or Level III certificates shall be qualified to inspect and approve only those types and sizes of buildings specified in the following tables. buildings limited by the occupancy classification for Fire inspectors and by the occupancy classification, number of stories, and square feet (sf) per floor area of buildings for Building, Electrical, Mechanical, and Plumbing inspectors, as shown in Subparagraphs (a)(1) and (a)(2) below. Code-enforcement officials certified for Level I and II shall be authorized to inspect and approve these buildings until December 31, 2030. Any code-enforcement official with a probationary Level I or Level II certificate, who earns a Standard Level I or Level II certificate between January 1, 2025 and December 31, 2030, shall be qualified to inspect and approve only those buildings shown in Subparagraphs (a)(1) and (a)(2) below until December 31, 2030. As of January 1, 2031, code-enforcement officials certified for Level I and Level II shall continue to be certified at those same levels but shall be qualified to inspect and approve only those types of buildings shown in Subparagraph (a)(3) below. Standard Level III certificates shall be authorized to inspect and approve the types of buildings shown in Subparagraph (a)(3) indefinitely.~~
 - (1) Fire inspectors shall be limited to occupancy classifications, Highrise, and plan review as follows, except all Levels include Business, Mercantile, Residential, and Utility and Miscellaneous:
 - (A) Level I. Assembly (limited to 1 story/20,000 sf), Factory Industrial F-2, and Storage S-2. No Highrise or plan review.
 - (B) Level II. Assembly, Educational, Factory Industrial F-1 and F-2, and Storage S-1 and S-2. Plan review.
 - (C) Level III. Assembly, Educational, Factory Industrial F-1 and F-2, Hazardous, Institutional, and Storage S-1 and S-2. Highrise and plan review.

PROPOSED RULES

(2) ~~Limitation on maximum number of stories and square feet (sf) of floor area of buildings for Building, Electrical, Mechanical, and Plumbing inspectors, Levels I, II, or III:~~

Occupancy Classification	Level I	Level II	Level III
Assembly	1 story/7,500 sf	1 story/20,000 sf	Unlimited
Business	1 story/20,000 sf	1 story/60,000 sf Multi-story: 4 stories max/20,000 sf per floor	Unlimited
Education	1 story/7,500 sf	1 story/20,000 sf Multi-story: 2 stories max/20,000 sf per floor	Unlimited
Hazardous	1 story/3,000 sf (See Note)	1 story/20,000 sf Multi-story: 2 stories max/20,000 sf per floor	Unlimited
Factory Industrial	1 story/20,000 sf	1 story/60,000 sf Multi-story: 4 stories max/20,000 sf per floor	Unlimited
Institutional	1 story/7,500 sf	1 story/10,000 sf Multi-story: 3 stories max/10,000 sf per floor	Unlimited
Mercantile	1 story/20,000 sf	1 story/60,000 sf Multi-story: 4 stories max/20,000 sf per floor	Unlimited
Residential Multi-unit	1 story /7,500 sf	3 stories max/no restriction on floor area	Unlimited
1 & 2 family dwellings, townhouses	Unlimited	Unlimited	Unlimited
Storage	1 story/20,000 sf	1 story/60,000 sf per floor Multi-story: 4 stories max/20,000 sf per floor	Unlimited
Utility and Miscellaneous	Unlimited	Unlimited	Unlimited

See the Building Code for Occupancy classifications.

Note: *Electrical Inspector, Level I shall not be authorized to inspect wiring or equipment in hazardous locations as defined by Article 500 of the National Electrical Code with the exception of service stations and service pumps.

(2) Building, Mechanical, Electrical and Plumbing inspectors shall be limited to occupancy classifications, number of stories, and square feet (sf) per floor as follows, except for any Level, there shall be no number of stories or square footage limit for 1 & 2 family dwellings and townhouses or Utility and Miscellaneous.

(A) Level I. Single (1) story/7,500 sf, for Assembly, Education, Institutional, and Residential Multi-unit. Single (1) story/20,000 sf, for Business, Factory Industrial, Mercantile, and Storage. Single (1) story/3,000 sf, for Hazardous.

(B) Level II. Single (1) story/10,000 sf, for Institutional; 20,000 sf, for Assembly, Education, and Hazardous; and, 60,000 sf, for Business, Factory

Industrial, and Mercantile. Multi-story: 2 stories, maximum 20,000 sf per floor for Education and Hazardous. Multi-story: 3 stories, maximum 10,000 sf per floor Institutional; and, unlimited sf Residential Multi-unit. Multi-story: 4 stories, maximum 20,000 sf per floor for Business, Factory Industrial, and Mercantile.

(C) Level III. Unlimited stories and sf per floor.

(3) ~~Limitation on occupancy classifications of buildings for Fire Inspectors, Levels I, II and III:~~

~~CERTIFICATION LEVELS FOR FIRE INSPECTORS
LEVEL I: OCCUPANCY:~~

~~Business
Assembly—1 story, 20,000-sf
Mercantile
Residential
Storage S-2
Factory Industrial F-2
Utility and Miscellaneous
Excluding Highrise *~~
Note: A Level I fire inspector shall not conduct any plan review on any building, highrise or other.

~~LEVEL II: OCCUPANCY:
Everything in Level I
Assembly—unlimited
Educational
Factory Industrial F-1
Storage S-1
Excluding Highrise *~~
Note: A Level II fire inspector is authorized to conduct Plan Review of all occupancies in Level I and II.

~~LEVEL III: OCCUPANCY:
Everything in Levels I and II
Hazardous
Institutional
Highrise
(Unlimited Occupancies)
Note: A Level III fire inspector is authorized to conduct Plan Review of all occupancies in Levels I, II and III.~~

* The term "excluding highrise" is listed because some of the acceptable occupancies for the levels could be located in a highrise building (defined in the Building Code).

- (3) With respect to all types of code-enforcement officials newly certified by the Board on or after January 1, 2025, those with Level I, Level II, or Level III certificates are qualified to inspect and approve buildings as follows except for any Level there shall be no number of stories or square footage limit for 1 & 2 family dwellings and townhouses or Utility and Miscellaneous:
 - (A) Level I inspectors shall be qualified to perform code-enforcement official duties for residential buildings up to three stories in height with no more than four dwelling units subject to the limitations for the type of inspector.
 - (B) Level II inspectors shall be qualified to perform code-enforcement official duties for commercial buildings subject to the limitations for the type of inspector.
 - (C) Level III inspectors shall be qualified to perform code-enforcement official duties for any residential or commercial building or structure subject to the limitations for the type of inspector.

(b) Whenever a provision of the ~~Rules~~ rules in this Section requires a supporting letter (maximum of two per level) from a supervisor, the letter(s) shall be notarized, shall state the supervisor's qualifications (i.e., what type and level of certificate or license the supervisor holds), shall state that the applicant has worked under the supervisor's direct supervision for a specified period of time, and shall recommend certification of the applicant as a specified type and level of inspector upon satisfaction of other required qualifications. The supervisor shall describe the name, floor area, and number of stories of the buildings worked on by the applicant and shall describe the work performed by the applicant.

(c) References in the rules in this Section to professional engineer or licensed engineer means engineers licensed by the North Carolina State Board of Examiners for Engineers and Surveyors pursuant to ~~G.S. 89C~~. Chapter 89C of the North Carolina General Statutes. References in the rules in this Section to registered architect means architects licensed by the Board of Architecture pursuant to Chapter 83A of the North Carolina General Statutes. References to licensed building, residential, electrical, heating, plumbing, and fire sprinkler contractors means contractors licensed by the State Licensing Board for General Contractors, the ~~N.C.~~ North Carolina State Board of Examiners of Electrical Contractors, or the ~~N.C.~~ North Carolina State Board of Examiners of Plumbing, Heating and Fire Sprinkler ~~Contractors~~ Contractors, pursuant to Chapter 87 of the North Carolina General Statutes. References to licensed "building" contractors do not include licensed "residential" contractors. Specialty licenses issued by these occupational licensing boards are ~~not acceptable~~ applicable as prescribed by the inspector type and ~~level~~ level contained in this Section. Applicants with licenses from other states or countries must provide a copy of their license and documentation to prove that the requirements of the other state or country are at least equivalent to the statewide licensing requirements of North Carolina occupational licensing boards.

(d) Whenever a provision of the rules in this Section requires the possession of an occupational license other than those certificates that are issued by the Board, if that license is inactive, the applicant must provide documentation from the appropriate occupational licensing board to prove that the applicant previously held the license and that the license is currently inactive.

(e) Whenever a provision of the rules in this Section requires inspector experience on a minimum number of buildings or systems, the experience must include all the inspections typically performed by an inspector during construction of the building or system. Inspections do not have to be performed on the same building.

(f) Whenever a provision of the rules in this Section requires a high school education or other education and experience qualifications, the Board may approve equivalent qualifications. Whenever a provision of the Rules in this Section requires the possession of a diploma or degree from an accredited college, university, or trade school, accredited shall mean accreditation from a regional accrediting association, for example, Southern Association of Colleges and Schools.

(g) Every applicant for a standard certificate shall:

- (1) provide documentation that the applicant possesses a minimum of a high school

- education or a high school equivalency certificate (~~GED~~); and
- (2) provide notarized certification by a city or county manager, clerk, or director of inspection department that the applicant will be performing "code enforcement", as defined in G.S. 143-151.8(a)(3), as an employee of or under contract with that city or county jurisdiction; or provide certification by the head of the Engineering and Building Codes Division of the North Carolina ~~Department of Insurance Office of State Fire Marshal~~ that the applicant will be performing "code enforcement", as defined in G.S. 143-151.8(a)(3), for a state department or agency; and
- (3) make a passing grade of at least 70 percent on a law and administration course administered and taught by a Board-approved sponsor; and
- ~~(3)(4)~~ make a passing grade of at least 70 percent on courses developed by the Board. Successful completion is defined as attendance of a minimum of 80 percent of the hours taught and achieving a minimum score of 70 percent on the course exam. All applicants must successfully complete a law and administration course. Applicants for certification in building, electrical, fire prevention, mechanical, or plumbing inspection at levels Levels I, II, or III, must successfully complete a course in that area and level (or a higher level) unless exempted by 11 NCAC 08 .0707. For the purpose of entry into the state examination, courses must be completed within five years of the exam in Subparagraph ~~(g)(4)(g)(5)~~ of this Rule. These courses shall be administered and taught ~~in~~ by the North Carolina Office of State Fire Marshal and the N.C. North Carolina Community College System or other educational agencies accredited by a regional accrediting association; for example, Southern Association of Colleges and Schools; and
- ~~(4)(5)~~ achieve make a passing grade of 70 percent on the written state examination administered by the Board ~~in~~ for each inspector type and level of certification certification, unless exempt exempted by 11 NCAC 08.0707.

~~(h) Building Inspector, Level I. A standard certificate, building inspector, Level I, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:~~

- ~~(1) a one year diploma in building construction from an accredited college or an equivalent apprenticeship or trade school program in building construction;~~
- ~~(2) a four year degree from an accredited college or university;~~

- ~~(3) at least six months of building inspection experience with a probationary Level I building inspection certificate on a minimum of two Level I buildings while working under the direct supervision of a standard certified building inspector I, II, or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;~~
- ~~(4) at least one year of building design, construction, or inspection experience on a minimum of two Level I buildings while working under the direct supervision of a licensed engineer, registered architect, or licensed building contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;~~
- ~~(5) a license as a building contractor;~~
- ~~(6) at least two years of building construction or inspection experience while working under a licensed building contractor;~~
- ~~(7) at least two years of experience with a probationary Level I building inspection certificate inspecting building construction on a minimum of two Level I buildings;~~
- ~~(8) at least two years of experience as an owner, manager or supervisor of a residential construction company and who has a license as a residential contractor and who has construction experience on a minimum of two Level I buildings (this does not include a business partner providing monetary backing for the company); or~~
- ~~(9) at least two years of construction experience as a subcontractor or employee of a residential contractor in the building trades or work in building construction on a minimum of two Level I buildings and under the direct supervision of a licensed residential contractor who at that time had at least three years of experience.~~

~~(i) Building Inspector, Level II. A standard certificate, building inspector, Level II, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:~~

- ~~(1) a license as a professional engineer or registered architect;~~
- ~~(2) a four year degree from an accredited college or university in architecture, civil or architectural engineering, or building construction;~~
- ~~(3) a four year degree from an accredited college or university and at least two years of design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified building inspector II or III, licensed engineer, registered architect, or intermediate or unlimited licensed building contractor;~~

- (4) a two year degree from an accredited college or university in architecture, civil or architectural engineering, or building construction and at least two years of building design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified building inspector II or III, licensed engineer, registered architect, or intermediate or unlimited licensed building contractor;
- (5) an intermediate or unlimited license as a building contractor with building construction experience on a minimum of two Level II buildings;
- (6) at least three years of building inspection experience including one year of inspection experience with a probationary Level II building inspection certificate on a minimum of two Level II buildings while working under the direct supervision of a certified building inspector II or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (7) at least three years of building design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a licensed engineer, registered architect, or licensed intermediate or unlimited building contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or
- (8) at least two years of experience with a probationary Level II building inspection certificate inspecting construction of a minimum of two Level II buildings.

- (3) a two year degree from an accredited college or university in architecture, civil or architectural engineering or building construction and at least three years of building design, construction, or inspection experience while working under the direct supervision of a certified building inspector III, licensed engineer, registered architect, or licensed unlimited building contractor with at least one year at the level of supervisor in responsible charge of a minimum of two Level III buildings;
- (4) an unlimited license as a building contractor with experience on a minimum of two Level III buildings;
- (5) at least four years of inspection experience including one year of building inspection experience with a probationary Level III building inspection certificate on a minimum of two Level III buildings while working under the direct supervision of a certified building inspector III, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (6) at least four years of building design, construction, or inspection experience while working under the direct supervision of a licensed engineer, registered architect, or licensed unlimited building contractor, two years of which have been performed at the level of supervisor in responsible charge of a minimum of two Level III buildings with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or
- (7) at least one year of experience with a probationary Level III building inspection certificate inspecting the construction of a minimum of two Level III buildings.

(j) Building Inspector, Level III. A standard certificate, building inspector, Level III, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a license as a professional engineer or registered architect with design, construction, or inspection experience on Level III buildings and specialization in architecture, civil or architectural engineering, or fire protection engineering;
- (2) a four year degree from an accredited college or university in architecture, civil or architectural engineering, or building construction and at least one year of building design, construction, or inspection experience while working under the direct supervision of a certified building inspector III, licensed engineer, registered architect, or licensed unlimited building contractor, at least at the level of supervisor in responsible charge of a minimum of two Level III buildings;

(k) Electrical Inspector, Level I. A standard certificate, electrical inspector, Level I, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a one year diploma in electrical construction from an accredited college or an equivalent apprenticeship or trade school program in electrical construction;
- (2) a four year degree from an accredited college or university;
- (3) at least six months of electrical inspection experience with a probationary Level I electrical inspection certificate on a minimum of two Level I buildings while working under the direct supervision of a standard certified electrical inspector I, II, or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;

- (4) ~~at least one year of electrical design, construction, or inspection experience on a minimum of two Level I buildings while working under the direct supervision of a licensed engineer or licensed electrical contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;~~
- (5) ~~a restricted (one family dwelling) license or license as an electrical contractor;~~
- (6) ~~at least two years of electrical installation or inspection experience while working under a licensed electrical contractor; or~~
- (7) ~~at least two years of experience with a probationary Level I electrical inspection certificate inspecting electrical installations on a minimum of two Level I buildings.~~

(l) ~~Electrical Inspector, Level II. A standard certificate, electrical inspector, Level II, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:~~

- (1) ~~a license as a professional engineer;~~
- (2) ~~a four year degree from an accredited college or university in electrical engineering or electrical construction;~~
- (3) ~~a four year degree from an accredited college or university and at least two years of electrical design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified electrical inspector II or III, licensed engineer, or intermediate or unlimited licensed electrical contractor;~~
- (4) ~~a two year degree from an accredited college or university in electrical engineering or electrical construction and at least two years of electrical design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified electrical inspector II or III, licensed engineer, or intermediate or unlimited licensed electrical contractor;~~
- (5) ~~an intermediate or unlimited license as an electrical contractor with experience on a minimum of two Level II buildings;~~
- (6) ~~at least three years of electrical inspection experience including one year of inspection experience with a probationary Level II electrical inspection certificate on a minimum of two Level II buildings while working under the direct supervision of a certified electrical inspector II or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;~~
- (7) ~~at least three years of electrical design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a~~

~~licensed engineer or licensed intermediate or unlimited electrical contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or~~

- (8) ~~at least two years of experience with a probationary Level II electrical inspection certificate inspecting electrical installations on a minimum of two Level II buildings.~~

(m) ~~Electrical Inspector, Level III. A standard certificate, electrical inspector, Level III, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:~~

- (1) ~~a license as a professional engineer with design, construction, or inspection experience on Level III buildings and specialization in electrical engineering;~~
- (2) ~~a four year degree from an accredited university in electrical engineering or electrical construction and at least one year of electrical design, installation, or inspection experience while working under the direct supervision of a certified electrical inspector III, licensed engineer, or licensed unlimited electrical contractor at least at the level of supervisor in responsible charge of a minimum of two Level III buildings;~~
- (3) ~~a two year degree from an accredited college or university in electrical engineering or electrical construction and at least three years of electrical design, installation, or inspection experience while working under the direct supervision of a certified electrical inspector III, licensed engineer, or licensed unlimited electrical contractor with at least one year at the level of supervisor in responsible charge of a minimum of two Level III buildings;~~
- (4) ~~an unlimited license as an electrical contractor with experience on a minimum of two Level III buildings;~~
- (5) ~~at least four years of electrical inspection experience including one year of inspection experience with a probationary Level III electrical inspection certificate on a minimum of two Level III buildings while working under the direct supervision of a certified electrical inspector III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;~~
- (6) ~~at least four years of electrical design, construction, or inspection experience while working under the direct supervision of a licensed engineer or licensed unlimited electrical contractor, two years of which have been performed at the level of supervisor in responsible charge of a minimum of two Level III buildings with a supporting letter from the~~

~~applicant's supervisor which complies with Paragraph (b) of this Rule; or~~

- ~~(7) at least one year of experience with a probationary Level III electrical inspection certificate inspecting the electrical installations of a minimum of two Level III buildings.~~

~~(n) Mechanical Inspector, Level I. A standard certificate, mechanical inspector, Level I, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:~~

- ~~(1) a one year diploma in mechanical construction from an accredited college or an equivalent apprenticeship or trade school program in mechanical construction;~~
- ~~(2) a four year degree from an accredited college or university;~~
- ~~(3) at least six months of mechanical inspection experience with a probationary Level I mechanical inspection certificate on a minimum of two Level I buildings while working under the direct supervision of a standard certified mechanical inspector I, II, or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;~~
- ~~(4) at least one year of mechanical design, construction, or inspection experience on a minimum of two Level I buildings while working under the direct supervision of a licensed engineer or licensed Class I mechanical contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;~~
- ~~(5) an H 1, H 2, or H 3 Class I license as a mechanical contractor;~~
- ~~(6) at least two years of mechanical installation or inspection experience while working under a Class I H 1, H 2, or H 3 licensed mechanical contractor; or~~
- ~~(7) at least two years of experience with a probationary Level I mechanical inspection certificate inspecting mechanical installations a minimum of two Level I buildings.~~

~~(o) Mechanical Inspector, Level II. A standard certificate, mechanical inspector, Level II, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:~~

- ~~(1) a license as a professional engineer;~~
- ~~(2) a four year degree from an accredited college or university in mechanical engineering or mechanical construction;~~
- ~~(3) a four year degree from an accredited college or university and at least two years of mechanical design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified mechanical inspector II or III, licensed~~

~~engineer, or licensed Class I mechanical contractor;~~

- ~~(4) a two year degree from an accredited college or university in mechanical engineering or mechanical construction and at least two years of mechanical design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified mechanical inspector II or III, licensed engineer, or licensed Class I mechanical contractor;~~
- ~~(5) an H 1, H 2, or H 3 Class I license as a mechanical contractor with experience on a minimum of two Level II buildings;~~
- ~~(6) at least three years of mechanical inspection experience including one year of inspection experience with a probationary Level II mechanical inspection certificate on a minimum of two Level II buildings while working under the direct supervision of a certified mechanical inspector II or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;~~
- ~~(7) at least three years of mechanical design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a licensed engineer or licensed Class I H 1, H 2, or H 3 mechanical contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or~~
- ~~(8) at least two years of experience with a probationary Level II mechanical inspection certificate inspecting mechanical installations on a minimum of two Level II buildings.~~

~~(p) Mechanical Inspector, Level III. A standard certificate, mechanical inspector, Level III shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:~~

- ~~(1) a license as a professional engineer, with design, construction, or inspection experience on Level III buildings and specialization in mechanical engineering;~~
- ~~(2) a four year degree from an accredited university in mechanical engineering or mechanical construction and at least one year of mechanical design, installation, or inspection experience while working under the direct supervision of a certified mechanical inspector III, licensed engineer, or licensed Class I H 1, H 2, and H 3 mechanical contractor at least at the level of supervisor in responsible charge of a minimum of two Level III buildings;~~
- ~~(3) a two year degree from an accredited college or university in mechanical engineering or mechanical construction and at least three years of mechanical design, installation, or inspection experience while working under the direct~~

supervision of a certified mechanical inspector III, licensed engineer, or licensed Class I H 1, H 2, and H 3 mechanical contractor with at least one year at the level of supervisor in responsible charge of a minimum of two Level III buildings;

- (4) H 1, H 2, and H 3 Class I licenses as a mechanical contractor with experience on a minimum of two Level III buildings;
- (5) at least four years of mechanical inspection experience including one year of inspection experience with a probationary Level III mechanical inspection certificate on a minimum of two Level III buildings while working under the direct supervision of a certified mechanical inspector III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (6) at least four years of mechanical design, construction, or inspection experience while working under the direct supervision of a licensed engineer or licensed Class I H 1, H 2, and H 3 mechanical contractor, two years of which have been performed at the level of supervisor in responsible charge of a minimum of two Level III buildings with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or
- (7) at least one year of experience with a probationary Level III mechanical inspection certificate inspecting the mechanical installations of a minimum of two Level III buildings.

