

NORTH CAROLINA REGISTER

VOLUME 39 • ISSUE 09 • Pages 520 – 601

November 1, 2024

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

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

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NORTH CAROLINA REGISTER
Publication Schedule for January 2024 – December 2024

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 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
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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
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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
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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 25, 2024

EXECUTIVE ORDER NO. 315

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 1.

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

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

Section 2.

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

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

Secretary 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.

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

Section 5.

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

Section 6.

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

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

of the last axle of the vehicle and a minimum of eleven (11) feet between the center of axle one and the center of axle two of the vehicle.

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

Section 7.

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

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

Section 8.

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

Section 9.

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

Section 10.

Pursuant to 49 C.F.R. § 390.23, I hereby waive 49 C.F.R. § 395.3 for vehicles transporting loads that are for use in (1) providing direct assistance supporting emergency relief efforts including transporting essential fuels, food, water, non-alcoholic beverages, medical supplies, feed for livestock

and poultry, (2) transporting livestock, poultry, and crops ready to be harvested, or (3) the restoration of utility and transportation services in response to Helene 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 Helene.

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 Helene in North Carolina or affected states, or when the motor carrier dispatches a driver or commercial motor vehicle to another location to begin operations in commerce. (49 C.F.R. § 390.23(b)).

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

Section 11.

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

Section 12.

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

Section 13.

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

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 25th 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

October 3, 2024

EXECUTIVE ORDER NO. 316

PERMITTING USE, SALE, AND DISTRIBUTION OF CERTAIN NON-HIGHWAY DIESEL FUELS IN SUPPORT OF HURRICANE HELENE RELIEF EFFORTS

WHEREAS, Hurricane Helene (“Helene”) entered the State of North Carolina on 26 September 2024 as a tropical storm; and

WHEREAS, Helene has inflicted significant damage on public and private property, and disrupted the supply of certain diesel fuels necessary for recovery operations; and

WHEREAS, emergency response officials and personnel continue to make significant use of North Carolina roadways to reach impacted areas; and

WHEREAS, impacts from Helene constitute a State of Emergency, as defined in N.C. Gen. Stat. § 166A-19.3(19); and

WHEREAS, on September 25, 2024, the undersigned issued Executive Order No. 315, which declares a State of Emergency and provides for the health, safety, and welfare of residents and visitors located in North Carolina (“Declaration of State of Emergency”); and

WHEREAS, Executive Order No. 315 invokes the Emergency Management Act, which authorizes the Governor to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, on September 26, 2024, the President of the United States issued an emergency declaration, FEMA-3617-EM, for the State of North Carolina, providing, in part, for Public Assistance -Category B, including direct federal assistance to the state; and

WHEREAS, on September 28, 2024, the President of the United States approved an Expedited Major Disaster Declaration, FEMA-4827-DR, for the State of North Carolina; and

WHEREAS, on October 1, 2024, in response to diesel fuel shortages, the Internal Revenue Service (“IRS”) issued a waiver that lifts the IRS penalty associated with the sale and use of dyed diesel fuel with a sulfur content that does not exceed fifteen parts-per-million (“Dyed Fuel”) in diesel-powered highway vehicles in North Carolina (the “IRS Waiver”), provided the operator or the persons selling the fuel pays the per-gallon federal tax normally applied to diesel fuel for highway use; and

WHEREAS, to fully implement the policies of the federal government, and to take care of important public safety requirements, the undersigned has determined that it is in the State’s best interest to ensure that Dyed Fuel be delivered to, and available in, areas impacted by Helene; and

WHEREAS, N.C. Const. art. III § 5(4) vests the Governor with the duty to take care that the laws be faithfully executed; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned is authorized and empowered to make, amend, or rescind the necessary orders, rules, and regulations within the

limits of the authority conferred through the Emergency Management Act with due consideration of the policies of the federal government; and

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

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

Section 1.

In order to provide for the care and treatment of North Carolinians impacted by Hurricane Helene and the rapid and orderly restoration of their property, and in consideration of the policies of the IRS, the undersigned delegates to the Secretary of the Department of Revenue the authority to take, and the Secretary shall take, the following actions:

- a. The provisions of N.C. Gen. Stat. § 105-449.117 prohibiting the use of Dyed Fuel in a highway vehicle that is licensed or required to be licensed under Chapter 20 of the North Carolina Statutes shall not be enforced for the duration of this Executive Order and any extension thereof, provided the operator or person selling the fuel pays the applicable cents-per-gallon state motor fuel excise tax applied to diesel fuel for highway use.
- b. The provisions of 17 N.C. Admin. Code 12B .0503 ("Licensed Vehicles Using Dyed Diesel Fuel") shall not be enforced during the duration of this Executive Order and any extension thereof.

Section 2.

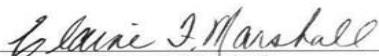
This Executive Order is effective immediately and shall remain in effect through the duration of the IRS Waiver and any extension thereof, not to exceed the duration of the State of Emergency.

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 3rd day of October 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

October 4, 2024

EXECUTIVE ORDER NO. 317

**MEETING NORTH CAROLINA'S STATE HUMAN RESOURCES NEEDS IN SUPPORT
OF HURRICANE HELENE RELIEF EFFORTS**

WHEREAS, Hurricane Helene ("Helene") entered the State of North Carolina on September 26, 2024, as a tropical storm; and

WHEREAS, Helene has inflicted significant damage on public and private property; and

WHEREAS, impacts from Helene constitute a State of Emergency, as defined in N.C. Gen. Stat. § 166A-19.3(19); and

WHEREAS, on September 25, 2024, the undersigned issued Executive Order No. 315, which declares a State of Emergency and provides for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, Executive Order No. 315 invokes the Emergency Management Act, and authorizes the Governor to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, on September 26, 2024, the President of the United States issued an emergency declaration, FEMA-3617-EM, for the State of North Carolina, providing, in part, for Public Assistance-Category B, including direct federal assistance to the State; and

WHEREAS, on September 28, 2024, the President of the United States approved an Expedited Major Disaster Declaration, FEMA-4827-DR, for the State of North Carolina; and

WHEREAS, there is an acute need to hire more emergency responders and others to help with disaster relief; and

WHEREAS, many state employees across western North Carolina have been impacted by Helene; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(7), the undersigned is authorized and empowered to utilize the services, equipment, supplies, and facilities of departments, offices, and agencies of the state in response to the emergency; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of state agencies or units thereof for the purpose of performing or facilitating emergency services.

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

Section 1. Human Resources Flexibility During the Emergency.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

A. Temporary Hiring Flexibility.

1. Hiring Temporary Staff.

- a. **Expedited Hiring Through Temporary Solutions.** The Office of State Human Resources (“OSHR”) will expedite the hiring of any employees who will perform emergency response or disaster relief activities or support those activities.
- b. **Direct Hiring.** In addition, the undersigned authorizes Cabinet agencies to directly hire temporary employees and contractors for emergency response activities or disaster relief activities and for positions that directly support those activities. OSHR has documented an exception for this hiring under N.C. Gen. Stat. § 126-6.3(a)(1). The directly hired employees under this provision shall be transferred to the Temporary Solutions Program once this Executive Order is no longer in effect.

2. **Exceptions to 11-Month Temporary Employee Limit.** Cabinet agencies shall contact OSHR for exceptions, under N.C. Gen. Stat. § 126-6.3(a3)(3), to the 11-month limit on consecutive employment of temporary employees. OSHR has agreed to respond within twenty-four (24) hours to any request for an exception concerning a position that performs, or that directly or indirectly supports, emergency services or disaster relief activities.

B. Enhanced Leave Options for State Employees Impacted by the Disaster. OSHR and Cabinet agencies are directed to extend the following flexibility. Council of State agencies, commissions, and boards in the executive branch may also elect to provide this flexibility.

The following leave options will be available to help state employees address their short-term needs. To preserve the staff who are directly involved in the immediate emergency effort, any emergency employees (also called essential employees in the HR-Payroll System) must get agency approval through their manager before using this leave. Agency Human Resources staff shall determine eligibility criteria based on the agency mission in disaster response.

1. **Management-Approved Leave.** Cabinet agencies and participating Council of State agencies, commissions, and boards shall provide the following:
 - a. **Leave for Adverse Living Situation.** Employees shall be eligible for up to forty (40) hours of paid leave, eligible to be taken during the period Friday, September 27 through Thursday, October 3, 2024, if the employee’s living situation is still evolving either (1) due to ongoing safety risks from damage to their primary residence, or (2) due to other serious hurricane-related impacts.
 - b. **Leave for Loss of or Substantial Damage to Primary Residence.** Employees shall be eligible for up to an additional eighty (80) hours of paid leave to address loss of or substantial damage to their primary residence sustained between September 27 and October 4, 2024. This leave is eligible to be taken during the first ninety (90) days after damage occurs.
 - c. **Leave for Employees Who Cannot Work Remotely and Cannot Get to Work.** The same bank of eighty (80) hours of paid leave set out in paragraph (b) above may also be used for employees who:
 - i. Cannot work remotely; and also

- ii. Either (1) have road conditions or a gasoline outage that prevent them from traveling to work, or (2) had to evacuate the area to a location that is not a reasonable driving distance from their worksite.

The leave options listed above will be coded as "Other Management-Approved Leave" in the HR-Payroll System.

Agencies are strongly encouraged to do whatever possible to redeploy employees to assist with storm response and recovery.

2. **Community Service Leave.** Cabinet agencies and participating Council of State agencies, commissions, and boards shall provide an additional sixteen (16) hours of paid Community Service Leave to volunteer for organized storm-related efforts coordinated by a local government entity or an established nonprofit. This is available in addition to the twenty-four (24) hours of paid Community Service Leave available under ordinary state policy, which also can be used for the same storm-related efforts. Employees must obtain prior approval from their supervisor before using Community Service Leave.
3. **Sick Leave for Child Care and Elder Care.** For the duration of this Executive Order, when an agency facility is open but (a) an employee who is a parent or guardian cares for underage children because of widespread closure of day care facilities or public schools, or (b) the employee provides elder care, the employee shall be allowed to use their balance of sick leave.
4. **Voluntary Shared Leave.** Each participating agency may set up a Voluntary Shared Leave bank for disaster-related impacts. Voluntary Shared Leave allows state employees to donate unused leave to help another employee in need. OSHR shall issue guidelines on how leave in this bank may be donated and used.

To the extent, if any, that the leave options described above are not available under existing State Human Resources policies, OSHR is directed to issue an exception under 25 N.C. Admin. Code 01A .0104 to provide this leave.

Section 2. Effect and Duration

This Executive Order is effective immediately and shall remain in effect through the duration of the State of Emergency unless repealed, replaced, or rescinded by another applicable Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 4th day of October in the year of our Lord two thousand and twenty-four.



 Roy Cooper
 Governor

ATTEST:



 Rodney S. Maddox
 Chief Deputy Secretary of State





State of North Carolina

ROY COOPER
GOVERNOR

October 5, 2024

EXECUTIVE ORDER NO. 318

**MEETING NORTH CAROLINA'S RESPONSE AND RECOVERY NEEDS IN
SUPPORT OF HURRICANE HELENE RELIEF EFFORTS**

WHEREAS, Hurricane Helene ("Helene") entered the State of North Carolina on September 26, 2024 as a tropical storm; and

WHEREAS, Helene has inflicted significant damage on public and private property; and

WHEREAS, impacts from Helene constitute a State of Emergency, as defined in N.C. Gen. Stat. § 166A-19.3(19); and

WHEREAS, on September 25, 2024, the undersigned issued Executive Order No. 315, which declares a State of Emergency and provides for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, Executive Order No. 315 invokes the Emergency Management Act, and authorizes the Governor to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, on September 26, 2024, the President of the United States issued an emergency declaration, FEMA-3617-EM, for the State of North Carolina, providing, in part, for Public Assistance-Category B, including direct federal assistance to the State; and

WHEREAS, on September 28, 2024, the President of the United States approved an Expedited Major Disaster Declaration, FEMA-4827-DR, for the State of North Carolina; and

WHEREAS, the ongoing recovery and response efforts will impact the capacity of the health care system; and

WHEREAS, North Carolina should take all reasonable actions to expand the capacity of the health care system; and

WHEREAS, these efforts to expand capacity should include adding health care providers and expanding access to resources and medical services; and

WHEREAS, in some cases, expanding health care capacity will require temporarily waiving or suspending legal and regulatory constraints; and

WHEREAS, in the coming days and weeks, decisions about expanding capacity will require real-time decision-making and will need to be made in a timeframe that cannot accommodate even emergency rule-making; and

WHEREAS, to enable rapid decision-making, the undersigned has determined that it is in the best interest of the people of North Carolina to provide the Secretary of the North Carolina Department of Health & Human Services (“Secretary”) with authority to waive the enforcement of certain legal and regulatory constraints in order to expand capacity and save lives; and

WHEREAS, to meet the recovery and response needs of North Carolina, the undersigned has determined that it is in the best interest of the people of North Carolina to expand our health care and other licensed professionals to provide for the state’s health care needs; and

WHEREAS, the damage and destruction caused by Helene has created potentially dangerous situations where North Carolinians may be exposed to life threatening allergens, stinging insects, bacterium or other harmful substances; and

WHEREAS, the State Health Director has been assigned authority by the Secretary, pursuant to N.C. Gen. Stat. § 130A-3, to exercise authorities under N.C. Gen. Stat. § 130A-5, to develop and carry out health programs necessary for the protection and promotion of the public health and the control of disease; and

WHEREAS, N.C. Const. art. III § 5(4) vests the Governor with the duty to take care that the laws be faithfully executed; and

WHEREAS, the weather events associated with Helene have resulted in the destruction and/or loss of vital records as defined by N.C. Gen. Stat. § 130A-2(10); and

WHEREAS, N.C. Gen. Stat. § 130A-93.1(a)(1)-(2) provides that the State Registrar of N.C. Vital Records within the North Carolina Department of Health and Human Services (“State Registrar”) shall collect and process fees when issuing replacement vital records; and

WHEREAS, 10A N.C. Admin. Code 41H .0701 establishes fees the State Registrar must collect when issuing replacement vital records; and

WHEREAS, N.C. Gen. Stat. § 161-10(a)(8)-(9) establishes fees local registers of deeds must collect when issuing replacement vital records; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b) authorizes and empowers the undersigned to make and amend orders, rules, and regulations within the limits of the authority conferred upon him in the North Carolina Emergency Management Act; and

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

WHEREAS, the execution of the undersigned’s emergency powers under N.C. Gen. Stat. § 166A-19.30 is appropriate to ensure the public safety of residents and visitors located in North Carolina during the State of Emergency; and

WHEREAS, in order to provide for the rapid and orderly rehabilitation of persons and restoration of property, the undersigned, with the concurrence of the Council of State, has made the determination that it is in the State’s interest to suspend the collection of certain replacement vital records fees.

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

Section 1. Increasing the Pool of Professional Health Care Workers

A. Regulatory flexibility to expand the health care workforce.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

1. Authority to meet extraordinary health care needs.

- a. To meet the goal of providing health care and saving lives in response to the wave of disaster brought on by Helene, and to meet the need for additional health care workers to treat patients, the undersigned delegates to each professional health care licensure board the authority to waive or modify enforcement of any legal or regulatory constraints that would prevent or impair the following:
 - i. Allowing persons to provide care if they are licensed in other states, territories, or the District of Columbia, but not licensed in North Carolina.
 - ii. Allowing persons to provide care if they are retired or if their licenses are inactive.
 - iii. Allowing skilled, but unlicensed volunteers to provide care.
 - iv. Allowing students at an appropriately advanced stage of professional study to provide care.

- b. Without limiting the foregoing, the undersigned delegates to each professional health care licensure board the authority to accomplish the goals listed in Subdivision (a)(i)-(iv) above by waiving or modifying any of the following regulations:
 - i. The regulations on admission and licensure for the practice of medicine, at 21 N.C. Admin. Code Chapter 32.
 - ii. The regulations on admission and licensure for the practice of nursing, at 21 N.C. Admin. Code Chapter 36.
 - iii. The regulations on admission and licensure for the practice of midwifery, at 21 N.C. Admin. Code Chapter 33.
 - iv. The admission and licensure regulations for the social worker profession, at 21 N.C. Admin. Code Chapter 63.
 - v. The regulations on admission and licensure for the practice of respiratory care, at 21 N.C. Admin. Code Chapter 61.
 - vi. The admission and licensure regulations for the pharmacy profession, at 21 N.C. Admin. Code Chapter 46.
 - vii. The regulations on admission and licensure for the practice of speech language pathology/therapy, at 21 N.C. Admin. Code Chapter 64.
 - viii. The regulations on admission and licensure for the practice of psychology, at 21 N.C. Admin. Code Chapter 54.
 - ix. The regulations on admission and licensure for the practice of clinical mental health counseling, at 21 N.C. Admin. Code Chapter 53.
 - x. The admission and licensure regulations for substance use disorder professionals, at 21 N.C. Admin. Code Chapter 68.
 - xi. The regulations on admission and licensure for the practice of occupational therapy, at 21 N.C. Admin. Code Chapter 38.
 - xii. The regulations on admission and licensure for the practice of physical therapy, at 21 N.C. Admin. Code Chapter 48.
 - xiii. The regulations on admission and licensure for the practice of recreational therapy, at 21 N.C. Admin. Code Chapter 65.
 - xiv. The admission and licensure regulations for the profession of interpreters and transliterators, at 21 N.C. Admin. Code Chapter 25.
 - xv. The admission and licensure regulations for the profession of nursing home administrators, at 21 N.C. Admin. Code Chapter 37.
 - xvi. The admission and licensure regulations for the profession of assisted living administrators, at 10A N.C. Admin Code 13F .1701.
 - xvii. The admission and licensure regulations for the perfusionist profession, at 21 N.C. Admin. Code Subchapter 32V.
 - xviii. The admission and licensure regulations for marriage and family therapists, at 21 N.C. Admin. Code Chapter 31.
 - xix. The admission and licensure regulations for dentists and dental hygienists, at 21 N.C. Admin. Code Chapter 16.
 - xx. Any regulations that are related to the provisions listed above.

- c. In each case, the professional health care licensure board shall have the authority to allow or not allow, in its discretion, these waivers or modifications, and the board shall have the authority to impose conditions on any persons authorized to provide care under this Subsection.
2. **Posting waivers and modifications.** Each professional health care licensure board shall document such waivers and modifications in writing and post them on their respective websites.
3. **Guidance on training and qualifications.** The professional health care licensure boards shall provide guidance on the training and qualifications necessary for their licensees to be ready to address workforce shortages in essential health care services needed to properly manage this State of Emergency.
4. **No reduction in existing waiver authority.** Nothing in this Subsection shall limit the existing statutory waiver authority of any board.
5. **Temporary nature of this Subsection.**
 - a. Waivers and modifications under the authority of this Subsection are temporary and shall be effective only for the duration of this Executive Order.
 - b. The undersigned delegates to each professional health care licensure board the authority to reimpose, during the duration of this Executive Order, any legal or regulatory constraint for which the board has waived or modified enforcement under this Subsection.

Section 2. Suspension of Certain Fees for North Carolina Vital Records

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

- A. The State Registrar shall suspend enforcement of the collection of fees set forth in N.C. Gen. Stat. § 130A-93.1(a)(1)-(2) and 10A N.C. Admin. Code 41H .0701 that are associated with processing and issuing: (1) replacement vital records maintained pursuant to Article 4 of Chapter 130A of the North Carolina General Statutes for individuals who maintained a residence on September 25, 2024, in any North Carolina counties declared in or subsequently added to the Federal Major Disaster Declaration issued on September 28, 2024, FEMA-4287-DR, and the boundary of the Eastern Band of Cherokee Indians; and (2) death certificates maintained pursuant to Article 4 of Chapter 130A of the North Carolina General Statutes for individuals who died on or after September 25, 2024, in any North Carolina counties declared in or subsequently added to the Federal Major Disaster Declaration issued on September 28, 2024, FEMA-4287-DR, and the boundary of the Eastern Band of Cherokee Indians.
- B. N.C. Gen. Stat. §§ 130A-93.1(a)(1)-(2), 161-10(a)(8), (9), 10A N.C. Admin. Code 41H .0701, and any other related state or political subdivision regulation or ordinance are waived to the limited extent necessary to permit local registers of deeds, in their discretion, to suspend the collection of fees associated with processing and issuing replacement vital records maintained pursuant to Article 4 of Chapter 130A of the North Carolina General Statutes and Article 2 of Chapter 161 of the North Carolina General Statutes for individuals who maintained a residence on September 25, 2024, in the any North Carolina counties declared in or subsequently added to the Federal Major Disaster Declaration issued on September 28, 2024, FEMA-4287-DR, and the boundary of the Eastern Band of Cherokee Indians; and (2) death certificates maintained pursuant to Article 4 of Chapter 130A of the North Carolina General Statutes for individuals who died on or after September 25, 2024, in any North Carolina counties declared in or subsequently added to the Federal Major Disaster Declaration issued on September 28, 2024, FEMA-4827-DR, and the boundary of the Eastern Band of Cherokee Indians.
- C. Paragraphs A and B of this Section 2 apply solely to fees for death certificates and replacement vital records maintained pursuant to Article 4 of Chapter 130A of the North

Carolina General Statutes and Article 2 of Chapter 161 of the North Carolina General Statutes.

- D. The suspension of fees in this Section shall remain in place for ninety (90) days following the end of the State of Emergency.
- E. This Section of the Executive Order shall be (a) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) promptly filed with N.C. Vital Records within the North Carolina Department of Health and Human Services' Division of Public Health, and published on N.C. Vital Records' website and at the N.C. Vital Records' office; and (c) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 3. Standing Order for Emergency Medications

In order to further support the response and recovery efforts and protect public health by providing access to certain emergency medicine, the undersigned orders the State Health Director, in addition to and in accordance with her powers set out in Chapter 130A of the North Carolina General Statutes, to issue any statewide standing orders needed in her medical judgment to provide emergency medications, including but not limited to medications to treat severe and life-threatening allergies, anaphylaxis or infections, and vaccinations to address exposure to tetanus and other infectious pathogens, subject to the terms of the standing order.

The State Health Director, acting in accordance with the provisions set out herein, and persons licensed or authorized to perform professional services in the field of health care acting in accordance with State Health Director Standing Orders issued under this Section shall be considered "emergency management workers" as that term is defined in N.C. Gen. Stat. § 166A-19.60(e).

Section 4. Effect and Duration

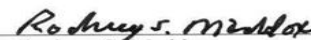
This Executive Order is effective immediately and shall remain in effect until rescinded or superseded by another applicable Executive Order with the exception of Section 2D, which shall survive the termination of the State of Emergency as set forth in that section. An Executive Order rescinding the Declaration of a State of Emergency will automatically rescind this Executive Order.

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



 Roy Cooper
 Governor

ATTEST:



 Rodney S. Maddox
 Chief Deputy Secretary of State





NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor
KODY H. KINSLEY • Secretary
MARK BENTON • Chief Deputy Secretary for Health
KELLY KIMPLE • Acting Director, Division of Public Health

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

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

Application by: Mark Smith
SepticJohn
6148 Getty Dr
North Little Rock, AR 72117

For: New Innovative Approval for the EcoJohn System

Application by: American Manufacturing Company, Inc
PO Box 97
Elkwood, VA 22718

For: Modifications to the Innovative Approvals for the American Perc-Rite Drip Systems

Application by: Anua
PO Box 77457
Greensboro, NC 27417

For: Modifications to the Innovative Approvals for Puraflo, Geoflow, and Gag Sim/Tech

Application by: AQWA, Inc
1908 Baldree Rd S
Wilson, NC 27893

For: Modifications to the Innovative Approval for the AQWA Drip System

Application by: BioMicrobics, Inc
16002 W 110th St
Lenexa, KS 66219

For: Modifications to the Innovative Approval for the MicroFAST and High Strength FAST Systems

Application by: Brunswick County Health Dept
PO Box 9
Bolivia, NC 28422

For: Modifications to the Innovative Approval for the Brunswick Bed in Fill System

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF PUBLIC HEALTH

LOCATION: 5605 Six Forks Road, Building 3, Raleigh, NC 27609
MAILING ADDRESS: 1642 Mail Service Center, Raleigh, NC 27699-1642
www.ncdhhs.gov • TEL: 919-707-5874 • FAX: 919-845-3972

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

- Application by: Cultec, Inc
878 Federal Rd
Brookfield, CT 06804
- For: Modifications to the Innovative Approval for the Contactor and Field Drain Panel Chamber Systems
- Application by: Infiltrator Water Technologies, Inc
PO Box 768
Old Saybrook, CT 06475
- For: Modifications to the Innovative Approvals for the Delta Drip Irrigation, AES, EZflow, Flowtech, Infiltrator, and ADS Systems
- Application by: E-Z Treat Company
PO Box 176
Haymarket, VA 20168
- For: Modifications to the Innovative Approvals for the E-Z Treat Advanced Pretreatment and Drip Irrigation Systems
- Application by: Norweco, Inc
220 Republic St
Norwalk, OH 44870
- For: Modifications to the Innovative Approval for the Norweco Singulair and Bio-Kinetic Systems
- Application by: Orenco Systems, Inc
814 Airway Ave
Sutherlin, OR 97479
- For: Modifications to the Innovative Approvals for the AdvanTex, AdvanTex AX-RT, and Intermittent Sand Filter Systems
- Application by: Advanced Drainage Systems, Inc
4640 Trueman Blvd
Hilliard, OH 43026
- For: Modifications to the Innovative Approval for the Septic Stack System
- Application by: Premier Tech Environment, Inc
1, avenue Premier
Riviere-du-Loup, G5R 6C1 Canada
- For: Modifications to the Innovative Approval for the Ecoflo System
- Application by: Prinsco
1717 16th St NE
Wilmar, MN 56201
- For: Modifications to the Innovative Approval for the Ecoflo System
- Application by: Soil Science Dept, NCSU
Box 7619
Raleigh, NC 27695-7619
- For: Modifications to the Innovative Approval for the Sand Filter System

Application by: On-Site Water Protection Branch

For: Modifications to the Innovative Approvals for Flow Equalization, Four Inch Corrugated Plastic Pipe, Off-Site, and Tire Chip Systems

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

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

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

North Carolina License and Theft Bureau

PUBLIC NOTICE

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

Applicant's Name: MV Agusta Motorcycles North America Inc

Applicant's Address: 30125 KTM Way, Murrieta CA 92563

Application Date: 9/23/24

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

John Hinz CEO

Diane Roth CFO

Elisabeth Steinacker Secretary

North Carolina License and Theft Bureau

PUBLIC NOTICE

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

Applicant's Name: FR Conversions LLC

Applicant's Address: 1231 Tech Ct, Westminster MD 21157

Application Date: 10/1/2024

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

Eliyahu Rosenbloom CEO

FR Conversions Inc Member

Tide Rock Yield Co LLC Managing Member

North Carolina License and Theft Bureau

PUBLIC NOTICE

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Applicant's Name: Husqvarna Mobility North America Inc

Applicant's Address: 30125 KTM Way, Murrieta CA 92563

Application Date: 9/23/2024

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

John Hinz CEO

Diane Roth CFO

Elisabeth Steinacker Secretary

North Carolina License and Theft Bureau

PUBLIC NOTICE

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Applicant's Name: JT KUSTOMS LLC

Applicant's Address: 4600 N PATTERSON AVE, WINSTON SALEM, NC 27105

Application Date: 10-9-2024

Names and titles of any individual listed on the application as an owner, partner, member or officer of the applicant: TANYA THOMPSON VP, JAMES THOMPSON, JUSTIN BRAME

North Carolina License and Theft Bureau

PUBLIC NOTICE

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

Applicant's Name: Osage Industries Inc

Applicant's Address: 194 County Road 302, Linn MO 65051

Application Date: 9/24/2024

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

Kyle Shimmens President

Drew Biddle CFO

North Carolina License and Theft Bureau

PUBLIC NOTICE

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

Applicant's Name: Spartan Cargo Trailers LLC

Applicant's Address: 140 Industrial Blvd, Alma GA 31510

Application Date: 09/09/2024

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

Andrew Adams President



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

Counsel to Defending Digital Campaigns, Inc.

