

# NORTH CAROLINA REGISTER

VOLUME 39 • ISSUE 10 • Pages 602 – 650

November 15, 2024

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**PUBLISHED BY**

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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.

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**NORTH CAROLINA REGISTER**  
Publication Schedule for January 2024 – December 2024

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

\*Dates not approved by the RRC

This document is prepared by the Office of Administrative Hearings as a public service and is not to be deemed binding or controlling.

## EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

### GENERAL

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

- (1) temporary rules;
- (2) text of proposed rules;
- (3) text of permanent rules approved by the Rules Review Commission;
- (4) emergency rules
- (5) Executive Orders of the Governor;
- (6) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H; and
- (7) other information the Codifier of Rules determines to be helpful to the public.

**COMPUTING TIME:** In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.

### FILING DEADLINES

**ISSUE DATE:** The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Human Resources Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month after the first or fifteenth that is not a Saturday, Sunday, or holiday for State employees.

**LAST DAY FOR FILING:** The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.

### NOTICE OF TEXT

**EARLIEST DATE FOR PUBLIC HEARING:** The hearing date shall be at least 15 days but not later than 60 days after the date a notice of the hearing is published.

**END OF REQUIRED COMMENT PERIOD**  
An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published.

**DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION:** The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.



# State of North Carolina

**ROY COOPER**  
GOVERNOR

October 9, 2024

**EXECUTIVE ORDER NO. 319**

**MEETING NORTH CAROLINA'S HEALTH AND HUMAN SERVICES 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**, in the coming days and weeks, decisions 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**, child care is an essential service to ensure our work force who remain on the job during this State of Emergency; and

**WHEREAS**, many child care facilities have been damaged, destroyed or closed as a result of Helene, and it may be difficult or impossible for child care facilities to re-open or remain open without changes in regulatory requirements; and

**WHEREAS**, to meet these critical child care needs, the undersigned has determined that the Secretary requires authority to modify or waive enforcement of regulatory requirements as necessary; and

**WHEREAS**, immunizations are an integral part of the state's public health strategy and N.C. Gen. Stat. §§ 130A-152 to 130A-157 require immunizations of children and students in accordance with rules adopted by the Commission for Public Health (the "Commission"), and the Commission's rules, at 10A N.C. Admin. Code 41A .0401(c), specify that the State Health Director may temporarily suspend these immunization requirements due to emergency conditions; and

**WHEREAS**, in a written memorandum dated October 8, 2024, the State Health Director utilized the authority granted to her by the Commission under 10A N.C. Admin. Code 41A .0401(c) to temporarily suspend, until October 31, 2024, the immunization requirements of 10A N.C. Admin. Code 41A .0401(a) and (b) (the "Immunization Extension"); and

**WHEREAS**, the effect of the Immunization Extension will be to provide families with several additional weeks to obtain the immunizations that are required for students under the Commission's rules; and

**WHEREAS**, since the time to obtain these immunizations has been extended, the deadlines for reporting on immunizations and for completing health assessments, which include immunization records, should also be extended; and

**WHEREAS**, notwithstanding the Immunization Extension, families are strongly encouraged, should their unique circumstances permit, to obtain the required immunizations for their children on a timely basis; and

**WHEREAS**, local health departments play a critical role in recovery and response efforts, including serving individuals who are displaced across the state due to Helene; and

**WHEREAS**, to support local health departments impacted by Helene or assisting in recovery or response efforts, the undersigned has determined that the Secretary should be authorized to modify or waive certain local health department regulations regarding local health department mandated services and public health nurse training; and

**WHEREAS**, there is a need to ensure the continuation of critical benefits and services for individuals in the North Carolina Medicaid program ("NC Medicaid Program") affected by the aftermath of Helene; and

**WHEREAS**, due to circumstances in the aftermath of Helene, many regulatory requirements for the NC Medicaid Program cannot be met including timely notice requirements due to displacement and the closing of critical facilities such as Division of Social Services ("DSS") county offices and post offices; and

**WHEREAS**, due to circumstances in the aftermath of Helene, many regulatory requirements for the NC Medicaid Program cannot be met including those regarding mediations and or hearings for the termination or reductions of services or eligibility which may need to be continued or rescheduled to ensure due process rights are met; and