(q) Plumbing Inspector, Level I. A standard certificate, plumbing inspector, Level I, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a one year diploma in plumbing construction from an accredited college or an equivalent apprenticeship or trade school program in plumbing construction;
- (2) a four year degree from an accredited college or university;
- (3) at least six months of plumbing inspection experience with a probationary Level I plumbing inspection certificate on a minimum of two Level I buildings while working under the direct supervision of a standard certified plumbing inspector I, II, or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (4) at least one year of plumbing design, construction, or inspection experience on a minimum of two Level I buildings while working under the direct supervision of a licensed engineer or licensed Class I plumbing contractor with a supporting letter from the

applicant's supervisor which complies with Paragraph (b) of this Rule;

- (5) a Class I license as a plumbing contractor;
- (6) at least two years of plumbing installation or inspection experience while working under a licensed Class I plumbing contractor; or
- (7) at least two years of experience with a probationary Level I plumbing inspection certificate inspecting plumbing installations a minimum of two Level I buildings.

(r) Plumbing Inspector, Level II. A standard certificate, plumbing inspector, Level II, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a license as a professional engineer;
- (2) a four year degree from an accredited college or university in mechanical engineering or mechanical or plumbing construction;
- (3) a four year degree from an accredited college or university and at least two years of plumbing design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified plumbing inspector II or III, licensed engineer, or licensed Class I plumbing contractor;
- (4) a two year degree from an accredited college or university in mechanical engineering or mechanical or plumbing construction and at least two years of plumbing design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified plumbing inspector II or III, licensed engineer, or licensed Class I plumbing contractor;
- (5) a Class I license as a plumbing contractor with experience on a minimum of two Level II buildings;
- (6) at least three years of plumbing inspection experience including one year of inspection experience with a probationary Level II plumbing inspection certificate on a minimum of two Level II buildings while working under the direct supervision of a certified plumbing inspector II or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (7) at least three years of plumbing design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a licensed engineer or licensed Class I plumbing contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or
- (8) at least two years of experience with a probationary Level II plumbing inspection

certificate inspecting plumbing installations on a minimum of two Level II buildings.

(s) ~~Plumbing Inspector, Level III. A standard certificate, plumbing inspector, Level III shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:~~

- (1) ~~a license as a professional engineer with design, construction, or inspection experience on Level III buildings and specialization in mechanical engineering;~~
- (2) ~~a four year degree from an accredited university in mechanical engineering or mechanical or plumbing construction and at least one year of plumbing design, installation, or inspection experience while working under the direct supervision of a certified plumbing inspector III, licensed engineer, or licensed Class I plumbing contractor at least at the level of supervisor in responsible charge of a minimum of two Level III buildings;~~
- (3) ~~a two year degree from an accredited college or university in mechanical engineering or plumbing construction and at least three years of plumbing design, installation, or inspection experience while working under the direct supervision of a certified plumbing inspector III, licensed engineer, or licensed Class I plumbing contractor with at least one year at the level of supervisor in responsible charge of a minimum of two Level III buildings;~~
- (4) ~~a Class I license as a plumbing contractor with experience on a minimum of two Level III buildings;~~
- (5) ~~at least four years of plumbing inspection experience including one year of inspection experience with a probationary Level III plumbing inspection certificate on a minimum of two Level III buildings while working under the direct supervision of a certified plumbing inspector III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;~~
- (6) ~~at least four years of plumbing design, construction, or inspection experience while working under the direct supervision of a licensed engineer or licensed Class I plumbing contractor, two years of which have been performed at the level of supervisor in responsible charge of a minimum of two Level III buildings with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or~~
- (7) ~~at least one year of experience with a probationary Level III plumbing inspection certificate inspecting the plumbing installations of a minimum of two Level III buildings.~~

(t) ~~Fire Inspector, Level I. A standard certificate, fire inspector, Level I, shall be issued to any applicant who complies with~~

~~Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:~~

- (1) ~~a one year diploma in fire science from an accredited college or an equivalent apprenticeship or trade school program in fire science;~~
- (2) ~~a four year degree from an accredited college or university;~~
- (3) ~~at least six months of fire inspection experience with a probationary Level I fire inspection certificate on a minimum of two Level I buildings while working under the direct supervision of a standard certified fire inspector I, II, or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;~~
- (4) ~~at least one year of fire protection design, construction, or inspection experience on a minimum of two Level I buildings while working under the direct supervision of a licensed engineer, registered architect, or licensed building, electrical, or fire sprinkler contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;~~
- (5) ~~a license as a fire sprinkler contractor;~~
- (6) ~~at least two years of construction or inspection experience in fire protection systems while working under a licensed building, electrical, or fire sprinkler contractor;~~
- (7) ~~at least two years of experience with a probationary Level I fire inspection certificate conducting fire inspections on a minimum of two Level I buildings;~~
- (8) ~~at least four years of experience in fire suppression activities for a city, county, volunteer, or other governmental fire department; or~~
- (9) ~~Firefighter Level II certification under the North Carolina State Fire and Rescue Commission with at least one year of fire inspection experience in Level I buildings.~~

(u) ~~Fire Inspector, Level II. A standard certificate, fire inspector, Level II, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:~~

- (1) ~~a license as a professional engineer or registered architect;~~
- (2) ~~a four year degree from an accredited college or university in architecture, civil or architectural engineering, building construction, or fire science;~~
- (3) ~~a four year degree from an accredited college or university and at least two years of fire protection design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct~~

- (4) supervision of a certified fire inspector II or III, licensed engineer, registered architect, intermediate or unlimited licensed building contractor, or licensed fire sprinkler contractor;
- (5) a two year degree from an accredited college or university in architecture, civil or architectural engineering, building construction, or fire science and at least two years of fire protection design, construction, or inspection experience on a minimum of two Level II building fire protection systems while working under the direct supervision of a certified fire inspector II or III, licensed engineer, registered architect, intermediate or unlimited licensed building contractor, or licensed fire sprinkler contractor;
- (6) a license as a fire sprinkler contractor with experience on a minimum of two Level II buildings;
- (7) at least three years of fire inspection experience including one year of inspection experience with a probationary Level II fire inspection certificate on a minimum of two Level II buildings while working under the direct supervision of a certified fire inspector II or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (8) at least three years of fire protection system design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a licensed engineer, registered architect, licensed intermediate or unlimited building contractor, or licensed fire sprinkler contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (9) at least two years of experience with a probationary Level II fire inspection certificate conducting fire inspections on a minimum of two Level II buildings; or
- (9) completion of the basic, intermediate, and advanced classes of the North Carolina Fire Prevention School with at least three years of fire inspection experience in Level II buildings.

(v) Fire Inspector, Level III. A standard certificate, fire inspector, Level III, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a license as a professional engineer or registered architect with design, construction, or inspection experience on Level III buildings and specialization in architecture, civil or architectural engineering, or fire protection engineering;
- (2) a four year degree from an accredited college or university in civil, architectural, or fire protection engineering and at least one year of fire inspection experience while working under

- (3) a certified fire inspector III, licensed engineer, registered architect, or licensed fire sprinkler contractor on a minimum of two Level III buildings;
- (3) a two year degree from an accredited college or university in civil, architectural, or fire protection engineering and at least three years of fire protection design, installation, or inspection experience while working under the direct supervision of a certified fire inspector III, licensed engineer, registered architect, licensed unlimited building contractor, or licensed fire sprinkler contractor with at least one year in responsible charge of a minimum of two Level III buildings;
- (4) a license as a fire sprinkler contractor with experience on a minimum of two Level III buildings;
- (5) at least four years of fire inspection experience in fire protection systems including one year of inspection experience with a probationary Level III fire inspection certificate on a minimum of two Level III buildings while working under the direct supervision of a certified fire inspector III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (6) at least four years of fire protection system design, construction, or inspection experience while working under the direct supervision of a licensed engineer, registered architect, licensed intermediate or unlimited building contractor, or licensed fire sprinkler contractor, two years of which have been performed at the level of supervisor in responsible charge of a minimum of two Level III buildings with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or
- (7) at least one year of experience with a probationary Level III fire inspection certificate conducting fire inspections on a minimum of two Level III buildings.

Authority G.S. 143-151.12(1); 143-151.12(9); 143-151.13.

11 NCAC 08 .0707 SPECIAL CIRCUMSTANCES

(a) Licensed County Electrical Inspector. Certificates issued pursuant to G.S. 143-151.13(e) shall be for the electrical inspector level corresponding to the level at which the applicant is currently certified.

(b)(a) Registered Licensed Architect, Licensed General Contractor, Licensed Plumbing or Heating Contractor, Licensed Electrical Contractor, Registered Licensed Professional Engineer. Applicants for certification under G.S. 143-151.13(f) shall successfully complete the Board's prescribed short course, as set out in 11 NCAC 08 .0706(g)(3), concerning State Building Code rules and code enforcement administration prior to being certified. Applicants under this Paragraph shall be currently registered or licensed (as of June 13, 1977) by the State of North Carolina as

an architect, a general contractor, a plumbing or heating contractor, an electrical contractor, or a professional engineer to receive certification. The standard certificate shall authorize the person to practice as a qualified ~~code-enforcement~~ code-enforcement official of the type and at the performance level determined by the Board to be appropriate, in accordance with ~~11 NCAC 08 .0706~~ the rule in this Chapter specific to that area of code enforcement, in light of the applicant's education, training, and experience.

~~(e)(b)~~ Certified ~~Code-Enforcement~~ Code-Enforcement Official From Another State. Pursuant to G.S. ~~143-151.14(a)~~, 143-151.14(a), the Board ~~may, may without requiring an examination,~~ issue a standard certificate to any person who ~~successfully completes the Board's prescribed short course concerning State Building Code rules and code enforcement administration and who~~ holds a currently valid certificate as a qualified ~~code enforcement~~ code-enforcement official from another state or territory whose standards are acceptable to the Board and not lower than those required of North Carolina applicants, under Article 9C of Chapter 143 of the North Carolina General Statutes and all applicable administrative rules governing ~~Code Enforcement Officials~~ code-enforcement officials, and passes a state examination in the area and level of the standard certificate sought. The standard certificate shall authorize the person to practice as a qualified code-enforcement official of the type and at the performance level determined by the Board to be appropriate, in accordance with the area and level of the state examination passed by the applicant and the rule in this Chapter specific to that area of code enforcement, in light of the applicant's education, training, and experience.

~~(d)(c)~~ Certified ~~Code-Enforcement~~ Code-Enforcement Official with International Code Council (ICC) Certification. Pursuant to G.S. 143-151.14(b), the Board may issue a standard certificate to any person who is certified as a qualified code-enforcement official in good standing by the International Code Council where standards and examinations are acceptable to the Board and not lower than those required of North Carolina applicants, under Article 9C of Chapter 143 of the North Carolina General Statutes and all applicable administrative rules governing code-enforcement officials, and passes a state examination in the area and level of the standard certificate sought. Applicants for certification pursuant to G.S. 143-151.14(b) shall successfully complete the short course required by G.S. 143-151.14(c) as set out in ~~11 NCAC 08 .0706(g)(3)~~. The standard certificate shall authorize the person to practice as a qualified code-enforcement official of the type and at the performance level determined by the Board to be appropriate, in accordance with the area and level of the state examination passed by the applicant and the rule in this Chapter specific to that area of code enforcement, in light of the applicant's education, training, and experience.

~~(e)(d)~~ Comity Applicants. Comity applicants as set out in Paragraphs ~~(b) and (c)~~ and ~~(d)~~ of this Rule shall meet the experience requirements specified in ~~11 NCAC 08 .0706~~ the rule in this Chapter specific to the area and level of code enforcement sought to be eligible for comity consideration. The successful completion of a ~~law and administration course and a standard technical course,~~ short course required by G.S. 143-151.14(c) concerning the State Building Code rules and code enforcement administration as set out in ~~11 NCAC 08 .0706(g)(3)~~, in the area

~~and level of the standard certificate~~ must be completed within three years to maintain any standard certificate issued due to comity. Standard certificates issued under comity shall expire if ~~the required courses~~ course ~~are~~ is not completed within the three-year period.

(e) Applicants may submit other experience in the design, construction, installation or inspection of buildings and electrical, mechanical, plumbing, and fire systems for consideration as other special circumstances meeting the Board's requirements. The Board's Qualification and Evaluation Committee shall consider such experience on a case-by-case basis and make a recommendation to the Board.

Authority G.S. 143-151.12(1); 143-151.12(3); 143-151.13; 143-151.14.

11 NCAC 08 .0737 BUILDING INSPECTOR LEVEL I, II AND III

(a) A Building Inspector, Level I, (Residential), shall be qualified to perform code-enforcement official duties for residential buildings up to three stories in height with no more than four dwelling units, in accordance with the provisions of the North Carolina Residential Code.

(b) A Building Inspector, Level II, (Commercial), shall be qualified to perform code-enforcement official duties for commercial buildings up to four stories in height, except for hazardous and institutional occupancy classifications.

(c) A Building Inspector, Level III, shall be qualified to perform code-enforcement official duties for any residential or commercial building or structure occupancy classification.

(d) Building Inspector, Level I. A standard certificate, Building Inspector, Level I, shall be issued to any applicant who complies with Paragraphs (b) through (g) of Rule 11 NCAC 08 .0706 and who provides documentation that the applicant possesses one of the following:

- (1) a license as a professional engineer, architect, residential or building contractor or a registered interior designer;
- (2) a one-year diploma in building construction from an accredited college or an equivalent apprenticeship or trade school program in building construction;
- (3) a two-year degree from an accredited college or university in building construction, electrical, mechanical, or plumbing contracting, construction management or engineering technology;
- (4) a four-year degree from an accredited college or university;
- (5) at least six months of residential inspection experience, with a probationary Level I building inspection certificate, on a minimum of two Level I buildings while working under the direct supervision of a standard certified building inspector I, II, or III, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706;

- (6) at least one year of residential design, construction, or inspection experience on a minimum of two Level I buildings while working under the direct supervision of a licensed professional engineer, architect, or residential or building contractor, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706;
- (7) at least two years of residential design, construction, or inspection experience while working under a licensed residential contractor;
- (8) at least two years of experience as an owner, manager, supervisor, or qualifier, as that term is defined in G.S. 87-10(b), of a residential construction company, who has a license as a residential contractor, and who has construction experience on a minimum of two Level I buildings (this does not include a business partner providing monetary backing for the company);
- (9) at least two years of construction experience as a subcontractor or employee of a residential contractor in the building trades, or work in building construction, on a minimum of two Level I buildings and under the direct supervision of a licensed residential contractor who at that time had at least three years of experience;
- (10) at least one year of experience with a probationary Level I building inspection certificate inspecting residential construction on a minimum of two Level I buildings.

(e) Building Inspector, Level II. A standard certificate, building inspector, Level II, shall be issued to any applicant who complies with Paragraphs (b) through (g) of Rule 11 NCAC 08 .0706 and who provides documentation that the applicant possesses one of the following:

- (1) a license as a professional engineer, architect, building contractor or registered interior designer;
- (2) a one-year diploma in building construction from an accredited college or an equivalent apprenticeship or trade school program in building construction;
- (3) a two-year degree from an accredited college or university in architecture, civil or architectural engineering, building construction, or construction management and at least one year of building design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified building inspector II or III, licensed engineer, architect, or building contractor;
- (4) a four-year degree from an accredited college or university and at least one year of design, construction, or inspection experience on a minimum of two Level II buildings while

working under the direct supervision of a certified building inspector II or III, licensed professional engineer, architect, or building contractor;

- (5) at least six months of commercial inspection experience with a probationary Level II building inspection certificate on a minimum of two Level II buildings while working under the direct supervision of a standard certified building inspector II or III, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706;
 - (6) at least one year of commercial design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a licensed professional engineer, architect, or building contractor, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706;
 - (7) at least two years of commercial building inspection experience including one year of inspection experience with a probationary Level II building inspection certificate on a minimum of two Level II buildings while working under the direct supervision of a certified building inspector II or III, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706;
 - (8) at least two years of commercial building design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a licensed engineer, registered architect, or licensed intermediate or unlimited building contractor, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706; or
 - (9) at least one year of experience with a probationary Level II building inspection certificate inspecting construction of a minimum of two Level II buildings.
- (f) Building Inspector, Level III. A standard certificate, building inspector, Level III, shall be issued to any applicant who complies with Paragraphs (b) through (g) of Rule 11 NCAC 08 .0706 and who provides documentation that the applicant possesses one of the following education and experience qualifications:
- (1) a license as a professional engineer, architect, or unlimited building contractor with design, construction, or inspection experience on a minimum of two Level III buildings and specialization in architecture, civil or architectural engineering, or fire protection engineering;
 - (2) a four-year degree from an accredited college or university in architecture, civil or architectural engineering, building construction or

- (3) construction management and at least one year of building design, construction, or inspection experience while working under the direct supervision of a certified building inspector III, licensed professional engineer, architect, or unlimited building contractor, at least at the level of supervisor in responsible charge of a minimum of two Level III buildings;
- (4) a two-year degree from an accredited college or university in architecture, civil or architectural engineering, building construction, or construction management and at least three years of building design, construction, or inspection experience while working under the direct supervision of a certified building inspector III, licensed professional engineer, architect, or unlimited building contractor with at least one year at the level of supervisor in responsible charge of a minimum of two Level III buildings;
- (5) at least four years of inspection experience including one year of building inspection experience with a probationary Level III building inspection certificate on a minimum of two Level III buildings while working under the direct supervision of a certified building inspector III, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706;
- (6) at least four years of building design, construction, or inspection experience while working under the direct supervision of a licensed engineer, architect, or unlimited building contractor, two years of which have been performed at the level of supervisor in responsible charge of a minimum of two Level III buildings with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706; or
- (7) at least one year of experience with a probationary Level III building inspection certificate inspecting the construction of a minimum of two Level III buildings.

structures, except for those systems described in Paragraph (a) or (c) of this Rule.

(c) An Electrical Inspector, Level III, (Special Systems) shall be qualified to perform code-enforcement official duties for any residential or commercial building or structure and the following special systems:

- (1) Photovoltaic systems
- (2) Electrical power production facilities and equipment with a generating capacity of 5,000 kW or greater.

(d) Electrical Inspector, Level I. A standard certificate, electrical inspector, Level I, shall be issued to any applicant who complies with Paragraphs (b) through (g) of Rule 11 NCAC 08 .0706 and who provides documentation that the applicant possesses one of the following:

- (1) a one-year diploma in electrical construction from an accredited college or an equivalent apprenticeship or trade school program in electrical construction;
- (2) a four-year degree from an accredited college or university;
- (3) at least six months of electrical inspection experience with a probationary Level I electrical inspection certificate on a minimum of two Level I buildings while working under the direct supervision of a standard certified electrical inspector I or III, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706;
- (4) at least one year of electrical design, construction, or inspection experience on a minimum of two Level I buildings while working under the direct supervision of a licensed professional engineer or licensed electrical contractor, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706;
- (5) a restricted (one family dwelling) license or license as an electrical contractor;
- (6) at least two years of electrical installation or inspection experience while working under a licensed electrical contractor; or
- (7) at least one year of experience with a probationary Level I electrical inspection certificate inspecting electrical installations on a minimum of two Level I buildings.

(e) Electrical Inspector, Level II. A standard certificate, electrical inspector, Level II, shall be issued to any applicant who complies with Paragraphs (b) through (g) of Rule 11 NCAC 08 .0706 and who provides documentation that the applicant possesses one of the following:

- (1) a license as a professional engineer;
- (2) a four-year degree from an accredited college or university in electrical engineering or electrical construction;
- (3) a four-year degree from an accredited college or university and at least two years of electrical design, construction, or inspection experience

Authority G.S. 143-151.12(1); 143-151.12(3); 143-151.13.

11 NCAC 08 .0738 ELECTRICAL INSPECTOR LEVEL I, II AND III

(a) An Electrical Inspector, Level I, (Residential) shall be qualified to perform code-enforcement official duties for electrical systems that serve individual residential dwelling units and equipment including its accessory structures and equipment, except for those systems described in Paragraph (b) or (c) of this Rule.

(b) An Electrical Inspector, Level II, (Commercial) shall be qualified to perform code-enforcement official duties for electrical systems that serve non-residential structures and equipment including common areas of multi-family residential

- on a minimum of two Level II buildings while working under the direct supervision of a certified electrical inspector II or III, licensed engineer, or intermediate or unlimited licensed electrical contractor;
- (4) a two-year degree from an accredited college or university in electrical engineering or electrical construction and at least two years of electrical design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified electrical inspector II or III, licensed engineer, or intermediate or unlimited licensed electrical contractor;
- (5) an intermediate or unlimited license as an electrical contractor with experience on a minimum of two Level II buildings;
- (6) at least three years of electrical inspection experience including one year of inspection experience with a probationary Level II electrical inspection certificate on a minimum of two Level II buildings while working under the direct supervision of a certified electrical inspector II or III, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706;
- (7) at least three years of electrical design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a licensed professional engineer or licensed intermediate or unlimited electrical contractor, with a supporting letter from the applicant's supervisor which complies Paragraph (b) of Rule 11 NCAC 08 .0706; or
- (8) at least one year of experience with a probationary Level II electrical inspection certificate inspecting electrical installations on a minimum of two Level II buildings.