Michael E. Toner
Brandis L. Zehr
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2050 M. Street NW
Washington, DC 20036

Ezra W. Reese
Jonathan A. Peterson
Elias Law Group LLP
250 Massachusetts Avenue NW, Suite 400
Washington, DC 2001

September 21, 2024

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

Dear Counsel,

We have reviewed your correspondence on behalf of Defending Digital Campaigns, Inc. The following written opinion is provided in accordance with N.C.G.S. § 163-278.23.

In your letter, you shared that Defending Digital Campaigns, Inc (“DDC”) is seeking to expand its cybersecurity program to offer cybersecurity training, services and resources to North Carolina candidates committees and political parties. DDC proposes to make its services free to these entities on a nonpartisan basis.

According to your letter, DDC is an offshoot of the Defending Digital Democracy Project, an initiative of the Belfer Center for Science and International Affairs at Harvard University’s Kennedy School. Advisory Op. Request at 1. DDC is a Section 501(c)(4) nonprofit corporation organized under the provisions of the District of Columbia Business Organization Code. The Articles of Incorporation

make clear that the purpose of the corporation is “to provide education and research for civil institutions on cybersecurity best practices and assist them in implementing technologies, processes, resources, and solutions for enhancing cybersecurity and resilience to hostile cyber acts targeting the domestic democratic process” Advisory Op. Request Appendix A. While organized and operating as a nonprofit corporation described in Section 501(c)(4) of the Federal Internal Revenue Code, the Articles of Incorporation also state that “the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements concerning), any political campaign on behalf of (or in opposition to) any candidate for public office within the meaning of Section 501(c)(3) of the Code.” *Id.* This means DDC has elected to follow the strident prohibitions on political activity imposed on 501(c)(3) organizations.

DDC would like to offer a series of services to North Carolina candidate committees and political parties, including the following:

- Free or reduced-cost cybersecurity software and hardware through partner technology providers;
- Cybersecurity training covering core cybersecurity issues, and advanced cybersecurity training over time;
- On-site and remote onboarding and training to assist campaigns and political parties in getting cybersecurity products up and running;
- Cybersecurity incident response and monitoring services provided by digital security firms; and
- Information sharing systems allowing political organizations to share information on malicious email addresses, IP addresses, and other intelligence on cyber threats.

Advisory Op. Request at 3-4. To accomplish this, DDC intends to work directly with candidates and political parties to educate leadership and staff about cybersecurity and provide comprehensive cybersecurity training. DDC also works with select corporate partners to negotiate fee or reduced cost cybersecurity services and produces to be provided to campaigns and political parties who participate in DDC’s program.

DDC seeks guidance on whether it may provide these services: (1) to any party committee registered with the State Board of Elections, and (2) to candidates for state or local office who have qualified for the general election ballot in their respective races. DDC plans to proactively reach out to North Carolina campaigns and political parties in a consistent manner and offer the same suite of services to all such committees meeting the eligibility requirements. Advisory Op. Request at 5.

In 2018, DDC submitted a similar letter to the Federal Election Commission (“FEC”) to ask whether DDC may offer its services to eligible federal political committees. On May 21, 2019, the FEC approved DDC’s proposed activity

“under the unusual and exigent circumstances presented by your request and in light of the demonstrated currently enhanced threat of foreign cyberattacks against party and candidate committees.” FEC, Advisory Op. 2018-12 at p 7. The FEC noted that the United States had experienced “actual and attempted foreign cyberattacks on party and candidate committees on an unprecedented scale” and that “DDC’s proposal is a unique response to such threats.” FEC, Advisory Op. 2018-12 at p 8.

The threat from foreign adversaries still exists today. *See* An Update on Foreign Threats to the 2024 Elections: Hearing Before the S. Select Comm. on Intelligence, 118th Cong. (2024) (Statement by Avril Haines, Director of National Intelligence), <https://www.intelligence.senate.gov/hearings/open-hearing-update-foreign-threats-2024-elections>. Like their federal counterparts, North Carolina political parties and candidates must remain vigilant in an increasingly complex cyber and security environment.

North Carolina law prohibits a candidate or political party from accepting any contribution made by any corporation, foreign or domestic, regardless of whether such corporation does business in the State of North Carolina, or made by any business entity, labor union, professional association, or insurance company. N.C.G.S. § 163-278.15(a).¹

A contribution is:

any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever, made to, or in coordination with, a candidate to support or oppose the nomination or election of one or more clearly identified candidates, to a political committee, to a political party, to an affiliated party committee, or to a referendum committee, whether or not made in an election year, and any contract, agreement, or other obligation to make a contribution.

N.C.G.S. § 163-278.6(13). A contribution includes non-monetary transfers of goods or services, described as “in-kind contributions.” N.C. Campaign Finance Manual at p. 19 (issued Feb. 2022). In-kind contributions count towards contribution limits and the fair market value of the good or service must be disclosed on the appropriate disclosure report. *Id.* In general, the provision or discount of a service or the provision or discount of a product to a political committee is considered an in-kind contribution. *Id.* at p. 51.

The need for the services provided by the DDC is not driven by normal election activity. Political committees are in the business of “supporting or opposing the election of clearly identified candidates,” N.C.G.S. § 163-278.6(74), and nothing

¹ There is a limited exception for nonprofits that qualify under N.C.G.S. § 163-278.19(h). However, given the history of and potential for corporate contributions to DDC, it does not appear DDC would qualify.

inherent to the purpose of a political committee would typically require that committee to expend resources to defend against threats by malicious foreign actors. It is the current, heightened threat environment, and the fact that foreign actors have targeted political campaigns, that give us all an interest in ensuring political committee are safe from actors who have no role to play in U.S. elections.

In this specific instance, the purpose of DDC and the provision of its services is tailored to the unique and common threat faced by all candidates and parties, regardless of their affiliation. The services provided by DDC and DDC's corporate partners are not services that can be readily purchased on the market by candidates and political committees.

DDC and its corporate partners are offering services that are only relevant to, and only provided to, campaigns and committees – and are provided to all campaigns and committees for free – so there is no usual and normal charge for the services that are being forgone or waived. In short, DDC is making generally and publicly available a service for the purpose of ensuring the integrity of our electoral system, rather than providing free goods and services that would otherwise be paid for by campaigns and political parties.

Advisory Op. Request at p. 8. If anything, these services mirror some of the services the U.S. Cybersecurity and Infrastructure Security Agency (“CISA”) and the U.S. Department of Homeland Security provide to State agencies to make sure our critical election infrastructure is secure from attacks by the same foreign actors. Critically, these services do not serve to support or oppose the nomination or election of any candidate for public office or any political committee's electoral purpose. Instead, these services are designed to ward off illegal foreign intrusion into U.S. political campaigns.

As DDC suggests, what the organization is providing is akin to a publicly available service, and does not reflect something of value provided to a political committee under North Carolina law, so long as DDC adheres to its commitment to offer these services to all qualifying committees, regardless of partisan affiliation and ideology. In this regard, these services are no different from local law enforcement conducting routine patrols by the headquarters of a prominent political campaign to ward off illegal break-ins, vandalism, or other criminal activity. Those police officers in their squad cars are not contributing to that campaign, and neither would this organization when it is helping campaigns protect against malicious cyber activity.

In its opinion, the FEC was clear that the DDC may not defray expenses that committees would have incurred regardless of cybersecurity efforts. FEC, Advisory Op. 2018-12 at p. 9. For example, the DDC may not defray expenses for computers; the organization may only secure the computers against digital intrusion. FEC, Advisory Op. 2018-12 at p. 9. The same standard applies here in

North Carolina. Because many North Carolina campaigns may have smaller budgets than their federal counterparts, it's possible existing hardware and software purchased by the campaign pose security challenges. However, this opinion hinges on the unique nature of the cybersecurity services DDC's offers. While DDC may counsel candidates and party committees on the risk associated with use of certain hardware and software products, DDC's corporate partners cannot defray expenses for hardware or software the committee needs independent of any cybersecurity threat.

FEC approval was also conditioned upon DDC's public disclosure of all donations on the DDC's website. FEC, Advisory Op. 2018-12 at p. 8. As a result, DDC posts all new donors and related information on the first of the month following their contribution: <https://defendcampaigns.org/donors>. It is the State Board's expectation that donations to DDC to further efforts in North Carolina will also be displayed on this website.

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

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

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to amend the rule cited as 15A NCAC 02L .0202.

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: July 1, 2025

Public Hearing:

Date: November 21, 2024

Time: 6:00 p.m.

Location: Pine and Fraser Fir Rooms, Mecklenburg County Land Use & Environmental Services Building, 2145 Suttle Ave., Charlotte, NC 28208

Date: December 2, 2024

Time: 6:00 p.m.

Location: U-170, Union Station Building, Cape Fear Community College, 502 N. Front Street, Wilmington, NC 28401

Date: December 3, 2024

Time: 6:00 p.m.

Location: Ground Floor Hearing Room, Archdale Building, 512 N. Salisbury Street, Raleigh, NC 27604

At each hearing, speaker registration and sign-in will begin at 5:00 p.m. Each hearing will conclude by 9:00 p.m., however the hearing officer may conclude the hearing earlier if all registered speakers have been heard. The Hearing Officer may limit the length of time (e.g., three minutes) for each speaker to allow everyone an opportunity to be heard. Written comments and copies of prepared remarks will be accepted at each hearing.

Reason for Proposed Action: *The Environmental Management Commission (EMC) will conduct public hearings to consider proposed permanent amendments to 15A NCAC 02L .0202 Groundwater Quality Standards. Groundwater quality standards, which protect groundwaters of the state, are the maximum allowable concentrations resulting from any discharge of contaminants to the land or waters of the state, which may be tolerated without creating a threat to human health or which would otherwise render the groundwater unsuitable for its intended best usage as an existing or potential source of drinking water supply for humans. The rule is proposed for amendment to include groundwater quality standards for three per- and polyfluoroalkyl substances (PFAS) to adopt human health-based values and to provide the benefits of regulatory certainty and*

clarification, in addition to attempting to reduce the fiscal burden on the regulated community.

Comments may be submitted to: Bridget Shelton, NC DEQ Division of Water Resources, Planning Section, 1611 Mail Service Center, Raleigh, NC 27699-1611; email GWTriRevComments@deq.nc.gov

Comment period ends: December 31, 2024

Procedure for Subjecting a Proposed Rule to Legislative Review:

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

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

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

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02L - GROUNDWATER CLASSIFICATION AND STANDARDS

SECTION .0200 - CLASSIFICATIONS AND GROUNDWATER QUALITY STANDARDS

15A NCAC 02L .0202 GROUNDWATER QUALITY STANDARDS

(a) The groundwater quality standards for the protection of the groundwaters of the State are those specified in this Rule. They are the maximum allowable concentrations resulting from any discharge of contaminants to the land or waters of the State, which may be tolerated without creating a threat to human health or

which would otherwise render the groundwater unsuitable for its intended best usage.

(b) The groundwater quality standards for contaminants specified in Paragraphs (h) and (i) of this Rule are as listed, except that:

- (1) Where the standard for a substance is less than the practical quantitation limit, the detection of that substance at or above the practical quantitation limit constitutes a violation of the standard. The practical quantitation limit, defined in Rule .0102 of this Subchapter, is a scientific standard pursuant to G.S. 150B-2(8a)(h).
- (2) Where two or more substances exist in combination, the Director shall consider the effects of chemical interactions after consulting with the Division of Public Health and may establish maximum concentrations at values less than those established in accordance with Paragraphs (c), (h), or (i) of this Rule, based on additive toxic effects. In the absence of information to the contrary, in accordance with Paragraph (d) of this Rule, the carcinogenic risks associated with carcinogens present shall be considered additive and the toxic effects associated with non-carcinogens present shall also be considered additive.
- (3) Where naturally occurring substances exceed the established standard, the standard shall be the naturally occurring concentration as established by the Director based upon site-specific conditions.
- (4) Where the groundwater standard for a substance is greater than the Maximum Contaminant Level (MCL), the Director shall apply the MCL as the groundwater standard at any private drinking water well or public water system well that may be impacted.

(c) Except for tracers, the use of which has been permitted by the Division in 15A NCAC 02C .0200, substances that are not naturally occurring and for which no standard is specified in Paragraphs (h) or (i) of this Rule shall not be permitted in concentrations at or above the practical quantitation limit in Class GA or Class GSA groundwaters. Any person may request the Director of the Division of Water Resources modify this requirement by establishing an Interim Maximum Allowable Concentration (IMAC) in accordance with the specific guidelines listed in Subparagraphs (1)-(9) of this Paragraph. In addition, any person may request the Director of the Division of Water Resources to update or remove an existing IMAC in accordance with the specific guidelines listed in Subparagraphs (1)-(9) of this Paragraph. The requestor shall submit relevant toxicological and epidemiological data, study results, and calculations in accordance with Paragraphs (d) and (e) of this Rule. The specific guidelines are as follows:

- (1) The Division shall review the request to determine whether the information submitted is in accordance with Paragraphs (d) and (e) of this Rule.

(2) If the information submitted is not in accordance with Paragraphs (d) and (e) of this Rule, the Director of the Division of Water Resources shall request additional information from the requester. If the requester does not provide the additional information necessary to be in accordance with Paragraphs (d) and (e) of this Rule, the Director of the Division of Water Resources shall return the request.

(3) If the information submitted is in accordance with Paragraphs (d) and (e) of this Rule, at least 30 days prior to establishing, updating, or removing an IMAC for any substance, the Division of Water Resources shall provide public notice and opportunity for comment that an IMAC has been requested to be established, updated, or removed. The public notice shall include:

- (A) the request for the establishment, update, or removal of the IMAC for a substance,
- (B) the level of the proposed IMAC, which is calculated by the Division of Water Resources in accordance with Paragraphs (d) and (e) of this Rule,
- (C) if applicable the level of the existing IMAC, and
- (D) the basis upon which the Division of Water Resources has relied in development of the proposed IMAC establishment, update, or removal.

This notice shall be emailed to interested parties and posted on the Division of Water Resources' website:

<https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/groundwater-imacs>.

(4) If the Director of the Division of Water Resources finds the establishment, update or removal will not degrade the quality of the groundwaters, will not likely cause or contribute to pollution of the waters of the state, and will be protective of public health, then the Director shall establish, update or remove the IMAC. If the request does not meet the requirements listed in this Subparagraph, the Director of the Division of Water Resources shall return the request. The Director shall establish, update, or remove the IMAC or return the request within 180 calendar days of receipt of a request submitted in accordance with Paragraphs (d) and (e) of this Rule unless the requester agrees, in writing, to a longer period. Failure by the Director to establish, update or remove an IMAC or return the request within 180 days of receipt of a request submitted in accordance with Paragraphs (d) and (e) of this Rule shall be considered a return of the request.

- (5) If the Director of the Division of Water Resources establishes or updates an IMAC, the IMAC shall be posted on the Division of Water Resource's website and the Commission shall be notified in writing within 30 calendar days and at the next regularly scheduled Commission meeting that a new IMAC has been established or an existing IMAC has been updated or removed.
- (6) (A) Within 12 months of establishing an IMAC pursuant to this Paragraph, the Director of the Division of Water Resources shall make a recommendation to the Commission whether:
- (i) a new groundwater standard in place of the IMAC should be established pursuant to this Rule; or
 - (ii) the IMAC should expire.
- (B) After a recommendation is presented by the Director under Part (A) of this Subparagraph, the Commission shall decide whether rulemaking shall be initiated to adopt a new groundwater standard in place of the IMAC.
- (C) If the Commission initiates rulemaking to adopt a new groundwater standard in place of the IMAC, then the IMAC shall remain in effect unless it expires under Subparagraph (7) of this Paragraph.
- (7) An IMAC shall expire upon the earliest of:
- (A) the date the Commission declines to initiate rulemaking to adopt a new groundwater standard in place of the IMAC under Part (B) of Subparagraph (c)(6);
 - (B) the effective date of a Rule adopted by the Commission establishing a new groundwater standard in place of the IMAC; or
 - (C) after initiating rulemaking pursuant to Part (C) of Subparagraph (c)(6), the date the Commission declines to adopt a new groundwater standard in place of the IMAC.
- (8) For any IMAC that expires prior to the adoption by the Commission of a new groundwater standard in place of the IMAC, any person may request an IMAC be established again under this Paragraph based on new information in accordance with Paragraphs (d) and (e) of this Rule that was not included in the original IMAC request to the Director or new site information that was not included in the original IMAC request to the Director.
- (9) The Director of the Division of Water Resources shall provide an annual update to the Commission on the status of pending IMAC requests and any IMACs that have been established, updated or removed during the previous calendar year.
- (d) Except as provided in Paragraph (f) of this Rule, groundwater quality standards for substances in Class GA and Class GSA groundwaters are established as the least of:
- (1) Systemic threshold concentration calculated as follows: $[\text{Reference Dose (mg/kg/day)} \times 70 \text{ kg (adult body weight)} \times \text{Relative Source Contribution (0.10 for inorganics; 0.20 for organics)}] / [2 \text{ liters/day (avg. water consumption)}]$;
 - (2) Concentration that corresponds to an incremental lifetime cancer risk of 1×10^{-6} ;
 - (3) Taste threshold limit value;
 - (4) Odor threshold limit value;
 - (5) Maximum contaminant level; or
 - (6) National secondary drinking water standard.
- (e) The following references, in order of preference, shall be used in establishing concentrations of substances which correspond to levels described in Paragraph (d) of this Rule:
- (1) Integrated Risk Information System (U.S. EPA);
 - (2) Health Advisories (U.S. EPA Office of Drinking Water);
 - (3) Other health risk assessment data published by the U.S. EPA; or
 - (4) Other relevant, published health risk assessment data, and scientifically valid peer-reviewed published toxicological data.
- (f) The Commission may establish groundwater standards less stringent than existing maximum contaminant levels or national secondary drinking water standards if it finds, after public notice and opportunity for hearing in accordance with G.S. 150B, that:
- (1) more recent data published in the EPA health references listed in Paragraph (e) of this Rule results in a standard that is protective of public health, taste threshold, or odor threshold;
 - (2) the standard will not endanger the public health and safety, including health and environmental effects from exposure to groundwater contaminants; and
 - (3) compliance with a standard based on the maximum contaminant level or national secondary drinking water standard would produce substantial hardship without equal or greater public benefit.
- (g) Groundwater quality standards specified in Paragraphs (h) and (i) of this Rule shall be reviewed by the Division of Water Resources on a triennial basis to consider whether to recommend to the Commission that new or revised groundwater quality standards be adopted in accordance with Paragraphs (d) and (e) of this Rule.

PROPOSED RULES

(h) Class GA Standards. Unless otherwise indicated, the standard refers to the total concentration in micrograms per liter ($\mu\text{g/L}$) of any constituent in a dissolved, colloidal, or particulate form that is mobile in groundwater. These standards do not apply to sediment or other particulate matter that is preserved in a groundwater sample as a result of well construction or sampling procedures. The Class GA standards are:

Substance	Chemical Abstracts Service (CAS) Registry Number	Standard ($\mu\text{g/L}$) ($\mu\text{g/L}$ unless otherwise indicated)
Acenaphthene	83-32-9	80
Acenaphthylene	208-96-8	200
Acetic acid	64-19-7	5,000
Acetochlor	34256-82-1	100
Acetochlor ESA	187022-11-3	500
Acetochlor OXA	184992-44-4	500
Acetone	67-64-1	6,000
Acetophenone	98-86-2	700
Acrolein	107-02-8	4
Acrylamide	79-06-1	0.008
Alachlor	15972-60-8	2
Aldrin	309-00-2	0.002
Anthracene	120-12-7	2,000
Antimony	7440-36-0	1
Arsenic	7440-38-2	10
Atrazine and chlorotriazine metabolites	1912-24-9	3
Barium	7440-39-3	700
Benzene	71-43-2	1
Benzo(a)anthracene	56-55-3	0.05
Benzo(a)pyrene	50-32-8	0.005
Benzo(b)fluoranthene	205-99-2	0.05
Benzo(g,h,i)perylene	191-24-2	200
Benzo(k)fluoranthene	207-08-9	0.5
Benzoic acid	65-85-0	30,000
Benzyl alcohol	100-51-6	700
Beryllium	7440-41-7	4
Bis(chloroethyl)ether	111-44-4	0.03
Bis(2-ethylhexyl) phthalate	117-81-7	3
Boron	7440-42-8	700
Bromodichloromethane	75-27-4	0.6
Bromoform	75-25-2	4
Bromomethane	74-83-9	10
n-Butanol	71-36-3	590
sec-Butanol	78-92-2	10,000
n-Butylbenzene	104-51-8	70
sec-Butylbenzene	135-98-8	70
tert-Butylbenzene	98-06-6	70
Butylbenzyl phthalate	85-68-7	1,000
Cadmium	7440-43-9	2
Caprolactam	105-60-2	4,000
Carbofuran	1563-66-2	40
Carbon disulfide	75-15-0	700
Carbon tetrachloride	56-23-5	0.3
Chlordane	12789-03-6	0.1
Chloride	16887-00-6	250,000
Chlorobenzene	108-90-7	50
Chloroethane	75-00-3	3,000
Chloroform	67-66-3	70

PROPOSED RULES

Chloromethane	74-87-3	3
2-Chlorophenol	95-57-8	0.4
2-Chlorotoluene	95-49-8	100
4-Chlorotoluene	106-43-4	24
Chromium	7440-47-3	10
Chrysene	218-01-9	5
Cobalt	7440-48-4	1
Coliform organisms (total)	No CAS Registry Number	1 per 100 mL
Color	No CAS Registry Number	15 color units
Copper	7440-50-8	1,000
Cyanide (free cyanide)	57-12-5	70
2,4-D (2,4-dichlorophenoxy acetic acid)	94-75-7	70
Dalapon	75-99-0	200
DDD	72-54-8	0.1
DDE	72-55-9	0.1
DDT	50-29-3	0.1
Dibenz(a,h)anthracene	53-70-3	0.005
1,4-Dibromobenzene	106-37-6	70
Dibromochloromethane	124-48-1	0.4
1,2-Dibromo-3-chloropropane	96-12-8	0.04
Dibutyl phthalate	84-74-2	700
Dichloroacetic acid	79-43-6	0.7
1,2-Dichlorobenzene	95-50-1	20
1,3-Dichlorobenzene	541-73-1	200
1,4-Dichlorobenzene	106-46-7	6
Dichlorodifluoromethane	75-71-8	1,000
1,1-Dichloroethane	75-34-3	6
1,2-Dichloroethane	107-06-2	0.4
1,2-Dichloroethene (cis)	156-59-2	70
1,2-Dichloroethene (trans)	156-60-5	100
1,1-Dichloroethylene	75-35-4	350
2,4-Dichlorophenol	120-83-2	0.98
1,2-Dichloropropane	78-87-5	0.6
1,3-Dichloropropene (cis and trans isomers)	542-75-6	0.4
Dieldrin	60-57-1	0.002
Diethylphthalate	84-66-2	6,000
2,4-Dimethylphenol	105-67-9	100
2,4-Dinitrotoluene	121-14-2	0.05
2,6-Dinitrotoluene	606-20-2	0.05
Di-n-octyl phthalate	117-84-0	100
Dinoseb	88-85-7	7
1,4-Dioxane	123-91-1	3
Dioxin (2,3,7,8-TCDD)	1746-01-6	0.0002 ng/L
1,1-Diphenyl	92-52-4	400
Diphenyl ether	101-84-8	180
Diquat	85-00-7	20
Dissolved solids (total)	No CAS Registry Number	500,000
Disulfoton	298-04-4	0.3
Diundecyl phthalate (Santicizer 711)	3648-20-2	100
Endosulfan	115-29-7	40
Endosulfan sulfate	1031-07-8	40
Endothall	145-73-3	100
Endrin, total (includes endrin, endrin aldehyde, and endrin ketone)	72-20-8	2
Epichlorohydrin	106-89-8	4