**WHEREAS**, many family foster homes and residential facilities have been damaged, destroyed or closed as a result of Helene, and it may be difficult or impossible for homes or facilities to re-open or remain open without changes in regulatory requirements; and

**WHEREAS**, to meet these critical child placement needs, the undersigned has determined that the Secretary requires authority to modify or waive enforcement of regulatory requirements as necessary; and

**WHEREAS**, there is a need to ensure the continuation of critical benefits and services for elderly individuals through the Division of Aging who have been affected by the aftermath of Helene; and

**WHEREAS**, due to circumstances in the aftermath of Helene, many regulatory requirements for programs for the elderly cannot be met including the Congregant Nutrition Program, Home Delivered Meals, In-Home Aide services, and the Special Assistance program; and

**WHEREAS**, the undersigned has determined that the Secretary requires authority to modify or waive enforcement of regulatory requirements so that elderly individuals can continue to receive Aging Program services; and

**WHEREAS**, there is a need to ensure the continuation of needed benefits and services for individuals in the Vocational Rehabilitation Program affected by the aftermath of Helene; and

**WHEREAS**, due to circumstances in the aftermath of Helene, many regulatory requirements for the Vocational Rehabilitation Program cannot be met including processing referrals, financial needs testing, counseling, restoration, maintenance, transportation, services to family members, telecommunications services, recruitment, placement, tools and equipment, and engineering services; 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

**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. Child Care Facilities**

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

Waiver of enforcement of regulations. The undersigned delegates to the Secretary of the North Carolina Department of Health and Human Services authority:

1. To waive or modify enforcement of child care requirements related to activities, records, orientation, continuing education, nutrition, attendance, staff qualifications, training, and sanitation, including without limitation 10A N.C. Admin. Code 09 .0201, .0204, .0302, .0304, .0508, .0509, .0510, .0514, .0605, .0701, .0703, .0704, .0710, .0713, .0714, .0901, .1101, .1102, .1103, .1104, .1106, .1401, .1402, .1702, .1703, .1706, .1709, .1715, .1718, .1721, .1725, .2201, .2318, .2411, .2504, .2508, .2510, .2903, .3002, .3003, .3005, .3006, .3011, and .3014.
2. To waive or modify enforcement of subsidized child care requirements, including without limitation 10A N.C. Admin. Code 10 .0307, .0602(j), .1007(a) and (b).

**Section 2. Public Health Flexibilities**

**A. Required Immunizations, Immunization Certificates, and School Health Assessments.**

1. The North Carolina Department of Health and Human Services (“NCDHHS”) shall provide additional time for families, students, and children to complete required immunizations by implementing the Immunization Extension from the State Health Director. Notwithstanding the Immunization Extension, families are strongly encouraged to obtain all required immunizations for their children on a timely basis, should their unique circumstances permit. The Division of Emergency Management

shall make any necessary temporary revisions to the Emergency Operations Plan to reflect this temporary change in immunization procedures.

2. To cope with the emergency, and to create immunization reports that will be most beneficial to maintaining public health, NCDHHS is directed to align deadlines with the Immunization Extension. This will include, without limitation, the following:
  - i. The time period from the first day of attendance or date of first registration through October 31, 2024, inclusive, will not count towards the thirty (30) calendar day grace period for submission of a certificate of immunization under N.C. Gen. Stat. §§ 130A-155(a) or 130A-155.1(a).
  - ii. Schools and child care facilities will have until January 15, 2025, to submit immunization reports to NCDHHS under N.C. Gen. Stat. §§ 130A-155(c).
  - iii. The time period from the first day of attendance through October 31, 2024, inclusive, will not count towards the thirty (30) calendar day period for submission of a health assessment transmittal form under N.C. Gen. Stat. §§ 130A-440(a).
  - iv. Principals will have until January 15, 2025, to submit health assessment status reports to NCDHHS under N.C. Gen. Stat. § 130A-441(c).
3. There will be no penalties for submissions that are made in accordance with the extensions of time listed above.