- (3) a two-year degree from an accredited college or university in electrical engineering or electrical construction and at least three years of electrical design, installation, or inspection experience while working under the direct supervision of a certified electrical inspector III, licensed professional engineer, or licensed unlimited electrical contractor with at least one year at the level of supervisor in responsible charge of a minimum of two Level III buildings;
- (4) an unlimited license as an electrical contractor with experience on a minimum of two Level III buildings;
- (5) at least four years of electrical inspection experience including one year of inspection experience with a probationary Level III electrical inspection certificate on a minimum of two Level III buildings while working under the direct supervision of a certified electrical inspector III, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706;
- (6) at least four years of electrical design, construction, or inspection experience while working under the direct supervision of a licensed professional engineer or licensed unlimited electrical contractor, two years of which have been performed at the level of supervisor in responsible charge of a minimum of two Level III buildings, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706; or
- (7) at least one year of experience with a probationary Level III electrical inspection certificate inspecting the electrical installations of a minimum of two Level III buildings.

(f) Electrical Inspector, Level III. A standard certificate, electrical inspector, Level III, shall be issued to any applicant who complies with Paragraphs (b) through (g) of Rule 11 NCAC 08 .0706 and who provides documentation that the applicant possesses one of the following:

- (1) a license as a professional engineer with design, construction, or inspection experience on Level III buildings and specialization in electrical engineering;
- (2) a four-year degree from an accredited university in electrical engineering or electrical construction and at least one year of electrical design, installation, or inspection experience while working under the direct supervision of a certified electrical inspector III, licensed professional engineer, or licensed unlimited electrical contractor at least at the level of supervisor in responsible charge of a minimum of two Level III buildings;

Authority G.S. 143-151.12(1); 143-151.12(3); 143-151.13.

11 NCAC 08 .0739 MECHANICAL INSPECTOR LEVEL I, II AND III

- (a) A Mechanical Inspector, Level I, (Residential), shall be qualified to perform code-enforcement official duties in accordance with the provisions of the North Carolina Residential Code.
- (b) A Mechanical Inspector, Level II, (Commercial) shall be qualified to perform code-enforcement official duties in accordance with the provisions of the North Carolina Mechanical Code, North Carolina Fuel Gas Code, and the North Carolina Energy Conservation Code.
- (c) A Mechanical Inspector, Level III, shall be qualified to perform code-enforcement official duties in accordance with the provisions of the North Carolina Residential Code, North Carolina Mechanical Code, North Carolina Fuel Gas Code, and the North Carolina Energy Conservation Code for any residential or commercial building or structure.
- (d) Mechanical Inspector, Level I. A standard certificate, mechanical inspector, Level I, shall be issued to any applicant

who complies with Paragraphs (b) through (g) of Rule 11 NCAC 08 .0706 and who provides documentation that the applicant possesses one of the following:

- (1) a one-year diploma in mechanical construction from an accredited college or an equivalent apprenticeship or trade school program in mechanical construction;
- (2) a four-year degree from an accredited college or university;
- (3) at least six months of mechanical inspection experience with a probationary Level I mechanical inspection certificate on a minimum of two Level I buildings while working under the direct supervision of a standard certified mechanical inspector I or III, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706;
- (4) at least one year of mechanical design, construction, or inspection experience on a minimum of two Level I buildings while working under the direct supervision of a licensed professional engineer or licensed Class I mechanical contractor, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706;
- (5) an H-1, H-2, or H-3 Class I license as a mechanical contractor;
- (6) at least two years of mechanical installation or inspection experience while working under a Class I H-1, H-2, or H-3 licensed mechanical contractor; or
- (7) at least one year of experience with a probationary Level I mechanical inspection certificate inspecting mechanical installations on a minimum of two Level I buildings.

(e) Mechanical Inspector, Level II. A standard certificate, mechanical inspector, Level II, shall be issued to any applicant who complies with Paragraphs (b) through (g) of Rule 11 NCAC 08 .0706 and who provides documentation that the applicant possesses one of the following:

- (1) a license as a professional engineer;
- (2) a four-year degree from an accredited college or university in mechanical engineering or mechanical construction;
- (3) a four-year degree from an accredited college or university and at least two years of mechanical design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified mechanical inspector II or III, licensed professional engineer, or licensed Class I mechanical contractor;
- (4) a two-year degree from an accredited college or university in mechanical engineering or mechanical construction and at least two years of mechanical design, construction, or inspection experience on a minimum of two Level II buildings while working under the

direct supervision of a certified mechanical inspector II or III, licensed professional engineer, or licensed Class I mechanical contractor;

- (5) an H-1, H-2, or H-3 Class I license as a mechanical contractor with experience on a minimum of two Level II buildings;
- (6) at least three years of mechanical inspection experience including one year of inspection experience with a probationary Level II mechanical inspection certificate on a minimum of two Level II buildings while working under the direct supervision of a certified mechanical inspector II or III, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706;
- (7) at least three years of mechanical design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a licensed professional engineer or licensed Class I H-1, H-2, or H-3 mechanical contractor, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706; or
- (8) at least one year of experience with a probationary Level II mechanical inspection certificate inspecting mechanical installations on a minimum of two Level II buildings.

(f) Mechanical Inspector, Level III. A standard certificate, mechanical inspector, Level III shall be issued to any applicant who complies with Paragraphs (b) through (g) of Rule 11 NCAC 08 .0706 and who provides documentation that the applicant possesses one of the following:

- (1) a license as a professional engineer, with design, construction, or inspection experience on Level III buildings and specialization in mechanical engineering;
- (2) a four-year degree from an accredited university in mechanical engineering or mechanical construction and at least one year of mechanical design, installation, or inspection experience while working under the direct supervision of a certified mechanical inspector III, licensed professional engineer, or licensed Class I H-1, H-2, and H-3 mechanical contractor at least at the level of supervisor in responsible charge of a minimum of two Level III buildings;
- (3) a two-year degree from an accredited college or university in mechanical engineering or mechanical construction and at least three years of mechanical design, installation, or inspection experience while working under the direct supervision of a certified mechanical inspector III, licensed professional engineer, or licensed Class I H-1, H-2, and H-3 mechanical contractor with at least one year at the level of

- supervisor in responsible charge of a minimum of two Level III buildings;
- (4) H-1, H-2, and H-3 Class I licenses as a mechanical contractor with experience on a minimum of two Level III buildings;
- (5) at least four years of mechanical inspection experience including one year of inspection experience with a probationary Level III mechanical inspection certificate on a minimum of two Level III buildings while working under the direct supervision of a certified mechanical inspector III, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706;
- (6) at least four years of mechanical design, construction, or inspection experience while working under the direct supervision of a licensed professional engineer or licensed Class I H-1, H-2, and H-3 mechanical contractor, two years of which have been performed at the level of supervisor in responsible charge of a minimum of two Level III buildings, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706; or
- (7) at least one year of experience with a probationary Level III mechanical inspection certificate inspecting the mechanical installations of a minimum of two Level III buildings.

- (3) at least six months of plumbing inspection experience with a probationary Level I plumbing inspection certificate on a minimum of two Level I buildings while working under the direct supervision of a standard certified plumbing inspector I or III, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706;
- (4) at least one year of plumbing design, construction, or inspection experience on a minimum of two Level I buildings while working under the direct supervision of a licensed professional engineer or licensed Class I plumbing contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706;
- (5) a Class I license as a plumbing contractor;
- (6) at least two years of plumbing installation or inspection experience while working under a licensed Class I plumbing contractor; or
- (7) at least one year of experience with a probationary Level I plumbing inspection certificate inspecting plumbing installations a minimum of two Level I buildings.

(e) Plumbing Inspector, Level II. A standard certificate, plumbing inspector, Level II, shall be issued to any applicant who complies with Paragraphs (b) through (g) of Rule 11 NCAC 08 .0706 and who provides documentation that the applicant possesses one of the following:

- (1) a license as a professional engineer;
- (2) a four-year degree from an accredited college or university in mechanical engineering or mechanical or plumbing construction;
- (3) a four-year degree from an accredited college or university and at least two years of plumbing design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified plumbing inspector II or III, licensed professional engineer, or licensed Class I plumbing contractor;
- (4) a two-year degree from an accredited college or university in mechanical engineering or mechanical or plumbing construction and at least two years of plumbing design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified plumbing inspector II or III, licensed professional engineer, or licensed Class I plumbing contractor;
- (5) a Class I license as a plumbing contractor with experience on a minimum of two Level II buildings;
- (6) at least three years of plumbing inspection experience including one year of inspection experience with a probationary Level II plumbing inspection certificate on a minimum

Authority G.S. 143-151.12(1); 143-151.12(3); 143-151.13.

11 NCAC 08 .0740 PLUMBING INSPECTOR LEVEL I, II AND III

(a) A Plumbing Inspector, Level I, (Residential), shall be qualified to perform code-enforcement official duties for residential buildings up to three stories in height with no more than four dwelling units in accordance with the provisions of the North Carolina Residential Code, including NFPA 13D residential sprinkler systems.

(b) A Plumbing Inspector, Level II, (Commercial), shall be qualified to perform code-enforcement official duties for commercial buildings up to four stories in height.

(c) A Plumbing Inspector, Level III, shall be qualified to perform code-enforcement official duties for any residential or commercial building or structure.

(d) Plumbing Inspector, Level I. A standard certificate, plumbing inspector, Level I, shall be issued to any applicant who complies with Paragraphs (b) through (g) of Rule 11 NCAC 08 .0706 and who provides documentation that the applicant possesses one of the following:

- (1) a one-year diploma in plumbing construction from an accredited college or an equivalent apprenticeship or trade school program in plumbing construction;
- (2) a four-year degree from an accredited college or university;

of two Level II buildings while working under the direct supervision of a certified plumbing inspector II or III, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706;

(7) at least three years of plumbing design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a licensed professional engineer or licensed Class I plumbing contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706;
or

(8) at least one year of experience with a probationary Level II plumbing inspection certificate inspecting plumbing installations on a minimum of two Level II buildings.

(f) Plumbing Inspector, Level III. A standard certificate, plumbing inspector, Level III shall be issued to any applicant who complies with Paragraphs (b) through (g) of Rule 11 NCAC 08 .0706 and who provides documentation that the applicant possesses one of the following:

(1) a license as a professional engineer with design, construction, or inspection experience on Level III buildings and specialization in mechanical engineering;

(2) a four-year degree from an accredited university in mechanical engineering or mechanical or plumbing construction and at least one year of plumbing design, installation, or inspection experience while working under the direct supervision of a certified plumbing inspector III, licensed professional engineer, or licensed Class I plumbing contractor at least at the level of supervisor in responsible charge of a minimum of two Level III buildings;

(3) a two-year degree from an accredited college or university in mechanical engineering or plumbing construction and at least three years of plumbing design, installation, or inspection experience while working under the direct supervision of a certified plumbing inspector III, licensed professional engineer, or licensed Class I plumbing contractor, with at least one year at the level of supervisor in responsible charge of a minimum of two Level III buildings;

(4) a Class I license as a plumbing contractor with experience on a minimum of two Level III buildings;

(5) at least four years of plumbing inspection experience including one year of inspection experience with a probationary Level III plumbing inspection certificate on a minimum of two Level III buildings while working under the direct supervision of a certified plumbing inspector III, with a supporting letter from the

applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706;

(6) at least four years of plumbing design, construction, or inspection experience while working under the direct supervision of a licensed professional engineer or licensed Class I plumbing contractor, two years of which have been performed at the level of supervisor in responsible charge of a minimum of two Level III buildings, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706; or

(7) at least one year of experience with a probationary Level III plumbing inspection certificate inspecting the plumbing installations of a minimum of two Level III buildings.

Authority G.S. 143-151.12(1); 143-151.12(3); 143-151.13.

11 NCAC 08 .0741 FIRE INSPECTOR LEVEL I, II AND III

(a) A Fire Inspector, Level I, shall be qualified to perform code-enforcement official duties of operational permit issuance, field inspection, and related code enforcement activities for existing Assembly (limited to 1 story, 20,000 sf), Business, Mercantile, Residential, Utility and Miscellaneous occupancies, and other existing facilities, premises, and structures within those occupancies as required. A Fire Inspector Level I is not authorized to conduct inspections on high-rise buildings, inspections on new construction, or plan review for any occupancy.

(b) A Fire Inspector, Level II, shall be qualified to perform code-enforcement official duties of plan review, permit issuance, field inspection, certificate of compliance and occupancy, change of occupancy and code-enforcement activities for existing building occupancies and new construction. A Fire Inspector, Level II, is limited to Assembly, Business, Educational, Factory-Industrial, Mercantile, Residential, Storage, Utility and Miscellaneous, and other facilities, premises, and structures within those occupancies as required. A Fire Inspector, Level II, is not authorized to conduct plan review or inspections of high-rise buildings, institutional, or hazardous occupancies.

(c) A Fire Inspector, Level III, shall be qualified to perform code-enforcement official duties of plan review, permit issuance, field inspection, certificate of compliance and occupancy, change of occupancy, and related code-enforcement activities for any existing or new occupancy classification and other facilities, premises, and structures within those occupancies as required.

(d) The level of certification required for buildings with multiple occupancy classifications shall be assigned based on the highest level required as indicated in Paragraphs (a) through (c) of this rule.

(e) Fire Inspector, Level I. A standard certificate, fire inspector, Level I, shall be issued to any applicant who complies with Paragraphs (b) through (g) of Rule 11 NCAC 08 .0706 and who provides documentation that the applicant possesses one of the following education and experience qualifications:

(1) a one-year diploma in fire science from an accredited college or an equivalent certificate of

- completion from an apprenticeship or trade school program in fire science;
- (2) a four-year degree from an accredited college or university;
- (3) at least six months of fire inspection experience with a probationary Level I fire inspection certificate on a minimum of two Level I buildings while working under the direct supervision of a standard certified fire inspector Level I, II, or III, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706;
- (4) at least one year of fire protection design, construction, or inspection experience on a minimum of two Level I buildings while working under the direct supervision of a licensed professional engineer, licensed architect, or licensed building, electrical, or fire sprinkler contractor, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706;
- (5) a license as a fire sprinkler contractor;
- (6) at least two years of construction or inspection experience in fire protection systems while working under a licensed building, electrical, or fire sprinkler contractor;
- (7) at least one year of experience with a probationary Level I fire inspection certificate conducting fire inspections on a minimum of two Level I buildings;
- (8) at least four years of experience in fire suppression activities for a city, county, volunteer, or other governmental fire department; or
- (9) Firefighter Level II certification under the North Carolina State Fire and Rescue Commission with at least one year of fire inspection experience in Level I buildings.

(f) Fire Inspector, Level II. A standard certificate, fire inspector, Level II, shall be issued to any applicant who complies with Paragraphs (b) through (g) of Rule 11 NCAC 08 .0706 and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a license as a professional engineer or architect;
- (2) a four-year degree from an accredited college or university in architecture, civil or architectural engineering, building construction, or fire science;
- (3) a four-year degree from an accredited college or university and at least two years of fire protection design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified fire inspector Level II or III, licensed professional engineer, architect, intermediate or unlimited licensed building contractor, or licensed fire sprinkler contractor;
- (4) a two-year degree from an accredited college or university in architecture, civil or architectural

engineering, building construction, construction management or fire science and at least two years of fire protection design, construction, or inspection experience on a minimum of two Level II building fire protection systems while working under the direct supervision of a certified fire inspector Level II or III, licensed professional engineer, architect, intermediate or unlimited licensed building contractor, or licensed fire sprinkler contractor;

- (5) a license as a fire sprinkler contractor with experience on a minimum of two Level II buildings;
- (6) at least three years of fire inspection experience including at least one year of inspection experience with a probationary Level II fire inspection certificate on a minimum of two Level II buildings while working under the direct supervision of a certified fire inspector II or III, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706;
- (7) at least three years of fire protection system design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a licensed professional engineer, architect, licensed intermediate or unlimited building contractor, or licensed fire sprinkler contractor, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706;
- (8) at least one year of experience with a probationary Level II fire inspection certificate conducting fire inspections on a minimum of two Level II buildings; or
- (9) completion of the basic, intermediate, and advanced classes of the North Carolina Fire Prevention School with at least three years of fire inspection experience in Level II buildings.

(g) Fire Inspector, Level III. A standard certificate, fire inspector, Level III, shall be issued to any applicant who complies with Paragraphs (b) through (g) of Rule 11 NCAC 08 .0706 and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a license as a professional engineer or architect with design, construction, or inspection experience on Level III buildings and specialization in architecture, civil or architectural engineering, or fire protection engineering;
- (2) a four-year degree from an accredited college or university in civil, architectural, construction management or fire protection engineering and at least one year of fire inspection experience while working under a certified fire inspector III, licensed professional engineer, architect, or

- (3) licensed fire sprinkler contractor on a minimum of two Level III buildings;
a two-year degree from an accredited college or university in civil, architectural, or fire protection engineering and at least three years of fire protection design, installation, or inspection experience while working under the direct supervision of a certified fire inspector Level III, licensed professional engineer, architect, licensed unlimited building contractor, or licensed fire sprinkler contractor with at least one year in responsible charge of a minimum of two Level III buildings;
- (4) a license as a fire sprinkler contractor with experience on a minimum of two Level III buildings;
- (5) at least four years of fire inspection experience in fire protection systems including one year of inspection experience with a probationary Level III fire inspection certificate on a minimum of two Level III buildings while working under the direct supervision of a certified fire inspector Level III, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706;
- (6) at least four years of fire protection system design, construction, or inspection experience while working under the direct supervision of a licensed professional engineer, architect, licensed intermediate or unlimited building contractor, or licensed fire sprinkler contractor, two years of which have been performed at the level of supervisor in responsible charge of a minimum of two Level III buildings, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of Rule 11 NCAC 08 .0706; or
- (7) at least one year of experience with a probationary Level III fire inspection certificate conducting fire inspections on a minimum of two Level III buildings.

Public Hearing:

Date: December 16, 2024

Time: 10:00 a.m.

Location: Microsoft Teams. Meeting information will be published on agency's website.

Reason for Proposed Action: To update requirements for completion of annual In-Service Firearms training.

Comments may be submitted to: Michelle S. Schilling, 1770 Tryon Park Drive, Raleigh, NC 27602; phone (919) 779-8205; email MSchilling@ncdoj.gov

Comment period ends: December 16, 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 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SUBCHAPTER 09E - IN-SERVICE TRAINING PROGRAMS

SECTION .0100 - LAW ENFORCEMENT OFFICER'S IN-SERVICE TRAINING PROGRAM

12 NCAC 09E .0106 ANNUAL IN-SERVICE FIREARMS QUALIFICATION SPECIFICATIONS

(a) All certified law enforcement officers shall qualify for both day and night use with their individual and department-approved service handguns at least once each calendar year. For the purpose of this specification, service handgun shall include any semi-automatic pistol or revolver. ~~In addition to the requirements specified in Rule .0105 of this Subchapter, the~~ The accuracy qualification course of fire and the decision-making qualification

Authority G.S. 143-151.12(1); 143-151.12(3); 143-151.13.

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education and Training Standards Commission intends to amend the rule cited as 12 NCAC 09E .0106.

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

Proposed Effective Date: February 1, 2025

course shall not be less stringent than the "Basic Training Law Enforcement Training" Officers" course requirements for firearms qualification.

(b) If an officer's duty handgun is replaced the officer shall qualify both day and night with the new handgun within 15 days of issuance.

(c) All certified law enforcement officers who are issued or authorized to use a shotgun, rifle, or automatic weapon shall qualify with each weapon respectively for both the day and night use accuracy qualification courses at least once each calendar year.

(d) The qualifications required by Paragraphs (a) through (c) of this Rule shall be completed with duty equipment and duty ammunition or ballistic-equivalent ammunition, including lead-free ammunition that meets the same point of aim, point of impact, and felt recoil of the duty ammunition for all weapons.

(e) All certified law enforcement officers who are authorized to carry off-duty handguns shall qualify with each such handgun consistent with the specifications outlined in Rules .0105(1) and .0106(a) and (b) of this Section.

(f) To satisfy the training requirements for all in-service firearms qualifications, an officer shall attain at least 70 80 percent accuracy with each weapon weapon on day and night accuracy qualification and a successful completion of the decision-making course based on a scoring objective documented by the employing agency.

(g) The qualifications required by Paragraphs (a) and (c) of this Rule shall be achieved at least once in a single day in no more than three attempts in a single day for each course of fire and for each weapon for which qualification is required. Individuals not qualifying in a single day for each course of fire or for a certain weapon for which qualification is required shall be deemed as having failed and Rule .0103(4) and (5) of this Section shall apply.

~~(h) The In Service Firearms Qualification Manual as published by the North Carolina Justice Academy shall be applied as a guide for conducting the annual in-service firearms qualification. Copies of this publication may be inspected at the office of the agency:~~

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

and may be viewed and downloaded at no cost from the Academy's website at the following address:
<http://www.jus.state.nc.us/NCJA>

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

Notice is hereby given in accordance with G.S. 150B-21.2 that the Sheriffs' Education and Training Standards Commission intends to amend the rules cited as 12 NCAC 10B .0305, .0408 and .0409.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://ncdoj.gov/law-enforcement-training/sheriffs/all-commission-forms-publications/>

Proposed Effective Date: February 1, 2025

Public Hearing:

Date: November 6, 2024

Time: 9:00 a.m.