PROPOSED RULES

Ethyl acetate	141-78-6	3,000
Ethylbenzene	100-41-4	600
Ethylene dibromide	106-93-4	0.02
Ethylene glycol	107-21-1	10,000
Fluoranthene	206-44-0	300
Fluorene	86-73-7	300
Fluoride	16984-48-8	2,000
Foaming agents	No CAS Registry Number	500
Formaldehyde	50-00-0	600
Gross alpha (adjusted) particle activity (excludes radium-226 and uranium)	12587-46-1	15 pCi/L
Heptachlor	76-44-8	0.008
Heptachlor epoxide	1024-57-3	0.004
Heptane	142-82-5	400
Hexachlorobenzene	118-74-1	0.02
Hexachlorobutadiene	87-68-3	0.4
Hexachlorocyclohexane isomers (technical grade)	608-73-1	0.02
alpha-Hexachlorocyclohexane	319-84-6	0.006
beta-Hexachlorocyclohexane	319-85-7	0.02
gamma-Hexachlorocyclohexane (Lindane)	58-89-9	0.03
<u>Hexafluoropropylene oxide dimer acid (HFPO-DA)</u>	<u>13252-13-6</u>	<u>10 ng/L</u>
n-Hexane	110-54-3	400
Indeno(1,2,3-cd)pyrene	193-39-5	0.05
Iron	7439-89-6	300
Isophorone	78-59-1	40
Isopropyl ether	108-20-3	70
Isopropylbenzene	98-82-8	70
4-Isopropyltoluene	99-87-6	25
Lead	7439-92-1	15
Manganese	7439-96-5	50
Mercury	7439-97-6	1
Methanol	67-56-1	4,000
Methoxychlor	72-43-5	40
Methylene chloride	75-09-2	5
Methyl butyl ketone	591-78-6	40
Methyl ethyl ketone	78-93-3	4,000
Methyl isobutyl ketone	108-10-1	100
Methyl methacrylate	80-62-6	25
1-Methylnaphthalene	90-12-0	1
2-Methylnaphthalene	91-57-6	30
2-Methylphenol	95-48-7	400
3-Methylphenol	108-39-4	400
4-Methylphenol	106-44-5	40
Methyl tert-butyl ether (MTBE)	1634-04-4	20
Naphthalene	91-20-3	6
Nickel	7440-02-0	100
Nitrate (as N)	14797-55-8	10,000
Nitrite (as N)	14797-65-0	1,000
N-nitrosodimethylamine	62-75-9	0.0007
Oxamyl	23135-22-0	200
Pentachlorophenol	87-86-5	0.3
Petroleum aliphatic carbon fraction class (C5 – C8)	No CAS Registry Number	400
<u>Perfluorooctanoic acid (PFOA)</u>	<u>335-67-1</u>	<u>0.001 ng/L</u>
<u>Perfluorooctane sulfonic acid (PFOS)</u>	<u>1763-23-1</u>	<u>0.7 ng/L</u>

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Petroleum aliphatic carbon fraction class (C9 – C18)	No CAS Registry Number	700
Petroleum aliphatic carbon fraction class (C19 – C36)	No CAS Registry Number	10,000
Petroleum aromatics carbon fraction class (C9 – C22)	No CAS Registry Number	200
pH	No CAS Registry Number	6.5 - 8.5 (no unit)
Phenanthrene	85-01-8	200
Phenol	108-95-2	30
Phorate	298-02-2	1
n-Propylbenzene	103-65-1	70
Propylene glycol	57-55-6	100,000
Pyrene	129-00-0	200
Selenium	7782-49-2	20
Silver	7440-22-4	20
Simazine	122-34-9	4
Strontium	7440-24-6	2,000
Styrene	100-42-5	70
Sulfate	14808-79-8	250,000
1,2,4,5-Tetrachlorobenzene	95-94-3	2
1,1,2,2-Tetrachloroethane	79-34-5	0.2
1,1,1,2-Tetrachloroethane	630-20-6	1
Tetrachloroethylene (PCE)	127-18-4	0.7
2,3,4,6-Tetrachlorophenol	58-90-2	200
Thallium	7440-28-0	2
Tin (inorganic forms)	7440-31-5	2,000
Toluene	108-88-3	600
Toxaphene	8001-35-2	0.03
2,4,5-TP (Silvex)	93-72-1	50
1,2,4-Trichlorobenzene	120-82-1	70
1,1,1-Trichloroethane	71-55-6	200
1,1,2-Trichloroethane	79-00-5	0.6
Trichloroethylene (TCE)	79-01-6	3
Trichlorofluoromethane	75-69-4	2,000
2,4,5-Trichlorophenol	95-95-4	63
2,4,6-Trichlorophenol	88-06-2	4
1,2,3-Trichloropropane	96-18-4	0.005
1,2,4-Trimethylbenzene	95-63-6	400
1,3,5-Trimethylbenzene	108-67-8	400
Vanadium	7440-62-2	7
1,1,2-Trichloro-1,2,2-trifluoroethane	76-13-1	200,000
Vinyl chloride	75-01-4	0.03
Xylenes	1330-20-7	500
Zinc	7440-66-6	1,000

(i) Class GSA Standards. The standards for this class are the same as those for Class GA except as follows:

- (1) chloride: allowable increase not to exceed 100 percent of the natural quality concentration; and
- (2) dissolved solids (total): 1,000,000 µg/L.

(j) Class GC Standards.

- (1) The concentrations of substances that, at the time of classification, exceed the standards applicable to Class GA or GSA groundwaters shall not be caused to increase, nor shall the concentrations of other substances be caused to exceed the GA or GSA standards as a result of further disposal of contaminants to or beneath

the surface of the land within the boundary of the area classified GC.

- (2) The concentrations of substances that, at the time of classification, exceed the standards applicable to GA or GSA groundwaters shall not be caused to migrate as a result of activities within the boundary of the GC classification, so as to violate the groundwater or surface water quality standards in adjoining waters of a different class.
- (3) Concentrations of specific substances, that exceed the established standard at the time of classification, are listed in Section .0300 of this Subchapter.

Authority G.S. 143-214.1; 143-214.2; 143-215.3(a)(1); 143-215.3(a)(4); 143B-282(a)(2); 150B-2(8a)(h); 150B-19(6).

SUBCHAPTER 02T – WASTE NOT DISCHARGED TO SURFACE WATERS

SECTION .0100 – GENERAL REQUIREMENTS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to amend the rules cited as 15A NCAC 02T .0114 and .0118.

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

Proposed Effective Date: Pending Legislative Review

Public Hearing:

Date: December 5, 2024

Time: 11:00 a.m.

Location: Archdale Building, Ground Floor Hearing Room - 512 North Salisbury Street, Raleigh, NC 27604

Reason for Proposed Action: Three Session Laws (SL 2023-55, SL 2023-134, and SL 2023-137) passed by the NC General Assembly require amendments to 15A NCAC 02T .0114 and .0118. The Environmental Management Commission proposes to amend 15A NCAC 02T .0114 to lower the water flow capacity for new dwelling units from 120 gallons per day per room to 75 gallons per day per bedroom. Session Law 2023-137 as amended by Session Law 2023-55 requires amendments to 15A NCAC 02T Rule .0118 to allow a Wastewater Treatment Plant in a county that has above a 2% population growth rate, or is one of the top 20% of the fastest growing counties in the State, to allocate 110% of its hydraulic capacity and to increase its allocation amount to 115% when a system expansion is within 24 months of completion. If the permittee exceeds its current permitted monthly flow more than once in any 12-month period, the permittee may not allocate more than 100%. Session Law 2023-134 and Session Law 2023-137 as amended by Session Law 2023-55 have been implemented by DEQ since November 1, 2023.

Comments may be submitted to: Nathaniel Thornburg, Division of Water Resources Non-Discharge Branch, Archdale Building, 1617 Mail Service Center, Raleigh, NC 27699-1617; email Nathaniel.Thornburg@deq.nc.gov

Comment period ends: December 31, 2024

Rules are automatically subject to legislative review. Statutory reference: S.L. 2023-137, s.18.1(c).

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

15A NCAC 02T .0114 WASTEWATER DESIGN FLOW RATES

(a) This Rule shall be used to determine wastewater flow rates for all systems governed by this Subchapter unless alternate criteria are provided by a program-specific rule or for flow used for the purposes of 15A NCAC 02H .0105. Higher flow rates shall be required where usage and occupancy are atypical, including those in Paragraph (e) of this Rule. Wastewater flow calculations shall take hours of operation and anticipated maximum occupancies and usage into account when calculating peak flows for design.

(b) In determining the volume of sewage from dwelling units, the flow rate shall be 120 gallons per day per bedroom. The minimum volume of sewage from each dwelling unit shall be 240 gallons per day and each additional bedroom above two bedrooms shall increase the volume by 120 gallons per day. Each bedroom or any other room or addition that can function as a bedroom shall be considered a bedroom for design purposes. When the occupancy of a dwelling unit exceeds two persons per bedroom, the volume of sewage shall be determined by the maximum occupancy at a rate of 60 gallons per person per day.

(b) In determining the volume of sewage from dwelling units for a wastewater system:

- (1) A permittee may calculate its wastewater flows for new dwelling units discharging to wastewater systems serving two or more dwelling units that have yet to be connected and for which the permittee has allocated capacity, at 75 gallons per day per bedroom, or at a lower rate approved by the Department pursuant to the requirements in Paragraph (f) of this Rule. Unless adjusted pursuant to Paragraph (f) of this Rule, the minimum volume of sewage from each dwelling unit is 75 gallons per day and each additional bedroom above one bedroom increases the volume by 75 gallons per day.
(2) An applicant, or permittee modifying their existing permit, shall calculate its wastewater flows for new dwelling units discharging to wastewater systems serving two or more dwelling units that have yet to be connected and for which the applicant or permittee has not allocated capacity at 75 gallons per day per bedroom, or at a lower rate approved by the Department pursuant to the requirements in Paragraph (f) of this Rule. Unless adjusted pursuant to Paragraph (f) of this Rule, the minimum volume of sewage from each dwelling unit is 75 gallons per day and each additional bedroom above one bedroom increases the volume by 75 gallons per day.
(3) For wastewater systems serving one dwelling unit, the flow rate shall be 120 gallons per day per bedroom. The minimum volume of sewage

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from each dwelling unit shall be 240 gallons per day and each additional bedroom above two bedrooms shall increase the volume by 120 gallons per day. Each bedroom or any other room or addition that can function as a bedroom shall be considered a bedroom for design

purposes. When the occupancy of a dwelling unit exceeds two persons per bedroom, the volume of sewage shall be determined by the maximum occupancy at a rate of 60 gallons per person per day.

(c) The following table shall be used to determine the minimum allowable design daily flow of wastewater facilities. Design flow rates for establishments not identified below shall be determined using available flow data, water-using fixtures, occupancy or operation patterns, and other measured data.

Type of Establishments	Daily Flow For Design
Barber and beauty shops	
Barber Shops	50 gal/chair
Beauty Shops	125 gal/booth or bowl
Businesses, offices and factories	
General business and office facilities	25 gal/employee/shift
Factories, excluding industrial waste	25 gal/employee/shift
Factories or businesses with showers or food preparation	35 gal/employee/shift
Warehouse	100 gal/loading bay
Warehouse – self storage (not including caretaker residence)	1 gal/unit
Churches	
Churches without kitchens, day care or camps	3 gal/seat
Churches with kitchen	5 gal/seat
Churches providing day care or camps	25 gal/person (child & employee)
Fire, rescue and emergency response facilities	
Fire or rescue stations without on site staff	25 gal/person
Fire or rescue stations with on-site staff	50 gal/person/shift
Food and drink facilities	
Banquet, dining hall	30 gal/seat
Bars, cocktail lounges	20 gal/seat
Caterers	50 gal/100 sq ft floor space
Restaurant, full Service	40 gal/seat
Restaurant, single service articles	20 gal/seat
Restaurant, drive-in	50 gal/car space
Restaurant, carry out only	50 gal/100 sq ft floor space
Institutions, dining halls	5 gal/meal
Deli	40 gal/100 sq ft floor space
Bakery	10 gal/100 sq ft floor space
Meat department, butcher shop or fish market	75 gal/100 sq ft floor space
Specialty food stand or kiosk	50 gal/100 sq ft floor space
Hotels and Motels	
Hotels, motels and bed & breakfast facilities, without in-room cooking facilities	120 gal/room
Hotels and motels, with in-room cooking facilities	175 gal/room
Resort hotels	200 gal/room
Cottages, cabins	200 gal/unit
Self service laundry facilities	500 gal/machine
Medical, dental, veterinary facilities	
Medical or dental offices	250 gal/practitioner/shift
Veterinary offices (not including boarding)	250 gal/practitioner/shift
Veterinary hospitals, kennels, animal boarding facilities	20 gal/pen, cage, kennel or stall
Hospitals, medical	300 gal/bed
Hospitals, mental	150 gal/bed
Convalescent, nursing, rest homes without laundry facilities	60 gal/bed
Convalescent, nursing, rest homes with laundry facilities	120 gal/bed
Residential care facilities	60 gal/person
Parks, recreation, camp grounds, R-V parks and other outdoor activity facilities	
Campgrounds with comfort station, without water or sewer hookups	75 gal/campsite

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Campgrounds with water and sewer hookups	100 gal/campsite
Campground dump station facility	50 gal/space
Construction, hunting or work camps with flush toilets	60 gal/person
Construction, hunting or work camps with chemical or portable toilets	40 gal/person
Parks with restroom facilities	250 gal/plumbing fixture
Summer camps without food preparation or laundry facilities	30 gal/person
Summer camps with food preparation and laundry facilities	60 gal/person
Swimming pools, bathhouses and spas	10 gal/person
Public access restrooms	325 gal/plumbing fixture
Schools, preschools and day care	
Day care and preschool facilities	25 gal/person (child & employee)
Schools with cafeteria, gym and showers	15 gal/student
Schools with cafeteria	12 gal/student
Schools without cafeteria, gym or showers	10 gal/student
Boarding schools	60 gal/person (student & employee)
Service stations, car wash facilities	
Service stations, gas stations	250 gal/plumbing fixture
Car wash facilities	1200 gal/bay
Sports centers	
Bowling center	50 gal/lane
Fitness, exercise, karate or dance center	50 gal/100 sq ft
Tennis, racquet ball	50 gal/court
Gymnasium	50 gal/100 sq ft
Golf course with only minimal food service	250 gal/plumbing fixture
Country clubs	60 gal/member or patron
Mini golf, putt-putt	250 gal/plumbing fixture
Go-kart, motocross	250 gal/plumbing fixture
Batting cages, driving ranges	250 gal/plumbing fixture
Marinas without bathhouse	10 gal/slip
Marinas with bathhouse	30 gal/slip
Video game arcades, pool halls	250 gal/plumbing fixture
Stadiums, auditoriums, theaters, community centers	5 gal/seat
Stores, shopping centers, malls and flea markets	
Auto, boat, recreational vehicle dealerships/showrooms with restrooms	125 gal/plumbing fixture
Convenience stores, with food preparation	60 gal/100 sq ft
Convenience stores, without food preparation	250 gal/plumbing fixture
Flea markets	30 gal/stall
Shopping centers and malls with food service	130 gal/1000 sq ft
Stores and shopping centers without food service	100 gal/1000 sq ft
Transportation terminals – air, bus, train, ferry, port and dock	5 gal/passenger

(d) Design daily flow rates for proposed non-residential developments where the types of use and occupancy are not known shall be designed for a minimum of 880 gallons per acre, or the applicant shall specify an anticipated flow based upon anticipated or potential uses.

(e) Design daily flow rates for residential property servicing two or more dwelling units on barrier islands and similar communities located south or east of the Atlantic Intracoastal Waterway and used as vacation rental as defined in G.S. 42A-4 shall be ~~420~~ 75 gallons per day per habitable room. Habitable room shall mean a room or enclosed floor space used or intended to be used for living or sleeping, excluding kitchens and dining areas, bathrooms, shower rooms, water closet compartments, laundries, pantries, foyers, connecting corridors, closets, and storage spaces.

(f) An adjusted daily sewage flow design rate shall be granted for permitted but not yet tributary connections and future connections

tributary to the system upon showing that the capacity of a sewage system is adequate to meet actual daily wastewater flows from a facility included in Paragraph (b) or (c) of this Rule without causing flow violations at the receiving wastewater treatment plant or capacity-related sanitary sewer overflows within the collection system as follows:

- (1) Documented, representative data from that facility or a comparable facility shall be submitted by an authorized signing official in accordance with Rule .0106 of this Section to the Division for all flow reduction requests, as follows:
 - (A) dates of flow meter calibrations during the time frame evaluated and indication if any adjustments were necessary;

- (B) a breakdown of the type of connections (e.g. two bedroom units, three bedroom units) and number of customers for each month of submitted data as applicable. Identification of any non-residential connections including subdivision clubhouses and pools, restaurants, schools, churches and businesses. For each non-residential connection, information identified in Paragraph (c) of this Rule (e.g. 200 seat church, 40 seat restaurant, 35 person pool bathhouse);
- (C) a letter of agreement from the owner or an official, meeting the criteria of Rule .0106 of this Section, of the receiving collection system or treatment works accepting the wastewater and agreeing with the adjusted design rate;
- (D) age of the collection system;
- (E) analysis of inflow and infiltration within the collection system or receiving treatment plant, as applicable;
- (F) if a dedicated wastewater treatment plant serves the specific area and is representative of the residential wastewater usage, at least the 12 most recent consecutive monthly average wastewater flow readings and the daily total wastewater flow readings for the highest average wastewater flow month per customers, as reported to the Division;
- (G) if daily data from a wastewater treatment plant cannot be used or is not representative of the project area: 12 months worth of monthly average wastewater flows from the receiving treatment plant shall be evaluated to determine the peak sewage month. Daily wastewater flows shall then be taken from a flow meter installed at the most downstream point of the collection area for the peak month selected that is representative of the project area. Justification for the selected placement of the flow meter shall also be provided; and
- (H) an estimated design daily sewage flow rate shall be determined by calculating the numerical average of the top three daily readings for the highest average flow month. The calculations shall also account for seasonal variations, excessive inflow and infiltration, age

and suspected meter reading and recording errors.

- (2) The Division shall evaluate all data submitted but shall also consider other factors in granting, with or without adjustment, or denying a flow reduction request including: applicable weather conditions during the data period (i.e. rainy or drought), other historical monitoring data for the particular facility or other similar facilities available to the Division, the general accuracy of monitoring reports and flow meter readings, and facility usage, such as whether the facility is in a resort area.
- (3) Flow increases shall be required if the calculations required by Subparagraph (f)(1) of this Rule yield design flows higher than that specified in Paragraphs (b) or (c) of this Rule.
- (4) The permittee shall retain the letter of any approved adjusted daily design flow rate for the life of the facility and shall transfer such letter to a future permittee.

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

15A NCAC 02T .0118 DEMONSTRATION OF FUTURE WASTEWATER TREATMENT CAPACITIES

~~No permits for sewer line extensions shall be issued to wastewater treatment systems owned or operated by municipalities, counties, sanitary districts, or public utilities unless they meet the following requirements:~~

- (1) ~~Prior to exceeding 80 percent of the system's permitted hydraulic capacity (based on the average flow during the last calendar year), the permittee shall submit an engineering evaluation of their future wastewater treatment, utilization, and disposal needs. This evaluation shall outline plans for meeting future wastewater treatment, utilization, or disposal needs by either expansion of the existing system, elimination or reduction of extraneous flows, or water conservation and shall include the source of funding for the improvements. If expansion is not proposed or is proposed for a later date, a justification shall be made that wastewater treatment needs will be met based on past growth records and future growth projections and, as appropriate, shall include conservation plans or other measures to achieve waste flow reductions.~~
- (2) ~~Prior to exceeding 90 percent of the system's permitted hydraulic capacity (based on the average flow during the last calendar year), the permittee shall obtain all permits needed for the expansion of the wastewater treatment, utilization, or disposal system and, if construction is needed, submit final plans and specifications for expansion, including a construction schedule. If expansion is not proposed or is proposed for a later date, a~~

~~justification shall be made that wastewater treatment needs will be met based on past growth records and future growth projections and, as appropriate, shall include conservation plans or other specific measures to achieve waste flow reductions.~~

- (3) ~~The Director shall allow permits to be issued to facilities that are exceeding the 80 percent or 90 percent disposal capacity if the additional flow is not projected to result in the facility exceeding its permitted hydraulic capacity, the facility is in compliance with all other permit limitations and requirements, and adequate progress is being made in developing the required engineering evaluations or plans and specifications. In determining the adequacy of the progress, the Director shall consider the projected flows, the complexity and scope of the work to be completed, and any projected environmental impacts.~~

(a) No permits for sewer line extensions shall be issued to wastewater treatment systems owned or operated by municipalities, counties, sanitary districts, or public utilities unless the systems meet the following requirements:

- (1) Prior to actual flow exceeding 80 percent of the system's permitted hydraulic capacity, based on the average flow during the last calendar year, the permittee shall submit an engineering evaluation of its future wastewater treatment, utilization, and disposal needs. This evaluation shall outline plans for meeting future wastewater treatment, utilization, or disposal needs by either expansion of the existing system, elimination or reduction of extraneous flows, or water conservation and shall include the source of funding for the improvements. If expansion is not proposed or is proposed for a later date, a justification shall be made that wastewater treatment needs will be met based on past growth records and future growth projections and, as appropriate, shall include conservation plans or other measures to achieve waste flow reductions.
- (2) Prior to actual flow exceeding 90 percent of the system's permitted hydraulic capacity, based on the average flow during the last calendar year, the permittee shall obtain all permits needed for the expansion of the wastewater treatment,

utilization, or disposal system and, if construction is needed, submit final plans and specifications for expansion, including a construction schedule. If expansion is not proposed or is proposed for a later date, a justification shall be made that wastewater treatment needs will be met based on past growth records and future growth projections and, as appropriate, shall include conservation plans or other specific measures to achieve waste flow reductions.

- (3) The Director shall allow permits to be issued to facilities that are exceeding the 80 percent or 90 percent disposal capacity if the additional flow is not projected to result in the facility exceeding its permitted hydraulic capacity, the facility is in compliance with all other permit limitations and requirements, and adequate progress is being made in developing the required engineering evaluations or plans and specifications. In determining the adequacy of the progress, the Director shall consider the projected flows, the complexity and scope of the work to be completed, and any projected environmental impacts.

(b) A permittee for a wastewater treatment system, who has signed a contract for the expansion of its wastewater treatment system, utilization, or disposal system and whose current system is located in a county with a projected population growth rate above 2 percent annually or is located in one of the top 20 percent of the fastest growing counties in the State, by population, and is meeting pollutant discharge limits set out in the system's current permit, may allocate 110 percent of its existing system's hydraulic capacity and increase the allocation amount to 115 percent when the expansion of its system is within 24 months of completion, but may not allocate more than the permitted projected capacity after expansion without approval by the Department. If the permittee exceeds its current permitted monthly flow more than once in any 12-month period, the permittee may not allocate more than 100 percent of the existing system's hydraulic capacity until the permittee complies with the permitted monthly flow for at least 12 consecutive months. Nothing in this subsection shall be construed to limit the Department from authorizing allocations above 115 percent of a system's hydraulic capacity.

Authority G.S. 143-215.3.

APPROVED RULES

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

Rules approved by the Rules Review Commission at its meeting on September 25, 2024.

**REGISTER CITATION TO THE
NOTICE OF TEXT**

MEDICAL CARE COMMISSION

<u>Definitions</u>	10A NCAC 13S .0101*	38:24 NCR
<u>Plans and specifications</u>	10A NCAC 13S .0104*	38:24 NCR
<u>Building Code Requirements</u>	10A NCAC 13S .0201*	38:24 NCR
<u>Area Requirements</u>	10A NCAC 13S .0207*	38:24 NCR
<u>Elements and Equipment</u>	10A NCAC 13S .0212*	38:24 NCR
<u>Governing Authority</u>	10A NCAC 13S .0318*	38:24 NCR
<u>Policies and Procedures and Administrative Records</u>	10A NCAC 13S .0319*	38:24 NCR
<u>Admission and Discharge</u>	10A NCAC 13S .0320*	38:24 NCR
<u>Medical Records</u>	10A NCAC 13S .0321*	38:24 NCR
<u>Personnel Records</u>	10A NCAC 13S .0322*	38:24 NCR
<u>Clinic Staffing</u>	10A NCAC 13S .0323*	38:24 NCR
<u>Quality Assurance</u>	10A NCAC 13S .0324*	38:24 NCR
<u>Laboratory Services</u>	10A NCAC 13S .0325*	38:24 NCR
<u>Emergency Back-Up Services</u>	10A NCAC 13S .0326*	38:24 NCR
<u>Outpatient Procedural Services</u>	10A NCAC 13S .0327	38:24 NCR
<u>Medications and Sedation</u>	10A NCAC 13S .0328*	38:24 NCR
<u>Post Procedural Care</u>	10A NCAC 13S .0329	38:24 NCR
<u>Cleaning of Materials and Equipment</u>	10A NCAC 13S .0330	38:24 NCR
<u>Food Service</u>	10A NCAC 13S .0331	38:24 NCR

WILDLIFE RESOURCES COMMISSION

<u>Buffalo Cove Game Land in Caldwell and Wilkes Counties</u>	15A NCAC 10D .0209	38:22 NCR
<u>Kings Creek Game Lands in Caldwell and Wilkes Counties</u>	15A NCAC 10D .0243	38:22 NCR
<u>South Mountains Game Land in Burke, Cleveland, McDowell, ...</u>	15A NCAC 10D .0276	38:22 NCR
<u>Pender County</u>	15A NCAC 10F .0321	38:22 NCR
<u>General Requirements and Fees</u>	15A NCAC 10H .1801	38:22 NCR
<u>Commercial Use Permits</u>	15A NCAC 10H .1802	38:22 NCR
<u>Event Permits</u>	15A NCAC 10H .1803	38:22 NCR
<u>Protection of Endangered, Threatened, and Special Concern</u>	15A NCAC 10I .0102*	38:19 NCR
<u>Endangered Species Listed</u>	15A NCAC 10I .0103*	38:19 NCR
<u>Threatened Species Listed</u>	15A NCAC 10I .0104*	38:19 NCR
<u>Special Concern Species Listed</u>	15A NCAC 10I .0105*	38:19 NCR

EDUCATION, STATE BOARD OF

<u>Parental Leave</u>	16 NCAC 06C .0408*	39:23 NCR
<u>Purposes and Responsibilities</u>	16 NCAC 06I .0101	38:19 NCR
<u>Eligibility</u>	16 NCAC 06I .0102	38:19 NCR
<u>Medical and Health Services</u>	16 NCAC 06I .0103	38:19 NCR
<u>Student Information</u>	16 NCAC 06I .0104	38:19 NCR

APPROVED RULES

<u>The Governor Morehead School Campus Parking</u>	16 NCAC 06I .0105	38:19 NCR
<u>Authority of Teachers and Houseparents</u>	16 NCAC 06I .0201	38:19 NCR
<u>Who May Give Directions</u>	16 NCAC 06I .0202	38:19 NCR
<u>Compliance with Campus Rules and Authorized Persons</u>	16 NCAC 06I .0301	38:19 NCR
<u>Protection of Property</u>	16 NCAC 06I .0302	38:19 NCR
<u>Use of Drugs</u>	16 NCAC 06I .0303	38:19 NCR
<u>Code of Dress for Students</u>	16 NCAC 06I .0304	38:19 NCR
<u>Definitions of Disciplinary Terms</u>	16 NCAC 06I .0401	38:19 NCR
<u>Procedure for Administering Discipline</u>	16 NCAC 06I .0402	38:19 NCR
<u>Distribution of Policy</u>	16 NCAC 06I .0403	38:19 NCR
<u>Discipline Violations</u>	16 NCAC 06I .0404	38:19 NCR
<u>Disciplinary Actions</u>	16 NCAC 06I .0405	38:19 NCR
<u>Request for Determination</u>	16 NCAC 06I .0406	38:19 NCR
<u>Applicability of Procedures</u>	16 NCAC 06I .0407	38:19 NCR
<u>Campuses</u>	16 NCAC 06J .0101	38:19 NCR
<u>Eligibility</u>	16 NCAC 06J .0102	38:19 NCR
<u>Application Procedures</u>	16 NCAC 06J .0103	38:19 NCR
<u>Student Fee</u>	16 NCAC 06J .0104	38:19 NCR
<u>Refunds</u>	16 NCAC 06J .0105	38:19 NCR
<u>Definition</u>	16 NCAC 06J .0106	38:19 NCR
<u>Consent Required from Student or Parent</u>	16 NCAC 06J .0107	38:19 NCR
<u>Consent Required from Former Student or Parent</u>	16 NCAC 06J .0108	38:19 NCR
<u>Use of School's Records for Research</u>	16 NCAC 06J .0109	38:19 NCR
<u>Availability of Records to Staff Members</u>	16 NCAC 06J .0110	38:19 NCR
<u>Home Visits</u>	16 NCAC 06J .0201	38:19 NCR
<u>Visits to Other Student's Homes</u>	16 NCAC 06J .0202	38:19 NCR
<u>Reimbursement for Damaged Property</u>	16 NCAC 06J .0203	38:19 NCR
<u>Alcoholic Beverages</u>	16 NCAC 06J .0204	38:19 NCR
<u>Drugs</u>	16 NCAC 06J .0205	38:19 NCR
<u>Tobacco Products</u>	16 NCAC 06J .0206	38:19 NCR
<u>Leaving Campus</u>	16 NCAC 06J .0207	38:19 NCR
<u>Expulsion</u>	16 NCAC 06J .0208	38:19 NCR
<u>Authority of Classroom Teachers/Dormitory Personnel</u>	16 NCAC 06J .0301	38:19 NCR
<u>Placement Procedures</u>	16 NCAC 06K .0104	38:19 NCR
<u>Weapons Prohibited on School Property</u>	16 NCAC 06K .0105	38:19 NCR

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TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 13S .0101 DEFINITIONS

The following definitions will apply throughout this Subchapter:

- (1) "Abortion" means the termination of a pregnancy as defined in G.S 90-21.81(1c).
- (2) "Clinic" means a freestanding facility neither physically attached nor operated by a licensed hospital for the performance of abortions completed during the first 12 weeks of pregnancy.
- (3) "Division" means the Division of Health Service Regulation of the North Carolina Department of Health and Human Services.
- (4) "Emergency Case" is defined as a condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in placing the individual's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of bodily organs.
- (5) "Gestational age" means the length of pregnancy as indicated by the date of the first day of the last normal monthly menstrual period, if known, or as determined by ultrasound.
- (6) "Governing authority" means the individual, agency, group, or corporation appointed, elected or otherwise designated, in which the ultimate responsibility and authority for the conduct of the abortion clinic is vested pursuant to Rule .0318 of this Subchapter.
- (7) "Health Care Practitioner" means a physician, nurse practitioner, or physician's assistant licensed and authorized to practice in the state of North Carolina.
- (8) "Health Screening" means an evaluation of an employee or contractual employee, including at a minimum tuberculosis testing or screening, to identify underlying health conditions that may affect the person's ability to work in the clinic.