Location: 1700 Tryon Park Dr., Raleigh, NC 27610

Reason for Proposed Action: The Sheriffs' Education and Training Standards Commission would like to change the number of documents required to be submitted to the Division for certification purposes. The rules (.0408 and .0409) are being updated to reflect the documents required to be submitted and details the records to be maintained by the employing agency. The requirements for the type of criminal history record checks that were previously housed in 12 NCAC 10B .0408 are being moved to 12 NCAC 10B .0305 as these records are a part of the background investigation process.

Comments may be submitted to: Melissa Bowman, 1700 Tryon Park Dr., Raleigh, NC 27610; phone (919) 779-8213; email m Bowman@ncdoj.gov

Comment period ends: December 16, 2024

Procedure for Subjecting a Proposed Rule to Legislative Review:

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

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

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

CHAPTER 10 - SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

SUBCHAPTER 10B - N.C. SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

SECTION .0300 – MINIMUM STANDARDS FOR EMPLOYMENT AND CERTIFICATION AS A JUSTICE OFFICER

12 NCAC 10B .0305 BACKGROUND INVESTIGATION

(a) Prior to employment, an agency shall complete a background investigation on all applicants for certification. The investigation shall examine the applicant's character traits and habits relevant to performance as a justice officer and shall determine whether the applicant is of good moral character pursuant to ~~12 NCAC 10B .0301(a)(12)~~ Rule .0301(12) of this Subchapter. This examination includes completion of the Commission's Personal History Statement Form (F-3) and Mandated Background Investigation Form (F-8), ensuring the proper certification and criminal history record check required by each.

(b) Prior to the investigation, the applicant shall complete the Commission's Personal History Statement Form (F-3) to provide a basis for the investigation. The agency shall certify that the results of the background investigation are consistent with the information provided by the applicant on the Personal History Statement Form (F-3) and give the applicant the opportunity to update the Personal History Statement Form (F-3) prior to submission to the Division.

(c) The agency shall utilize an investigator with ~~prior~~ experience or training in conducting background investigations. The investigator shall document the results of the investigation on the Mandated Background Investigation Form (F-8) ~~and shall include in the report of investigation:~~ which shall include information concerning the following:

- (1) ~~biographical data;~~ information;
- (2) ~~family data;~~ family;
- (3) ~~scholastic data;~~ education;
- (4) ~~employment data;~~ employment;
- (5) ~~criminal history data;~~ including:
 - (A) a Statewide search of the Administrative Office of the Courts (AOC) computerized system;
 - (B) a search of the national criminal record database accessible through the Division of Criminal Information (DCI) network;
 - (C) where the applicant resided in a state other than North Carolina, a records check through the Division of Criminal Information (DCI) 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, facsimile, or electronic mail, or a records check from the county-wide or state-wide record holding agency shall be acceptable.
 - (D) if a criminal record is found, criminal records shall be obtained 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;

(E) records checks shall be performed on each name by which the applicant for certification has been known since obtaining the age of majority. If the applicant has had an official name change that occurred after the applicant reached the age of majority, then a copy of the legal document effecting the name change shall be obtained by the employing agency;

(6) military service history. If the applicant had prior military service, the background investigation shall 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;

(7) credit history;

(8) fingerprints;

(9) driving history including a search of:

(A) the North Carolina Division of Motor Vehicles, if the applicant has ever possessed a driver's license in North Carolina; and

(B) an out-of-state- motor vehicles check obtained through the Division of Criminal Information (DCI) or obtained through another state's division of motor vehicles agency for any state in which the applicant held a license;

(10) prior applications to law enforcement agencies;

(11) civil court history;

(12) applicant interview;

~~(6)(13)~~ interviews with the applicant's references; and
~~(7)(14)~~ a summary of the investigator's findings and conclusions regarding the applicant's moral character known to the agency or listed on the applicant's Personal History Statement (F-3). This documentation shall be included with all other documentation required in 12 NCAC 10B .0408.

(d) The Mandated Background Investigation Form (F-8) shall be completed within 120 days of employment. If the investigator signs the form more than 120 days prior to the applicant's date of employment, then the investigator will certify with a notarized statement on their agency letterhead that all information on the form has been updated or a new F-8 shall be completed.

~~(d)(e)~~ The employing agency shall include a Release Authorization Form signed and notarized by the applicant that authorizes the Division staff to obtain documents and records pertaining to the applicant for certification that may be required in order to determine whether certification may be granted.

~~(e)~~(f) The employing agency shall provide to the Division staff the results of a completed and processed form AOC-CR-280, Law Enforcement Application for Verification of Expunction under G.S. 15A-145.4, 15A-145.5, 15A-145.6, 15A-145.8A or 15A-146, for each applicant presented for certification. The AOC-CR-280 form is available on the Commission's website at no cost <https://ncdoj.gov/law-enforcement-training/sheriffs/all-commission-forms-publications/>.

(g) The applicant's notarized Personal History Statement (F-3) shall be completed within 120 days of employment. If the form is completed more than 120 days prior to the applicant's date of employment, the Personal History Statement (F-3) shall be updated by the applicant, who shall initial and date all changes no more than 120 days prior to employment or a new Personal History Statement (F-3) shall be completed.

Authority G.S. 17E-7.

SECTION .0400 - CERTIFICATION OF JUSTICE OFFICERS

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, Before the Division will issue certification of a justice officer, the employing agency shall submit to the Division, along with the Report of Appointment (F-4), Division~~ 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; the Report of Appointment (F-4);~~
- ~~(2) certified a 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 unredacted 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)(3) documentation of the applicant's compliance with the probationary certification requirements pursuant to Rule .0403(b) Rule .0403(f) of this Section, if the applicant is a deputy sheriff or a detention officer and is authorized by the agency sheriff to carry a firearm; firearm;~~

- (4) the results of the fingerprint criminal history records check of the applicant pursuant to Rule .0303 of this Subchapter;
- (5) the applicant's processed Administrative Office of the Courts' AOC-CR-280 form as set forth in Rule .0305 of this Subchapter;
- (6) the applicant's Release Authorization as set forth in Rule .0305 of this Subchapter;
- (7) copies of court documentation and final disposition from the Clerk of Court in the county of adjudication of all criminal offenses for which the applicant was charged, arrested, pleads no contest, pleads guilty, or of which the applicant was found guilty. This shall include traffic offenses identified as a class B misdemeanor as defined in Rule .0103(17)(b) of this Subchapter and offenses of driving under the influence (DUI) or driving while impaired (DWI);
- (8) a notarized written statement from the applicant providing details of all criminal offenses identified pursuant to Subparagraph (7) of this Paragraph; and
- (9) the applicant's Personal History Statement (F-3) if the applicant reports any charges as referenced in Subparagraph (a)(7) of this Rule or any expunged charges pursuant to Subparagraph (a)(5) of this Rule.

(b) Compliance with this Rule is waived, with the exception of the requirements of ~~Subparagraph (a)(9) Subparagraphs (a)(1), (2), and (3)~~ 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.~~

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .0409 EMPLOYING AGENCY RETENTION OF CERTIFICATION RECORDS

~~(a) Each In addition to the records required to be submitted to the Division pursuant to Rule .0408 of this Section, the employing agency shall maintain original documentation of the following certification records: place in the appropriate justice officer's personnel file the official notification of either probationary or general certification. Such files shall be available for examination at any reasonable time by representatives of the Commission for the purpose of verifying compliance with these Rules. Each personnel file shall also contain copies of the original documentation submitted to the Division in accordance with 12 NCAC 10B .0408.~~

- ~~(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 of this Subchapter;~~
- ~~(2) the applicant's Medical History Statement (F-1) pursuant to Rule .0304 of this Subchapter;~~
- ~~(3) the applicant's Medical Examination Report (F-2) pursuant to Rule .0304 of this Subchapter;~~
- ~~(4) the applicant's unredacted Psychological Screening Examination as required by G.S. 17E-7;~~
- ~~(5) the applicant's notarized Personal History Statement (F-3) pursuant to Rule .0305 of this Subchapter;~~

- ~~(6) documentation of the applicant's negative results on a drug screen pursuant to Rule .0301(6) of this Subchapter; and~~
- ~~(7) the Mandated Background Investigation Form (F-8) with all accompanying documentation as set out in Rule .0305 of this Subchapter.~~

~~(b) Compliance with this Rule is waived, with the exception of the requirements of 12 NCAC 10B .0408(a)(8), for officers applying for dual certification as defined in 12 NCAC 10B .0103(9) provided that:~~

- ~~(1) the officer holds a valid certification as a deputy sheriff, detention officer, or telecommunicator with the employing agency requesting dual certification; and~~
- ~~(2) the officer has not had a break in service since initial certification with the employing agency requesting dual certification.~~

~~(c) Where the Division has previously received a complete Background Investigation Form (F-8) with all accompanying documentation set out in 12 NCAC 10B .0305 in connection with another application for certification to this Commission, and a subsequent hiring agency requests a copy of such documentation, the Division shall comply with that request upon submission of a commission approved Release Authorization Form for Law Enforcement Agencies.~~

~~(b) The certification records shall be available for examination at any time by representatives of the Division for the purpose of verifying compliance with the rules of this Subchapter.~~

~~(d)(c) All information certification records maintained pursuant to the requirements of this Rule shall be subject to all state and federal laws governing confidentiality.~~

Authority G.S. 17E-4.

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Environmental Quality intends to adopt the rules cited as 15A NCAC 01V .0101-.0107.

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: *March 1, 2025*

Public Hearing:
Date: *November 7, 2024*
Time: *5:00 p.m.*

Location:
Public Hearing location: 1st Floor Training Room (#1210), DEQ Green Square Office Building, 217 West Jones Street, Raleigh, NC 27603,
or virtually using Cisco WebEx, Digital Hearing Link:
<https://ncgov.webex.com/ncgov/j.php?MTID=md6291d0db458c6b9b3dc3cc72e9496ce>

Meeting Password: NCDEQ (62337 when dialing from a phone or video system)

Audio conference: To receive a call back, provide your phone number when you join the event, or call the number below and enter the access code. US TOLL +1-415-655-0003, Access code: 244 058 94131

If you wish to speak at the digital public hearing, you must register, provide the required information, and follow instructions on ways to join the public hearing. Registration must be completed by 5:00 PM on November 5, 2024. To register, please use the following link:

https://forms.office.com/g/HWJ6ENfLwN.

*For instructions on ways to join the public hearing, please refer to the following link:

https://www.deq.nc.gov/about/boards-and-commissions/how-attend-webex-meeting-0

Reason for Proposed Action: The adoption of proposed rules 15A NCAC 01V .0101 - .0107, "Decommissioning and Financial Assurance Requirements for Utility-Scale Solar Projects," is in response to the requirement for DEQ to adopt rules in G.S. 130A-309.240(j) and S.L. 2023-58, s. 2.(c). The rules provide additional detail, clarification, and consistency for the decommissioning and financial assurance requirements for utility-scale solar projects in G.S. 130A-309.240, and establishes the registration fee structure and amounts, registration and document submittal and approval procedures, and more detailed financial assurance mechanism requirements and wording.

Comments may be submitted to: Taylor Fant, 1646 Mail Service Center, Raleigh, NC 27699-1646; email dwm.publiccomments@deq.nc.gov (Please type "USSP Rules" in subject line)

Comment period ends: December 16, 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 01 — DEPARTMENTAL RULES

SUBCHAPTER 01V — DECOMMISSIONING AND FINANCIAL ASSURANCE REQUIREMENTS FOR UTILITY-SCALE SOLAR PROJECTS

SECTION .0100 — DECOMMISSIONING AND FINANCIAL ASSURANCE REQUIREMENTS FOR UTILITY-SCALE SOLAR PROJECTS

15A NCAC 01V .0101 APPLICABILITY AND DEFINITIONS

(a) The project owners of a utility-scale solar project (USSP) shall comply with Part 2J of Article 9 of Chapter 130A of the General Statutes, "Management of Solar Energy Equipment," in accordance with the applicability and effective dates of S.L. 2023-58, s. 2.(e) and s. 4 and the requirements of this Section. Non-compliance shall be addressed through penalties issued in accordance with Part 2 of Article 1 of Chapter 130A of the General Statutes, as provided in G.S. 130A-309.243, including G.S. 130A-22 for the issuance of penalties and G.S. 130A-24 for the appeal of enforcement decisions.

(b) The definitions found in G.S. 130A-290, G.S. 130A-309.240(a), and the following definitions shall apply to the rules of this Section:

- (1) "Corporation," "fiscal year," "parent," and "subsidiary" mean these terms as defined in G.S. 105-130.2.
(2) "Project Owner" means the legal entity or entities that own the personal property that has been constructed or assembled for a USSP, which may be a different legal entity than the owner of the real property (landowner) on which the USSP has been constructed.
(3) "Substantial Business Relationship" means the extent of a business relationship necessary under applicable State law to make a guarantee contract issued incident to that relationship valid and enforceable. A "substantial business relationship" shall arise from a pattern of recent or ongoing business transactions, in addition to the guarantee itself, that demonstrates to the satisfaction of the Department that a business relationship between the guarantor and the project owner exists.

Authority G.S. 130A-309.240(j).

15A NCAC 01V .0102 REGISTRATION AND FEE REQUIREMENTS

(a) In accordance with the applicability and effective dates established in S.L. 2023-58, s. 4, the project owner of a USSP shall submit the registration information, periodic updates, and registration fee required by G.S. 130A-309.240(e) and (h) in a registration form prescribed by the Department. The registration form may be accessed from the Department's USSP Management

Program website at <https://www.deq.nc.gov/about/divisions/waste-management/utility-scale-solar-management-program>.

(b) The initial registration and fee shall be submitted by the deadlines established in S.L. 2023-58, s. 4. The subsequent registration updates and fees shall be submitted to the Department every five years in accordance with G.S. 130A-309.240(e) and (h). The deadline for submittal of the five-year registration updates and registration fee shall be the last day of the month in which the five-year anniversary of the initial submittal occurs for each USSP.

(c) The Department shall not be required to provide notice to the project owner that the initial registration, periodic updates, or registration fee are due. The project owner shall be responsible for submittal of the registration, periodic updates, and fees by the deadlines established in this Rule.

(d) In accordance with G.S. 130A-309.240(c) and the effective dates and applicability of S.L. 2023-58, s. 4, the project owner of a USSP shall submit a decommissioning plan, and subsequent updates to the plan, with the registration required to be submitted by this Rule. The Department shall review the plan and shall inform the project owner in writing of deficiencies in the plan, if any, within 60 days of submittal. The project owner shall correct the deficiencies identified by the Department and submit the corrected decommissioning plan to the Department no more than 30 days after the Department issued the notification of deficiencies. The project owner shall not commence construction, rebuild, or expansion of the project until the Department has received the decommissioning plan that complies with the requirements of G.S. 130A-309.240 and the rules of this Section.

(e) In accordance with G.S. 130A-309.240(d) in accordance with the effective dates and applicability of S.L. 2023-58, s. 4, the project owner of a USSP shall submit a draft copy of the financial mechanism, or updates to the mechanism, with the registration required to be submitted by this Rule. The Department shall review the draft mechanism and shall inform the project owner in writing of deficiencies in the draft mechanism, if any, within 60 days of submittal. The project owner shall correct the deficiencies identified by the Department and submit the corrected and executed financial mechanism to the Department no more than 30 days after the Department issued the notification of deficiencies. The project owner shall not commence construction, rebuild, or expansion of the project until the Department has received the executed financial assurance mechanism that complies with the requirements of G.S. 130A-309.240 and the rules of this Section.

(f) In accordance with G.S. 130A-309.240(e)(6) and the effective dates and applicability of S.L. 2023-58, s. 4, project owners shall submit copies of the decommissioning plans and financial assurance documentation required by G.S. 130A-309.240 and the rules of this Section with the registration required to be submitted by this Rule.

(g) In accordance with G.S. 130A-309.240(g) and the effective dates and applicability of S.L. 2023-58, s. 4, the project owner shall also upload with the registration a copy of any additional documentation required by the local government to comply with any more stringent local government requirements.

(h) The project owner of a USSP that is constructed on more than one parcel of land shall include with the registration the following

information for each parcel on which the project is or will be constructed:

- (1) landowner name, address, and contact information;
- (2) parcel identification number; and
- (3) copies of agreements with the landowner as required by G.S. 130A-309.240(e)(6) for each parcel.

Authority G.S. 130A-309.240(j).

15A NCAC 01V .0103 REGISTRATION FEE AMOUNT

(a) Existing USSPs. The amount of the registration fee required by G.S. 130A-309.240(h) submitted to the Department in accordance with Rule .0102 of this Section for each USSP that was required to be included in the report submitted to the General Assembly in accordance with S.L. 2023-58, s. 2.(f)(2) shall be as follows, and shall be adjusted in accordance with Paragraph (c) of this Rule:

- (1) The amount of the first registration fee shall be one hundred and seventy-five dollars (\$175.00) per megawatt alternating current (MW AC) of nameplate capacity.
- (2) The amount of the second registration fee and all subsequent registration fees shall be twenty-five dollars (\$25.00) per MW AC of nameplate capacity.

(b) New USSPs. The amount of the registration fees required by G.S. 130A-309.240(h) submitted to the Department in accordance with Rule .0102 of this Section for each USSP that is not subject to the fee established in Paragraph (a) of this Rule shall be as follows, and shall be adjusted in accordance with Paragraph (c) of this Rule:

- (1) USSPs capable of generating 20 MW AC or less:
 - (A) The amount of the first registration fee shall be five hundred dollars (\$500.00) per MW AC of nameplate capacity.
 - (B) The amount of the second registration fee and all subsequent registration fees shall be fifty dollars (\$50.00) per MW AC of nameplate capacity.
- (2) USSPs capable of generating more than 20 MW AC:
 - (A) The amount of the first registration fee shall be the lesser of three hundred dollars (\$300.00) per MW AC of nameplate capacity or fifty thousand dollars (\$50,000).
 - (B) The amount of the second registration fee and all subsequent registration fees shall be the lesser of twenty-five dollars (\$25.00) per MW AC of nameplate capacity for the USSP or twenty-five thousand dollars (\$25,000).

(c) Adjustment for Legislatively Mandated Salaries and Benefits Consistent with G.S. 143B-279.18 (see S.L. 2023-134, s. 12.14.(p)). Beginning July 1, 2029, and every five years

thereafter, the Department may adjust the fee amounts in Paragraphs (a) and (b) of this Rule in accordance with the Consumer Price Index computed by the Bureau of Labor Statistics during the prior two bienniums. The Department may also increase or decrease the fees or adjust the fee structures in Paragraphs (a) and (b) of this Rule on the same five-year schedule to meet the requirements in G.S. 130A-309.240(h) and G.S. 130A-309.242 that the fees be used to fund program administration. No amendment to this Rule shall be necessary for the Department to adjust the fees in accordance with this Paragraph. The adjustment to the fee amounts shall be rounded to the nearest dollar (\$1.00). No less than 180 days prior to a registration fee adjustment, the Department shall publish the adjusted fee amounts on the Department's website at <https://www.deq.nc.gov/about/divisions/waste-management/utility-scale-solar-management-program>.

(d) The Department may charge the project owner a late fee of seventy-five dollars (\$75.00) per month per USSP for every month or partial month that payment of the registration fee is delinquent.

Authority G.S. 130A-309.240(j).

15A NCAC 01V .0104 DECOMMISSIONING COST ESTIMATE REQUIREMENTS

(a) The project owner of a USSP shall submit a cost estimate for decommissioning with the registration required by Rule .0102 of this Section in accordance with G.S. 130A-309.240(e)(4). The cost estimate shall also be included in the decommissioning plan in accordance with G.S. 130A-309.240(c)(5), if a decommissioning plan is required to be submitted in accordance with the applicability and effective dates of S.L. 2023-58, s. 4.

(b) The calculation of the cost estimate for decommissioning shall meet the following requirements:

- (1) The cost estimate shall be based on costs for a third-party to conduct the decommissioning of the project in accordance with G.S. 130A-309.240(b) and the decommissioning plan for the USSP, where required in accordance with the applicability and effective dates of S.L. 2023-58, s. 4.
- (2) The cost estimate shall be based on the costs at the time of submittal of the estimate.
- (3) The cost estimate shall be itemized to show how the total amount was determined, including itemizing costs for:
 - (A) personnel time and expenses;
 - (B) transportation of materials to the receiving facility or location, such as the nearest existing recycling or disposal facility; and
 - (C) the fees charged by the receiving facility or location to accept the materials, such as the nearest existing recycling or disposal facility.
- (4) During decommissioning, photovoltaic modules shall be managed in a manner that prevents breakage, and shall not be disassembled, deconstructed, or removed from

the frame at the USSP location or at a facility or location other than the facility or location that receives the modules for management, such as the recycling or disposal facility. Decommissioning activities and the management of all equipment, materials, and waste from the USSP shall comply with Article 9 of Chapter 130A of the General Statutes and 15A NCAC 13A and 13B which are incorporated by reference including subsequent amendments.

(5) The cost estimate shall be adjusted in accordance with Paragraphs (d) and (e) of this Rule.