- (9) "New clinic" means one that is not certified as an abortion clinic by the Division as of July 1, 2023, and has not been certified or licensed within the previous six months of the application for licensure.
- (10) "Pre-procedure activities" are activities performed prior to the procedure to ensure that the patient is stable, and that the procedure can be safely performed.
- (11) "Post-procedure" activities are activities performed after the procedure to ensure that the patient is stable for discharge.
- (12) "Registered Nurse" means a person who holds a valid license issued by the North Carolina Board of Nursing to practice professional nursing in accordance with the Nursing Practice Act, G.S. 90, Article 9A.
- (13) "Safe and adequate care" means care that meets the clinical needs of the patient while preventing harm from occurring to the patient.

History Note: Authority G.S. 131E-153.5; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023; Temporary Adoption Eff. February 8, 2024; Eff. October 1, 2024.

10A NCAC 13S .0104 PLANS AND SPECIFICATIONS

- (a) Prior to issuance of a license pursuant to 10A NCAC 14E .0107, an applicant for a new clinic shall submit one copy of construction documents and specifications to the Division for review and approval consistent with Section .0200 of this Subchapter.
- (b) Any license holder or prospective applicant desiring to make alterations or additions to a clinic or to construct a new clinic, before commencing such alteration, addition or new construction shall submit construction documents and specifications to the Division for review and approval with respect to compliance with this Subchapter.
- (c) Approval of construction documents and specifications shall expire one year after the date of approval unless a building permit for the construction has been obtained prior to the expiration date of the approval of construction documents and specifications.

*History Note: Authority G.S. 131E-153.5; 143B-165;
Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;
Emergency Rule Eff. November 14, 2023;
Temporary Adoption Eff. February 8, 2024;
Eff. October 1, 2024.*

10A NCAC 13S .0201 BUILDING CODE REQUIREMENTS

(a) All clinics shall be classified for occupancy as Group B pursuant to the North Carolina Building Code.
(b) All new and existing clinics shall meet the requirements of the North Carolina State Building Codes, as determined by the applicability provisions of the North Carolina Building Code or the North Carolina Existing Building Code.
(c) The North Carolina Building Codes are hereby incorporated by reference including subsequent amendments and editions. Copies of the North Carolina State Building Codes can be obtained from the International Code Council online at <https://shop.iccsafe.org/catalogsearch/result/?cat=1010&q=+North+Carolina+Building+code> for a cost of eight hundred fifty eight dollars (\$858.00) or accessed electronically free of charge at <https://www.ncosfm.gov/codes/codes-current-and-past>.

*History Note: Authority G.S. 131E-153.5; 143B-165;
Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;
Emergency Rule Eff. November 14, 2023;
Temporary Adoption Eff. February 8, 2024;
Eff. October 1, 2024.*

10A NCAC 13S .0207 AREA REQUIREMENTS

The following areas shall comply with Rule .0212 of this Section, and are minimum requirements for clinics that are licensed by the Division to perform abortions:

10A NCAC 13S .0212 ELEMENTS AND EQUIPMENT

The physical plant shall provide equipment to carry out the functions of the clinic with the following requirements:

- (1) Mechanical requirements.
 - (a) All fans serving exhaust systems shall be located at the discharge end of the system.
 - (b) The ventilation system shall be designed and balanced to provide the pressure relationships detailed in Sub-Item (f) of this Rule.
 - (c) All ventilation or air conditioning systems shall have a minimum of one filter bed with a minimum filter efficiency of a MERV 8.
 - (d) Ventilation systems serving the procedure rooms shall not be tied in with toilets, soiled holding, or janitors' closets if the air is to be recirculated in any manner.
 - (e) Air handling duct systems shall not have duct linings.
 - (f) The following general air pressure relationships to adjacent areas and ventilation rates shall apply:

Area	Pressure Relationship	Minimum Total Air Changes/Hour
Toilets	N	4
Janitor's closet	N	6
Soiled holding	N	6
Clean holding	NR	2

 (N = negative pressure NR = No Requirement)
- (2) Plumbing And Other Piping Systems.
 - (a) Piped-in medical gas and vacuum systems, if installed, shall meet the requirements of NFPA-99, category 2 system, which is hereby incorporated by reference including subsequent amendments and editions. Copies of NFPA-99 may be purchased from the

- (1) reception and waiting room;
- (2) designated area or areas for pre-procedure and post-procedure activities;
- (3) procedure room;
- (4) a clean area for self-contained secure medication storage complying with security requirements of State and federal laws;
- (5) area compliant with Clinical Laboratory Improvement Amendments (CLIA) requirements, 42 CFR Part 493, including subsequent amendments and additions, which are hereby incorporated by reference, available at <https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-G/part-493> at no cost, in which laboratory testing can be performed;
- (6) separate areas for storage and handling of clean and soiled materials;
- (7) patient toilet;
- (8) personnel toilet facilities;
- (9) janitor's closets;
- (10) space and equipment for assembling, sterilizing and storing medical and surgical supplies;
- (11) storage space for medical records of all media types used by the facility; and
- (12) space for charting, communications, counseling, business functions, and other administrative activities.

*History Note: Authority G.S. 131E-153.5; 143B-165;
Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;
Emergency Rule Eff. November 14, 2023;
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Eff. October 1, 2024.*

- National Fire Protection Association online at <https://www.nfpa.org/product/nfpa-99-code/p0099code> at a cost of one hundred forty-nine dollars (\$149.00).
- (b) Lavatories and sinks for use by medical personnel shall have the water supply spout mounted so that its discharge point is a minimum distance of ten (10) inches above the bottom of the basin with mixing type fixture valves that can be operated without the use of the hands.
 - (c) Hot water distribution systems shall provide hot water at hand washing facilities at a minimum temperature of 100 degrees F. and a maximum temperature of 116 degrees F.
- (3) Electrical Requirements.
- (a) The facility's paths of egress to the outside shall have at a minimum, listed battery backup lighting units of one and one-half hour capability that will automatically provide at least one foot candle of illumination at the floor in the event needed for a utility or local lighting circuit failure.
 - (b) Electrically operated medical equipment necessary for the safety of the patient shall have, at a minimum, battery backup.
- (4) Buildings systems and medical equipment shall have preventative maintenance conducted as recommended by the equipment manufacturers' or installers' literature to assure operation in compliance with manufacturer's instructions.

History Note: Authority G.S. 131E-153.5; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023; Temporary Adoption Eff. February 8, 2024; Eff. October 1, 2024.

10A NCAC 13S .0318 GOVERNING AUTHORITY

- (a) The governing authority, as defined in Rule .0101(6) of this Subchapter, shall appoint a chief executive officer or a designee of the clinic to represent the governing authority and shall define his or her authority and duties in writing. This person shall be responsible for the management of the clinic, implementation of the policies of the governing authority, and authorized and empowered to carry out the provisions of these Rules.
- (b) The chief executive officer or designee shall designate, in writing, a person to act on his or her behalf during his or her absence. In the absence of the chief executive officer or designee, the person on the grounds of the clinic who is designated by the chief executive officer or designee to be in charge of the clinic shall have access to all areas in the clinic related to patient care and to the operation of the physical plant.

- (c) When there is a planned change in ownership or in the chief executive officer, the governing authority of the clinic shall notify the Division in writing of the change.
- (d) The clinic's governing authority shall adopt operating policies and procedures that shall:

- (1) specify the individual to whom responsibility for operation and maintenance of the clinic is delegated and methods established by the governing authority for holding such individuals responsible;
- (2) provide for at least annual meetings of the governing authority, for which minutes shall be maintained; and
- (3) maintain a policies and procedures manual designed to ensure safe and adequate care for the patients which shall be reviewed, and revised when necessary, at least annually, and shall include provisions for administration and use of the clinic, compliance with statutes and rules applicable to clinics including Subchapters 13S and 14E of Title 10A, compliance with a nationally standard recognized standard of care for infection control, personnel quality assurance, procurement of outside services and consultations, patient care policies, grievance policies, and services offered.

- (e) When the clinic contracts with outside vendors to provide services such as laundry or therapy services, the governing authority shall be responsible to assure the supplier meets the same local and State standards the clinic would have to meet if it were providing those services itself using its own staff.
- (f) The governing authority shall provide for the selection and appointment of the professional staff and the granting of clinical privileges and shall be responsible for the professional conduct of these persons.
- (g) The governing authority shall be responsible for ensuring the availability of supporting personnel to meet patient needs and to provide safe and adequate treatment.

History Note: Authority G.S. 131E-153.5; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023; Temporary Adoption Eff. February 8, 2024; Eff. October 1, 2024.

10A NCAC 13S .0319 POLICIES AND PROCEDURES AND ADMINISTRATIVE RECORDS

- (a) The following documents and references shall be on file in the administrative office of the clinic:
 - (1) documents evidencing control and ownerships, such as deeds, leases, or incorporation or partnership papers;
 - (2) policies and procedures of the governing authority, as required by Rule .0318 of this Section;
 - (3) minutes of the governing authority meetings;

- (4) minutes of the clinic's professional and administrative staff meetings;
- (5) a current copy of the rules of this Subchapter;
- (6) reports of inspections, reviews, and corrective actions taken related to licensure; and
- (7) contracts and agreements related to care and services provided by the clinic as a party.

(b) All operating licenses, permits, and certificates shall be displayed on the licensed premises.

(c) The governing authority shall prepare a manual of clinic policies and procedures for use by employees, medical staff, and physicians to assist them in understanding their responsibilities within the organizational framework of the clinic. These shall include:

- (1) patient selection and exclusion criteria;
- (2) clinical discharge criteria;
- (3) emergency protocols as required by Rule .0326;
- (4) policy and procedure for validating the full and true name of the patient;
- (5) policy and procedure for abortion procedures performed at the clinic;
- (6) policy and procedure for the provision of patient privacy in the recovery area of the clinic;
- (7) protocol for determining gestational age as defined in Rule .0101(5) of this Subchapter; and
- (8) protocol for referral of patients declined services by the clinic.

History Note: Authority G.S. 131E-153.5; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023; Temporary Adoption Eff. February 8, 2024; Eff. October 1, 2024.

10A NCAC 13S .0320 ADMISSION AND DISCHARGE

(a) There shall be on the premises throughout all hours of operation an employee authorized to receive patients and make administrative decisions regarding patients. Administrative decisions include all of the decisions related to a patient's care and services, such as admissions, billing, and services provided.

(b) All patients shall be admitted only under the care of a physician who is currently licensed to practice medicine in North Carolina.

(c) Any patient not discharged within 12 hours following the abortion procedure shall be transferred to a hospital licensed pursuant to Chapter 131E, Article 5 of the General Statutes.

(d) Following admission and prior to obtaining the consent for the procedure, representatives of the clinic's management shall provide to each patient the following information:

- (1) a fee schedule and any extra charges routinely applied;
- (2) the name of the attending physician or physicians and hospital admitting privileges. In the absence of admitting privileges a statement documenting that the attending physician or physicians does not have admitting privileges shall be included;

(3) instructions for post-procedure problems and questions as outlined in Rule .0329(d) of this Section;

(4) grievance procedures a patient may follow if dissatisfied with the care and services rendered pursuant to the grievance policy as outlined in Rule .0318(d)(3) of this Section; and

(5) the telephone number for Complaint Intake of the Division.

History Note: Authority G.S. 131E-153.5; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023; Temporary Adoption Eff. February 8, 2024; Eff. October 1, 2024.

10A NCAC 13S .0321 MEDICAL RECORDS

(a) The clinic shall maintain a complete and permanent record for all patients including:

- (1) the date and time of admission and discharge;
- (2) the patient's full and true name;
- (3) the patient's address;
- (4) the patient's date of birth;
- (5) the patient's emergency contact information;
- (6) the patient's diagnoses;
- (7) the fetus's gestational age;
- (8) the patient's condition on admission and discharge;
- (9) a voluntarily-signed consent for each procedure and signature of the physician performing the procedure witnessed by a family member, other patient representative, or facility staff member;
- (10) a copy of the signed 72 hour consent and physician declaration as defined in G.S. 90-21.82;
- (11) the patient's history and physical examination including identification of pre-existing or current illnesses, drug sensitivities or other idiosyncrasies that may impact the procedure or anesthetic to be administered; and
- (12) documentation that indicates all items listed in Rule .0320(d) of this Section were provided to the patient.

(b) The clinic shall record and authenticate by signature, date, and time all other pertinent information such as pre- and post-procedure instructions, laboratory reports, drugs administered, report of abortion procedure, and follow-up instruction, including family planning advice.

(c) If Rh is negative, the clinic shall explain the significance to the patient and shall record the explanation. A written record of the patient's decision shall be a permanent part of her medical record.

(d) An ultrasound examination shall be performed and the results, including gestational age, placed in the patient's medical record for any patient who is scheduled for an abortion procedure.

(e) The clinic shall maintain a daily procedure log of all patients receiving abortion services. This log shall contain at least the following:

- (1) the patient name;
- (2) the estimated gestational age;
- (3) the type of procedure;
- (4) the name of the physician;
- (5) the name of the Registered Nurse on duty; and
- (6) the date and time of procedure.

(f) Medical records shall be the property of the clinic and shall be preserved or retained in the State of North Carolina for a period of not less than 10 years from the date of the most recent discharge, unless the client is a minor, in which case the record must be retained until three years after the client's 18th birthday, regardless of change of clinic ownership or administration. Such medical records shall be made available to the Division upon request and shall not be removed from the premises where they are retained except by subpoena or court order.

(g) The clinic shall have a written plan for destruction of medical records to identify information to be retained and the manner of destruction to ensure confidentiality of all material.

(h) Should a clinic cease operation, the clinic shall arrange for preservation of records for at least 10 years. The clinic shall send written notification to the Division of these arrangements.

History Note: Authority G.S. 131E-153.5; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023; Temporary Adoption Eff. February 8, 2024; Eff. October 1, 2024.

10A NCAC 13S .0322 PERSONNEL RECORDS

(a) Personnel Records:

- (1) A record of each employee shall be maintained that includes the following:
 - (A) the employee's identification;
 - (B) the application for employment or resume that includes education, training, experience and references; and
 - (C) a copy of a valid license (if required).
- (2) Personnel records shall be confidential.
- (3) Representatives of the Division conducting an inspection of the clinic shall have the right to inspect personnel records.

(b) Job Descriptions:

- (1) The clinic shall have a written description that describes the duties of every position.
- (2) Each job description shall include position title, authority, specific responsibilities, and minimum qualifications. Qualifications shall include education, training, experience, special abilities, and valid license or certification required.
- (3) The clinic shall review annually and, if needed, update all job descriptions. The clinic shall provide the updated job description to each employee or contractual employee assigned to the position.

(c) All persons having direct responsibility for patient care shall be at least 18 years of age.

(d) The clinic shall provide an orientation program to familiarize each new employee or contractual employee with the clinic, its policies, and the employee's job responsibilities.

(e) The governing authority shall be responsible for implementing health standards for employees, as well as contractual employees, which are consistent with recognized professional practices for the prevention and transmission of communicable diseases.

(f) Employee and contractual employee records for health screening as defined in Rule .0101(8) of this Subchapter, education, training, and verification of professional certification shall be available for review by the Division.

History Note: Authority G.S. 131E-153.5; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023; Temporary Adoption Eff. February 8, 2024; Eff. October 1, 2024.

10A NCAC 13S .0323 CLINIC STAFFING

(a) The clinic shall have an organized clinical staff under the supervision of a nursing supervisor who is currently licensed as a Registered Nurse and who has responsibility for all nursing services.

(b) The nursing supervisor shall report to the chief executive officer or designee and shall be responsible for:

- (1) provision of nursing services to patients; and
- (2) developing a nursing policy and procedure manual and written job descriptions for nursing personnel.

(c) The clinic shall have the number of licensed and ancillary nursing personnel on duty to assure that staffing levels meet the total nursing needs of patients based on the number of patients in the clinic and their individual nursing care needs.

(d) There shall be at least one Registered Nurse who is currently licensed to practice professional nursing in North Carolina, or other health care practitioner practicing within the scope of their license or certification who is basic life support (BLS) certified and authorized by state laws to administer medications as required for analgesia, nausea, vomiting, or other indications on duty in the clinic at all times patients are in the procedure rooms and recovery area.

History Note: Authority G.S. 131E-153.5; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023; Temporary Adoption Eff. February 8, 2024; Eff. October 1, 2024.

10A NCAC 13S .0324 QUALITY ASSURANCE

(a) The governing authority shall establish a quality assurance program for the purpose of providing standards of care for the clinic. The program shall include the establishment of a committee that shall evaluate compliance with clinic procedures and policies.

(b) The committee shall determine corrective action, if necessary to achieve and maintain compliance with clinic procedures and policies.

(c) The committee shall consist of one physician who is not an owner, the chief executive officer or designee, and other health practitioners.

(d) The frequency of meetings and details of data collection shall be defined by the governing authority.

History Note: Authority G.S. 131E-153.5; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023; Temporary Adoption Eff. February 8, 2024; Eff. October 1, 2024.

10A NCAC 13S .0325 LABORATORY SERVICES

(a) Each clinic shall have the capability to provide or obtain laboratory tests required in connection with the procedure to be performed, and will perform laboratory tests appropriate to their Clinical Laboratory Improvement Amendments (CLIA) certification.

(b) The governing authority shall establish written policies regarding which surgical specimens require examination by a pathologist.

(c) Each patient shall have laboratory testing as determined to be clinically necessary by the physician, or as required by law. A record of the results of any tests performed will be included in the patient's medical record.

(d) The clinic shall maintain a manual in a location accessible by employees, that meets requirements for the level of clinic's CLIA certification. This includes the procedures, instructions, and manufacturer's instructions for each test procedure performed including:

- (1) sources of reagents, and quality control procedures; and
- (2) information concerning the basis for the listed "normal" ranges.

History Note: Authority G.S. 131E-153.5; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023; Temporary Adoption Eff. February 8, 2024; Eff. October 1, 2024.

10A NCAC 13S .0326 EMERGENCY BACK-UP SERVICES

(a) Each clinic shall have a written plan for the transfer of emergency cases from the clinic to the closest hospital when hospitalization becomes necessary.

(b) The clinic shall have written protocols, personnel, and equipment to handle medical emergencies as defined above which may arise in connection with services provided by the clinic.

(c) All clinics shall have written emergency case instructions for clinic staff to carry out in the event of an emergency. All clinic personnel shall have access to and be capable of carrying out the clinic's written emergency case instructions:

(1) Instructions shall be followed in the event of an emergency, any unexpected anesthetic, medical or procedural complications, or other conditions making transfer to an emergency department and/or hospitalization of a patient necessary.

(2) The instructions shall include arrangements for immediate contact of emergency medical services when indicated and when advanced cardiac life support is needed.

(3) When emergency medical services are not indicated, the instructions shall include procedures for timely escort of the patient to the hospital or to an appropriate licensed health care professional.

(d) The clinic shall provide intervention for emergency cases. These provisions shall include:

- (1) basic cardio-pulmonary life support;
- (2) emergency instructions for:
 - (A) administration of intravenous fluids;
 - (B) establishing and maintaining airway support;
 - (C) oxygen administration;
 - (D) utilizing a bag-valve-mask resuscitator with oxygen reservoir; and
 - (E) utilizing an automated external defibrillator.
- (3) emergency lighting available in the procedure room as set forth in Rule .0212 of this Subchapter; and
- (4) ultrasound equipment.

History Note: Authority G.S. 131E-153.5; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023; Temporary Adoption Eff. February 8, 2024; Eff. October 1, 2024.

10A NCAC 13S .0327 OUTPATIENT PROCEDURAL SERVICES

(a) The clinic shall establish procedures for infection control and universal precautions, including cleaning of all patient care areas including procedure rooms.

(b) Tissue Examination:

- (1) The physician performing the abortion is responsible for examination of all products of conception (P.O.C.) prior to patient discharge. Such examination shall note specifically the presence or absence of chorionic villi and fetal parts, or the amniotic sac. The results of the examination shall be recorded in the patient's medical record.
- (2) If adequate tissue is not obtained based on the gestational age, the physician performing the procedure shall evaluate for ectopic pregnancy, or an incomplete procedure.

- (3) The clinic shall establish procedures for obtaining, identifying, storing, and transporting specimens.

History Note: Authority G.S. 131E-153.5; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023; Temporary Adoption Eff. February 8, 2024; Eff. October 1, 2024.

10A NCAC 13S .0328 MEDICATIONS AND SEDATION

- (a) No medication or treatment shall be given except on written order of a physician.
- (b) Medications, including injections shall be administered by a physician, Registered Nurse, and other health care practitioners practicing within the scope of their license or certification authorized by state laws to administer medications. All medications shall be recorded in the patient's permanent record.
- (c) The sedation shall be administered only under the direct supervision of a licensed physician. Direct supervision means the physician must be present in the clinic and immediately available to furnish assistance and direction throughout the administration of the sedation. It does not mean the physician must be present in the room when the sedation is administered.

History Note: Authority G.S. 131E-153.5; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023; Temporary Adoption Eff. February 8, 2024; Eff. October 1, 2024.

10A NCAC 13S .0329 POST PROCEDURAL CARE

- (a) A patient whose pregnancy is terminated shall be observed in the clinic to ensure that no post procedural complications are present. Thereafter, patients may be discharged according to a physician's order and the clinic's protocols.
- (b) Any patient having a complication known or suspected to have occurred during or after the performance of the abortion shall be transferred to a hospital for evaluation or admission.
- (c) The following criteria shall be documented prior to discharge:
- (1) the patient shall be able to move independently with a stable blood pressure and pulse; and
 - (2) bleeding and pain are assessed to be stable and not a concern for discharge.
- (d) Written instructions shall be issued to all patients in accordance with the orders of the physician in charge of the abortion procedure and shall include the following:
- (1) symptoms and complications to be looked for; and
 - (2) a dedicated telephone number to be used by the patients should any complication occur or question arise. This number shall be answered by a person 24 hours a day, seven days a week.
- (e) The clinic shall have a defined protocol for triaging post-operative calls and complications. This protocol shall establish a pathway for physician contact to ensure ongoing care of complications that the clinic's physician is incapable of managing.

History Note: Authority G.S. 131E-153.5; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023; Temporary Adoption Eff. February 8, 2024; Eff. October 1, 2024.

10A NCAC 13S .0330 CLEANING OF MATERIALS AND EQUIPMENT

- (a) All supplies and equipment used in patient care shall be cleaned or sterilized between use for different patients.
- (b) Methods of cleaning, handling, and storing all supplies and equipment shall be such as to prevent the transmission of infection through their use as determined by the clinic through their governing authority.

History Note: Authority G.S. 131E-153.5; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023; Temporary Adoption Eff. February 8, 2024; Eff. October 1, 2024.

10A NCAC 13S .0331 FOOD SERVICE

Nourishments, such as crackers and soft drinks, shall be available and offered to all patients.

History Note: Authority G.S. 131E-153.2; 131E-153.5; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023; Temporary Adoption Eff. February 8, 2024; Eff. October 1, 2024.

TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY

15A NCAC 10D .0209 BUFFALO COVE GAME LAND IN CALDWELL AND WILKES COUNTIES

Buffalo Cove game land is a Seven Days per Week Area. The following shall apply:

- (1) The Deer With Visible Antlers Season begins on the Saturday after Thanksgiving Day through January 1. Antlered or antlerless deer may be taken with archery equipment beginning the Saturday on or nearest September 10 through the day immediately preceding the Blackpowder Firearms Season described in this Rule. Antlered or antlerless deer may be taken with blackpowder firearms beginning two Saturdays preceding the first day of the open season for Deer With Visible Antlers described in this Rule through the second Friday thereafter.
- (2) Antlered or antlerless deer may be taken the first open Saturday of the applicable Deer With Visible Antlers Season.

- (3) Horseback riding is prohibited except on designated trails May 16 through August 31 and horseback riding is prohibited from September 1 through May 15.
- (4) Target shooting is prohibited.

- (2) Antlered or antlerless deer may be taken the first open Saturday of the applicable Deer With Visible Antlers Season.
- (3) Horseback riding is prohibited except on designated trails during the following dates:
 - (a) January 2 through March 31;
 - (b) May 16 through August 31;
 - (c) Sundays only - April 1 through May 15; and
 - (d) Sundays only - September 1 through January 1.
- (4) Target shooting is prohibited.
- (5) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas.
- (6) The maximum period of consecutive overnight camping at any posted and designated camping area is 14 days within any 30-day period.

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

15A NCAC 10D .0243 KINGS CREEK GAME LAND IN CALDWELL AND WILKES COUNTIES

Kings Creek game land is a Six Days per Week Area, in which the following applies:

- (1) The Deer With Visible Antlers Season consists of the open hunting days from the Saturday after Thanksgiving Day through January 1. Antlered or antlerless deer may be taken with archery equipment on open days beginning the Saturday on or nearest September 10 through the day immediately preceding the Black powder Firearms Season described in the Rule. Antlered or antlerless deer may be taken with blackpowder firearms on open days beginning two Saturdays preceding the first day of the open season for Deer With Visible Antlers described in this Rule through the second Friday thereafter.
- (2) Antlered or antlerless deer may be taken the first open Saturday of the applicable Deer With Visible Antlers Season.

History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305; Eff. October 1, 2022; Temporary Amendment Eff. July 5, 2024; Amended Eff. October 1, 2024.

History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305; Eff. October 1, 2022; Temporary Amendment Eff. July 5, 2024; Amended Eff. October 1, 2024.

15A NCAC 10D .0276 SOUTH MOUNTAINS GAME LAND IN BURKE, CLEVELAND, MCDOWELL, AND RUTHERFORD COUNTIES

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

- (1) The Deer With Visible Antlers Season begins on the Saturday after Thanksgiving Day through January 1. Antlered or antlerless deer may be taken with archery equipment beginning the Saturday on or nearest September 10 through the day immediately preceding the Blackpowder Firearms Season described in this Rule. Antlered or antlerless deer may be taken with blackpowder firearms beginning two Saturdays preceding the first day of the open season for Deer With Visible Antlers described in this Rule through the second Friday thereafter.

15A NCAC 10F .0321 PENDER COUNTY

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

- (1) Hampstead:
 - (A) the canal adjoining Olde Point Subdivision adjacent to the Intracoastal Waterway (ICW) near 2019 Kings Landing Road; and
 - (B) the waters within 50 yards of the Hampstead Boating Access Area adjacent to the ICW at 613 Lewis Road.
- (2) Town of Topsail Beach:
 - (A) the First Finger Canal northeast of Godwin Avenue adjacent to Banks Channel; and
 - (B) the waters on the eastern side of Banks Channel within 100 yards of the shoreline beginning 155 yards west of Bush's Marina, extending northeast ending 75 yards from the shoreline perpendicular to Haywood Avenue.
- (3) Castle Hayne. The waters of the Northeast Cape Fear River between the U.S. Highway 117 bridge and the railroad trestle 60 yards east of the Castle Hayne Boating Access Area.
- (4) Town of Surf City:
 - (A) the waters of the channel in Topsail Sound known as Deep Creek, from near its mouth at a point at 34.43208 N, 77.54808 W to its end west of Goldsboro Avenue;

- (B) the waters of Topsail Sound and Topsail Creek northeast of the channel setback of the ICW, beginning north of the channel setback east of the N.C. Highway 210 Surf City Bridge at a point at 34.42975 N, 77.55213 W, then 550 yards northeastward to a line from the point north of the channel setback at 34.43294 N, 77.54837 W to a point on the island at 34.43327 N, 77.54873 W, then northward including waters of Topsail Sound and a portion known as Topsail Creek to a line from a point on the town shoreline at 34.43425 N, 77.55069 W, to a point on the island at 34.43378 N, 77.55017 W; and
- (C) the waters of Topsail Sound southeast of the channel setback of the ICW, beginning south of the channel setback and east of the N.C. Highway 210 Surf City Bridge at a point at 34.42902 N, 77.55200 W including the waters where the Surf City Boating Access Area and Soundside Park are located at 517 Roland Avenue, then 480 yards northeastward to a point south of the channel setback at 34.43167 N, 77.54848 W, adjacent to the mouth of Deep Creek.

(5) Burgaw:

- (A) the waters within 50 yards of the Shelter Creek Boating Access Area on Shelter Creek, at 12380 Shaw Highway.
- (B) the waters within 50 yards of the Sawpit Landing Boating Access Area on the Northeast Cape Fear River, at 527 Whitestocking Road Extension; and
- (C) the waters within 50 yards of the Holly Shelter Boating Access Area on the Northeast Cape Fear River, at 7271 Shaw Highway.

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed within the regulated areas described in Paragraph (a) of this Rule.

(c) Placement of Markers. The following agencies shall place markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers:

- (1) the Board of Commissioners of Pender County for the regulated areas designated in Part (a)(1)(A) and (a)(2)(A) of this Rule; and
- (2) the Board of Commissioners of the Town of Topsail Beach for the regulated area designated in Part (a)(2)(B) of this Rule.

(d) Placement and Maintenance of Markers. The following agencies shall place and maintain markers implementing this

Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers:

- (1) the Board of Commissioners of the Town of Surf City for the markers for the regulated areas designated in Parts (a)(4)(A), (B), and (C) of this Rule; and
- (2) the North Carolina Wildlife Resources Commission for the markers for the regulated areas designated in Parts (a)(1)(B), and (a)(5)(A), (B) and (C) of this Rule.

History Note: Authority G.S. 75A-3; 75A-15; Eff. May 1, 1976; Amended Eff. July 1, 1993; December 1, 1991; May 1, 1989; October 1, 1985; Temporary Amendment Eff. April 1, 1999; Amended Eff. June 1, 2017; July 1, 2000; October 1, 2024 Readopted Eff. October 1, 2018; Amended Eff. October 1, 2024.

SECTION .1800 – COMMERCIAL ACTIVITY PERMITTING

15A NCAC 10H .1801 GENERAL REQUIREMENTS AND FEES

(a) The rules in this Section apply to commercial permits issued by the Wildlife Resources Commission.

(b) The use of Wildlife Resources Commission property, as defined by G.S. 113-129, by an individual or business for profit or benefit is unlawful, unless the individual or business using the property for an unlicensed activity first obtains a commercial permit as provided by this Rule.

(c) The following definitions shall apply to all rules in this Section:

- (1) "Benefit" means the exchange of money, goods, services, or the growth or promotion of a business or organization.
- (2) "Commercial activity" means an unlicensed activity for which individuals pay to participate or use equipment and that takes individuals or groups to Commission property for participation in the unlicensed activity, the purpose of which is financial gain or benefit of the commercial business.
- (3) "Commercial business" means any individual or business using Commission property for financial gain or benefit.
- (4) "Commercial permit" means either a commercial use permit or event permit for otherwise unlicensed activities.
- (5) "Commission property" means Wildlife Resources Commission property as defined in G.S. 113-129(18).
- (6) "Commercial use" means the use of Commission property for financial gain or benefit.
- (7) "Commercial use permit" means a permit that allows for the commercial use of Wildlife Resources Commission property.

- (8) "Event" means an organized gathering of more than 10 people on Commission property where money is exchanged for participation in an unlicensed activity.
- (9) "Event permit" means a permit that allows for the use of Commission property for a one-time event.
- (10) "Unlicensed activity" means any outdoor activity that the Commission does not regulate through a Commission-issued license or permit.

(d) Application for a commercial permit shall be made online at www.ncwildlife.org or at Commission headquarters located at 1751 Varsity Drive, Raleigh, NC 27606-2576. Information required from the applicant shall include:

- (1) the applicant's name, address, telephone number;
- (2) name of business, company, or organization;
- (3) type of commercial activity or event;
- (4) dates of activity or event;
- (5) locations of commercial activity or event; and
- (6) for event permits, the number of individuals anticipated to partake in the event.

(e) The fee for a commercial use permit shall be one hundred dollars (\$100.00). The fee for an event permit shall be based on the number individuals participating in the event, including event participants, volunteers, staff, and spectators. The event permit fee schedule is as follows:

- (1) ten to 100 individuals - \$50;
- (2) one hundred and one to 250 individuals - \$100;
- (3) two hundred and fifty-one to 500 individuals - \$150;
- (4) five hundred and one to 1000 individuals - \$200; and
- (5) over 1000 individuals - \$250.

(f) In addition to the commercial permit fee, a fee of three dollars (\$3.00) per individual participating in the permitted activity on Commission property shall be required and remitted to the Commission no more than 30 days after the event for which the permit was acquired or every other month during the year for which the commercial use permit is valid.

(g) Unless authorized by the Commission, commercial permit holders and their patrons shall not block access or prevent others from entering or exiting any Commission property.

(h) Commercial permits are non-transferable between individuals, businesses, or companies and a separate permit is required for each commercial activity or event.

(i) The Commission may deny permits or issue permit requirements for use of its property based on the time of year, holidays, safety concerns, biological impacts, compatibility of requested activity with intended use of an area or property, failure to adhere to the conditions set forth in these Rules and Commission planned or sponsored events.

(j) Unless a more limited duration is designated on the permit, a commercial use permit shall be valid from January 1 through December 31 of the same year. An event permit shall be valid for the duration of the event and expires at its conclusion.

(k) Records of commercial activities shall be available for inspection by representatives of the Commission upon request and during normal operating hours.

(l) The Executive Director of the Commission or his or her designee may warn, cite, or revoke a permit holder's commercial permit, if the permit holder violates any rules set forth by the Commission in this Subchapter or any conditions of the permit.

History Note: Authority G.S. 113-134; 113-264; Eff. January 1, 2025.

15A NCAC 10H .1802 COMMERCIAL USE PERMITS

(a) A commercial use permit shall be required for commercial activities on Commission property, including but not limited to:

- (1) providing registered and unregistered rental vessels to individuals for use on Commission property;
- (2) leading tours or excursions for unlicensed activities on Commission property;
- (3) dropping off or picking up individuals on Commission property; or
- (4) using Commission property to stage patrons or recreational equipment in preparation for an activity on Commission property.

(b) Individuals holding a commercial use permit shall submit a report to the Commission online at www.ncwildlife.org by the last day of every other month of the year in which their permit is valid. The report shall contain the following information:

- (1) individual's name and name of business, company, or organization;
- (2) permit number; and
- (3) number of individuals participating in activity.

(c) Individuals applying for a commercial use permit as described in Rule .1801 of this Section shall verify liability insurance in the amount of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in aggregate for commercial activities conducted on Commission property.

(d) Commercial use permittees shall be responsible for removing litter and trash left on Commission property by individuals covered by their permit.

History Note: Authority G.S. 113-134; 113-264; Eff. January 1, 2025.

15A NCAC 10H .1803 EVENT PERMITS

(a) An event permit is required for a commercial business conducting an event on Commission property.

(b) Individuals holding an event permit shall submit a report for the event within 30 days of the conclusion of the event, to the Commission online at www.ncwildlife.org with the following information:

- (1) individual's name and name of business, company, or organization;
- (2) permit number; and
- (3) total number of participants.

(c) Individuals applying for an event permit as described in Rule .1801 of this Section shall verify one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in aggregate of liability insurance for commercial events to be conducted on Commission property.

(d) Event permit holders shall be responsible for removing all litter and trash left on Commission property by individuals participating in the event.

*History Note: Authority G.S. 113-134; 113-264
Eff. January 1, 2025.*

**15A NCAC 10I .0102 PROTECTION OF
ENDANGERED, THREATENED, AND SPECIAL
CONCERN SPECIES**

(a) There is no open season for taking the species listed in Rules .0103, .0104, or .0105 of this Section, except for the American alligator (*Alligator mississippiensis*) as set forth in 15A NCAC 10B .0224.

(b) Except as provided in Paragraphs (d) and (h) of this Rule, there is no purchase, sale, or take of the species listed in Rules .0103, .0104, or .0105 of this Section.

(c) Take of federally listed endangered and threatened fish and wildlife species requires a federal permit, as specified in 50 C.F.R Chapter 1, Subchapter B, hereby incorporated by reference, including subsequent amendments and additions, and a state endangered species permit, as specified in Paragraph (d) of this Rule. 50 C.F.R. is available free of charge at www.ecfr.gov.

(d) The Executive Director or his or her designee may issue endangered species permits to take, possess, sell, propagate, transport, import, export, transfer, barter, trade, or stock federally and state listed endangered, threatened, or special concern species to:

- (1) an individual or institution conducting a scientific investigation for the perpetuation, restoration, or management of a species;
- (2) a public or private educator or exhibitor who demonstrates that he or she has lawfully obtained the specimens in his or her possession, possesses the equipment and expertise to care for the specimens, and abides by applicable caging requirements for the species set forth in 15A NCAC 10H .1404;
- (3) a person who lawfully possessed the species for 90 days immediately prior to the date that the species was listed and who abides by applicable caging requirements for the species set forth in 15A NCAC 10H .1404;
- (4) a person with demonstrable depredation from a Special Concern Species, or American alligator (*Alligator mississippiensis*);
- (5) a licensed falconer who meets the requirements of the rules in 15A NCAC 10H .0800;
- (6) a retail or wholesale establishment whose primary function is providing scientific supplies, provided that:
 - (A) the specimens were lawfully obtained from captive populations or wild populations outside of North Carolina;
 - (B) the specimens are possessed in indoor facilities; and
 - (C) safeguards are provided during transportation to prevent accidental escape of the specimens.

(7) state and federal government agencies, corporate research entities, and research institutions within North Carolina provided that:

- (A) the specimens are possessed in indoor facilities;
- (B) safeguards are provided during transportation to prevent accidental escape of the specimens; and
- (C) the agency's or institution's Animal Care and Use Committee has approved the research protocol for the species.

(e) Additional permits or authorizations from the Commission shall be required for importation, exportation, propagation, transportation, stocking, and release of endangered, threatened, or special concern species.

(f) An individual may apply for an endangered species permit online at www.gooutdoorsnorthcarolina.com by providing the following information:

- (1) name, address, phone number, and email of the applicant;
- (2) applicant's affiliation, if applicable;
- (3) species name and quantity;
- (4) proposed activities;
- (5) map with specific location of activities identified, if applicable;
- (6) the source of the specimens and documentation of lawful acquisition;
- (7) caging or confinement plans for specimens, if applicable;
- (8) qualifications and explanation of experience for anyone working with the species;
- (9) research proposal, if applicable;
- (10) proof that federal permits have been applied for or obtained, if applicable;
- (11) plans for care of specimens and copy of Institutional Animal Care and Use Committee permit, if applicable; and
- (12) plans for final disposition of specimens.

(g) Endangered species permits shall not be transferrable by license holder or by site.

(h) The species listed in Rules .0103, .0104, and .0105 of this Section may be taken or possessed without a permit when:

- (1) an individual takes the species in defense of his or her own life or the lives of others, as described in 15A NCAC 10B .0106.
- (2) an individual has obtained a permit to take an American alligator in accordance with 15A NCAC 10B .0224.
- (3) an individual possesses meat or other parts of American alligators that have been lawfully taken, possessed, or bought in a state where there is an open season for harvesting alligators and the products are marketed in packages or containers that are labeled to indicate the state in which the animals were taken and the identity, address, and lawful authority of the processor or distributor.

- (4) an individual is taking or harassing a red wolf (*Canis rufus*) pursuant to the conditions in 50 C.F.R. 17.84(c), hereby incorporated by reference, including subsequent amendments and editions, available free of charge at www.ecfr.gov.
 - (5) an individual who meets the requirements of G.S. 113-261, who, when acting in the course of his or her official duties, takes, possesses, or transports endangered, threatened, or special concern species if the action is necessary to:
 - (A) aid a sick, injured, diseased, or orphaned specimen;
 - (B) dispose of a dead specimen;
 - (C) salvage a dead specimen that may be useful for scientific study; or
 - (D) remove specimens that constitute a demonstrable but nonimmediate threat to human safety and release the specimen unharmed, in a habitat that is suitable for survival.
- (i) Take, possession, sale, propagation, transportation, importation, exportation, transfer, barter, trade, or stocking of endangered, threatened, or special concern species under Paragraphs (d) and (h) of this Rule is subject to federal reporting requirements, and reporting requirements of the endangered species permit.

History Note: Authority G.S. 113-134; 113-291.2; 113-291.3; 113-292; 113-333; 113-337;
Eff. June 11, 1977;
Amended Eff. January 1, 2013; January 1, 2012; May 1, 2009; April 1, 2003; April 1, 2001; April 1, 1997; February 1, 1994; September 1, 1989; March 1, 1981; March 17, 1978.
Temporary Amendment Eff. February 27, 2015;
Amended Eff. February 1, 2023; July 1, 2016;
Readopted Eff. October 1, 2024.

15A NCAC 10I .0103 ENDANGERED SPECIES LISTED

- (a) The following species of resident wildlife shall be designated as federally listed endangered species:
- (1) Amphibians: None listed.
 - (2) Birds:
 - (A) Bachman's warbler (*Vermivora bachmanii*);
 - (B) Ivory-billed woodpecker (*Campephilus principalis*);
 - (C) Piping plover (*Charadrius melodus circumcinctus*);
 - (D) Red-cockaded woodpecker (*Dryobates borealis*); and
 - (E) Roseate tern (*Sterna dougallii dougallii*).
 - (3) Crustacea: None listed.
 - (4) Fish:
 - (A) Cape Fear shiner (*Miniellus mekistocholas*);
 - (B) Carolina madtom (*Noturus furiosus*);

- (C) Roanoke logperch (*Percina rex*);
 - (D) Shortnose sturgeon (*Acipenser brevirostrum*), when found in inland fishing waters as defined in G.S. 113-129(9); and
 - (E) Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*), when found in inland fishing waters as defined in G.S. 113-129(9).
- (5) Mammals:
- (A) Carolina northern flying squirrel (*Glaucomys sabrinus coloratus*);
 - (B) Eastern cougar (*Puma concolor*);
 - (C) Gray bat (*Myotis grisescens*);
 - (D) Indiana bat (*Myotis sodalis*);
 - (E) Northern long-eared bat (*Myotis septentrionalis*); and
 - (F) Virginia big-eared bat (*Corynorhinus townsendii virginianus*).
- (6) Mollusks:
- (A) Appalachian elktoe (*Alasmidonta raveneliana*);
 - (B) Carolina heelsplitter (*Lasmigona decorata*);
 - (C) Dwarf wedgemussel (*Alasmidonta heterodon*);
 - (D) James spiny mussel (*Parvaspina collina*);
 - (E) Littlewing pearly mussel (*Pegias fabula*);
 - (F) Tan riffleshell (*Epioblasma florentina walkeri*); and
 - (G) Tar River spiny mussel (*Parvaspina steinstansana*).
- (7) Reptiles:
- (A) Kemp's ridley sea turtle (*Lepidochelys kempii*);
 - (B) Hawksbill sea turtle (*Eretmochelys imbricata*); and
 - (C) Leatherback sea turtle (*Dermochelys coriacea*).

- (b) The following species of resident wildlife shall be designated as State-listed endangered species:
- (1) Amphibians:
 - (A) Gopher frog (*Rana [=Lithobates] capito*);
 - (B) Hickory Nut Gorge green salamander (*Aneides caryaensis*);
 - (C) Ornate chorus frog (*Pseudacris ornata*); and
 - (D) River frog (*Rana [=Lithobates] heckscheri*).
 - (2) Birds:
 - (A) American peregrine falcon (*Falco peregrinus anatum*);
 - (B) Common tern (*Sterna hirundo*);
 - (C) Henslow's sparrow (*Centronyx henslowii*); and

- (D) Wayne's black-throated green warbler (Setophaga virens waynei).
- (3) Crustacea:
 - (A) Bennett's Mill cave water slater (Caecidotea carolinensis); and
 - (B) Waccamaw crayfish (Procambarus braswelli).
- (4) Fish:
 - (A) Blotchside logperch (Percina burtoni);
 - (B) Bridle shiner (Notropis bifrenatus);
 - (C) Orangefin madtom (Noturus gilberti);
 - (D) Paddlefish (Polyodon spathula);
 - (E) Robust redhorse (Moxostoma robustum);
 - (F) Rustyside sucker (Thoburnia hamiltoni);
 - (G) Sharpnose darter (Percina oxyrhynchus); and
 - (H) Stonecat (Noturus flavus).
- (5) Mammals:
 - (A) Little brown bat (Myotis lucifugus); and
 - (B) Tricolored bat (Perimyotis subflavus).
- (6) Mollusks:
 - (A) Barrel floater (Utterbackiana couperiana);
 - (B) Brook floater (Alasmidonta varicosa);
 - (C) Carolina creekshell (Sagittunio vaughanianus);
 - (D) Fragile glyph (Pilsbryna clingmani);
 - (E) Green floater (Lasmigona subviridis);
 - (F) Greenfield ramshorn (Helisoma eucosmium);
 - (G) Knotty elimia (Elimia christyi);
 - (H) Longsolid (Fusconaia subrotunda);
 - (I) Magnificent ramshorn (Planorbella magnifica);
 - (J) Purple wartyback (Cyclonaias tuberculata);
 - (K) Savannah lilliput (Toxolasma pullus);
 - (L) Slippershell mussel (Alasmidonta viridis);
 - (M) Tennessee clubshell (Pleurobema oviforme);
 - (N) Tennessee heelsplitter (Lasmigona holstonia);
 - (O) Tennessee pigtoe (Pleuronaia barnesiana); and
 - (P) Yellow lampmussel (Lampsilis cariosa).
- (7) Reptiles:
 - (A) Eastern coral snake (Micrurus fulvius fulvius);
 - (B) Eastern diamondback rattlesnake (Crotalus adamanteus); and
 - (C) Mimic glass lizard (Ophisaurus mimicus).

Amended Eff. October 1, 2017; August 1, 2016; May 1, 2008; April 1, 2001; February 1, 1994; November 1, 1991; April 1, 1991; June 1, 1990;
Readopted Eff. October 1, 2021;
Amended Eff. October 1, 2024; February 1, 2023.

15A NCAC 10I .0104 THREATENED SPECIES LISTED

(a) The following species of resident wildlife shall be designated as federally listed threatened species:

- (1) Amphibians: Neuse River waterdog (Necturus lewisi).
- (2) Birds:
 - (A) Eastern black rail (Laterallus jamaicensis jamaicensis);
 - (B) Piping plover (Charadrius melodus melodus);
 - (C) Red knot (Calidris canutus rufa); and
 - (D) Wood stork (Mycteria americana).
- (3) Crustacea: None listed.
- (4) Fish:
 - (A) Spotfin chub (Erimonax monachus); and
 - (B) Waccamaw silverside (Menidia extensa).
- (5) Mammals: West Indian Manatee (Trichechus manatus), when found in inland fishing waters as defined in G.S. 113-129(9).
- (6) Mollusks:
 - (A) Atlantic pigtoe (Fusconaia masoni);
 - (B) Longsolid (Fusconaia subrotunda);
 - (C) Noonday globe (Patera nantahala); and
 - (D) Yellow lance (Elliptio lanceolata).
- (7) Reptiles:
 - (A) Bog turtle (Glyptemys muhlenbergii);
 - (B) American alligator (Alligator mississippiensis);
 - (C) Green sea turtle (Chelonia mydas); and
 - (D) Loggerhead sea turtle (Caretta caretta).

(b) The following species of resident wildlife are designated as State listed threatened species:

- (1) Amphibians:
 - (A) Eastern tiger salamander (Ambystoma tigrinum tigrinum);
 - (B) Green salamander (Aneides aeneus);
 - (C) Junaluska salamander (Eurycea junaluska);
 - (D) Eastern long-tailed salamander (Eurycea longicauda longicauda);
 - (E) Mabee's salamander (Ambystoma mabeei);
 - (F) Pine Barrens tree frog (Hyla andersonii); and
 - (G) Wehrle's salamander (Plethodon wehrlei).
- (2) Birds:

History Note: Authority G.S. 113-134; 113-333; Eff. June 11, 1977;

APPROVED RULES

- | | | | |
|-----|---|-----|---|
| | (A) Bald eagle (<i>Haliaeetus leucocephalus</i>); | | (D) Eastern lampmussel (<i>Lampsilis radiata</i>); |
| | (B) Black skimmer (<i>Rynchops niger</i>); | | (E) Eastern pondmussel (<i>Sagittunio nasutus</i>); |
| | (C) Caspian tern (<i>Hydroprogne caspia</i>); | | (F) Engraved covert (<i>Fumonelix orestes</i>); |
| | (D) Gull-billed tern (<i>Gelochelidon nilotica aranea</i>); | | (G) Mountain creekshell (<i>Leaunio vanuxemensis</i>); |
| | (E) Northern saw-whet owl (<i>Aegolius acadicus</i>); and | | (H) Notched rainbow (<i>Venustaconcha constricta</i>); |
| | (F) Rusty blackbird (<i>Euphagus carolinus</i>). | | (I) Rainbow (<i>Cambarunio iris</i>); |
| (3) | Crustacea: | | (J) Roan supercoil (<i>Paravitrea varidens</i>); |
| | (A) Broad River spiny crayfish (<i>Cambarus spicatus</i>); | | (K) Sculpted supercoil (<i>Paravitrea ternaria</i>); |
| | (B) French Broad crayfish (<i>Cambarus reburus</i>); | | (L) Smoky Mountain covert (<i>Inflectarius ferrissi</i>); |
| | (C) Pamlico crayfish (<i>Procambarus medialis</i>); | | (M) Creeper (<i>Strophitus undulatus</i>); |
| | (D) Sandhills crayfish (<i>Procambarus pearsei</i>); and | | (N) Tidewater mucket (<i>Atlanticoncha ochracea</i>); |
| | (E) South Mountains crayfish (<i>Cambarus franklini</i>). | | (O) Triangle floater (<i>Alasmidonta undulata</i>); and |
| (4) | Fish: | | (P) Waccamaw ambersnail (<i>Catinella waccamawensis</i>). |
| | (A) Bigeye jumprock (<i>Moxostoma ariommmum</i>); | (7) | Reptiles: |
| | (B) Blotched chub (<i>Erimystax insignis</i>); | | (A) Northern pine snake (<i>Pituophis melanoleucus melanoleucus</i>); and |
| | (C) Carolina pygmy sunfish (<i>Elassoma boehlkei</i>); | | (B) Southern hognose snake (<i>Heterodon simus</i>). |
| | (D) Carolina redhorse (<i>Moxostoma sp.</i>); | | |
| | (E) Ironcolor shiner (<i>Alburnops chalybaeus</i>); | | |
| | (F) Least brook lamprey (<i>Lampetra aepyptera</i>); | | |
| | (G) Logperch (<i>Percina caprodes</i>); | | |
| | (H) Mimic shiner (<i>Paranotropis volucellus</i>); | | |
| | (I) Rosyface chub (<i>Hybopsis rubrifrons</i>); | | |
| | (J) Sharphead darter (<i>Nothonotus acuticeps</i>); | | |
| | (K) Santee chub (<i>Cyprinella zanema</i>); | | |
| | (L) Sicklefin redhorse (<i>Moxostoma sp.</i>); | | |
| | (M) Thicklip chub (<i>Cyprinella labrosa</i>); | | |
| | (N) Turquoise darter (<i>Etheostoma inscriptum</i>); and | | |
| | (O) Waccamaw darter (<i>Etheostoma perlongum</i>). | | |
| (5) | Mammals: | | |
| | (A) Eastern woodrat (<i>Neotoma floridana floridana</i>); | | |
| | (B) Rafinesque's big-eared bat (<i>Corynorhinus rafinesquii rafinesquii</i>); and | | |
| | (C) Red wolf (<i>Canis rufus</i>). | | |
| (6) | Mollusks: | | |
| | (A) Alewife floater (<i>Utterbackiana implicata</i>); | | |
| | (B) Big-tooth covert (<i>Fumonelix jonesiana</i>); | | |
| | (C) Cape Fear threetooth (<i>Triodopsis soelneri</i>); | | |

History Note: Authority G.S. 113-134; 113-333; Eff. March 17, 1978; Amended Eff. June 1, 2008; April 1, 2001; November 1, 1991; April 1, 1991; June 1, 1990; September 1, 1989; Temporary Amendment Eff. February 27, 2015; Amended Eff. October 1, 2017; July 1, 2016; August 1, 2016; Readopted Eff. October 1, 2021; Amended Eff. October 1, 2024; February 1, 2023.

15A NCAC 10I .0105 SPECIAL CONCERN SPECIES LISTED

The following species of resident wildlife shall be designated as State listed special concern species:

- (1) Amphibians:
- (a) Collinses' mountain chorus frog (*Pseudacris collinsorum*);
 - (b) Crevice salamander (*Plethodon longicrus*);
 - (c) Dwarf salamander (*Eurycea quadridigitata*);
 - (d) Dwarf black-bellied salamander (*Desmognathus folkertsi*);
 - (e) Eastern hellbender (*Cryptobranchus alleganiensis alleganiensis*);
 - (f) Four-toed salamander (*Hemidactylium scutatum*);
 - (g) Gray treefrog (*Hyla versicolor*);
 - (h) Mole salamander (*Ambystoma talpoideum*);
 - (i) Mudpuppy (*Necturus maculosus*);

- (j) Southern chorus frog (*Pseudacris nigrita*);
- (k) Southern zigzag salamander (*Plethodon ventralis*); and
- (l) Weller's salamander (*Plethodon welleri*).
- (2) Birds:
- (a) American oystercatcher (*Haematopus palliatus*);
- (b) Bachman's sparrow (*Peucaea aestivalis*);
- (c) Barn owl (*Tyto alba*);
- (d) Black-capped chickadee (*Poecile atricapillus*);
- (e) Brown creeper (*Certhia americana nigrescens*);
- (f) Cerulean warbler (*Setophaga cerulea*);
- (g) Glossy ibis (*Plegadis falcinellus*);
- (h) Golden-winged warbler (*Vermivora chrysoptera*);
- (i) Least bittern (*Ixobrychus exilis*);
- (j) Least tern (*Sternula antillarum*);
- (k) Little blue heron (*Egretta caerulea*);
- (l) Loggerhead shrike (*Lanius ludovicianus*);
- (m) Painted bunting (*Passerina ciris*);
- (n) Red crossbill (*Loxia curvirostra*);
- (o) Snowy egret (*Egretta thula*);
- (p) Swallow-tailed kite (*Elanoides forficatus*);
- (q) Tricolored heron (*Egretta tricolor*);
- (r) Vesper sparrow (*Poocetes gramineus*); and
- (s) Wilson's plover (*Charadrius wilsonia*).
- (3) Crustacea:
- (a) Carolina skistodiptomus (*Skistodiptomus carolinensis*);
- (b) Carolina well diacyclops (*Diacyclops jeanneli putei*);
- (c) Chowanoke crayfish (*Faxonius virginiensis*);
- (d) Graceful clam shrimp (*Lynceus gracilicornis*);
- (e) Greensboro burrowing crayfish (*Cambarus catagius*);
- (f) Hiwassee headwaters crayfish (*Cambarus parrishi*);
- (g) Little Tennessee River crayfish (*Cambarus georgiae*);
- (h) North Carolina spiny crayfish (*Faxonius carolinensis*); and
- (i) Oconee stream crayfish (*Cambarus chaugaensis*).
- (4) Fish:
- (a) American brook lamprey (*Lethenteron appendix*);
- (b) "Atlantic" Highfin carpsucker (*Carpionodes sp. cf. velifer*);
- (c) Banded sculpin (*Cottus carolinae*);
- (d) Blue Ridge sculpin (*Cottus caeruleomentum*);
- (e) Blueside darter (*Etheostoma jessiae*);
- (f) Broadtail madtom (*Noturus sp.*);
- (g) Carolina darter (*Etheostoma collis*);
- (h) Cutlip minnow (*Exoglossum maxillingua*);
- (i) Freshwater drum (*Aplodinotus grunniens*);
- (j) Kanawha minnow (*Phenacobius teretulus*);
- (k) Lake sturgeon (*Acipenser fulvescens*);
- (l) Least killifish (*Heterandria formosa*);
- (m) Mooneye (*Hiodon tergisus*);
- (n) Mountain madtom (*Noturus eleutherus*);
- (o) Ohio lamprey (*Ichthyomyzon bdellium*);
- (p) Olive darter (*Percina squamata*);
- (q) Pinewoods darter (*Etheostoma mariae*);
- (r) River carpsucker (*Carpionodes carpio*);
- (s) Sandhills chub (*Semotilus lumbee*);
- (t) Seagreen darter (*Etheostoma thalassinum*);
- (u) Sickle darter (*Percina williamsi*);
- (v) Smoky dace (*Clinostomus sp.*);
- (w) Sooty-banded darter (*Percina westfalli*);
- (x) Striped shiner (*Luxilus chrysocephalus*);
- (y) Snubnose darter (*Etheostoma simoterum*);
- (z) "Thinlip" chub (*Cyprinella sp. cf. zanema*);
- (aa) Waccamaw killifish (*Fundulus waccamensis*);
- (bb) Wounded darter (*Nothonotus vulneratus*); and
- (cc) Yellowfin shiner (*Hydrophlox lutipinnis*).
- (5) Mammals:
- (a) Allegheny woodrat (*Neotoma magister*);
- (b) Buxton Woods white-footed mouse (*Peromyscus leucopus buxtoni*);
- (c) Coleman's oldfield mouse (*Peromyscus polionotus colemani*);
- (d) Eastern big-eared bat (*Corynorhinus rafinesquii macrotis*);
- (e) Eastern small-footed bat (*Myotis leibii leibii*);
- (f) Florida yellow bat (*Lasiurus intermedius floridanus*);
- (g) Southeastern bat (*Myotis austroriparius*);
- (h) Southern rock vole (*Microtus chrotorrhinus carolinensis*); and

- (6) Mollusks:
 - (a) Appalachian gloss (*Zonitoides patuloides*);
 - (b) Bidentate dome (*Ventridens coelaxis*);
 - (c) Black mantleslug (*Pallifera hemphilli*);
 - (d) Blackwater ancyloid (*Ferrissia hendersoni*);
 - (e) Blue-foot lancetooth (*Haplotrema kendeighi*);
 - (f) Cape Fear spike (*Elliptio marsupiobesa*);
 - (g) Clingman covert (*Fumonelix wheatleyi clingmanicus*);
 - (h) Dark glyph (*Glyphyalinia junaluskana*);
 - (i) Dwarf proud globe (*Patera clarki clarki*);
 - (j) Dwarf threetooth (*Triodopsis fulciden*);
 - (k) Fringed coil (*Helicodiscus fimbriatus*);
 - (l) Glossy supercoil (*Paravitrea placentula*);
 - (m) Great Smoky slitmouth (*Stenotrema depilatum*);
 - (n) High mountain supercoil (*Paravitrea andrewsae*);
 - (o) Honey glyph (*Glyphyalinia vanattai*);
 - (p) Lamellate supercoil (*Paravitrea lamellidens*);
 - (q) Mirey Ridge supercoil (*Paravitrea clappi*);
 - (r) Open supercoil (*Paravitrea umbilicaris*);
 - (s) Pink glyph (*Glyphyalinia pentadelphia*);
 - (t) Pink heelsplitter (*Potamilus alatus*);
 - (u) Pod lance (*Elliptio folliculata*);
 - (v) Queen crater (*Appalachina chilhowensis*);
 - (w) Ramp Cove supercoil (*Paravitrea lacteodens*);
 - (x) Ridged lioplax (*Lioplax subcarinata*);
 - (y) Roanoke slabshell (*Elliptio roanokensis*);
 - (z) Saw-tooth disc (*Discus bryanti*);
 - (aa) Seep mudalia (*Leptoxis dilatata*);
 - (bb) Spike (*Euryntia dilatata*);
 - (cc) Spiral coil (*Helicodiscus bonamicus*);
 - (dd) Velvet covert (*Inflectarius subpalliatu*);
 - (ee) Waccamaw amnicola (*Amnicola* sp.);
 - (ff) Waccamaw siltsnail (*Cincinnati* sp.); and
 - (gg) Wavy-rayed lampmussel (*Lampsilis fasciola*).

- (7) Reptiles:
 - (a) Carolina pigmy rattlesnake (*Sistrurus miliarius miliarius*);
 - (b) Carolina swamp snake (*Liodytes pygaea paludis*);
 - (c) Carolina watersnake (*Nerodia sipedon williamengelsi*);
 - (d) Cumberland slider (*Trachemys scripta troostii*);
 - (e) Diamondback terrapin (*Malaclemys terrapin*);
 - (f) Eastern chicken turtle (*Deirochelys reticularia reticularia*);
 - (g) Eastern coachwhip (*Coluber [=Masticophis] flagellum flagellum*);
 - (h) Eastern slender glass lizard (*Ophisaurus attenuatus longicaudus*);
 - (i) Eastern spiny softshell (*Apalone spinifera spinifera*);
 - (j) Northern map turtle (*Graptemys geographica*);
 - (k) Outer Banks kingsnake (*Lampropeltis getula sticticeps*);
 - (l) Stripeneck musk turtle (*Sternotherus peltifer*); and
 - (m) Timber rattlesnake (*Crotalus horridus*).

History Note: Authority G.S. 113-134; 113-333; Eff. September 1, 1989; Amended Eff. October 1, 2017; August 1, 2016; May 1, 2008; July 18, 2002; April 1, 2001; November 1, 1991; April 1, 1991; June 1, 1990; Readopted Eff. October 1, 2021; Amended Eff. October 1, 2024; February 1, 2023.

TITLE 16 – STATE BOARD OF EDUCATION

16 NCAC 06C .0408 PARENTAL LEAVE

- (a) For the purposes of this Rule, the following definitions shall apply:
 - (1) "Child" means a newborn biological child or a newly placed adopted, foster, or otherwise legally placed child under the age of 18 whose parent is an eligible employee.
 - (2) "Continuous" leave means leave taken over a continuous period for the full amount of leave to which an eligible employee is entitled under Paragraph (c) of this Rule.
 - (3) "Eligible employee" means a person employed to fill a permanent, probationary, or time-limited position in a public-school unit ("PSU") who meets the eligibility requirements set forth in Paragraph (b) of this Rule. "Eligible employee" shall not include temporary employees or independent contractors.
 - (4) "Intermittent" leave means leave taken in separate periods for a single qualifying event

that cumulatively equal the amount of leave to which an eligible employee is entitled under Paragraph (c) of this Rule. Intermittent leave may include periods of leave ranging from half of an employee's regularly scheduled workday to several consecutive workdays.

- (3) "Parent" means the legal guardian or custodian of a child through birth, adoption, foster care, or other legal placement.
- (4) "Public school unit" or "PSU" is defined in G.S. 115C-5(7a), except that this Rule shall only apply to a charter school if the board of directors for the charter school has opted to provide for paid parental leave in accordance with G.S. 115C-218.90(a)(6). The board shall notify the Office of Charter Schools at the Department of Public Instruction of its intent to offer paid parental leave no later than October 1 of the fiscal year for which it intends the leave to be available.
- (5) "Qualifying event" means when an eligible employee becomes a parent to a child.

(b) To be eligible for paid parental leave, a PSU employee shall, at the time of the qualifying event, have been in pay status, as defined in 25 NCAC 01D .0105, with a PSU, state agency, or other public entity providing paid parental leave under G.S. 126-8.6 for at least 1,040 hours without a break in service within the previous 12-month period. The employee may aggregate periods of employment with different employers to satisfy this requirement, except that any period of employment by a charter school shall not satisfy this requirement unless the governing board of the charter school has elected to provide paid parental leave in accordance with G.S. 115C-218.90(a)(6). For purposes of this Rule, a break in service is defined in 25 NCAC 01D .0144, provided it shall not include:

- (1) Any period in the past 12 months during which the employee was receiving workers' compensation under G.S. 97-1 et seq. or on short-term disability under G.S. 135-105.
- (2) Any period in which the employee was on leave without pay.
- (3) Any period in which the employee was absent due to military service in the Armed Forces of the United States, in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. 4301-4333.
- (4) For a 10- or 11-month employee whose employment will continue for the following school year, the time between the conclusion of one employment period and the commencement of the following employment period.
- (5) For an employee who transitions from one employer offering paid parental leave under G.S. 126-8.6 to another employer providing paid parental leave under G.S. 126-8.6, any time between the date of separation from the

first employer and the date of hire for the second employer, not to exceed 31 days.

(c) A full-time eligible employee who becomes a parent to a child shall be entitled to the following:

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

(d) A part-time eligible employee who becomes a parent to a child shall be entitled to a prorated share of paid parental leave based upon the hours in the employee's regular, weekly schedule compared to the hours worked by a full-time employee in a similar position within the PSU, provided that the prorated share of leave shall not exceed the total number of weeks provided to a full-time employee under Paragraph (c) of this Rule.

(e) If an eligible employee gives birth to a child and places the child up for adoption or into foster care, or otherwise legally places the child with another person to serve as the child's parent, the employee shall be entitled to up to four weeks of leave for physical and mental recuperation from the time of the child's birth. Neither a birthing parent nor a non-birthing parent shall be entitled to additional leave for bonding with the child.

(f) If a fetus dies prior to a completed birth, or if a child dies after a completed birth, the following rules shall apply:

- (1) If the fetus dies before the conclusion of the 12th week of pregnancy, there is no qualifying event creating an entitlement to paid parental leave under this Rule.
- (2) If the fetus dies after the conclusion of the 12th week of pregnancy but prior to a completed birth, an otherwise eligible employee who carried the child shall be entitled to up to four weeks of leave for physical and mental recuperation. Neither a birthing parent nor a non-birthing parent shall be entitled to additional leave for bonding with the child.
- (3) If a child dies after a completed birth, an otherwise eligible employee shall be entitled to the same amount of leave to which the employee would be entitled under Paragraphs (c) or (d) of this Rule.

(g) The paid parental leave provided by this Rule shall result in compensation at 100 percent of the eligible employee's regular, straight-time pay.

(h) The paid parental leave provided under this Rule is in addition to any other leave authorized by this Chapter, State or federal law, or policies established by the PSU, provided that the paid parental leave:

- (1) Shall not be counted against or deducted from an eligible employee's sick, vacation, bonus, or other accrued leave.
- (2) Shall be reported by the PSU separately from all other paid leave.
- (3) Shall not accrue and is not eligible for donation to another employee.

- (4) Shall not be used for calculating the employee's retirement benefits.
- (5) Shall run concurrently with any leave to which the employee may be entitled under the Family and Medical Leave Act, 28 U.S.C. 2601–2654, provided the PSU has complied with the appropriate notice requirements in 29 C.F.R. 825.300.

Eff. February 1, 1976;
Amended Eff. October 1, 1990 (Rule .0102); September 1, 1990 (Rule .0101);
Transferred from 10A NCAC 93 .0101 - .0102 Eff. June 1, 2011;
Repealed Eff. October 1, 2024.

16 NCAC 06I .0103 MEDICAL AND HEALTH SERVICES

History Note: Authority G.S. 115-325; 143B-173(b); Eff. August 25, 1980;
Transferred from 10A NCAC 93 .0103 Eff. June 1, 2011;
Repealed Eff. October 1, 2024.

16 NCAC 06I .0104 STUDENT INFORMATION

History Note: Authority G.S. 115C-114; 115C-321; 143B-10; 150B-14(c); Eff. February 1, 1976;
Amended Eff. October 1, 1990;
Transferred from 10A NCAC 93 .0104 Eff. June 1, 2011;
Repealed Eff. October 1, 2024.

16 NCAC 06I .0105 THE GOVERNOR MOREHEAD SCHOOL CAMPUS PARKING

History Note: Authority G.S. 143-116.7;
Temporary Adoption Eff. March 9, 1998;
Eff. April 1, 1999;
Transferred from 10A NCAC 93 .0105 Eff. June 1, 2011;
Repealed Eff. October 1, 2024.

16 NCAC 06I .0201 AUTHORITY OF TEACHERS AND HOUSEPARENTS

16 NCAC 06I .0202 WHO MAY GIVE DIRECTIONS

History Note: Authority G.S. 115C-127; 115C-307; 115C-321; 143B-10;
Eff. February 1, 1976;
Amended Eff. September 1, 1990 (Rule .0201);
Transferred from 10A NCAC 93 .0201 - .0202 Eff. June 1, 2011;
Repealed Eff. October 1, 2024.

16 NCAC 06I .0301 COMPLIANCE WITH CAMPUS RULES AND AUTHORIZED PERSONS

16 NCAC 06I .0302 PROTECTION OF PROPERTY

16 NCAC 06I .0303 USE OF DRUGS

16 NCAC 06I .0304 CODE OF DRESS FOR STUDENTS

History Note: Authority G.S. 115C-321; 143B-173(b); 150B-14(c); Eff. August 25, 1980;
Amended Eff. October 1, 1990 (Rule .0301); September 1, 1990 (Rule .0303);
Transferred from 10A NCAC 93 .0301 - .0304 Eff. June 1, 2011;
Repealed Eff. October 1, 2024.

(i) An eligible employee who requests paid parental leave shall do so in accordance with policies adopted by the employee's PSU, subject to the following:

- (1) The paid parental leave may be used any time during the 12 months following a qualifying event on either a continuous or intermittent basis. A PSU shall not deny or delay an employee's request to use paid parental leave, or otherwise require the employee to use the leave on a prescribed schedule, without the employee's consent.
- (2) The employee shall provide advanced notice to the PSU of the employee's intent to use paid parental leave in accordance with policies adopted by the PSU. When possible, the employee shall provide notice at least ten weeks in advance of a qualifying event, but under no circumstances shall a PSU require more than ten weeks' notice.
- (3) The paid parental leave provided by this Rule may be used only once for a qualifying event within a 12-month period. Multiple births, adoptions, or other legal placements within the same 12-month period shall not entitle an otherwise eligible employee to more than one award of paid parental leave.
- (4) If both parents of a child are employed by the same PSU, the PSU shall permit both parents to take paid parental leave simultaneously if they so request, subject to Subparagraphs (1) and (2) of this Paragraph.
- (5) An employee shall forfeit any unused paid parental leave 12 months after the date of the qualifying event.

(j) This paid parental leave provided by this Rule applies only to requests for paid parental leave related to qualifying events occurring on or after July 1, 2023. Nothing in this Rule shall prohibit an employer, if authorized, from providing paid parental leave in amounts greater than what is required by this Rule.

History Note: Authority G.S. 115C-12(5); 115C-12(8); 115C-12(16); 115C-272; 115C-285; 115C-302.1; 115C-315; 126-8.6;
Temporary Adoption Eff. October 27, 2023;
Eff. October 1, 2024.

16 NCAC 06I .0101 PURPOSE AND RESPONSIBILITIES

16 NCAC 06I .0102 ELIGIBILITY

History Note: Authority G.S. 115C-106(b); 115C- 113115C-127; 115C-128; 115C-130; 115C-131; 115C-132; 115C-135;

16 NCAC 06I .0401 **DEFINITIONS OF DISCIPLINARY TERMS**
16 NCAC 06I .0402 **PROCEDURE FOR ADMINISTERING DISCIPLINE**
16 NCAC 06I .0403 **DISTRIBUTION OF POLICY**
16 NCAC 06I .0404 **DISCIPLINE VIOLATIONS**
16 NCAC 06I .0405 **DISCIPLINARY ACTIONS**
16 NCAC 06I .0406 **REQUEST FOR DETERMINATION**
16 NCAC 06I .0407 **APPLICABILITY OF PROCEDURES**

History Note: Authority G.S. 115C-321; 143B-173(b); Eff. August 25, 1980; Amended Eff. September 1, 1990; March 9, 1981 (Rule .0405); Transferred from 10A NCAC 93 .0401 - .0407 Eff. June 1, 2011; Repealed Eff. October 1, 2024.

16 NCAC 06J .0101 **CAMPUSES**
16 NCAC 06J .0102 **ELIGIBILITY**
16 NCAC 06J .0103 **APPLICATION PROCEDURES**
16 NCAC 06J .0104 **STUDENT FEE**
16 NCAC 06J .0105 **REFUNDS**
16 NCAC 06J .0106 **DEFINITION**
16 NCAC 06J .0107 **CONSENT REQUIRED FROM STUDENT OR PARENT**
16 NCAC 06J .0108 **CONSENT REQUIRED FROM FORMER STUDENT OR PARENT**
16 NCAC 06J .0109 **USE OF SCHOOL'S RECORDS FOR RESEARCH**
16 NCAC 06J .0110 **AVAILABILITY OF RECORDS TO STAFF MEMBERS**

History Note: Authority G.S. 115-336; 115-340; 115C-110; 115C-111; 115C-114; 115C-123; 115C-124; 115C-126.1; 115C-366.1; 143B-10; 143B-216.33; Eff. February 1, 1976; Amended Eff. June 1, 1990 (Rule .0101); April 1, 1990 (Rules .0102, .0103, .0109, 0110); Transferred from 10A NCAC 94 .0101 - .0110 Eff. June 1, 2011; Repealed Eff. October 1, 2024.

16 NCAC 06J .0201 **HOME VISITS**
16 NCAC 06J .0202 **VISITS TO OTHER STUDENT'S HOMES**
16 NCAC 06J .0203 **REIMBURSEMENT FOR DAMAGED PROPERTY**
16 NCAC 06J .0204 **ALCOHOLIC BEVERAGES**
16 NCAC 06J .0205 **DRUGS**
16 NCAC 06J .0206 **TOBACCO PRODUCTS**
16 NCAC 06J .0207 **LEAVING CAMPUS**
16 NCAC 06J .0208 **EXPULSION**

History Note: Authority G.S. 115C-111; 115C-112; 115C-523; 143B-10; 143B-216.33; Eff. February 1, 1976; Amended Eff. April 1, 1990 (Rules .0201, .0202, .0206, .0207, .0208);

Recodified from 10 NCAC 23B .0101 - .0102, .0401 - .0407 Eff. May 31, 1991; Transferred from 10A NCAC 94 .0201 - .0208 Eff. June 1, 2011; Repealed Eff. October 1, 2024.

16 NCAC 06J .0301 **AUTHORITY OF CLASSROOM TEACHERS/DORMITORY PERSONNEL**

History Note: Authority G.S. 115C-307; 143B-10; 143B-216.33; Eff. February 1, 1975; Amended Eff. April 1, 1990; Recodified from 10 NCAC 23B .0408 Eff. May 31, 1991; Transferred from 10A NCAC 93 .0301 Eff. June 1, 2011; Repealed Eff. October 1, 2024.

16 NCAC 06K .0104 **PLACEMENT PROCEDURES**
16 NCAC 06K .0105 **WEAPONS PROHIBITED ON SCHOOL PROPERTY**

History Note: Authority G.S. 14-269; 14-269.2; 115C-12; 115C-107.2; 115C-150.11; 115C-150.13; Emergency Adoption Eff. August 20, 2019; Eff. December 1 2020; Repealed Eff. October 1, 2024.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 33 - MIDWIFERY JOINT COMMITTEE

21 NCAC 33 .0101 **ADMINISTRATIVE BODY AND DEFINITIONS**

(a) Pursuant to G.S. 90, Article 10A, the Midwifery Joint Committee, hereinafter referred to as the "Committee" is the administrative body responsible for the regulation of midwifery. The certified nurse midwife shall hereinafter be referred to as "CNM".

(b) In addition to the definitions set forth in G.S. 90-178.2, the following shall apply to the rules in this Chapter:

- (1) "American Midwifery Certification Board (AMCB)" means the national certifying body for candidates in nurse-midwifery and midwifery who have received their graduate level education in programs accredited by the Accreditation Commission for Midwifery Education.
- (2) "Accreditation Commission for Midwifery Education (ACME)" means an accreditation agency established to advance and promote midwifery education.
- (3) "American College of Nurse-Midwives (ACNM)" means the professional association that represents CNMs and certified midwives (CMs) in the United States.
- (4) "American College of Obstetricians and Gynecologists (ACOG)" means the professional membership organization for

obstetrician-gynecologists that produces practice guidelines for health care professionals and educational materials for patients, provides practice management and career support, facilitates program and initiatives to improve women's health, and advocates for members and patients.

- (5) "Obstetrics" means the branch of medicine that deals with birth and with its antecedents and sequels, including prenatal, intrapartum, postpartum, newborn or gynecology, and otherwise unspecified primary health services for women.
- (6) "Professional competence" means the continuing education courses required for the CNM to maintain their national certification. It also includes the additional continuing education courses which provide education and skills specific to midwifery practice.