(c) The project owner shall also include with the decommissioning cost estimate a separate estimate of the salvage value of the project equipment in accordance with G.S. 130A-309.240(c)(3). The salvage value estimate shall meet the following requirements:

- (1) The salvage value estimate shall be based on values for a third party to salvage the equipment. If salvage values were considered in the cost estimate provided by a third party as provided in Subparagraph (b)(1) of this Rule, the salvage value estimate shall refer to the estimate from the third party.
- (2) The salvage value estimate shall be based on the current values at the time of each submittal of the decommissioning cost estimate.
- (3) The salvage value estimate shall clarify which tasks required for decommissioning would be completed by the third-party salvage company, and whether that company would also be providing the transportation costs and paying the fees, if any, for the receiving facility or location in accordance with Paragraph (b) of this Rule.

An estimate of salvage value shall not be required for equipment, or a subset of equipment, if the value is not included in the request to reduce the amount of financial assurance based on salvage value in accordance with Paragraph (g) of this Rule.

(d) The project owner shall update the decommissioning cost estimate every five years to reflect changes in costs over time, even if there are no other changes to the status, size, or operation of the USSP. The adjusted decommissioning cost estimate shall be submitted with the registration submitted in accordance with Rule .0102 of this Section.

(e) If changes to the decommissioning plan or project conditions increase the decommissioning cost estimate at any time during the active life of the project, the project owner shall increase the amount of financial assurance accordingly and shall submit the adjusted financial mechanism to the Department during their next scheduled registration update in accordance with Rule .0102 of this Section.

(f) The project owner may request to decrease the amount of financial assurance if changes to the decommissioning plan or project conditions over time decrease the decommissioning cost estimate during the active life of the project. The request shall comply with Paragraph (h) of this Rule.

(g) The project owner may request to reduce the amount of financial assurance based on the salvage value of the equipment submitted in accordance with Paragraph (c) of this Rule. The request shall comply with Paragraph (h) of this Rule. Beginning at 20 years after the project begins operation or five years prior to the end of the initial power purchase agreement, whichever is earlier, and through the end-of-life of the project, a reduction based on salvage value shall not cause the amount of financial assurance to be less than the total cost estimate to:

- (1) detach the photovoltaic modules from the base;
- (2) transport the photovoltaic modules and any hazardous waste from the USSP to the receiving facility or location; and
- (3) pay the fees charged by the receiving facility or location to accept the photovoltaic modules and any hazardous waste from the USSP.

(h) If the project owner requests to decrease the amount of financial assurance in accordance with Paragraphs (f) or (g) of this Rule, the request and a written justification shall be submitted with the registration submitted in accordance with Rule .0102 of this Section. The reduction to the financial assurance amount shall not be executed until the Department has issued a written approval that the adjusted cost estimates, financial assurance amount, and financial assurance mechanism comply with G.S. 130A-309.240 and the rules of this Section. No reduction of the amount of financial assurance shall be approved until the project owner has resolved any unresolved violations issued by the Department for non-compliance with Article 9 of Chapter 130A of the General Statutes, 15A NCAC 13B or 13C, or the rules of this Section. If the Department approves the request to reduce the amount of financial assurance, the Department shall provide written notice of the approval to the project owner. Upon receipt of approval, the project owner may adjust the amount of financial assurance and submit the adjusted financial assurance mechanism to the Department.

Authority G.S. 130A-309.240(j).

15A NCAC 01V .0105 GENERAL REQUIREMENTS FOR FINANCIAL ASSURANCE

(a) Project owners of a USSP that are required by G.S. 130A-309.240 to establish financial assurance in accordance with the effective dates and applicability of S.L. 2023-58, s. 4 shall establish, submit, and update an allowable financial mechanism, or a combination of mechanisms, provided in Rule .0106 of this Section to ensure sufficient funds are available to cover the cost of decommissioning in accordance with G.S. 130A-309.240(d)(1).

(b) The language of the mechanism shall be identical to the instrument templates provided in Rule .0107 of this Section, and shall ensure that the instruments satisfy the following criteria:

- (1) the financial assurance mechanism shall ensure that the amount of funds assured is sufficient to cover the cost of decommissioning at any time;
- (2) the financial assurance mechanism shall ensure that the funds will be available to the Department at the time of decommissioning; and

- (3) the financial assurance mechanism shall be legally valid, binding, and enforceable in accordance with State and federal law.

The project owner may submit a request in writing to the Department to revise the language of the mechanism if it is necessary to accommodate USSP-specific circumstances. The request shall be submitted to the Department in the draft mechanism for approval by the Department prior to submittal of the executed mechanism.

(c) The project owner of a USSP may use one financial assurance mechanism to ensure sufficient funds are available for decommissioning of more than one USSP located in North Carolina and owned by the same project owner.

(d) A project owner may demonstrate financial assurance for decommissioning by establishing more than one mechanism per project. The mechanism shall be as specified in Rule .0106 of this Section, except that financial assurance for an amount no less than the current cost estimate for decommissioning may be provided by a combination of mechanisms rather than a single mechanism.

When multiple financial assurance mechanisms are established, no more than one allowable mechanism shall be provided by the same financial institution or its corporate entities. The financial test provided by a corporation and the corporate guarantee provided by a corporate parent, sibling, or grandparent or a substantial business relationship shall not be combined if the financial statements of the two firms are consolidated.

(e) The amount of the financial mechanism shall be the amount of the cost estimate calculated in accordance with Rule .0104 of this Section.

(f) In accordance with G.S. 130A-309.240(d)(2), the project owner of a USSP shall not be released from the requirement to provide continuous financial assurance for decommissioning until the Department has provided the project owner with written notification that the decommissioning and restoration requirements for the USSP set forth in Part 2J of Article 9 of Chapter 130A of the General Statutes, the requirements of this Section, and the requirements of the decommissioning plan for the USSP have been met.

(g) If the project owner elects to change the type of financial mechanism selected at any time, the project owner shall submit a proposal for the new mechanism and a draft copy of the new financial assurance mechanism to the Department for approval that the mechanism complies with the rules of this Section. The existing executed mechanism shall not be cancelled until after the Department issues written notice to the project owner that the new mechanism complies with the requirements of the rules of this Section and the project owner has executed the new mechanism.

(h) If there is a change in project ownership, the new project owner shall establish financial assurance for the USSP and submit the executed financial assurance mechanism to the Department no more than 30 days after the change in ownership. The prior project owner shall maintain the financial assurance mechanism until the Department releases them from the requirement in writing, and upon confirmation that the financial assurance established by the new project owner meets the requirements of Part 2J of Article 9 of Chapter 130A of the General Statutes and the rules of this Section.

(i) Maintenance of financial assurance in the amounts required by the rules of this Section does not limit the responsibility of project

owners for the full cost of decommissioning of the USSP, the expenses of any on-site or off-site environmental restoration necessitated by activities at the USSP, or liability for all damages to third parties or private or public properties caused by the establishment and operation of the USSP.

(j) A corporate seal shall be required to complete the financial assurance mechanism as part of the certification of acknowledgement required in the mechanism language in Rule .0107 of this Section for a corporate project owner using a trust fund, surety bond guaranteeing payment, financial test, and corporate guarantee as set forth in Rule .0106 of this Section. When a corporate seal is required to certify a financial assurance mechanism but the corporation does not have a corporate seal, a member of the corporation's senior management or a representative of the board of directors shall submit to the Department a copy of the corporation's bylaws, a corporate ownership organization chart describing the relationship of the project owner to the corporation and its parent companies, contact information for the board of directors or senior management for the corporation, and a statement on corporate letterhead stating the signee has the authority to execute correspondence and financial assurance mechanism on behalf of the corporation, pursuant to G.S. 130A-309.240. The documentation shall be submitted to the Department of Environmental Quality, care of the Division of Waste Management at 1646 Mail Service Center, Raleigh, NC 27699. Senior management for the corporation shall be one of the following positions: the Chief Executive Officer or President, the Chief Operating Officer or Vice President, or the Chief Financial Officer or Treasurer.

(k) The executed mechanism shall be submitted to the Department as original signed hard copies.

(l) Financial assurance established for a USSP shall be an environmental liability for accounting purposes.

(m) If the local government requires financial assurance, the project owner may request that the Department accept evidence of executed financial assurance provided to and approved by the local government, in lieu of making the financial assurance accessible directly to the Department, to satisfy the explanation as to how the funds will be available to the Department in accordance with G.S. 130A-309.240(c)(6). In making such a request, the project owner shall demonstrate that the local government financial assurance mechanism otherwise meets the requirements of G.S. 130A-309.240 and Rules .0101 through .0105 of this Section. The project owner shall submit the request and demonstration with the registration required by Rule .0102 of this Section, and the request shall include a copy of the local government financial assurance mechanism and a written justification for Department approval that the local government financial assurance mechanism meets the requirements of G.S. 130A-309.240 and Rules .0101 through .0105 of this Section.

Authority G.S. 130A-309.240(j).

15A NCAC 01V .0106 ALLOWABLE MECHANISMS FOR FINANCIAL ASSURANCE

The following mechanisms may be used to meet the requirements of this Section for financial assurance.

- (1) Trust Fund.

(a) A project owner may satisfy the rules of this Section by establishing a trust fund that conforms to the requirements of this Item. The trustee shall be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or State agency.

(b) The trust fund shall be fully funded for the entire amount of decommissioning established by Rule .0104 of this Section, except as provided in Rule .0105(d) of this Section.

(c) The trust agreement shall be effective prior to submittal of the initial executed financial mechanism pursuant to Rule .0102(e) of this Section.

(d) The project owner or a third party authorized by the Department to conduct decommissioning may request reimbursement from the trustee for these expenditures. Requests for reimbursement shall be granted only if sufficient funds are remaining in the trust fund to cover the remaining costs of decommissioning, and if justification and documentation of the cost is submitted to the Department and approved by the Department as complying with G.S. 130A-309.240, the rules of this Section, and the decommissioning plan.

(e) The trust fund may be terminated by the project owner only if the project owner has substituted alternate financial assurance as specified in this Rule, or if the project owner receives written notice from the Department that they are no longer required to provide continuous financial assurance for decommissioning in accordance with the requirements of Rule .0105(f) of this Section.

(f) The trust fund may be elected as a standby trust mechanism to accompany the surety bond mechanism in Item (2) of this Rule, or the letter of credit mechanism in Item (3) of this Rule; or may be elected as a standalone funded trust mechanism.

(g) The trust agreement shall be accompanied by a certification of acknowledgement as specified following the language of the trust agreement in Rule .0107(1) of this Section.

- (h) Schedule A of the trust agreement shall be updated no less than 60 days after any change in the amount of the current cost estimate covered by the agreement.
- (2) Surety Bond Guaranteeing Payment into a Trust Fund.
 - (a) A project owner may demonstrate financial assurance for decommissioning by obtaining a payment surety bond that conforms to the requirements of this Item. The surety bond shall be effective prior to submittal of the initial executed financial mechanism pursuant to Rule .0102(e) of this Section. The surety company issuing the bond shall be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury and shall be licensed to do business in North Carolina.
 - (b) The project owner who uses a surety bond to satisfy the requirements of the rules of this Section shall also establish a standby trust fund prior to submittal of the initial executed financial mechanism pursuant to Rule .0102(e) of this Section. Under the terms of the bond, all payments shall be deposited by the surety directly into the standby trust fund. An originally signed duplicate of the trust agreement shall be submitted to the Department with the surety bond. This standby trust fund shall meet the requirements specified in Item (1) of this Rule, except that the following are not required until the standby trust fund is funded pursuant to the requirements of this Item:
 - (i) payment into the trust fund as specified in Sub-Item (1)(b) of this Rule;
 - (ii) updating of Schedule A of the trust agreement as specified in Sub-Item (1)(h) of this Rule;
 - (iii) annual valuations as required by the trust agreement outlined in Rule .0107(1) of this Section; and
 - (iv) notices of nonpayment as required by the trust agreement outlined in Rule .0107(1) of this Section.
 - (c) The bond shall guarantee that the project owner shall:
 - (i) Fund the standby trust fund in an amount equal to the penal sum of the bond prior to initiating final decommissioning of the USSP, and no more than one year after cessation of operations of the USSP;
 - (ii) Fund the standby trust fund in an amount equal to the penal sum of the bond within 15 days after an order to decommission the USSP is issued by a U.S. district court or other court of competent jurisdiction; or
 - (iii) Provide alternate financial assurance that complies with the rules of this Section within 90 days after receipt by both the project owner and the Department of a notice of cancellation of the bond from the surety.
 - (d) Under the terms of the bond, the surety shall become liable on the bond obligation when the project owner fails to perform as guaranteed by the bond.
 - (e) The penal sum of the bond shall be in an amount equal to the entire amount of decommissioning established by Rule .0104 of this Section, except as provided in Rule .0105(d) of this Section.
 - (f) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the project owner and to the Department. Cancellation shall not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the project owner and the Department, as evidenced by the certified mail return receipts. If the surety cancels the bond, the project owner shall obtain alternate financial assurance that complies with the rules of this Section prior to cancellation.
 - (g) The penal sum of the surety bond shall be adjusted for any increase or decrease in the amount of financial assurance in accordance with Rule .0104 of this Section.
 - (h) The surety bond may be terminated by the project owner only if the project owner has substituted alternate financial assurance that complies with the rules of this Section, or if the

project owner receives written notice from the Department that they are no longer required to provide continuous financial assurance for decommissioning in accordance with Rule .0105(f) of this Section.

(3) Letter of Credit.

(a) A project owner may satisfy the requirements of this section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Item. The letter of credit shall be effective prior to submittal of the initial executed financial mechanism pursuant to Rule .0102(e) of this Section. The issuing institution shall be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or State agency.

(b) A letter from the project owner referring to the letter of credit by number, issuing institution, and date, and providing the following information: name, project identification number, and address of the USSP and the amount of funds assured shall be included with the letter of credit submitted to the Department.

(c) The letter of credit shall be irrevocable and issued for a period of no less than one year in an amount no less than the entire amount of decommissioning established by Rule .0104 of this Section, except as provided in Rule .0105(d) of this Section. The letter of credit shall provide that the expiration date will be automatically extended for a period of no less than one year unless the issuing institution has cancelled the letter of credit by sending notice of cancellation by certified mail to the project owner and to the Department 120 days in advance of cancellation. If the letter of credit is cancelled by the issuing institution, the project owner shall obtain alternate financial assurance prior to cancellation.

(d) The project owner shall establish a standby trust fund. The standby trust fund shall meet the requirements of Item (1) of this Rule, except for the requirement to fully fund the trust as specified in Sub-Item (1)(b) of this Rule. Payments made under the terms of the letter of credit shall be deposited

by the financial institution directly into the standby trust fund.

(e) No payments shall be made from the trust fund unless approved by the trustee and the Department.

(f) The letter of credit shall be adjusted for any increase or decrease in the amount of financial assurance in accordance with Rule .0104 of this Section.

(g) The letter of credit and standby trust fund may be terminated by the project owner only if the project owner has substituted alternate financial assurance as specified in this Rule, or if the project owner receives written notice from the Department that they are no longer required to provide continuous financial assurance for decommissioning in accordance with the requirements of Rule .0105(f) of this Section.

(4) Insurance.

(a) A project owner may demonstrate financial assurance for decommissioning by obtaining insurance that conforms to the requirements of this Item. The insurance shall be effective prior to submittal of the initial executed financial mechanism pursuant to Rule .0102(e) of this Section. The insurer shall be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in North Carolina.

(b) The decommissioning insurance policy shall guarantee that funds will be available to decommission the USSP by cessation of operations. The policy shall also guarantee that once decommissioning begins, the insurer shall be responsible for the paying out of funds to the project owner or a third party authorized by the Department to conduct decommissioning, up to an amount equal to the face amount of the policy.

(c) The insurance policy shall be issued for a face amount no less than the entire amount of decommissioning established by Rule .0104 of this Section, except as provided in Rule .0105(d) of this Section. The term face amount means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer shall not change the face amount.

although the insurer's future liability will be lowered by the amount of the payments.

(d) A project owner or a third party authorized by the Department to conduct decommissioning may receive reimbursements for decommissioning expenditures. Requests for reimbursement shall be granted by the insurer only if the remaining value of the policy is sufficient to cover the remaining costs of decommissioning, and if justification and documentation of the itemized cost is submitted to the Department, and the Department provides written approval that this requirement has been met. The project owner or third party shall notify the Department that reimbursement has been received.

(e) Each policy shall contain a provision allowing assignment of the policy to a successor project owner.

(f) The insurance policy shall provide that the insurer shall not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy shall provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may cancel, terminate, or fail to renew the policy by sending notice by certified mail to the project owner and to the Department 120 days in advance of cancellation, termination, or failure to renew the policy. If the insurer cancels the policy, the project owner shall obtain alternate financial assurance as specified in this Rule prior to cancellation.

(g) The insurance policy may be terminated by the project owner only if the project owner has substituted alternate financial assurance as specified in this Rule, or if the project owner receives written notice from the Department that they are no longer required to provide continuous financial assurance for decommissioning in accordance with the requirements of Rule .0105(f) of this Section.

(5) Financial Test. A project owner that satisfies the requirements of this Item may demonstrate financial assurance using a financial test. To

pass this test the project owner shall meet the criteria of either Sub-Item (a) or (b) of this Item.

(a) The project owner shall have:

(i) two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5;

(ii) net working capital and tangible net worth each no less than six times the sum of the decommissioning cost estimate established by Rule .0104 of this Section;

(iii) tangible net worth of no less than 10 million dollars (\$10,000,000); and

(iv) assets located in the United States amounting to no less than 90 percent of their total assets or no less than six times the sum of the decommissioning cost estimate established by Rule .0104 of this Section.

(b) The project owner shall have:

(i) a current rating for their most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's;

(ii) tangible net worth no less than six times the sum of the decommissioning cost estimate established by Rule .0104 of this Section;

(iii) tangible net worth of no less than 10 million dollars (\$10,000,000); and

(iv) assets located in the United States amounting to no less than 90 percent of their total assets or no less than six times the sum of the decommissioning cost estimate established by Rule .0104 of this Section.

(c) To pass this test, the project owner shall submit the following items to the Department with the registration and subsequent updates required by Rule .0102 of this Section:

- (i) a letter signed by the project owner's chief financial officer and as specified in Rule .0107(5) of this Section;
 - (ii) a copy of the independent certified public accountant's report of the project owner's financial statements for the latest completed fiscal year; and
 - (iii) a special report from the project owner's independent certified public accountant to the project owner. The special report shall be based upon an agreed upon procedures engagement in accordance with professional auditing standards and shall describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and the reasons for any differences.
- (d) The project owner is no longer required to submit the documentation specified in Sub-Item (c) of this Item or comply with the requirements of this Item when:
- (i) the project owner substitutes alternate financial assurance as specified in the rules of this Section; or
 - (ii) the project owner receives written notice from the Department that they are no longer required to provide continuous financial assurance for decommissioning in accordance with the requirements of Rule .0105(f) of this Section.
- (e) If at any time the project owner no longer meets the requirements of Sub-Item (a) or (b) of this Item, the project owner shall send notice to the Department of intent to establish alternate financial assurance as specified in the rules of this Section. The notice shall be sent by certified mail within 90 days after the end of the fiscal year for which the year-end
- financial data show that the project owner no longer meets the requirements. The project owner shall provide the alternate financial assurance that meets the rules of this Section to the Department within 120 days after the end of such fiscal year.
- (f) The Department may, based on a reasonable belief that the project owner may no longer meet the requirements of Sub-Item (a) or (b) of this Item, require reports of financial condition at any time from the project owner in addition to the documentation specified in Sub-Item (c) of this Item. If the Department finds, on the basis of such reports and documentation, that the project owner no longer meets the requirements of Sub-Item (a) or (b) of this Item, the Department shall provide written notice to the project owner of this determination. The project owner shall obtain alternate financial assurance that meets the requirements of this Rule and submit that alternate financial assurance that complies with the rules of this Section to the Department within 90 days of the issuance of the written notice from the Department.
- (g) When calculating the amount of financial assurance, the project owner shall include the cost estimates for all USSPs owned by the project owner and for which they are required to obtain financial assurance. The amount of financial assurance for the financial test shall be adjusted in accordance with Rule .0104 of this Section.
- (h) The Department may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in their report on examination of the project owner's financial statements pursuant to Sub-Item (c)(ii) of this Item. An adverse opinion or a disclaimer of opinion shall be cause for disallowance. The Department may evaluate other qualifications on an individual basis. The project owner shall provide alternate financial assurance that complies with the rules of this Section within 90 days of the issuance of the written notice from the Department.
- (6) Corporate Guarantee:

(a) A project owner may also meet the requirements of the financial test in Item (5) of this Rule by obtaining a written guarantee. The guarantor shall be the direct or higher-tier parent corporation of the project owner, a firm whose parent corporation is also the parent corporation of the project owner, or a firm with a substantial business relationship with the project owner. The guarantor shall meet the requirements for project owners in Item (5) of this Rule and shall comply with the terms of the guarantee. A certified copy of the guarantee shall be submitted to the Department with the copies of the letter from the guarantor's chief financial officer and the independent certified public accountant's opinion for the guarantor as required by Item (5) of this Rule. If the guarantor's parent corporation is also the parent corporation of the project owner, the letter from the guarantor's chief financial officer shall describe the value received in consideration of the guarantee. If the guarantor is a firm with a substantial business relationship with the project owner, this letter shall describe this substantial business relationship and the value received in consideration of the guarantee. The project owner shall submit a corporate ownership organization chart describing the relationship of the project owner to the guarantor with the submittal of the initial executed financial mechanism, and during periodic registration updates thereafter.

(b) The guarantee shall be effective prior to submittal of the initial executed financial mechanism and all submissions required pursuant to this Item and Rule .0102(e) of this Section.

(c) The terms of the guarantee shall provide that:

(i) If the project owner fails to perform decommissioning of a USSP covered by the corporate guarantee in accordance with the requirements and timelines of G.S. 130A-309.240, the rules of this Section, the decommissioning plan, the guarantor shall either perform, or pay a third party to perform,

decommissioning; or establish a fully funded trust fund as specified in Item (1) of this Rule in the name of the project owner.

(ii) The corporate guarantee shall remain in force for as long as the project owner is required to comply with the applicable financial assurance requirements in the rules of this Section unless the guarantor sends prior notice of cancellation by certified mail to the project owner and to the Department. Cancellation shall not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the project owner and the Department, as evidenced by the return receipts.

(iii) If notice of cancellation is given, the project owner shall, within 90 days following receipt of the cancellation notice by the project owner and the Department, obtain alternate financial assurance that complies with the rules of this Section and obtain written approval from the Department that the alternate financial assurance complies with the rules of this Section. If the project owner fails to provide alternate financial assurance within the 90-day period, the guarantor shall obtain alternate financial assurance in the name of the project owner that complies with the rules of this Section within 120 days of the cancellation notice and obtain written approval from the Department that the alternate financial assurance complies with the rules of this Section.

Authority G.S. 130A-309.240(j).

15A NCAC 01V .0107 REQUIRED LANGUAGE FOR FINANCIAL ASSURANCE MECHANISMS

The financial assurance mechanisms set forth in Rule .0106 of this Section shall use the language provided in this Rule unless otherwise approved by the Department as provided in Rule .0105(b) of this Section, and shall be in accordance with the rules of this Section.

- (1) Trust Agreement. A trust agreement for a trust fund, as specified in Rule .0106(1) of this Section, shall be worded as follows unless otherwise approved by the Department as provided in Rule .0105(b) of this Section, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

TRUST AGREEMENT

Trust Agreement, the "Agreement," entered into as of [date] by and between [name of the project owner], a [name of State] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "incorporated in the State of [name of state]" or "a national bank"], the "Trustee."

Whereas, the Department of Environmental Quality, the "Department," an agency of the State of North Carolina, has established certain regulations applicable to the Grantor, requiring that a project owner of a utility-scale solar project (USSP) shall provide assurance that funds shall be available when needed for decommissioning of the USSP,

Whereas, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the USSPs identified herein, Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee,

Now, therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

- (a) The term "Grantor" means the project owner who enters into this Agreement and any successors or assigns of the Grantor.
- (b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Projects and Cost Estimates. This Agreement pertains to the USSPs and cost estimates identified on schedule A [on schedule A, for each USSP list the name, address, project identification number, and the current decommissioning, or portions thereof, for which financial assurance is demonstrated by this Agreement].

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the Department. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established initially as consisting of the property that is acceptable to the Trustee described in Schedule B. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible, nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor,

any payments necessary to discharge any liabilities of the Grantor established by the Department.

Section 4. Payment for Decommissioning. The Trustee shall make payments from the Fund as the Department shall direct, in writing, to provide for the payment of the costs of decommissioning of the USSPs covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the Department from the Fund for decommissioning expenditures in such amounts as the Department shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the Department specifies in writing, upon refund, such funds shall no longer constitute part of the Fund as defined herein.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

Section 6. Trustee Management. The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines that the Grantor may communicate in writing to the Trustee from time to time, subject to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing that persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

- (i) Securities or other obligations of the Grantor, or any other project owners, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the Federal or State government;
- (ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the Federal or State government; and
- (iii) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

- (a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and
- (b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by

the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the fund.

Section 10. Annual Valuation. The Trustee shall annually, no less than 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the Department a statement confirming the value of the Trust. Any securities in the fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the Department shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee. The Trustee may resign, or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor Trustee, and this successor accepts the appointment. The successor Trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor Trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor Trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in writing sent to the Grantor, the Department, and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in section 9.

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the exhibit or such other designees as the Grantor may designate by amendment to Exhibit A. The trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the Department to the Trustee shall be in writing, signed by the Department, or his designee, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or Department hereunder has occurred. The trustee shall have no duty to act in the absence of such orders, requests, and instructions from the grantor or Department, except as provided for herein.

Section 15. Notice of Payment. The Trustee shall notify the Grantor and the Department of payment to the Trust by certified mail within 10 days following receipt of said payment. The notice shall contain the name of the Grantor, the date of payment, the amount of payment, and the current value of the trust fund.

Section 16. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the Department, or by the Trustee and the Department if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the Department, or by the Trustee and the Department, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 18. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the Department

issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of the State of North Carolina.

Section 20. Interpretation. As used in this agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness Whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written: The parties below certify that the wording of this agreement is identical to the wording specified in 15A NCAC 01V .0107(1) [if wording is otherwise approved by the Department as provided in 15A NCAC 01V .0105(b), then state here: "except as approved by the Department on [date]" as were constituted on the date first above written.

[Signature of Grantor]

[Title]

Attest: [insert name of Corporation's Senior Management]

[Title]

[Seal]

State of North Carolina

County of [Name of County]

On this [date], before me personally came [name of project owner] to me known, who, being by me duly sworn, did depose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and that executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

Witness my hand and official seal this [Day] day of [Month], 20[Year].

[insert Signature of Notary]

Official Signature of Notary

[Notary's printed or typed name]

Notary Public

[Official Seal]

My commission expires: [insert Date of Commission Expiration]
[Or for no corporate seal, see 15A NCAC 01V .0105(j) and utilize the certification of acknowledgement below]

State of North Carolina

County of [Name of County]

I, [Name of Officer Taking Acknowledgment], a [Official Title of Officer Taking Acknowledgment], certify that [Name of Corporate Officer] personally came before me this day and acknowledged that he/she is [Title of Corporate Officer] of [insert Legal Name of Corporation], a corporation, and that he/she, as [insert Title of Officer], being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal this [Day] day of [Month], 20[Year].

[insert Signature of Notary]

Official Signature of Notary

[Notary's printed or typed name]

Notary Public

[Official Seal]

My commission expires: [insert Date of Commission Expiration]

[Signature of Trustee]

[Title]

Attest: [insert name]

[Title]

[Seal]

State of North Carolina

County of [Name of County]

I, [Name of Officer Taking Acknowledgment], a [Official Title of Officer Taking Acknowledgment], certify that [Name of Corporate Officer] personally came before me this day and acknowledged that he/she is [Title of Corporate Officer] of [insert Legal Name of Corporation], a corporation, and that he/she, as [insert Title of Officer], being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal this [Day] day of [Month], 20[Year].

[insert Signature of Notary]

Official Signature of Notary

[Notary's printed or typed name]

Notary Public

[Official Seal]

My commission expires: [insert Date of Commission Expiration]

Schedule A for Trust Agreement

[For Each Utility-Scale Solar Project (USSP):]

Project Name: [Project Name]

Project Address: [Project Address]

Project ID Number: [Project ID Number]

Total Amount of Decommissioning Costs to be Funded by this Trust: \$ [Amount]

Schedule B for Trust Agreement

[For Standby Trust]

Trust Property: This Fund shall consist of funds drawn from [insert type of mechanism; ex. Letter of credit] No. [insert number] dated [date] issued by [name of bank] at such time said funds are directly deposited into the Trust account.

[For Funded Trust]

Trust Property: This Fund shall consist of cash in the amount of \$[insert cash amount]. [Aggregate full amount of decommissioning from Schedule A.]

Account Information:

Account Number assigned to this Trust Agreement: [Account Number]

Amount of Deposit: [Amount of Deposit (zero dollars if used for a standby trust)]

Date: [Date]

Bank/Branch location for this trust account:

Bank/Branch Name: [Bank/Branch Name]

Location Address: [Location Address]

City & State: [City & State]

Contact Person at Bank:

Name: [Name]

Title: [Title]

Phone Number: [Phone Number]

Exhibit A for Trust Agreement

The following persons, acting singly or collectively, shall have the right to issue instructions to the Trustee pursuant to Section 14 of the Agreement:

Name: [insert name]

Position: [insert position]

(2) A surety bond guaranteeing payment of decommissioning as specified in Rule .0106(2) of this Section shall be worded as follows unless otherwise approved by the Department as provided in Rule .0105(b) of this Section, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

FINANCIAL GUARANTEE BOND

Date bond executed: [insert date of bond execution]

Effective date: [insert effective date]

Principal: [legal name and business address of project owner]

Type of organization: [insert "individual", "joint venture", "partnership", or "corporation"]

State of incorporation: [insert state of incorporation]

Surety(ies): [name(s), business address(es), and contact information]

[For Each Utility-Scale Solar Project (USSP)]

Project ID number: [insert project ID number]

Project name: [insert project name]

Project address: [insert project address]

Decommissioning cost: [insert dollar amount for decommissioning]

Total penal sum of bond: \$[insert total cost of the bond]

Liability Limit: \$[insert underwriting limit of the surety company]

Surety's bond number: [insert bond number issued by surety]

Know All Persons By These Presents, That we, the Principal and Surety(ies) hereto are firmly bound to the N.C. Department of Environmental Quality (hereinafter called the Department), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas, said Principal is required by G.S. 130A-309.240 and 15A NCAC 01V to provide financial assurance for decommissioning for each utility-scale solar project (USSP) identified above, and

Whereas, said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, Therefore, the conditions of the obligation are such that if the Principal shall faithfully, before the beginning of final decommissioning of each USSP identified above, fund the standby trust fund in the amount(s) identified above for the USSP,

Or, if the Principal shall fund the standby trust fund in such amount(s) within 15 days after a final order to begin decommissioning is issued by the Department or a U.S. district court or other court of competent jurisdiction,

Or, if the Principal shall provide alternate financial assurance and obtain the Department's written approval of such assurance, within 90 days after the date notice of cancellation is received by both the Principal and the Department from the Surety(ies), then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the Department that the Principal has failed to perform as guaranteed by this bond, the Surety(ies) shall place funds in the amount guaranteed for the USSP(s) into the standby trust fund as directed by the Department.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the Department, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the Department, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the Department.

[The following paragraph is an optional rider that may be included but is not required.]

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it guarantees a new decommissioning amount, provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the Department.

In Witness Whereof, the Principal and Surety(ies) have executed this Financial Guarantee Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this bond is identical to the wording specified in 15A NCAC 01V .0107(2) [if wording is otherwise approved by the Department as provided in 15A NCAC 01V .0105(b), then state here: "except as approved by the Department on [date]"] as were constituted on the date this bond was executed.

Principal

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate seal]

[For no corporate seal, see Rule .0105(j)]

Corporate Surety(ies)

[Name and address]

State of incorporation: [Surety's state of incorporation]

Liability limit: \$[Surety's liability limit]

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[For no corporate seal, see Rule .0105(j)]

[For each co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: \$[bond premium]

- (3) A letter of credit, as specified in Rule .0106(3) of this Section, shall be worded as follows unless otherwise approved by the Department as provided in Rule .0105(b) of this Section, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

IRREVOCABLE STANDBY LETTER OF CREDIT

N.C. Department of Environmental Quality

c/o Division of Waste Management

1646 Mail Service Center

Raleigh, N.C. 27699-1646

Dear Sir/Madam:

We hereby establish our Irrevocable Standby Letter of Credit No. [insert mechanism number] in your favor, at the request and for the account of [project owner's name and address] up to the aggregate amount of [in words] U.S. dollars \$[insert U.S. dollar amount], available upon presentation of

(1) your sight draft, bearing reference to this letter of credit No. [insert mechanism number], and

(2) your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to requirements of N.C.G.S. 130A-309.240 and 15A NCAC 01V because the applicant has failed to properly decommission the utility-scale solar project (USSP) in accordance with applicable statutes and rules."

This letter of credit is effective as of [date] and shall expire on [date no less than 1 year], but such expiration date shall be automatically extended for a period of [no less than 1 year] on [date] and on each successive expiration date, unless, no less than 120 days before the current expiration date, we notify both you and [project owner's name] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and [project owner's name], as shown on the signed return receipts.

Whenever this letter of credit is drawn on, under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [project owner's name] in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in 15A NCAC 01V .0107(3) [if wording is otherwise approved by the Department as provided in 15A NCAC 01V .0105(b), then state here: "except as approved by the Department on [date]"] as were constituted on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution],

[Date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits,

published by the International Chamber of Commerce," or "the Uniform Commercial Code"].

- (4) A certificate of insurance, as specified in Rule .0106(4) of this Section, shall be worded as follows unless otherwise approved by the Department as provided in Rule .0105(b) of this Section, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

CERTIFICATE OF INSURANCE FOR DECOMMISSIONING

Name and Address of Insurer

(herein called the "Insurer");

Name and Address of Insured

(herein called the "Insured");

Projects Covered: [List for each utility-scale solar project (USSP): the name, address, project identification number, and the amount of insurance for decommissioning (these amounts for all USSPs covered shall total the face amount shown below).]

Face Amount: [insert dollar amount of face value]

Policy Number: [insert insurance policy number]

Effective Date: [insert effective date]

The Insurer hereby certifies that it has issued to the Insured the policy of insurance identified above to provide financial assurance for decommissioning for the utility-scale solar projects (USSPs) identified above.

The Insurer further warrants that such policy conforms in all respects with the requirements of G.S. 130A-309.240 and 15A NCAC 01V, as applicable and as such regulations were constituted on the date shown immediately below. It is agreed that any provision of the policy inconsistent with such regulations is hereby amended to eliminate such inconsistency.

Whenever requested by the N.C. Department of Environmental Quality (hereinafter called the Department), the Insurer agrees to furnish to the Department a duplicate original of the policy listed above, including all endorsements thereon.

I hereby certify that the wording of this certificate is identical to the wording specified in 15A NCAC 01V .0107(4) [if wording is otherwise approved by the Department as provided in 15A NCAC 01V .0105(b), then state here: "except as approved by the Department on [date]"] as were constituted on the date shown immediately below.

[Authorized signature for Insurer]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

[Date]

- (5) A letter from the chief financial officer for a financial test, as specified in Rule .0106(5) of this Section, shall be worded as follows unless otherwise approved by the Department as provided in Rule .0105(b) of this Section, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

FINANCIAL TEST

LETTER FROM THE CHIEF FINANCIAL OFFICER

[Date]

N.C. Department of Environmental Quality

c/o Division of Waste Management

1646 Mail Service Center
Raleigh, NC 27699-1646

Dear Sir/Madam:

I am the chief financial officer of [name and address of firm]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance for decommissioning of a utility-scale solar project (USSP) as specified in N.C.G.S. 130A-309.240 and 15A NCAC 01V.

[Fill out the following five paragraphs regarding facilities and associated cost estimates. If your firm has no facilities that belong in a particular paragraph, write "None" in the space indicated. For each USSP, including its project identification number, name, address, and decommissioning cost estimates.]

1. This firm is the project owner of the following USSPs for which financial assurance for decommissioning is demonstrated through the financial test as specified in N.C.G.S. 130A-309.240 and 15A NCAC 01V. The current cost estimates for decommissioning covered by the test are shown for each USSP:

Name: [insert legal entity /principal name]

Office Address: [insert physical address of legal entity/principal]

Project Address: [insert physical address of project]

Project ID Number: [insert project ID number]

Decommissioning Cost Estimate: [insert dollar amount for decommissioning]

[Repeat the information above for each USSP included in the corporate test]

2. This firm guarantees, through the corporate guarantee as specified in Rule .0106(6) of this Section, the current cost estimates for decommissioning of the following facilities owned or operated by the guaranteed party. The current cost estimates for decommissioning so guaranteed are shown for each USSP: _____. The firm identified above is [insert one or more: (1) The direct or higher-tier parent corporation of the project owner; (2) owned by the same parent corporation as the parent corporation of the project owner, and receiving the following value in consideration of this guarantee _____; or (3) engaged in the following substantial business relationship with the project owner _____, and receiving the following value in consideration of this guarantee _____]. [Attach a written description of the substantial business relationship or a copy of the contract establishing such relationship to this letter].
3. This firm is the project owner or guarantor of the following USSPs, or projects substantially similar to USSPs, for which they are demonstrating financial assurance for decommissioning in other states through the use of a financial test specified in Rule .0106(5) of this Section or a mechanism substantially equivalent to the financial test, the current decommissioning cost estimates covered by such a test are shown for each USSP: _____.
4. This firm is the project owner of the following USSPs, or projects substantially similar to USSPs for which financial assurance for decommissioning

is not demonstrated either to EPA or another state through the financial test or any other financial assurance mechanism specified in Rule .0106 of this Section or substantially equivalent mechanism. The current decommissioning cost estimates not covered by such financial assurance are shown for each USSP: _____.

This firm [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed fiscal year, ended [date].

[Fill in Alternative I if the criteria of Rule .0106(5)(a) of this Section is used to pass the test.

[Fill in Alternative II if the criteria of Rule .0106(5)(b) of this Section is used to pass the test.

Alternative I

1. Sum of current decommissioning cost estimate [total of all cost estimates shown in the five paragraphs above] \$ _____

*2. Total liabilities [if any portion of the decommissioning cost estimates is included in total liabilities, you may deduct the amount of that portion from this line and add that amount to lines 3 and 4] \$ _____

*3. Tangible net worth \$ _____

*4. Net worth \$ _____

*5. Current assets \$ _____

*6. Current liabilities \$ _____

7. Net working capital [line 5 minus line 6] \$ _____

*8. The sum of net income plus depreciation, depletion, and amortization \$ _____

*9. Total assets in U.S. (required only if less than 90% of firm's assets are located in the U.S.) \$ _____

10. Is line 3 no less than \$10 million? (Yes/No) _____

11. Is line 3 no less than 6 times line 1? (Yes/No) _____

12. Is line 7 no less than 6 times line 1? (Yes/No) _____

*13. Are no less than 90% of firm's assets located in the U.S.? If not, complete line 14 (Yes/No) _____

14. Is line 9 no less than 6 times line 1? (Yes/No) _____

15. Is line 2 divided by line 4 less than 2.0? (Yes/No) _____

16. Is line 8 divided by line 2 greater than 0.1? (Yes/No) _____

17. Is line 5 divided by line 6 greater than 1.5? (Yes/No) _____

Alternative II

1. Sum of current decommissioning cost estimates [total of all cost estimates shown in the five paragraphs above] \$ _____

2. Current bond rating of most recent issuance of this firm and name of rating service _____

3. Date of issuance of bond _____

4. Date of maturity of bond _____

*5. Tangible net worth [if any portion of the decommissioning cost estimates is included in "total liabilities" on your firm's financial statements, you may add the amount of that portion to this line] \$ _____

*6. Total assets in U.S. (required only if less than 90% of firm's assets are located in the U.S.) \$ _____

7. Is line 5 no less than \$10 million? (Yes/No) _____

- 8. Is line 5 no less than 6 times line 1? (Yes/No) _____
- *9. Are no less than 90% of firm's assets located in the U.S.? If not, complete line 10 (Yes/No) _____
- 10. Is line 6 no less than 6 times line 1? (Yes/No) _____

[Signature]
 [Name]
 [Title]
 [Date]

(6) A corporate guarantee, as specified in Rule .0106(6) of this Section, shall be worded as follows unless otherwise approved by the Department as provided in Rule .0105(b) of this Section, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

CORPORATE GUARANTEE

Corporate Guarantee Terms for Decommissioning For [Project Owner], [Project ID Number] Guarantee made this [date] by [name of guaranteeing entity], [address and state of guaranteeing entity], herein referred to as Guarantor. The guarantee is made on behalf of the [project owner name] of [business address], which is [one of the following: "our subsidiary"; a subsidiary of [name and address of common parent corporation] or "an entity with which the Guarantor has a substantial business relationship"] to the N.C. Department of Environmental Quality (hereinafter called the Department).