History Note: Authority G.S. 90-178.4; Eff. February 1, 1984; Amended Eff. July 1, 2000; October 1, 1988; Readopted Eff. November 1, 2018; Amended Eff. April 1, 2020. Temporary Amendment Eff. October 1, 2023; Temporary Amendment Exp. Eff. July 12, 2024; Amended Eff. October 1, 2024.

21 NCAC 33 .0103 ELIGIBILITY AND APPLICATION

(a) Applications for approval to practice as a CNM in accordance with G.S. 90-178.5 are posted on the Board of Nursing's website at www.ncbon.com. The application shall contain the following:

- (1) the applicant's name, telephone number and email address;
- (2) the applicant's primary address of residence;
- (3) the educational degrees obtained by the applicant with the program name and completion date;
- (4) the number and expiration date of the applicant's national certification from the AMCB;
- (5) other professional or occupational licenses with the license number and jurisdiction in which the license was issued, if applicable;
- (6) the name, license number, telephone number, email address, and practice location of the collaborating provider, if applicable;
- (7) the full address of the practice location where the applicant intends to practice midwifery; and
- (8) the approval to practice number shall be provided on the application if the application is for the renewal or reinstatement of an existing approval to practice.

(b) To be eligible for an approval for independent practice without a collaborating provider as a CNM, an applicant shall:

- (1) submit a completed application for approval to practice, attesting under oath or affirmation that

the information on the application is true and complete, and authorizing the release to the Committee of all information pertaining to the application;

- (2) submit the approval to practice application fee as established in G.S. 90-178.4(b)(1) and Rule .0102 of this Section;
- (3) have an unencumbered registered nurse ("RN") license or privilege to practice in all jurisdictions in which a license is or has ever been held;
- (4) hold an active, unencumbered North Carolina RN license or privilege to practice;
- (5) hold an unencumbered CNM license or an approval to practice in all jurisdictions in which a license or an approval to practice is or has ever been held;
- (6) provide an official copy of the educational transcript and certification from AMCB;
- (7) attest by oath or affirmation to completion of at least 24 months experience and 4,000 practice hours as a CNM. Documentation of successful completion of this requirement shall be provided to the Committee upon request; and
- (8) have no pending court conditions as a result of any misdemeanor or felony conviction(s). Applicant shall provide a written explanation and any investigative report or court documents evidencing the circumstances of the crime(s) if requested by the Committee. The Committee shall use these documents when determining if an approval to practice should be denied pursuant to G.S. 90-178.6.

(c) An applicant seeking approval to practice as a CNM with less than 24 months experience and 4,000 hours of practice as a CNM is required to practice in collaboration with a collaborating provider pursuant to G.S. 90-178.3(b1) and shall:

- (1) submit an application for an approval to practice, attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Committee of all information pertaining to the application.
- (2) submit the approval to practice application fee as established in G.S. 90-178.4(b) and Rule .0102 of this Section;
- (3) hold an unencumbered license or privilege to practice in all jurisdictions in which a license is or has ever been held;
- (4) hold an active, unencumbered North Carolina RN license or privilege to practice;
- (5) hold an unencumbered CNM license or an approval to practice in all jurisdictions in which a license or an approval to practice is or has ever been held;
- (6) provide an official copy of the education transcript and certificate from AMCB;

- (7) submit the name and licensure number of the collaborating provider with whom the applicant will collaborate;
- (8) have no pending court conditions as a result of any misdemeanor or felony conviction(s). Applicant shall provide a written explanation and any investigative report or court documents evidencing the circumstances of the crime(s) if requested by the Committee. The Committee shall use these documents when determining if an approval to practice should be denied pursuant to G.S. 90-178.6.

(d) Once a CNM has attained 24 months experience and 4,000 hours of practice as a CNM, the CNM shall apply for independent practice by submitting an application attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Committee of all information pertaining to the application and required fee.

(e) Educational transcripts shall be submitted directly to the Committee from the educational institution, National Student Clearinghouse or Parchment. National certification for CNMs shall be submitted directly to the Committee from AMCB.

(f) An applicant shall be required to appear in person for an interview with the Committee if there is a discrepancy in the information submitted.

History Note: Authority G.S. 90-178.4(b); 90-178.5; Eff. February 1, 1984; Amended Eff. March 1, 2017; January 1, 1989; Readopted Eff. November 1, 2018; Amended Eff. April 1, 2020; Temporary Amendment Eff. October 2023; Temporary Amendment Exp. July 12, 2024; Amended Eff. October 1, 2024.

21 NCAC 33 .0104 PROVIDER COLLABORATION REQUIRED

(a) A CNM who has practiced fewer than 24 months and 4,000 hours of practice as a CNM shall practice in consultation with a collaborating provider in accordance with a collaborative provider agreement in compliance with Rule .0116 of this Section.

(b) The approval to practice of the CNM practicing under the supervision of a collaborative provider agreement is terminated when the CNM discontinues working within the approved collaborative provider agreement or experiences an interruption in their RN licensure status. The CNM shall notify the Committee in writing within five days of the termination of the collaborative provider agreement.

(c) When there is a change in collaborative providers, the CNM shall have 90 days to submit a newly-executed collaborative provider agreement with a collaborative provider to the Committee. During this 90-day period, the CNM may continue to practice midwifery in accordance with the Midwifery Practice Act and this Chapter. Should the 90-day period expire without a newly-executed collaborative provider agreement being submitted to the Committee, the approval to practice is rendered inactive and the CNM shall be required to submit an application for reinstatement of the approval to practice consistent with Rule .0103 and Rule .0115 of this Section. The Committee shall notify

the CNM when the application has been approved and the approval to practice is reinstated.

(d) To be eligible a collaborative provider shall meet the requirements of G.S. 90-178.2(1a) and:

- (1) hold an active, unencumbered approval to practice as a CNM; or
- (2) hold an active, unencumbered license to practice medicine in North Carolina.

(e) A CNM who has practiced over 24 months and has 4,000 hours of practice as a CNM shall be issued an approval to practice midwifery independently and shall consult and collaborate with and refer patients to such other health care providers as appropriate for the care of the patient.

History Note: Authority G.S. 90-178.4(b); Eff. February 1, 1984; Amended Eff. July 1, 2000; October 1, 1988; April 1, 1985; Readopted Eff. November 1, 2018; Temporary Amendment Eff. October 1, 2023; Temporary Amendment Exp. Eff. July 12, 2024; Amended Eff. October 1, 2024.

21 NCAC 33 .0105 DISCIPLINARY ACTION

(a) The CNM is subject to G.S. 90-171.37, 90-171.48, and 21 NCAC 36 .0217 by virtue of the license to practice as an RN.

(b) After notice and hearing in accordance with provisions of G.S. 150B, Article 3A, the Committee shall take disciplinary action if it finds one or more of the following:

- (1) practicing without a valid approval to practice as a CNM;
- (2) presenting false information to the Committee in procuring or attempting to procure an approval to practice as a CNM;
- (3) the CNM is adjudicated mentally incompetent by a court of competent jurisdiction or the CNM's mental or physical condition renders the CNM unable to safely function as a CNM;
- (4) unprofessional conduct by reason of deliberate or negligent acts or omissions and contrary to the prevailing standards for CNMs as set forth by ACNM;
- (5) conviction of a criminal offense where the CNM has deceived or defrauded the public;
- (6) soliciting or attempting to solicit payments for the CNM practice with false representations;
- (7) failure to maintain professional competence as a CNM such that the CNM would no longer be eligible for certification by the ACMB or the ACNM;
- (8) exploiting the patient for the financial gain of the CNM or of a third party, including the promotion of the sale of services, appliances or drugs;
- (9) failure to respond to inquiries of the Committee for investigation and discipline;
- (10) the CNM has engaged or attempted to engage in the performance of midwifery acts other than according to the collaborative provider

agreement or without being approved by the Committee to practice independently;

- (11) failure to obtain a written, informed consent agreement from a patient pursuant to G.S. 90-187.4(a1) and Rule .0118 of this Section;
- (12) practiced or offered to practice beyond the scope of CNM practice as defined in Rule .0112 of this Section;
- (13) failure to comply with any order of the Committee;
- (14) violating any term of probation, condition, or limitation imposed on the CNM by the Committee; or
- (15) any violation within this Chapter.

(c) After an investigation is completed, the Committee shall administer one of the following actions:

- (1) dismiss the case;
- (2) issue a private letter of concern;
- (3) enter into negotiation for a Consent Order; or
- (4) a disciplinary hearing in accordance with G.S. 150B, Article 3A.

(d) Upon a finding of a violation of Chapter 90, Article 10A of the North Carolina General Statutes and the rules of this Chapter, the Committee shall utilize the range of disciplinary options as enumerated in G.S. 90-178.6 and 90-178.7.

History Note: Authority G.S. 90-178.6; Eff. February 1, 1985; Amended Eff. August 1, 2002; October 1, 1988; Readopted Eff. November 1, 2018; Amended Eff. April 1, 2020; Temporary Amendment Eff. October 1, 2023; Temporary Amendment Exp. Eff. July 12, 2024; Amended Eff. October 1, 2024.

21 NCAC 33 .0111 CONTINUING EDUCATION (CE)

(a) In order to maintain an approval to practice midwifery, a CNM shall meet the requirements of the Certificate Maintenance Program of the AMCB, including continuing education requirements. These requirements are hereby incorporated by reference, including subsequent amendments or editions, and may be accessed at no cost at: <https://www.amcbmidwife.org/certificate-maintenance-program/purpose-objectives>.

(b) Prior to prescribing Controlled Substances (Schedules II, IIN, III, IIIN, IV, V) defined by the State and Federal Controlled Substances Act, CNMs shall complete a minimum of one CE hour within the preceding 12 months on one or more of the following topics:

- (1) Controlled substances prescription practices;
- (2) Prescribing controlled substances for chronic pain management;
- (3) Recognizing signs of controlled substance abuse or misuse; or
- (4) Non-opioid treatment options as an alternative to controlled substances.

(c) CNMs who complete the federally required training under the Medication Access and Training Expansion Act (MATE) shall be deemed in compliance with the controlled substance prescribing

requirements of this rule for the two year CE period in which the MATE training is completed.

(d) The CNM shall maintain documentation of all CE completed within the previous five years and provide a copy of all Certificates of Completion from the CE to the Committee upon request.

History Note: Authority: G.S. 90-5.1; 90-14(a)(15); 90-178.5(2); S.L. 2015-241, s. 12F .16(b); Eff. March 1, 2017; Readopted Eff. November 1, 2018; Temporary Amendment Eff. October 1, 2023; Temporary Amendment Exp. Eff. July 12, 2024; Amended Eff. October 1, 2024.

21 NCAC 33 .0112 SCOPE OF PRACTICE

(a) The CNM's scope of practice is midwifery, interconceptional care, intrapartum care, newborn care, postpartum care and prenatal care, each as defined in G.S. 90-178.2, provided that the CNM:

- (1) has graduated from any program accredited by ACME; and
- (2) has current certification by the AMCB or its successor; and
- (3) maintains professional competence.

(b) Interconceptional care as defined in G.S. 90-187.2(1c), includes treating patients and their partners for sexually transmitted infections.

History Note: Authority G.S. 90-18.8; 90-178.2; 90-178.3; Temporary Adoption Eff. October 1, 2023; Temporary Adoption Exp. Eff. July 12, 2024; Eff. October 1, 2024.

21 NCAC 33 .0114 ANNUAL RENEWAL

(a) The CNM shall apply for renewal of the approval to practice annually no later than the last day of the applicant's birth month by:

- (1) maintaining an active, unencumbered North Carolina RN license or privilege to practice;
- (2) submitting a completed application as outlined in Rule .0103 of this Section for renewal, attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Committee of all information pertaining to the application;
- (3) attesting to having completed the requirements of the Certificate Maintenance Program of the AMCB or its successor, including continuing education requirements, and submit evidence of completion if requested by the Committee as specified in Rule .0111 of this Section; and
- (4) submitting the approval to practice renewal fee as established in G.S. 90-178.4(b)(2) and this Chapter.

(b) The CNM shall keep the Committee informed of a current mailing address, telephone number, and email address.

(c) Each CNM's approval to practice expires annually on the last day of the CNM's birth month unless previously renewed by the Committee pursuant to Rule .0103 of this Section.

History Note: Authority G.S. 90-178.4(b); 90-178.5; Temporary Adoption Eff. October 1, 2023. Temporary Adoption Exp. Eff. July 12, 2024; Eff. October 1, 2024.

21 NCAC 33 .0116 COLLABORATIVE PROVIDER AGREEMENT

(a) A CNM with less than 24 months and 4,000 hours of practice as a CNM is required to have a written collaborative provider agreement to practice midwifery. The collaborative provider agreement shall:

- (1) be agreed upon, signed, and dated by both the collaborating provider and the CNM, and maintained in each provider site;
- (2) be reviewed by the CNM and collaborating provider at least annually, to ensure that the CNM and collaborating provider continue to practice under the terms of the agreement, and determine whether any changes to the agreement are necessary. This review shall be acknowledged by a dated signature sheet, signed by both the collaborating provider and the CNM, appended to the collaborative provider agreement, and available for inspection by the Committee;
- (3) include mutually agreed upon written clinical practice guidelines for the drugs, devices, medical treatments, tests, and procedures that may be prescribed, ordered, and performed by the CNM, which are within the scope of practice for the CNM pursuant to Rule .0112 of this Section; and
- (4) include a pre-determined plan for emergency services in accordance with G.S. 90-178.4(a2).

(b) The collaborating provider and the CNM shall be available to each other as needed for consultation by in-person communication or telecommunication.

(c) The CNM shall maintain copies of all collaborative provider agreements executed within the previous five years and make available to the Committee upon request.

History Note: Authority G.S. 90-18.8; 90-178.3; 90-178.4; 90-178.5; Temporary Adoption Eff. October 1, 2023; Temporary Adoption Exp. Eff. July 12, 2024; Eff. October 1, 2024.

21 NCAC 33 .0117 PRESCRIBING AUTHORITY

(a) The prescribing stipulations contained in this rule apply to writing prescriptions and ordering the administration of medications by a CNM.

(b) A CNM shall possess a valid United States Drug Enforcement Administration ("DEA") registration in order to prescribe controlled substances.

(c) To act as a collaborating provider for a CNM, the DEA registration of the collaborating provider shall include the same schedule or schedules of controlled substances as the CNM practicing under a collaborative provider agreement.

(d) Prescribing and dispensing stipulations for the CNM authorized to practice under a collaborative provider agreement are as follows:

- (1) The collaborative provider agreement outlined in Rule .0116 of this Section shall include the drugs and devices that the CNM may prescribe.
- (2) The CNM has an assigned DEA number that is entered on each prescription for a controlled substance.
- (3) Refills shall be issued consistent with Controlled Substances (Schedules II, IIN, III, IIIN, IV, V) defined by the State and Federal Controlled Substances Act.
- (4) The collaborative provider shall possess a schedule(s) of controlled substances equal to or greater than the CNM's DEA registration.
- (5) The CNM may prescribe a drug or device not included in the collaborative provider agreement only as follows:
 - (A) Upon a specific written or verbal order obtained from the collaborating provider before the prescription or order is issued by the CNM; and
 - (B) The written or verbal order as described in Part (d)(5)(A) of this Rule shall be entered into the patient record by the CNM with a notation that it is issued on the specific order of a collaborating provider and signed by the CNM and the collaborating provider.

(e) All prescribing requirements shall be written in the patient's record and shall include the medication and dosage, the amount prescribed, the directions for use, the number of refills, and the signature of the CNM.

(f) The prescriptions issued by the CNM shall contain:

- (1) the name of the patient;
- (2) the CNM's name, approval to practice number issued by the Committee, and telephone number; and
- (3) the CNM's assigned DEA number shall be written on the prescription when a controlled substance is prescribed.

(g) A CNM shall not prescribe controlled substances for the CNM's own use, the use of the CNM's collaborating provider, the use of the CNM's immediate family, the use of any other person living in the same residence as the CNM, or for the use of any person with whom the CNM is having a sexual relationship. As used in this Paragraph, "immediate family" means a spouse, parent, child, sibling, parent-in-law, son-in-law or daughter-in-law, brother-in-law or sister-in-law, step-parent, step-child, or step-sibling.

History Note: Authority G.S. 90-18.8; 90-178.3; Temporary Adoption Eff. October 1, 2023;

*Temporary Adoption Exp. Eff. July 12, 2024;
Eff. October 1, 2024.*

21 NCAC 33 .0118 BIRTH OUTSIDE HOSPITAL SETTING

(a) Prior to initiating care for a patient planning a birth outside of a hospital setting, the CNM shall:

- (1) obtain a signed, written informed consent agreement with the patient that details:
 - (A) identifying information of the patient to include name, date of birth, address, phone number, and email address if available;
 - (B) identifying information of the CNM to include the name, RN license number, approval to practice number, practice name, if applicable, and email address;
 - (C) information about the procedures, benefits, and risks of planned births outside of hospital settings;
 - (D) an acknowledgment and understanding of the clear assumption of these risks by the patient;
 - (E) when and if deemed necessary by the CNM, an acknowledgment by the patient to consent to transfer to a health care facility licensed under Chapter 122C or Chapter 131E of the General Statutes that has at least one operating room; and
 - (F) a disclosure that the CNM is not covered under a policy of liability insurance, if applicable.
- (2) provide a detailed, written plan of care consistent with G.S. 90-178.4(a2).

(b) After a decision of non-emergent transfer care has been made, the CNM shall:

- (1) call the relevant receiving health care facility to notify them of transfer;
- (2) provide a copy of the patient's medical record to the receiving health care facility; and
- (3) provide a verbal summary of the care provided by the CNM to the patient and newborn, if applicable, to the receiving health care facility.

(c) In an emergent situation, the CNM shall initiate emergency care as indicated by the situation and immediately transfer care by making a reasonable effort, dependent upon the circumstances and nature of the emergency, to contact the health care professional or facility to whom the patient or patients will be transferred and to follow the health care professional's instructions; remain with the patient(s) until transfer of care is completed; and continue emergency care as needed while:

- (1) transporting the patient(s) by private vehicle; or
- (2) calling 911 and reporting the need for immediate transfer.

(d) Copies of the informed consent agreement developed in accordance with G.S. 90-178.4(a2) and emergent and non-emergent transfer of care plans developed pursuant to G.S. 90-

178.4(a2) shall be maintained by the CNM in the patient's record and provided to the Committee upon request.

(e) In addition to the requirements in this Rule, a CNM who attends and provides midwifery services for a planned home birth are prohibited from providing services in the following settings/situations:

- (1) fetal, malpresentation;
- (2) multiple gestation; and
- (3) prior cesarean.

History Note: Authority G.S. 90-18.8; 90-178.3; 90-178.4; Temporary Adoption Eff. October 1, 2023; Temporary Adoption Exp. July 12, 2024; Eff. October 1, 2024.

21 NCAC 33 .0119 PETITIONING FOR RULEMAKING

(a) Any person wishing to submit a petition to the Midwifery Joint Committee requesting the adoption, amendment, or repeal of a rule shall file the petition with the Midwifery Joint Committee's Chair. Petitions shall be mailed to the Midwifery Joint Committee at Post Office Box 2129, Raleigh, NC 27602-2129.

(b) The petition shall contain the following information:

- (1) a proposed draft of the rule to be adopted, amended, or a citation to the rule to be repealed;
- (2) a statement of the reason for the proposal including statutory authority;
- (3) effect of the proposed rule change on the practice of midwifery;
- (4) any data supporting the proposal including cost factors; and
- (5) name, address, and telephone number of each petitioner.

(c) The Midwifery Joint Committee shall determine whether the public interest would be served by the adoption, amendment, or repeal of the requested rule. Prior to making this determination, the Midwifery Joint Committee may:

- (1) request additional information from the petitioner;
- (2) contact interested persons or those likely to be affected by the proposed rule and request comments; and
- (3) use any other method for obtaining information on which to base its determination. It shall consider all the contents of the petition submitted plus any other information obtained by the means described herein.

(d) The Midwifery Joint Committee shall act on a petition within the timeframe outlined in G.S. 150B-20.

History Note: Authority G.S. 150B-20; 90-171.23(b)(3); Eff. October 1, 2024.

21 NCAC 33 .0120 CONTACT

The mailing address for the Midwifery Joint Committee is Post Office Box 2129, Raleigh, NC, 27602-2129.

History Note: Authority G.S. 150B-20; 90-171.23(b)(3) Eff. October 1, 2024.

CHAPTER 42 – BOARD OF EXAMINERS IN OPTOMETRY

21 NCAC 42B .0202 BRANCH OFFICE

- (a) A branch office is any location, facility, or mobile facility, other than an optometrist's primary office location... (b) Before opening or beginning practice in a branch office... (c) Each branch office shall comply with the requirements for maintaining medical equipment... (d) A branch office license shall be renewed annually.

History Note: Authority G.S. 90-114; 90-117.5; 90-118.2; ; 90-118.10; 90-118.11; 90-121.2; 90-123 Eff. February 1, 1976; Readopted Eff. May 30, 1978; Amended Eff. April 1, 1993; June 1, 1989; September 30, 1981; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015; Amended Eff. October 1, 2024.

CHAPTER 66 - VETERINARY MEDICAL BOARD

21 NCAC 66 .0206 MINIMUM STANDARDS FOR CONTINUING EDUCATION

- Each person holding a veterinary license, limited license, a faculty certificate, or a zoo veterinary certificate (collectively referred to herein as "veterinarian") or a veterinary technician registration issued by the Board shall comply with the standards in this Rule. The standards shall be a condition precedent to the renewal of a license, certificate, or registration respectively. The standards are as follows: (1) A veterinarian shall earn 20 continuing education credit hours for the calendar year license renewal period. A maximum of 10 hours

- (2) A registered veterinary technician shall earn 12 continuing education credit hours for the two-calendar year registration renewal period. A maximum of six hours may be obtained pursuant to course described in Item (3) of this Rule. (3) One continuing education hour may be earned for each hour of independent self-study courses, prerecorded webinars, audio conferences, and non-interactive on-line presentations by approved continuing education credit providers. (4) One continuing education credit hour may be earned for each hour of in-person attendance or live interactive attendance at courses presented by approved continuing education credit providers. (5) A live interactive presentation shall: (a) include instant or synchronous two-way communication; (b) provide access to both technical personnel and professional faculty, as well as interactivity among participants for the exchange of questions and answers via instant messaging or a moderated teleconference, and (c) document the level of participation by keeping a record of the participant's activity in asking or answering questions during the presentation and the score of any examination administered at the end or the presentation. (6) A veterinarian or registered veterinary technician may request and be granted an extension of time, not to exceed six months, to satisfy the continuing education requirement if the veterinarian or registered veterinary technician provides evidence of a circumstance that prevents the veterinarian or registered veterinary technician from being able to obtain continuing education. The Board shall consider any evidence submitted of a circumstance preventing the veterinarian or registered veterinary technician from being able to obtain continuing education on a case-by-case basis. (7) If the Board finds that the circumstance that was the basis for non-compliance with the continuing education requirement justified the non-compliance, the Board may exempt that individual from completing the unearned portion of the continuing education for that renewal period. (8) Continuing education credits hours may be earned from courses, programs, or materials

presented or approved by the following providers:

- (a) the American Veterinary Medical Association (AVMA);
- (b) the American Animal Hospital Association (AAHA);
- (c) the North Carolina Veterinary Medical Association (NCVMA);
- (d) the United States Department of Agriculture-Animal and Plant Health Inspection Service;
- (e) the American Association of Veterinary State Boards' (AAVSB) Registry of Approved Continuing Education (RACE); and
- (f) academies, schools, or colleges of veterinary medicine.

These providers are designated herein as "approved continuing education credit providers." The Board shall consider additional courses, presentations, or materials eligible for approval for continuing education credit hours, provided that the individual seeking the credit furnishes the Board with information to establish that the content of the course, presentation, or material are sufficiently educational for veterinarians or registered veterinary technicians. Board approval for continuing education credits for such additional courses, presentations, or materials shall be obtained prior to attendance or participation; however, the Board shall waive the requirement of prior approval if illness, injury, or natural disaster prevented the individual from obtaining the prior approval.

- (9) Each veterinarian and registered veterinary technician shall keep a file containing the three most recent renewal periods of the content of courses submitted to the Board for continuing education credit hours.
- (10) A veterinarian licensed in the year of graduation from a veterinary medical college is not required to earn continuing education credit hours to be eligible for license renewal for the next renewal period.
- (11) A veterinary technician registered in the year of graduation from a veterinary medical technology program is not required to earn continuing education credit hours to be eligible for registration renewal for the next renewal period.
- (12) A veterinarian or veterinary technician serving in the armed forces of the United States and to whom an extension of time to file a tax return is granted pursuant to G.S. 105-249.2 is granted the same extension of time to comply with the continuing education requirement of this Rule.

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. June 17, 2024; February 1, 2018; June 1, 2003; May 1, 1996; May 1, 1989; January 1, 1987;

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

Amended Eff. January 1, 2025.

21 NCAC 66 .0902 VETERINARY FACILITY PERMITS

(a) Any person who owns a business which operates a facility providing services that constitute the "practice of veterinary medicine" on a full, part-time, or temporary basis shall have a veterinary facility permit issued by the Board prior to offering or delivering any veterinary medical services to the public. Veterinary or Veterinary Technician teaching programs offering services to the public shall have a veterinary facility permit.

(b) As a condition of any veterinary facility permit issued by the Board, the owner shall designate a supervising veterinarian.

(c) The Board shall issue a veterinary facility permit to an owner after the owner submits an application, pays the veterinary facility permit fee, and passes a facility inspection. The Board shall inspect the veterinary facility to ensure compliance with Rules .0207 and .0208 of this Chapter if an inspection has not been performed in the last two years. It is the responsibility of the owners to ensure that the veterinary facility meets the minimum veterinary facility standards in Rules .0207 and .0208 of this Chapter.

(d) The application for a veterinary facility permit shall be on a form prescribed by the Board and available on the Board's website. The application shall contain:

- (1) the owner's name, physical address, mailing address, email address, and telephone number;
- (2) proposed or existing name of the facility, as set forth in G.S. 90-181.1, physical address, mailing address, email address, and telephone number; and
- (3) designation of a supervising veterinarian of the facility subject to the provisions of Rules .0903 of this Section.

(e) Each veterinary facility permit shall be renewed yearly. The veterinary facility must have passed an inspection pursuant to Rule .0207(b)(16) of this Chapter within the 24 months prior to issuance of renewal.