Recitals:

- 1. Guarantor meets or exceeds the Financial Test criteria and agrees to comply with the reporting requirements for guarantors, as specified in N.C.G.S. 130A-309.240 and 15A NCAC 01V.
- 2. [Project owner] owns the following USSPs covered by this guarantee: List for each USSP the following information
Name: [insert project name]
Project Address: [insert project address]
Project ID No.: [insert Department-issued project number]
Decommissioning Cost Estimate: [insert dollar amount for decommissioning]
- 3. Decommissioning Cost Estimate as used above refers to the plans maintained as required by N.C.G.S. 130A-309.240 and 15A NCAC 01V for decommissioning cost estimate of USSPs identified above.
- 4. For value received from [insert project owner name], pursuant to N.C.G.S. 130A-309.240 and 15A NCAC 01V, Guarantor guarantees to the Department that in the event that [insert project owner name] fails to perform decommissioning of the above USSPs in accordance with the G.S. 130A-309.240, 15A NCAC 01V, and the decommissioning plan whenever required to do so, the Guarantor shall perform the required activities, or pay a third party to do so, or establish a fully-funded trust fund in conformance with G.S. 130A-309.240 and 15A NCAC 01V, in the name of the project owner in the amount of the current decommissioning cost estimate as specified in 15A NCAC 01V .0104.
- 5. Pursuant to G.S. 130A-309.240, Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the Guarantor fails to meet the Financial Test criteria the Guarantor shall, within 90 days, send by certified mail notice to the Department and to [project owner name] that the Guarantor is providing alternate financial assurance in accordance with 15A

- NCAC 01V in the name of [project owner name]. Within 120 days after the end of such fiscal year, the Guarantor shall establish such financial assurance unless [project owner name] has done so.
- 6. Guarantor agrees to notify the Department by certified mail of voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming Guarantor as debtor, within 10 days after commencement of the proceeding.
- 7. Guarantor agrees that within 30 days after being notified by the Department of a determination that Guarantor no longer meets the Financial Test criteria or that they are disallowed from continuing as a Guarantor for decommissioning of a USSP, they shall establish alternate financial assurance as required by N.C.G.S. 130A-309.240 and 15A NCAC 01V, as applicable, in the name of [project owner name] unless [project owner name] has done so.
- 8. Guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: modification or amendment of the decommissioning plan, the extension or reduction of the time of performance of the decommissioning of a USSP, or any other modification or alteration of an obligation of the project owner pursuant to N.C.G.S. 130A-309.240 and 15A NCAC 01V.
- 9. Pursuant to 15A NCAC 01V .0106(6)(c)(ii), Guarantor agrees to remain bound under this guarantee for as long as [project owner name] shall comply with N.C.G.S. 130A-309.240 and 15A NCAC 01V for the above-listed USSP(s), except as provided in paragraph 10 of this agreement.
- 10. [Insert the following language if the Guarantor is (a) a direct or higher-tier corporate parent, or (b) a firm whose parent corporation is also the parent corporation of the project owner]: Guarantor may terminate this guarantee by sending noticed by certified mail to the Department and to [project owner name], provided that this guarantee may not be terminated unless and until [project owner name] obtains, and the Department approves, alternate financial assurance as required by N.C.G.S. 130A-309.240 and 15A NCAC 01V.
[Insert the following language if the Guarantor is a firm qualifying as a Guarantor due to its substantial business relationship with the project owner]:
Guarantor may terminate this guarantee 120 days following the receipt of notification of its intended cancellation by certified mail by both the Department and by [project owner name].
- 11. Guarantor agrees that if [project owner name] fails to provide alternate financial assurance as specified in N.C.G.S. 130A-309.240 and 15A NCAC 01V and obtain written approval of such assurance from the Department within 90 days after a notice of cancellation from the Guarantor is received by the Department, Guarantor shall provide such alternate financial assurance in the name of [project owner name].
- 12. Guarantor expressly waives notice of acceptance of this guarantee by the Department or by [project owner name]. Guarantor also expressly waives notice of amendments or modifications of the decommissioning plan, and of rebuilding or expansion of the project.
Effective date: [insert mechanism effective date]
[Name of Guarantor]
[Corporate Seal]
[For no corporate seal, see Rule .0105(j)]
[Authorized signature for Guarantor]
[Name of person signing]

[Title of person signing]

[Telephone Number]

[Email Address]

State of North Carolina

County of [Name of County]

On this [day] day of [month], [year], before me personally came [name signing for Guarantor] to me known, who, being by me duly sworn, did depose and say that she/he resides at [Guarantor address], that she/he is [title at Guarantor Firm] described in and that executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

Witness my hand and official seal this [Day] day of [Month], 20[Year].

[insert Signature of Notary]

Official Signature of Notary

[Notary's printed or typed name]

Notary Public

[Official Seal]

My commission expires: [insert Date of Commission Expiration]

(7) A special report from an independent certified public accountant (CPA) is a supplemental report mechanism to the financial test mechanism as specified in Rule .0106(5) and the corporate guarantee mechanism as specified in Rule .0106(6) of this Section, and shall be worded as follows unless otherwise approved by the Department as provided in Rule .0105(b) of this Section, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

SPECIAL REPORT

INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT'S REPORT

ON APPLYING AGREED-UPON PROCEDURES

The Board of Directors

[Name of Company]

[Mailing and location address]

[Project No.]

We have performed the procedures enumerated below that were agreed to by management of [Name of Company] pursuant to N.C.G.S. 130A-309.240 and 15A NCAC 01V with respect to the letter dated [insert date] from the [insert Corporate Official name and title] to the N.C. Department of Environmental Quality (hereinafter called the Department), solely to assist you in filing the Letter (prepared in accordance with the criteria specified therein) for the year ended [insert date of end of corporate fiscal year]. [Name of Company] is responsible for this Letter. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is solely the responsibility of [Name of Company] and the Department. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures, which were limited solely to the identified item numbers, are as follows:

We compared the amounts in Item Nos. [insert applicable item numbers based on Alternative I or II] of the Financial Test in the Chief Financial Officer's (CFO) Letter to corresponding amounts reported as total liabilities [amount], Tangible Net Worth [amount], and total assets [amount], respectively, in the audited financial statement as of [insert date of end of corporate fiscal year] and found them [insert either, "not to be in agreement" or "to be in agreement"].

We computed the amounts in Item Nos. [insert applicable item numbers based on Alternative I or II] of the Financial Test in the CFO's Letter as of [insert date of end of corporate fiscal year] based on amounts reported as Net Worth [amount] and the net income plus depreciation, depletion, and amortization [amount] in the audited financial statements as of [insert date of end of corporate fiscal year], compared them to the amounts in the CFO's Letter and found them [insert either, "not to be in agreement" or "to be in agreement"].

We computed the amount of environmental obligations (as determined by current decommissioning cost estimate or guarantees) that are recognized as liabilities in the amount of [amount] in the audited financial statement as of [insert date of end of corporate fiscal year], compared them to the amounts in the CFO's Letter and found them [insert either, "not to be in agreement" or "to be in agreement"].

We compared the amount in Item No. [insert applicable item number based on Alternative I or II] of the Financial Test in the CFO's Letter and the Company's total assets located in the United States in the amount of [insert amount] in the audited financial statement as of [insert date of end of corporate fiscal year] and found them [insert either, "not to be in agreement" or "to be in agreement"].

[If not in agreement, describe the procedures performed in comparing the data in the CFO's letter derived from the audited financial year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and the reasons for any differences.]

We were not engaged to and did not conduct an examination, the objective of which would be the expression of an opinion on the selected financial information included in the Letter. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you. This report is intended solely for the use of management of the Company and is not intended to be and should not be used by anyone other than these specified parties.

[Date]

[Name of Accounting Firm]

Authority G.S. 130A-309.240(j).

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 56 – BOARD OF EXAMINERS FOR ENGINEERS AND SURVEYORS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Examiners for Engineers and Surveyors intends to amend the rules cited as 21 NCAC 56 .0502, .0901 and .0902.

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

Proposed Effective Date: February 1, 2025

Public Hearing:

Date: November 13, 2024

Time: 9:00 a.m.

Location: By conference call: (919) 791-2000, Extension 500

Reason for Proposed Action:

The Board seeks to amend 21 NCAC 56 .0502 to make grammatical revisions and to update the rule to reflect that applicants for engineering licensure no longer apply to the Board to take the fundamentals of engineering examination.

The Board seeks to amend 21 NCAC 56. 0901 to make grammatical revisions and to update a citation to the Board's responsible charge rule found at 21 NCAC 56.0701(d).

The Board seeks to amend 21 NCAC 56 .0902 to further define when a business name is misleading and to streamline the process of changing business names.

Comments may be submitted to: S. Wesley Tripp III, 4601 Six Forks Rd, Ste. 310, Raleigh, NC 27609; phone (919) 791-2000; email wtripp@ncbels.org

Comment period ends: December 16, 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

SECTION .0500 - PROFESSIONAL ENGINEER

21 NCAC 56 .0502 APPLICATION PROCEDURE: INDIVIDUAL

(a) General. A person desiring to become licensed as a Professional Engineer must submit an application to the Board on a form prescribed and furnished by the Board.

(b) Request. A request for an appropriate application form may be made to the Board office or obtained from the website. Applicants may obtain Engineer Intern certification forms at https://www.ncbels.org/application/engineer-intern-certification/. Applicants may obtain Professional Engineer licensure forms at https://www.ncbels.org/applications/professional-engineers/.

(c) Applicable Forms:

(1) Engineer Intern Certification Form. After passing the Fundamentals of Engineering Examination, an applicant may submit an application to the Board to become certified as an "Engineer Intern." This form requires the applicant to set forth their personal history, educational background, engineering experience, and character references. A passport-type photographic quality portrait that is adequate for current identification purposes is also required.

(2) Professional Engineer Form:

(A) All persons, including comity applicants and certified Engineer Interns, shall apply for licensure using the Professional Engineer Form. The submission of this form shall signify that the applicant has passed the Fundamentals of Engineering Examination, and seeks licensure as a Professional Engineer, when the applicant has met the requirements as set out in Rule .0501 of this Section. The Professional Engineering Form requires the applicant to set forth their personal and educational background, engineering experience, and character references. A passport-type photographic quality portrait that is adequate for current identification purposes is required.

(B) Persons who previously passed the Fundamentals of Engineering Examination by use of the Engineering Intern Certification Form Certified Engineer Interns shall submit the Professional Engineer Application Form to request licensure as a Professional Engineer when the applicant has met the requirements as set out in Rule .0501 of this Section.

(3) Supplemental Form. Persons who initially applied for the Fundamentals of Engineering Exam using the Professional Engineer Form shall supplement the initial application with this Form upon applying for the Principles and

~~Practice of Engineering Exam. All persons applying for licensure as a Professional Engineer shall submit the Supplemental Form. The Supplemental Form which requires that all engineering experience from the date of the initial application until the date of the supplemental application be listed. Five references shall be submitted that are current to within one year of the examination date.~~

(4) Reference Forms:

- (A) Persons applying for certification as an Engineer Intern shall submit to the Board the names of three individuals, one of whom is a professional engineer, who are familiar with the applicant's work, ~~character~~ character, and reputation. Persons applying to ~~take the Principles and Practice of Engineering Examination for licensure as a Professional Engineer~~ shall submit to the Board the names of five individuals who are familiar with the applicant's work, ~~character~~ character, and reputation. Three of these individuals shall be Professional Engineers.
- (B) In addition to the applicant submitting names to the Board of individuals familiar with the applicant's work, ~~character~~ character, and reputation, those individuals listed shall submit to the Board their evaluations of the applicant on forms supplied to them by the applicant.
- (C) The reference form requires the individual evaluating the applicant to state the evaluating individual's profession, knowledge of the ~~applicant~~ applicant, and information concerning the applicant's engineering experience, ~~character~~ character, and reputation.
- (D) The Board shall provide the reference forms to the applicant with the application. The reference forms shall then be distributed by the applicant to the persons listed on the application as references. The applicant shall ensure that the individuals listed as references return the completed reference forms to the ~~Board prior to the filing deadline for the examination.~~ Board.

(d) Fees:

- (1) Engineer Intern Certification Form. No application fee is required to become certified as an "Engineer Intern."
- (2) Professional Engineer Form. The application fee of one hundred dollars (\$100.00) is payable with the filing of the application.

(3) Comity. The licensure fee of one hundred dollars (\$100.00) is payable with the filing of the application.

(4) Examination. The examination fee for any applicant is payable to the National Council of Examiners for Engineering and Surveying (NCEES) at the time of registering to take the exam in accordance with G.S. 89C-14.

(e) The Board shall accept the records maintained by the National Council of Examiners for Engineering and Surveying (NCEES) as evidence of licensure in another ~~state.~~ jurisdiction. For comity licensure, the NCEES record shall be accepted in lieu of completing the experience, ~~education~~ education, and references sections of the application. A comity application, with or without a NCEES record, shall be administratively approved by the Executive Director without waiting for the next regular meeting of the Board. The Executive Director's approval shall be based upon evidence of current licensure in another jurisdiction with comparable qualifications, the required references, and the comity applicant's disciplinary record in other jurisdictions. Each administrative approval shall be reported to the Board at its next regular meeting for final approval.

(f) Model Law Engineer. The term "Model Law Engineer" refers to a person who meets the requirements of this Section by meeting the requirements of NCEES, has a current NCEES record on file, and is designated as a "Model Law Engineer." A "Model Law Engineer" application shall be administratively approved by the Executive Director based upon the designation, without waiting for the next regular meeting of the Board, at which time the action shall be reported to the Board for final approval.

(g) Personal interview. During the application process, the applicant may be interviewed by the Board members if the members have questions regarding the applicant's education, ~~experience~~ experience, or ~~character,~~ based upon the information submitted in the application. character.

Authority G.S. 89C-10; 89C-13; 89C-14; 89C-15.

SECTION .0900 - BUSINESS ENTITIES: GENERAL

21 NCAC 56 .0901 OFFICES

(a) Professional Engineering Services. Every firm, partnership, ~~corporation~~ corporation, or limited liability company that performs or offers to perform engineering services in the State of North Carolina shall have a resident Professional Engineer in responsible charge in each separate office located in North Carolina where professional engineering services are performed or offered to be performed. Out-of-state office locations where engineering services are performed or offered to be performed for North Carolina projects shall have Professional Engineers in responsible charge of only the specific projects in compliance with Rule ~~.0701(e)(3).~~ .0701(d) of this Chapter.

(b) Land Surveying Services. Every firm, partnership, ~~corporation~~ corporation, or limited liability company that performs or offers to perform land surveying services in the State of North Carolina shall have a resident Professional Land Surveyor in responsible charge in each separate office located in North Carolina where land surveying services are performed or offered to be performed. Out-of-state office locations where

surveying services are performed or offered to be performed for North Carolina projects ~~are only required to~~ shall have Professional Land Surveyors in responsible charge of only the specific projects in compliance with Rule ~~.0701(e)(3)~~ .0701(d) of this Chapter.

(c) Resident. The terms "resident Professional Engineer" or "resident Professional Land Surveyor" as used in this Rule, means a licensee who spends a majority of the licensee's normal working time in that office. Such time shall not be less than a majority of the operating hours of the business. A Professional Engineer or Professional Land Surveyor shall be the resident licensee at only one place of business at one time unless each business is at least one-third owned by the resident professional. This arrangement shall be specifically approved by the Board after a determination that the businesses are integrated in operation, ownership, and office location and that the licensee will be in responsible charge of the professional services.

(d) No firm, partnership, ~~corporation~~ corporation, or limited liability company shall practice, offer to practice, or market either land surveying or engineering unless there is a licensed resident for that service in responsible charge at that office. Advertisements, signs, letterheads, business cards, directories, or any other form of representation shall avoid any reference to any service that cannot be provided under the responsible charge of a properly qualified resident professional. The licensed entity shall give notice to the Board of a change of resident professional within 30 days after the change and shall not practice, offer to practice, or market the professional service during any period of time without a resident professional.

Authority G.S. 57D-2-02; 55B-12(b); 89C-10; 89C-24.

21 NCAC 56 .0902 BUSINESS TITLES

(a) Companies, partnerships, corporations, limited liability companies, or any other business providing professional engineering or land surveying services in North Carolina shall not practice under a name that is misleading. ~~Except as provided in Paragraph (b), for purposes of this Rule, "misleading" means that the titles of engineering or land surveying companies, partnerships, corporations, limited liability companies, or any other business organized for the primary purpose of providing such professional services shall not contain the name of an individual:~~

- (b) Business names are misleading when they:
- (1) ~~who is not licensed to provide the professional services offered in North Carolina; are not~~

truthful, objective, or do not include pertinent, relevant information;

- (2) ~~who is not eligible for licensure by comity to provide the professional services offered in North Carolina under the provisions of G.S. 89C-13; or make exaggerated, deceptive, or false statements or claims about professional qualifications, experience, or performance;~~
- (3) ~~who is licensed to provide the professional services, offered in North Carolina, in a state where the business (or of a successor to that business or business created to comply with G.S. 55B), is incorporated, organized, or is authorized to transact business; create an unjustified expectation or prediction of future success;~~
- (4) imply a connection with a government agency;
- (5) include obscene, indecent, or profane language;
or
- (6) use a name which is deceptively similar to that of an existing firm name by not having at least one unique substantive word, not including articles, prepositions, suffixes, or words denoting organizational structure such as group, associate, or similar words or any derivative of those words.

~~(b) A business may include in its title the name or names of one or more deceased or retired former members of the business, or of a successor to that business or a business created to comply with G.S. 55B, provided that the business submits a letter of request and explanation with its application to the Board, and that the Board finds that the use of the name is not misleading.~~

(c) A business shall not change its title, or operate under an assumed name, without first applying to the Board for a determination that the proposed title meets the requirements of Paragraph ~~(a)~~ or (b) of this Rule. Requests for name changes shall be made in writing on the change forms referenced in 21 NCAC 56 .0804(d). Requests to operate under an assumed name shall be made in writing.

(d) Prior to changing its name, a business may submit a letter of request and explanation to the Board for determination of whether a proposed new name complies with this Rule.

Authority G.S. 55B-5; 57D-2.01; 89C-10; 89C-24.

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

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Rule-making Agency: Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services

Rule Citation: 10A NCAC 26E .0406

Effective Date: September 25, 2024

Findings Reviewed and Approved by the Codifier: September 17, 2024

Reason for Action:

On July 26, 2024, Stericycle, the owners of the only incinerator in North Carolina that is capable of destroying controlled substances to the point that they are non-retrievable, notified long-term care pharmacies in North Carolina that they will no longer accept bookings for witnessed destruction of controlled substances. Stericycle's business decision to no longer provide long-term care pharmacies the option of destruction of unused controlled substances from nursing homes by an incinerator within the State was not foreseen by the Department. Amendment of Rule 10A NCAC 26E .0406, via emergency procedures, is to provide immediate clarity regarding the use of federally recognized options for disposing of and destroying unused controlled substances from nursing homes, including outsourcing the destruction to reverse distributors, in order to help ensure safe, secure, and timely disposal and destruction of unused controlled substances in North Carolina. The proposed emergency rule is in the public's best interest to avoid the threat of unused controlled substances accumulating at nursing homes or long-term care pharmacies, and the related diversion risks.

substances available for a minimum of two years. This record of disposal and destruction shall be kept on the Division form entitled "~~Controlled~~ Record of Ultimate User Controlled Substances Destroyed". ~~Destruction Record Nursing Homes.~~ Controlled substances returned to stock must be in a hermetically sealed container or in an otherwise pure uncontaminated condition and be identifiable. A pharmacist may outsource destruction of the unused controlled substances to a reverse distributor in accordance with 21 CFR 1317.05(a)(2), provided the pharmacist must first verify the vendor is registered with the DEA as a reverse distributor and maintains compliance with all applicable federal and State laws and regulations governing reverse distributors and destruction of unused controlled substances. Compliance with this rule is subject to audit by the Director or their designated representative.

Authority G.S. 90-100; ~~143B-210(9)~~; 143B-147;
Eff. June 30, 1978;
Amended Eff. September 15, 1980; May 15, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, ~~2016~~ 2016;
Emergency Amendment Eff. September 25, 2024.

Rule-making Agency: Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services

Rule Citation: 10A NCAC 27G .3605

Effective Date: September 23, 2024

Findings Reviewed and Approved by the Codifier: September 13, 2024

Reason for Action: S.L. 2023-65 enacted G.S. 122C-35 which granted the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services authority to adopt emergency, temporary, and permanent rules for the licensure, inspection, and operation of opioid treatment program medication units and opioid treatment program mobile units, including rules concerning any of the following: (1) Compliance with all applicable Substance Abuse and Mental Health Services Administration and federal Drug Enforcement Agency regulations governing opioid treatment program mobile units and opioid treatment program medication units. (2) Identification of the location of opioid treatment program medication units and opioid treatment program mobile units. (3) Schedules for the days and hours of operation to meet client needs. (4) Maintenance and location of records. (5) Requisite clinical staff and staffing ratios to meet immediate client needs at each opioid treatment program

CHAPTER 26 - MENTAL HEALTH, GENERAL

SUBCHAPTER 26E - MANUFACTURERS: DISTRIBUTORS: DISPENSERS AND RESEARCHERS OF CONTROLLED SUBSTANCES

SECTION .0400 - MISCELLANEOUS

10A NCAC 26E .0406 DISPOSAL OF UNUSED CONTROLLED SUBSTANCES FROM NURSING HOME

Controlled substances dispensed for inpatient administration to individuals residing in a licensed nursing home which for any reason are unused shall be returned to the pharmacy from which they were received. The pharmacist who receives these controlled substances shall return them to his their stock or dispose of and destroy them in accordance with the procedure outlined by the director and 21 CFR 1317.05(a). The pharmacist shall keep a record of this the disposal and destruction of unused controlled

medication unit or opioid treatment program mobile unit, including client needs for nursing, counseling, and medical care. (6) Emergency staffing requirements to ensure service delivery. (7) Criteria for policies and procedures for a clinical and individualized assessment of individuals to receive services at an opioid treatment medication unit or opioid treatment mobile unit that consider medical and clinical appropriateness and accessibility to individuals served. (8) Number of clients allowed per opioid treatment program medication unit and opioid treatment program mobile unit, based on staffing ratios. (9) Criteria to ensure the opioid treatment program facility is providing the required counseling to individuals receiving services at an opioid treatment program medication unit or opioid treatment program mobile unit. (10) Criteria for the opioid treatment program facility to ensure that individuals receiving services at an opioid treatment program medication unit or opioid treatment program mobile unit receive medical interventions when necessary.

Adoption of this emergency rule adheres to the mandate in S.L. 2023-65 and aligns North Carolina with the recently updated federal rules in 21 C.F.R., which allow OTPs to add and operate a mobile unit under their existing Drug Enforcement Agency (DEA) license. Without this change, the rules would direct OTPs to comply with an outdated version of federal regulations that did not include the ability to operate a mobile OTP component thereby creating a discrepancy between NC rules and federal regulation. Furthermore, this has become an emergent issue as a result of the ongoing opioid crisis in North Carolina. These efforts will increase access to treatment for individuals who suffer from opioid use disorder, while maintaining regulatory oversight to ensure client and public safety.

CHAPTER 27 - MENTAL HEALTH, COMMUNITY FACILITIES AND SERVICES

SUBCHAPTER 27G - RULES FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE FACILITIES AND SERVICES

SECTION .3600 - OUTPATIENT OPIOID TREATMENT

10A NCAC 27G .3605 MEDICATION UNITS AND MOBILE UNITS

(a) Definitions

- (1) "Opioid Treatment Program" (hereafter, OTP) means the same as defined in G.S. 122C-3(25a).
- (2) "OTP Facility" means the primary location on the facility license.
- (3) "Opioid Treatment Program Medication Unit" (hereafter OTP Medication Unit) means the same as defined in G.S. 122C-3(25b).
- (4) "Opioid Treatment Program Mobile Unit" (hereafter OTP Mobile Unit) means the same as defined in G.S. 122C-3(25c).

(b) The OTP Facility shall provide any medical, counseling, vocational, educational, and other assessment and treatment services not provided by the OTP Medication Unit or OTP Mobile Unit.

(c) The OTP shall determine the type of services to be provided at the OTP Medication Units and OTP Mobile Units. The OTP shall clearly specify which services are offered at the OTP Medication Units and OTP Mobile Units. Any services not offered at the OTP Medication Unit or Mobile Unit shall be provided at the OTP facility.

(d) Location and Service Capacity.

- (1) The OTP shall ensure that each OTP Medication Unit and OTP Mobile Unit complies with all applicable State and Federal laws and regulations, including without limitation, Substance Abuse and Mental Health Services Administration and Federal Drug Enforcement Agency regulations governing their operation.
- (2) An OTP with geographically separate OTP Medication Units and OTP Mobile Units shall maintain and provide the location of each unit associated with the OTP.
- (3) The OTP Medication Units and Mobile Units shall operate within a radius of 75 miles from the Opioid Treatment Program facility.
- (4) The OTP shall maintain and provide schedules for the days and hours of operation to meet patient needs.
- (5) The OTP shall establish and implement an operating protocol identifying the number of patients allowed per OTP Medication Unit and OTP Mobile Unit based on staffing ratios.
- (6) The OTP shall establish and implement an operating protocol which includes predetermined location(s), hours of operations, and a daily departure guide and business record of each OTP Mobile Unit's location.

(e) Staffing Requirements. The OTP and any associated OTP Medication Units and OTP Mobile Units shall maintain standard operating and emergency staffing to ensure service delivery at the OTP and any associated OTP Medication Units and OTP Mobile Units. Staffing shall include, but not be limited to the following:

- (1) The OTP and any associated OTP Medication Units and OTP Mobile Units shall have a 1.0 FTE Licensed Clinical Addiction Specialist (LCAS), or Licensed Clinical Addiction Specialist-Associate (LCAS-A) per 50 patients. This position can be filled by more than one LCAS or LCAS-A staff member (ratio 1:50); and
- (2) The OTP and any associated OTP Medication Units and OTP Mobile Units shall have 1.0 FTE LCAS, LCAS-A, Certified Alcohol and Drug Counselor (CADC), Certified Alcohol and Drug Counselor Intern (CADC-I), Licensed Clinical Social Worker (LCSW), Licensed Clinical Social Worker – Associate (LCSW-A), Licensed Clinical Mental Health Counselor (LCMHC), Licensed Clinical Mental Health Counselor – Associate (LCMHC-A), Licensed Marriage and Family Therapist (LMFT), Licensed Marriage and Family Therapist –

- Associate (LMFT-A), Licensed Psychological Associate (LPA), or Licensed Psychologist (LP) for each additional 50 patients in the program (ratio 1:50); and
- (3) The OTP and any associated OTP Medication Units and OTP Mobile Units shall have a Medical Director who is a physician licensed to practice medicine in North Carolina and who meets the standards and requirements outlined in 42 CFR 8.2 and 42 CFR 8.12(b).
- (A) The Medical Director is responsible for ensuring all medical, psychiatric, nursing, pharmacy, toxicology, and other services offered at the OTP and any associated OTP Medication Units and OTP Mobile Units are conducted in compliance with State and Federal laws and regulations, consistent with appropriate standards of care; and
- (B) The Medical Director shall be physically present at the OTP a minimum of four hours per month to assure regulatory compliance and to carry out those duties assigned to the Medical Director in 42 CFR 8.2 and 42 CFR 8.12(b)(2).
- (C) The Medical Director shall be responsible for supervision of any physician extender(s) and other medical staff.
- (f) Each OTP shall develop and implement a policy regarding the maintenance, location, and retention of records for its OTP Medication Units and OTP Mobile Units, in accordance with State and Federal laws and regulations.
- (g) Operations and Service Delivery
- (1) Each OTP Medication Unit and OTP Mobile Unit shall be deemed part of the OTP license and shall be subject to inspections the Department deems necessary to validate compliance with all applicable rules, and State and Federal laws and regulations.
- (2) The OTP shall ensure that its OTP Medication Units and OTP Mobile Units adhere to all State and federal program requirements for Opioid Treatment Programs.
- (3) Each OTP Medication Unit and OTP Mobile Unit shall establish and implement a written policy and procedure for operations that meets the needs of its patients.
- (4) The OTP shall establish and implement policies and procedures for a clinical and individualized assessment of patients to receive services at an OTP Medication Unit or OTP Mobile Unit that considers medical and clinical appropriateness and accessibility to patients served.
- (5) The OTP shall ensure that patients receiving services at an OTP Medication Unit or OTP Mobile Unit receive a minimum of two counseling sessions per month during the first year of continuous treatment and a minimum of one counseling session per month after the first year and in all subsequent years of continuous treatment.
- (6) Counseling staff shall be available, either in person and on-site or by telehealth, a minimum of five days per week to offer and provide counseling in accordance with the patient's treatment plan or person-centered plan.
- (7) The OTP shall establish and implement a policy and procedure to determine the appropriateness of telehealth services for a patient that takes into consideration the patient's choice along with the patient's behavior, physical, and cognitive abilities. The patient's verbal or written consent shall be documented when telehealth services are provided.
- (8) The OTP shall ensure that patients receiving services at an OTP Medication Unit or OTP Mobile Unit receive medical interventions, including naloxone, when medically necessary and in compliance with the patient's treatment plan, person-centered plan, standing orders, or emergency intervention protocols.
- (9) An OTP and its associated OTP Medication Units and OTP Mobile Units shall ensure that all dosing of medication to patients on the site of the OTP and any associated OTP Medication Units and OTP Mobile Units is directly observed by a Physician, Physician Assistant, Nurse Practitioner, Registered Nurse, or Licensed Practical Nurse, in accordance with applicable State and Federal Law and the OTP's Diversion Control Plan.

History Note: Authority G.S. 122C-35; 42 C.F.R. 8.12; Emergency Adoption Eff. September 17, 2024.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission October 30, 2024 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 984-236-1850. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

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

Appointed by House

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

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	January 30, 2025

RULES REVIEW COMMISSION

**Wednesday, October 30, 2024, 10:00 A.M.
1711 New Hope Church Rd., Raleigh, NC 27609**

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
 1. Sheriffs' Education and Training Standards Commission - 12 NCAC 10B .1302 (Peaslee)
- IV. Review of Log of Filings (Permanent Rules) for rules filed August 21, 2024 through September 20, 2024
 1. Pesticide Board (Wiggs)
 2. Child Care Commission (Liebman)
 3. Radiation Protection Commission (Wiggs)
 4. Commission for Public Health (Peaslee)
 5. Criminal Justice Education And Training Standards Commission (Peaslee)
 6. Sheriffs' Education And Training Standards Commission (Peaslee)
 7. Department of Labor (Ascher)
 8. Department of Revenue (Ascher)
 9. Board of Pharmacy (Liebman)
 10. Building Code Council (Liebman)
- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
- VI. Existing Rules Review
 - Review of Reports
 1. 04 NCAC 06 - Credit Union Division (Wiggs)
 2. 14B NCAC 18 - Public Safety - Division of Criminal Information (Wiggs)
 3. 15A NCAC 02B, 02H, 02T, 02U - Environmental Management Commission (Ascher)
 4. 21 NCAC 56 - Board of Examiners for Engineers and Surveyors (Wiggs)
- VII. Commission Business
 - Closed session, to consult with attorneys regarding CRC v. RRC and CJETS v. RRC; and ASHLEY SNYDER, in her official capacity as CODIFIER OF RULES
 - Next meeting: Wednesday, November 26, 2024

**Commission Review
Log of Permanent Rule Filings
August 21, 2024 through September 20, 2024**

PESTICIDE BOARD

The rules in Chapter 9 are from the Food and Drug Protection Division of the Department of Agriculture and Consumer Services.

The rules in Subchapter 9L are from the N.C. Pesticide Board and include organizational rules (.0100); registration (.0300); samples and submissions (.0400); pesticide licenses (.0500); pesticide and pesticide container disposal (.0600); declaration of pests and restrictions on their control (.0700); bulk distribution of pesticides (.0800); aerial application of pesticides (.1000); private pesticide applicator certification (.1100); arsenic trioxide (.1200); availability of restricted use pesticides (.1300); ground application of pesticides (.1400); worker protection standards for agricultural pesticides (.1800); pesticide storage (.1900); chemigation (any process whereby pesticides are applied to land, crops, or plants using an irrigation system) (.2000); hearing rules of the North Carolina pesticide board (.2100); and interim protection measures for the Carolina heelsplitter mussel (.2200).

<u>Pesticide Applicators</u>	02	NCAC	09L	.0503
Amend*				
<u>Definitions</u>	02	NCAC	09L	.0504
Amend*				
<u>Classifications</u>	02	NCAC	09L	.0505
Amend*				
<u>Governmental Workers</u>	02	NCAC	09L	.0506
Amend*				
<u>Categories of Consultants</u>	02	NCAC	09L	.0507
Amend*				
<u>Age Requirements</u>	02	NCAC	09L	.0512
Amend*				
<u>Recertification Options</u>	02	NCAC	09L	.0522
Amend*				
<u>Pesticide License Examination Requirement</u>	02	NCAC	09L	.0531
Adopt*				
<u>General Requirements</u>	02	NCAC	09L	.1002
Amend*				
<u>Drift Control</u>	02	NCAC	09L	.1003
Amend*				
<u>Definitions</u>	02	NCAC	09L	.1102
Amend*				
<u>Certification Examination</u>	02	NCAC	09L	.1103
Amend*				
<u>Applications Under Supervision of Certified Applicator</u>	02	NCAC	09L	.1105
Amend*				
<u>Age Limitations</u>	02	NCAC	09L	.1107
Amend*				
<u>Term of Certification; Recertification</u>	02	NCAC	09L	.1108
Amend*				
<u>Certification of Private Applicators</u>	02	NCAC	09L	.1109
Amend*				
<u>Exemptions</u>	02	NCAC	09L	.1303
Amend*				
<u>Record Keeping Requirements</u>	02	NCAC	09L	.1305
Amend*				

Record Keeping Requirements
Amend*

02 NCAC 09L .1402

CHILD CARE COMMISSION

The rules in Chapter 9 are child care rules and include definitions (.0100); general provisions related to licensing (.0200); procedures for obtaining a license (.0300); issuance of provisional and temporary licenses (.0400); age and developmentally appropriate environments for centers (.0500); safety requirements for child care centers (.0600); staff qualifications (.0700); health standards for children (.0800); nutrition standards (.0900); transportation standards (.1000); continuing education and professional development (.1100); building code requirements for child care centers (.1300); space requirements (.1400); temporary care requirements (.1500); family child care home requirements (.1700); discipline (.1800); special procedures concerning abuse/neglect in child care (.1900); rulemaking and contested case procedures (.2000); religious-sponsored child care center requirements (.2100); administrative actions and civil penalties (.2200); forms (.2300); child care for mildly ill children (.2400); care for school-age children (.2500); multi-unit child care centers (.2600); criminal records checks (.2700); voluntary rated licenses (.2800); developmental day services (.2900); NC pre-kindergarten services (.3000); and care for school-age children during state of emergency(.3100).

Staff/Child Ratios for Centers
Amend*

10A NCAC 09 .0713

RADIATION PROTECTION COMMISSION

The rules in Chapter 15 are from the Radiation Protection Commission and include general provisions (.0100); registration of radiation machines, facilities and services (.0200); licensing of radioactive material (.0300); industrial radiography x-ray machines (.0500); x-rays in the healing arts (.0600); use of radioactive sources in the healing arts (.0700); requirements for analytical x-ray equipment (.0800); requirements for particle accelerators (.0900); notices, instructions, reports and inspections (.1000); fees (.1100); land disposal of radioactive waste (.1200); requirements for wire-line service operators and subsurface-tracer studies (.1300); tanning facilities (.1400); and standards for protection against radiation (.1600).

Purpose and Scope
Amend*

10A NCAC 15 .0801

Definitions
Amend*

10A NCAC 15 .0802

Personnel Requirements
Amend*

10A NCAC 15 .0803

Operating Requirements
Amend*

10A NCAC 15 .0804

Area Requirements
Amend*

10A NCAC 15 .0805

Equipment Requirements
Amend*

10A NCAC 15 .0806

Security Screening for Government Use Only
Amend*

10A NCAC 15 .0807

Other Equipment Requirements
Amend*

10A NCAC 15 .0808

PUBLIC HEALTH, COMMISSION FOR

The rules in Chapter 41 concern epidemiology health.

The rules in Subchapter 41A deal with communicable disease control and include reporting of communicable diseases (.0100); control measures for communicable diseases including special control measures (.0200-.0300); immunization (.0400); purchase and distribution of vaccine (.0500); special program/project funding (.0600); licensed nursing home services (.0700); communicable disease grants and contracts (.0800); and biological agent registry (.0900).

Reportable Diseases and Conditions 10A NCAC 41A .0101
Amend*

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

The rules in Chapter 9 are from the Criminal Justice Education and Training Standards Commission. This Commission has primary responsibility for setting statewide education, training, employment, and retention standards for criminal justice personnel (not including sheriffs).

The rules in Subchapter 9A cover the Commission organization and procedure (.0100) and enforcement of the rules (.0200).

Suspension: Denial: or Revocation of Certification 12 NCAC 09A .0204
Amend*

Period of Suspension: Revocation: or Denial 12 NCAC 09A .0205
Amend*

Public Comments at Hearings 12 NCAC 09A .0208
Adopt*

The rules in Subchapter 9B cover minimum standards for: employment (.0100); schools and training programs (.0200); criminal justice instructors (.0300); completion of training (.0400); school directors (.0500); and certification of post-secondary criminal justice education programs (.0600).

Medical Examination 12 NCAC 09B .0104
Amend*

Administration of Criminal Justice Schools 12 NCAC 09B .0201
Amend*

Responsibilities of the School Director 12 NCAC 09B .0202
Amend*

Admission of Trainees 12 NCAC 09B .0203
Amend*

Training Course Enrollment 12 NCAC 09B .0204
Amend*

Basic Law Enforcement Training 12 NCAC 09B .0205
Amend*

Specialized Compliance and Control Tactics Instructor Tra... 12 NCAC 09B .0232
Amend*

Specialized Instructor Certification 12 NCAC 09B .0304
Amend*

Terms and Conditions of Specialized Instructor Certification 12 NCAC 09B .0305
Amend*

Trainee Attendance 12 NCAC 09B .0404
Amend*

Completion of Basic Law Enforcement Training Course 12 NCAC 09B .0405
Amend*

Comprehensive State Examination - Basic Law Enforcement T... 12 NCAC 09B .0406
Amend*

Comprehensive State Exam - Specialized Instructor Training 12 NCAC 09B .0414
Amend*

Satisfaction of Minimum Training - Specialized Instructor 12 NCAC 09B .0415
Amend*

Certification of Qualified Assistant 12 NCAC 09B .0504
Amend*

Terms and Conditions of Qualified Assistant Certification 12 NCAC 09B .0505

Amend*

The rules in Subchapter 9C concern the administration of criminal justice education and training standards including responsibilities of the criminal justice standards division (.0100); forms (.0200); certification of criminal justice officers (.0300); accreditation of criminal justice schools and training courses (.0400); minimum standards for accreditation of associate of applied science degree programs incorporating basic law enforcement training (.0500); and equipment and procedures (.0600).

Post Delivery Report of Training Course Presentation 12 NCAC 09C .0212

Amend*

Lateral Transfer of Local Confinement Personnel 12 NCAC 09C .0309

Amend*

Agency Reporting of Drug Screening Results 12 NCAC 09C .0310

Amend*

Reports of Training Course Presentation and Completion 12 NCAC 09C .0403

Amend*

The rules in Subchapter 9D concern professional certificate programs including law enforcement officers' professional certificate program (.0100); and criminal justice officers' professional certificate program (.0200).

General Provisions 12 NCAC 09D .0102

Amend*

The rules in Chapter 9 are from the Criminal Justice Education and Training Standards Commission. The rules in Subchapter 9E relate to the law enforcement officers' in-service training program.

Minimum Training Specifications: Annual In-Service Training 12 NCAC 09E .0105

Repeal*

The rules in Subchapter 9G are the standards for correction including scope, applicability and definitions (.0100); minimum standards for certification of correctional officers, probation/parole officers, and probation/parole officers-intermediate (.0200); certification of correctional officers, probation/parole officers, probation/parole officers intermediate and instructors (.0300); minimum standards for training of correctional officers, probation/parole officers, and probation/parole officers-intermediate (.0400); enforcement of rules (.0500); professional certification program (.0600); and forms (.0700).

Age 12 NCAC 09G .0203

Repeal*

Medical Examination 12 NCAC 09G .0205

Amend*

Agency Reporting of Drug Screening Results 12 NCAC 09G .0211

Amend*

General Certification 12 NCAC 09G .0304

Amend*

Certification of Qualified Assistant 12 NCAC 09G .0417

Amend*

Terms and Conditions of Qualified Assistant Certification 12 NCAC 09G .0418

Amend*

General Provisions 12 NCAC 09G .0602

Amend*

SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

The rules in Subchapter 10B govern the commission organization and procedure (.0100); enforcement rules (.0200); minimum standards for employment as a justice officer (deputy or jailer) (.0300); certification of justice officers (.0400); standards and accreditation for justice officers schools, training programs, and the instructors (.0500-.0900); certificate

and awards programs for sheriffs, deputies, justice officers, jailers, reserve officers, and telecommunicators (.1000-.1700); in-service training (.2000); firearms in-service training and re-qualification (.2100); and forms (.2200).

Detention Officer Certification Course 12 NCAC 10B .0601
Amend*

LABOR, DEPARTMENT OF

The rules in Chapter 13 concern boiler and pressure vessel including definitions (.0100); administration (.0200); enforcement of standards (.0300); general requirements (.0400); non-standard boilers and pressure vessels (.0500); hot water vessels used for heating or for storage of hot water (.0600); nuclear energy systems (.0700); and forms (.0800).

Definitions 13 NCAC 13 .0101
Amend*

Incorporated - Standards 13 NCAC 13 .0103
Amend*

Inspector Qualification 13 NCAC 13 .0202
Amend*

North Carolina Commission 13 NCAC 13 .0203
Amend*

Inspection Reports 13 NCAC 13 .0207
Amend*

Insurance Companies to Notify Chief Inspector 13 NCAC 13 .0208
Amend*

Shop Inspections and National Board "R" Certifi... 13 NCAC 13 .0210
Amend*

Certificate Inspections 13 NCAC 13 .0211
Amend*

Certificate and Inspection Fees 13 NCAC 13 .0213
Amend*

Extended Pressure Equipment Operating Certificates 13 NCAC 13 .0214
Amend*

Inspection Documentation 13 NCAC 13 .0301
Amend*

Certificate Issuance 13 NCAC 13 .0302
Amend*

Inspections Revealing Deficiencies 13 NCAC 13 .0303
Amend*

Appeals 13 NCAC 13 .0304
Amend*

Menace To Public Safety Notice 13 NCAC 13 .0305
Amend*

Design and Construction Standards 13 NCAC 13 .0401
Amend*

Pressure Relief Devices 13 NCAC 13 .0405
Amend*

Automatic Low-Water Fuel Cutoff Controls and Water-Feedin... 13 NCAC 13 .0409
Amend*

Valves, Drains and Bottom Blowoffs 13 NCAC 13 .0411
Amend*

Clearances 13 NCAC 13 .0413
Amend*

<u>Firing Mechanism Controls</u> Amend*	13 NCAC 13 .0420
<u>North Carolina Special</u> Amend*	13 NCAC 13 .0421
<u>Exhibition Boilers</u> Amend*	13 NCAC 13 .0422
<u>Model Hobby Boilers</u> Amend*	13 NCAC 13 .0423

REVENUE, DEPARTMENT OF

The rules in Chapter 5 are from the corporate income and franchise tax division. The rules in Subchapter 5C are corporate income tax rules and include corporations subject to the tax (.0100); computation of income (.0300); interest income on government obligations (.0400); income taxable in another state (.0600); business and nonbusiness income (.0700); property factor (.0800); payroll factor (.0900); sales factor (.1000); amortization of bond premiums (.1400); net economic loans carry over (.1500); partnerships and the corporate partner (.1700); computing taxable percentages on dividends (.1800); filing of returns and payment of taxes (.1900); extension of time for filing return (.2000); dissolutions and withdrawals (.2100); domestic international sales corporation (.2400); and reinstatement of corporate charter (.2600).

<u>Extension of Filing Date</u> Amend*	17 NCAC 05C .2004
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PHARMACY, BOARD OF

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

<u>Registration And Permits</u> Amend*	21 NCAC 46 .1401
<u>Medication in Health Care Facility Emergency Departments</u> Amend*	21 NCAC 46 .1415

BUILDING CODE COUNCIL

<u>2024 NC Administrative Code and Policies</u> Adopt*	Table 202.5 and Appendix C
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