(f) Each veterinary facility that is identified by a separate physical address or that is located at the same physical address as another veterinary facility but has different owners or supervising veterinarians shall be a separate veterinary facility requiring a separate veterinary facility permit. The physical address for a veterinary facility shall be the primary business location.

(g) The owner shall notify the Board within 10 business days of any changes in contact information.

(h) The owner shall notify the Board in writing of a planned change in the ownership or in the supervising veterinarian of the veterinary facility at least 20 business days prior to the planned change.

(i) In the event of an owner's inability to maintain the facility's compliance with Chapter 90 of the General Statutes and the rules of this Chapter, the Board shall be notified within 10 business

History Note: Authority G.S. 90-185(6); 90-186(1); 93B-15;

days by an owner, or if the owner is unable to do so as a result of physical inability, the supervising veterinarian, or a member of the veterinary facility's staff.

(j) In the event that the Board is notified that the owner to whom a facility permit is issued is dissolved voluntarily, administratively, or by operation of law; suspended by the NC Department of Revenue; or has its certificate of authority revoked by the NC Secretary of State, the Board shall also suspend the permit issued to the owner. The suspension shall remain in effect until the suspension has been lifted by NC Department of Revenue, or the person has been reinstated by the NC Secretary of State, or both.

(k) The Board may issue a temporary veterinary facility permit to the owners of a veterinary facility for a period of 35 business days to allow the owners to address and resolve violations of the rules of this Chapter, particularly, Rules .0207 and .0208 of this Chapter, discovered during the veterinary facility inspection. However, the Board shall not issue a temporary veterinary facility permit if the violations present a danger to the health or safety of the public or animals. Upon request of the owner, the Board may extend a temporary permit for an additional period of no more than 35 business days, as long as satisfactory progress has been made as determined by the Board. In the event of the death of an owner, the permit remains valid for 50 business days from the date of the death of the owner, so long as the facility continues to have an active, supervising veterinarian registered with the Board.

(l) The following are exempt from the requirement for a veterinary facility permit:

- (1) those exempted by licensure under G.S. 90-187.10;
- (2) a veterinary facility owned and operated by the State of North Carolina, a political subdivision thereof, or the federal government, so long as the facility does not offer or provide veterinary services to the public; or
- (3) a temporary veterinary facility established as a result of an emergency declared by the Governor of North Carolina.

(m) A person operating without a veterinary facility permit is subject to the provisions of G.S. 90-187.13.

(n) The veterinary facility permit shall be displayed by the owners at the facility at a location viewable by the public. Veterinary facility permits for mobile facilities shall be available upon request.

(o) An owner or supervising veterinarian shall provide a copy of medical records maintained pursuant to Rule .0207 of this Chapter within 10 business days of receipt of a request by a current or former patient's owner. The veterinary facility may charge the patient's owner the actual cost of reproducing the records as a reasonable fee.

(p) Owners shall post on any existing veterinary facility website home page:

- (1) The facility's name, address, and telephone number;
- (2) The facility's regular business hours;
- (3) Availability of after-hours emergency care at the facility; and

- (4) If after-hours emergency care is not available, the name, address, and telephone number of an after-hours emergency provider.

History Note: Authority G.S. 90-185; 90-186(2); 90-186(8); 90-186(9); Eff. June 17, 2024; Amended Eff. October 1, 2024.

21 NCAC 66 .0903 SUPERVISING VETERINARIAN

(a) The owners of a veterinary facility shall designate a supervising veterinarian who shall be responsible for informing the owners as to the instances of non-compliance with 21 NCAC 66 .0207 and 21 NCAC 66 .0208 at the veterinary facility.

(b) The supervising veterinarian shall be currently licensed by and in good standing with the Board.

(c) The owners may designate an interim supervising veterinarian to serve for a period not to exceed 50 business days.

(d) A veterinarian may be a supervising veterinarian at more than one veterinary facility. At each veterinary facility that is open for 159 hours or less per month, the supervising veterinarian shall be physically onsite for a minimum of 25 percent of the total time a veterinary facility is open. At each veterinary facility that is open for 160 hours or more per month, the supervising veterinarian shall be physically onsite at each veterinary facility for a minimum of 40 hours per month. Electronic or handwritten documentation stating the dates and times that the supervising veterinarian was present at the veterinary facility shall be maintained by the supervising veterinarian at each individual facility and made available by the owner, supervising veterinarian, or the staff at each facility at the time of inspection or investigation by the Board.

(e) The owners of a veterinary facility may designate more than one supervising veterinarian for a veterinary facility, in which case the onsite physical presence of each of the supervising veterinarians at the veterinary facility shall be counted toward satisfaction of the onsite physical presence requirement of Paragraph (d) of this Rule.

History Note: Authority G.S. 90-185(6); 90-186(9); Eff. June 17, 2024; Amended Eff. October 1, 2024.

21 NCAC 66 .0904 DISCIPLINE VETERINARY FACILITY PERMITS

(a) The Board shall investigate any complaint within its jurisdiction. The investigation and any resulting hearings shall be conducted pursuant to Sections .0600 and .0700 of the Chapter. Following an investigation and the owner's opportunity to be heard, the Board may:

- (1) revoke or suspend a veterinary facility permit issued under this Chapter;
- (2) discipline the owner of a facility permitted under this Chapter in accordance with the disciplinary measures set forth in Sections .0600 and .0700 of this Chapter;
- (3) deny a veterinary facility permit required by G.S. 90-186(8) and the rules of this Chapter based on violations of Board Rules including,

but not limited to, Rules .0207 and .0208 of this Chapter.

For the purpose of this Rule, references to licensee or registrant in the provisions of Sections .0600 and .0700 of this Chapter are treated as references to owner and permittee. References to license are treated as references to facility permit.

(b) The Board may suspend, revoke, or deny issuance of a veterinary facility permit, without hearing, for any of the following reasons:

- (1) A veterinary facility has not had a supervising veterinarian or an interim supervising veterinarian serving in that capacity for more than 15 business days.
- (2) The Board obtains a summary emergency order pursuant to the provisions of G.S. 90-186(3).
- (3) The owners of the veterinary facility have failed to notify the Board after 10 business days of a change in ownership of the facility or change in the supervising veterinarian.

(c) An owner shall cease to operate a veterinary facility as of the date the Board notifies the owner of the revocation of his or her veterinary facility permit. Within 24 hours of receiving notification of revocation, an owner shall display the following information at the facility and through any existing medium of communication with the public, such as social media, a telephone answering system, or facility website:

- (1) information that the veterinary facility is closed;
- (2) the means by which clients may obtain their animal's medical records; and
- (3) notice of the Board's revocation of the facility permit.

History Note: Authority G.S. 90-185(6); 90-186(8); 90-186(9);

Eff. June 17, 2024;

Amended Eff. October 1, 2024.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission September 25, 2024 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 984-236-1850. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

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

Appointed by House

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

COMMISSION COUNSEL

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

RULES REVIEW COMMISSION MEETING DATES

November 26, 2024	January 30, 2025
December 19, 2024	February 27, 2025

RULES REVIEW COMMISSION MEETING

MINUTES

September 25, 2024

The Rules Review Commission met on Wednesday, September 25, 2024, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via Webex.

Commissioners Wayne R. Boyles III, Jeanette Doran, John S. Hahn, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell were present in the Commission Room.

Staff member Alexander Burgos, Commission Counsel Seth Ascher, Brian Liebman, Bill Peaslee, and Travis Wiggs were present in the room.

The meeting was called to order at 10:00 a.m. with Chair Doran presiding.

Chair Doran introduced OAH Administrative Law Judge Lawrence R. Duke, to the Commission.

Judge Duke administered the Oath of Office to reappointed Commissioner Paul Powell.

The Chair read the notice required by G.S. 138A-15(e) and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearance of conflicts of interest.

The Chair informed the Commission that with all members present in the commission room, the Commission will not hold roll call votes at this meeting.

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the minutes from the August 28, 2024 meeting. There were none and the minutes were approved as distributed.

The Chairman notified the Commissioners that the following item on the agenda would be taken up out of order at the end of the agenda: Permanent Rules from the Sheriffs' Education and Training Standards Commission.

FOLLOW UP MATTERS

North Carolina Agricultural Finance Authority

02 NCAC 63 .0101, .0102, .0103, .0104, .0105, and .0106 were returned at the request of the agency. No action was required by the Commission.

LOG OF FILINGS (PERMANENT RULES)

Medical Care Commission

10A NCAC 13S .0101, .0104, .0201, .0207, .0212, .0318, .0319, .0320, .0321, .0322, .0323, .0324, .0325, .0326, .0327, .0328, .0329, .0330, and .0331 were unanimously approved.

Code Officials Qualification Board

11 NCAC 08 .0602, .0706, .0707, .0737, .0738, .0739, .0740, and .0741 were withdrawn at the request of the agency. No action was required by the Commission.

Sheriffs' Education and Training Standards Commission

The Commission voted to object to 12 NCAC 10B .1302 finding that the rule did not satisfy G.S. 150B-21.9(a)(4). Specifically, the Commission adopted the written opinion of staff.

The Commission voted to waive the deadline for Rule 26 NCAC 05 .0105 to allow the agency the opportunity to address the RRC on the permanent rule before the Commission.

Joy Strickland with the Department of Justice and representing the agency, addressed the Commission.

Melissa Bowman, the rulemaking coordinator for the agency, addressed the Commission.

Wildlife Resources Commission

15A NCAC 10D .0209, .0243, .0276; 10F .0321; 10H .1801, .1802, .1803; 10I .0102, .0103, .0104 and .0105 were unanimously approved.

State Board of Education

16 NCAC 06C .0408; 06I .0101, .0102, .0103, .0104, .0105, .0201, .0202, .0301, .0302, .0303, .0304, .0401, .0402, .0403, .0404, .0405, .0406, .0407; .0101, .0102, .0103, .0104, .0105, .0106, .0107, .0108, .0109, .0110, .0201, .0202, .0203, .0204, .0205, .0206, .0207, .0208, .0301; 06K .0104 and .0105 were unanimously approved.

Midwifery Joint Committee

21 NCAC 33 .0101, .0103, .0104, .0105, .0111, .0112, .0114, .0116, .0117, .0118, .0119, and .0120 were unanimously approved.

21 NCAC 33 .0115 was withdrawn at the request of the agency. No action was required by the Commission.

Board of Examiners in Optometry

21 NCAC 42B .0202 was unanimously approved.

Veterinary Medical Board

21 NCAC 66 .0108, .0206, .0901, .0902, .0903, .0904, and .0905 were unanimously approved.

EXISTING RULES REVIEW

Board of Crop Seed Improvement

02 NCAC 29 - The Commission unanimously approved the report as submitted by the agency.

Department of Insurance

11 NCAC 10 - The Commission unanimously approved the report as submitted by the agency.

Department of Environmental Quality

15A NCAC 01A and 15A NCAC 01S - The Commission unanimously approved the reports as submitted by the agency.

Environmental Management Commission

15A NCAC 02K - The Commission unanimously approved the report as submitted by the agency.

Department of the Secretary of State

18 NCAC 05, 18 NCAC 06, and 18 NCAC 10 - The Commission unanimously approved the reports as submitted by the agency.

Acupuncture Licensing Board

21 NCAC 01 - The Commission unanimously approved the report as submitted by the agency.

Board of Massage and Bodywork Therapy

21 NCAC 30 - The Commission unanimously approved the report as submitted by the agency.

Mining Commission

15A NCAC 05A, 15A NCAC 05B, 15A NCAC 05F, and 15A NCAC 05G - As reflected in the attached letter, the Commission voted to schedule re-adoption of these Rules no later than August 1, 2026, pursuant to G.S. 150B-21.3A(d)(2).

2024-2027 Periodic Review Schedule

The Commission unanimously approved changes to the 2024-2027 Periodic Review Schedule as follows:

- 10A NCAC 26C .0700, scheduled for July 2026 is removed as this section is repealed.
- Effective September 1, 2024, Chapters 01 NCAC 41 and 04 NCAC 12 have been consolidated into a new Chapter, 15A NCAC 01U; therefore, 01 NCAC 41B, 01 NCAC 41C, 01 NCAC 41D, and 04 NCAC 12 are removed from the schedule, and 15A NCAC 01U is added to the schedule for review in February 2027.
- 15A NCAC 18E is added to the schedule for review in June 2027.

COMMISSION BUSINESS

The Commission unanimously voted to adopt the amendments to Rules 26 NCAC 05 .0107, .0108, .0115, and to adopt Rule 26 NCAC 05 .0116.

The Commission voted to adopt the 2025 RRC meeting schedule.

The Commission authorized Commissioner Jeanette Doran, in her capacity as a Commissioner, to manage and direct private counsel in the course and conduct of the RRC's representation, including its prosecution, settlement, and final disposition without further consultation with the RRC unless otherwise demanded in the matter of North Carolina Criminal Justice Education and Training Standards Commission v. RRC and Ashley Snyder, Codifier of Rules, 24 CV020420-910 (Wake) and North Carolina Department of Environmental Quality, Division of Coastal Management, and the North Carolina Coastal Resources Commission v. RRC and Ashley Snyder, Codifier of Rules, 23CV031533-910 (Wake). All prior authorizations regarding this matter are terminated. Any settlements or consent orders are subject to ratification by the Full Commission prior to entry therein.

Pursuant to the Commission's Bylaws elections were held of the Commission officers for 2024-25. Upon a motion by Commissioner Hyde and seconded by Commissioner Nelson, the Commission unanimously voted for Jeanette Doran to be re-elected as Chair, Commissioner Jake Parker as 1st Vice-Chair, and Commissioner Paul Powell as Second Vice-Chair.

The Commission amended its earlier authorization to direct private counsel in the matters of North Carolina Criminal Justice Education and Training Standards Commission v. RRC et. al., and the North Carolina Coastal Resources Commission v. RRC et. al. Commissioner Jeanette Doran, in her capacity as a Commissioner, and newly elected 1st Vice-Chair Jake Parker, in his capacity as Vice-Chair, have authority to manage and direct private counsel in the course and conduct of the RRC's representation, including its prosecution, settlement, and final disposition, as they might agree, without further consultation with the RRC unless otherwise demanded. Any settlements or consent orders are subject to ratification by the Full Commission prior to entry therein.

The meeting was adjourned at 11:04 a.m.

The next regularly scheduled meeting of the Commission is Wednesday, October 30, 2024, at 10:00 a.m.

Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:
Jeanette Doran, Chair

RULES REVIEW COMMISSION

September 25, 2024

Rules Review Commission
Meeting
Please **Print** Legibly

Name	Agency
Emily Wiley	NC DOT
Elly Young	NC DOJ
Jennifer J Everett	DEQ
Bethany Burger	NC DOJ
Melva Bonner	NC Wildlife Resources
Joy Strickland	NC DOJ
Azzie Conkey	NC DHSR
CHAD ARNOLD	NC WRC
Betsy Haywood	NC WRC
Eric Hunt	NC DOJ
RAJ PREMAKUMAR	NC DHHS
Shanah Blake	DHHS
Am Well	SOS
Kyle Heuser	OSFM
Melissa Bowman	NC DOJ
Helen Lendi	MTF
Alisha Benjamin	NC DOJ

RULES REVIEW COMMISSION

Rules Review Commission Meeting September 25, 2024

Via WebEx

Name	Agency
Sophie Plott	Labor
Brian Daniels	WRC
Ann Elmore	SOSNC
Dana Lee	ncauditor.gov
Jessica Montie	DEQ
Grace Hardwick	OSBM
Virginia Niehaus	DHHS
Dennis Seavers	Barber Board
Fred Fuller	DOI
Robert Croom	DOI
Mike Hejduk	DOI
Dana McGhee	OAH
Arthur Harrell	OAH
Regina	DHHS
Boz Zellinger	DOJ
Maria Lattimore	DOJ
A Hayes	DOJ
Ashley Snyder	OAH
Kimberly Luisana	Nursing
Jennifer Grady	BCBSNC
Denise Baker	DHHS
Chris Millis	NCHBA
Hope Ascher	
Admin	BMBT
Ryan Collins	DPI
Misty Piekaar	DHHS
Brian Puckett	DOR
Gossett, Michael N	DOR
Catherine Blum	DEQ
Sara Griffith	Nursing
Susanna Birdsong	ppsat.org
Laura Lansford	DOR
John McHugh	ASPCA
Mike Tadych	Acupuncture
Anne Coan	NCFB
Kim Luisana	Nursing
Jeff Harms	DHHS
Anna Hayworth	NCAGR
McGhee, Ashley R	DOR
Angela Ellis	Nursing
Kimberly Wolf Luisana	Nursing
Johnny Loper	Optometry
Steve Draper	DOJ
Janice Peterson	Optometry
Admin	bmbt.org
Dana Aragon	arrt.org



**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

September 25, 2024

Jennifer Everett, NCDEQ

Sent via email only to: Jennifer.everett@deq.nc.gov

Re: Readoption deadline for 15A NCAC 05A, 05B, 05F, and 05G: Mining Commission

Dear Ms. Everett:

Attached to this letter is a list of rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A. After consultation with your agency, the Rules Review Commission established a readoption date for these rules at the September 25, 2024, Rules Review Commission meeting.

Pursuant to G.S. 150B-21.3A(d)(2), the rules listed in the attachment shall be readopted by the agency no later than **August 1, 2026**.

If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

/s/ Seth Ascher

Seth Ascher

Commission Counsel

Donald Robert van der Vaart, Director
Chief Administrative Law Judge

John C. Evans
Senior Administrative Law Judge

An Equal Employment Opportunity Employer

1711 New Hope Church Road, Raleigh, NC 27609
Telephone: (984) 236-1850 | Facsimile: (984) 236-1871
www.oah.nc.gov

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**RRC DETERMINATION
PERIODIC RULE REVIEW
July 01, 2023 through June 30, 2024**

**Mining Commission
Total: 20**

RRC Determination: Necessary

Rule

15A NCAC 05A .0101
15A NCAC 05A .0202
15A NCAC 05B .0103
15A NCAC 05B .0104
15A NCAC 05B .0105
15A NCAC 05B .0106
15A NCAC 05B .0110
15A NCAC 05B .0111
15A NCAC 05B .0112
15A NCAC 05B .0113
15A NCAC 05F .0101
15A NCAC 05F .0103
15A NCAC 05F .0105
15A NCAC 05F .0106
15A NCAC 05F .0108
15A NCAC 05F .0111
15A NCAC 05F .0112
15A NCAC 05G .0103
15A NCAC 05G .0104
15A NCAC 05G .0105

APO Review Date

February 16, 2024
February 16, 2024
February 16, 2024
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February 16, 2024

To: RRC Commissioners
From: Brian Liebman, Commission Counsel
Date: September 18, 2024
In re: 2025 RRC Meeting Schedule example calendar

At last month's meeting, the Commission discussed moving our meeting days from the last Wednesday of the month to the last Thursday of the month, in order to facilitate the goal of maximizing the time for the public, rulemaking agencies, staff, and the Commissioners to review proposed rules.

Additionally, the Commission should avoid holding its meetings on the last day of the month. Under the APA, the public may submit objection letters requesting legislative review until the close of business on the day following RRC approval of a rule. At the same time, rules typically go into effect on the first day of the month following approval. Thus, if the Commission meets on the last day of the month, it creates the possibility that a rule which has already become effective is then subjected to legislative review and a delayed effective date.

Staff proposes the following dates for meeting:

Thursday, January 30, 2025
Thursday, February 27, 2025
Thursday March 27, 2025
Thursday, April 24, 2025
Thursday, May 29, 2025
Thursday, June 26, 2025
Wednesday, July 30, 2025*
Thursday, August 28, 2025
Thursday, September 25, 2025
Thursday, October 30, 2025
Thursday, November 20, 2025
Thursday, December 18, 2025

The Commission would depart from Thursday only in July, as Thursday, July 31, 2025 is the last day of the month. Alternatively, the Commission could move the July meeting to Thursday, July 24, 2025, but at the cost of 4 business days.

Thursday, November 20, 2025 and Thursday, December 18, 2025 are the last business Thursdays of their respective months.

LIST OF APPROVED PERMANENT RULES

September 25, 2024 Meeting

MEDICAL CARE COMMISSION

<u>Definitions</u>	10A NCAC 13S .0101
<u>Plans</u>	10A NCAC 13S .0104
<u>Building Code Requirements</u>	10A NCAC 13S .0201
<u>Area Requirements</u>	10A NCAC 13S .0207
<u>Elements and Equipment</u>	10A NCAC 13S .0212
<u>Governing Authority</u>	10A NCAC 13S .0318
<u>Policies and Procedures and Administrative Records</u>	10A NCAC 13S .0319
<u>Admission and Discharge</u>	10A NCAC 13S .0320
<u>Medical Records</u>	10A NCAC 13S .0321
<u>Personnel Records</u>	10A NCAC 13S .0322
<u>Clinic Staffing</u>	10A NCAC 13S .0323
<u>Quality Assurance</u>	10A NCAC 13S .0324
<u>Laboratory Services</u>	10A NCAC 13S .0325
<u>Emergency Back-Up Services</u>	10A NCAC 13S .0326
<u>Outpatient Procedural Services</u>	10A NCAC 13S .0327
<u>Medications and Sedation</u>	10A NCAC 13S .0328
<u>Post Procedural Care</u>	10A NCAC 13S .0329
<u>Cleaning of Materials and Equipment</u>	10A NCAC 13S .0330
<u>Food Service</u>	10A NCAC 13S .0331

WILDLIFE RESOURCES COMMISSION

<u>Buffalo Cove Game Land in Caldwell and Wilkes Counties</u>	15A NCAC 10D .0209
<u>Kings Creek Game Lands in Caldwell and Wilkes Counties</u>	15A NCAC 10D .0243
<u>South Mountains Game Land in Burke, Cleveland, McDowell, ...</u>	15A NCAC 10D .0276
<u>Pender County</u>	15A NCAC 10F .0321
<u>General Requirements and Fees</u>	15A NCAC 10H .1801
<u>Commercial Use Permits</u>	15A NCAC 10H .1802
<u>Event Permits</u>	15A NCAC 10H .1803
<u>Protection of Endangered/Threatened/Special Concern</u>	15A NCAC 10I .0102
<u>Endangered Species Listed</u>	15A NCAC 10I .0103
<u>Threatened Species Listed</u>	15A NCAC 10I .0104
<u>Special Concern Species Listed</u>	15A NCAC 10I .0105

EDUCATION, STATE BOARD OF

<u>Parental Leave</u>	16 NCAC 06C .0408
<u>Purposes and Responsibilities</u>	16 NCAC 06I .0101
<u>Eligibility</u>	16 NCAC 06I .0102
<u>Medical and Health Services</u>	16 NCAC 06I .0103
<u>Student Information</u>	16 NCAC 06I .0104
<u>The Governor Morehead School Campus Parking</u>	16 NCAC 06I .0105
<u>Authority of Teachers and Houseparents</u>	16 NCAC 06I .0201
<u>Who May Give Directions</u>	16 NCAC 06I .0202
<u>Compliance with Campus Rules and Authorized Persons</u>	16 NCAC 06I .0301
<u>Protection of Property</u>	16 NCAC 06I .0302
<u>Use of Drugs</u>	16 NCAC 06I .0303

<u>Code of Dress for Students</u>	16 NCAC 06I .0304
<u>Definitions of Disciplinary Terms</u>	16 NCAC 06I .0401
<u>Procedure for Administering Discipline</u>	16 NCAC 06I .0402
<u>Distribution of Policy</u>	16 NCAC 06I .0403
<u>Discipline Violations</u>	16 NCAC 06I .0404
<u>Disciplinary Actions</u>	16 NCAC 06I .0405
<u>Request for Determination</u>	16 NCAC 06I .0406
<u>Applicability of Procedures</u>	16 NCAC 06I .0407
<u>Campuses</u>	16 NCAC 06J .0101
<u>Eligibility</u>	16 NCAC 06J .0102
<u>Application Procedures</u>	16 NCAC 06J .0103
<u>Student Fee</u>	16 NCAC 06J .0104
<u>Refunds</u>	16 NCAC 06J .0105
<u>Definition</u>	16 NCAC 06J .0106
<u>Consent Required from Student or Parent</u>	16 NCAC 06J .0107
<u>Consent Required from Former Student or Parent</u>	16 NCAC 06J .0108
<u>Use of School's Records for Research</u>	16 NCAC 06J .0109
<u>Availability of Records to Staff Members</u>	16 NCAC 06J .0110
<u>Home Visits</u>	16 NCAC 06J .0201
<u>Visits to Other Student's Homes</u>	16 NCAC 06J .0202
<u>Reimbursement for Damaged Property</u>	16 NCAC 06J .0203
<u>Alcoholic Beverages</u>	16 NCAC 06J .0204
<u>Drugs</u>	16 NCAC 06J .0205
<u>Tobacco Products</u>	16 NCAC 06J .0206
<u>Leaving Campus</u>	16 NCAC 06J .0207
<u>Expulsion</u>	16 NCAC 06J .0208
<u>Authority of Classroom Teachers/Dormitory Personnel</u>	16 NCAC 06J .0301
<u>Placement Procedures</u>	16 NCAC 06K .0104
<u>Weapons Prohibited on School Property</u>	16 NCAC 06K .0105

MIDWIFERY JOINT COMMITTEE

<u>Administrative Body and Definitions</u>	21 NCAC 33 .0101
<u>Eligibility and Application</u>	21 NCAC 33 .0103
<u>Provider Collaboration Required</u>	21 NCAC 33 .0104
<u>Disciplinary Action</u>	21 NCAC 33 .0105
<u>Continuing Education (CE)</u>	21 NCAC 33 .0111
<u>Scope of Practice</u>	21 NCAC 33 .0112
<u>Annual Renewal</u>	21 NCAC 33 .0114
<u>Collaborative Provider Agreement</u>	21 NCAC 33 .0116
<u>Prescribing Authority</u>	21 NCAC 33 .0117
<u>Birth Outside Hospital Setting</u>	21 NCAC 33 .0118
<u>Petitioning for Rulemaking</u>	21 NCAC 33 .0119
<u>Contact</u>	21 NCAC 33 .0120

OPTOMETRY, BOARD OF EXAMINERS IN

<u>Branch Office</u>	21 NCAC 42B .0202
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VETERINARY MEDICAL BOARD

<u>Minimum Standards for Continuing Education</u>	21 NCAC 66 .0206
<u>Veterinary Facility Permits</u>	21 NCAC 66 .0902
<u>Supervising Veterinarian</u>	21 NCAC 66 .0903
<u>Discipline Veterinary Facility Permits</u>	21 NCAC 66 .0904