**B. Waive or Modify Enforcement of Local Health Department Regulations.**

1. To meet the goal of protecting the public health during the recovery from Helene, the undersigned delegates to the Secretary the authority, upon finding that a waiver or modification of enforcement will provide necessary relief to local health departments impacted by Helene and assisting in recovery from Helene, to (a) waive or modify enforcement of local health department mandated services requirements under 10A N.C. Admin. Code 46 .0200 and (b) extend the time period for public health nurses to complete training sponsored by the NCDHHS under 10A N.C. Admin. Code 46 .0301(2)(b).
2. Waivers, modifications, and extensions made under this Subsection 2(B)(1) may remain in place for up to sixty (60) days following the end of this State of Emergency.

**Section 3. North Carolina Medicaid**

**A. Clinical Coverage Policy.**

1. For reasons and pursuant to the authority set forth above, and in order to provide the immediate relief of human suffering, I hereby authorize the Secretary to temporarily waive regulatory requirements and suspend the enforcement of other legal constraints for modifications of Medicaid Clinical Coverage Policy.
2. I order NCDHHS, Division of Health Benefits to create coverage policies necessary for Medicaid beneficiaries to receive necessary services and to create coverage policies or modify existing policies that will allow beneficiaries to continue to receive necessary services without disruption during the State of Emergency.

**B. Regulatory Flexibility.**

1. The Secretary may, upon finding that the waiver will provide necessary relief to Medicaid beneficiaries affected by the State of Emergency, and will not endanger the public health, welfare, or safety, waive the effect and enforcement of any or all of the provisions within the following regulations:

- i. Chapters 21, 22, or 23 of Title 10A of the North Carolina Administrative Code.

**Section 4. Social Services Programs and Licensure**

**A. Foster Care Licensure.**

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

Waiver of enforcement of regulations. The undersigned delegates to the Secretary authority:

1. To waive or modify enforcement of foster care licensing requirements related to compliance visits, re-licensure, room arrangements, exterior settings, including without limitation 10A N.C. Admin. Code 70E .0703, .074, .0707, .1106, 1108, 1109, .1110, .1111, .1112, .1113.
2. To waive or modify enforcement of licensing requirements related to family services agreements, person-centered plans, and reporting of critical incidents, including without limitation 10A Admin. Code 70G .0504, .0505, .0513.
3. To waive or modify enforcement of licensing requirements related to corrective action, personnel, files, admissions, records, recreation, incident reports, including without limitation 10A Admin. Code 70I .0203, .0502, .0506, .0609, .0614.
4. To waive or modify enforcement of licensing requirements related to personnel, buildings, admission procedures and criteria, including without limitation 10A Admin. Code 70J .0202, .0203.

Inspections. The undersigned delegates to the Secretary authority to waive or modify enforcement of the requirements of 10A N.C. Admin. Code 70E .0704 and 10A N.C. Admin. Code 70E .1108 requiring a fire and building safety inspection prior to re-licensure, so long as the foster home has had a satisfactory fire and building inspection completed within the previous thirty (30) months and can attest to the standards set forth in 10A N.C. Admin. Code 70E. 1108(b). Any foster home relicensed pursuant to this waiver shall obtain such required inspections within sixty (60) days of the date this Executive Order terminates, or such license shall immediately expire.

**B. Aging Programs.**

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

Waiver of enforcement of regulations. The undersigned delegates to the Secretary authority:

1. To waive or modify enforcement of requirements related to the Congregant Nutrition Program, Home Delivered Meals, and In-Home Aide services, including without limitation 10A N.C. Admin. Code 06A .0302, 0307, and 10A N.C. Admin. Code 06K .0101, .0203, .0205.
2. To waive or modify enforcement of requirements related to the Special Assistance program, including without limitation 10A N.C. Admin. Code 71P .0601 and .0701.

**C. Temporary Assistance for Needy Families (TANF) Program.**

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

Waiver of enforcement of regulations. The undersigned delegates to the Secretary authority:

1. To waive or modify enforcement of requirements related to verification, timely reporting, and emergency assistance, including without limitation 10A N.C. Admin. Code 71W .0302, .0404, .0410, and .0704.

**Section 5. Vocational Rehabilitation Services**

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

Waiver of enforcement of regulations. The undersigned delegates to the Secretary authority:

To waive or modify enforcement of requirements related to processing referrals, financial needs test, counseling, restoration, maintenance, transportation, services to family members, telecommunications services, recruitment, placement, tools and equipment, and engineering services, including without limitation 10A N.C. Admin. Code 89C .0202, .0206, .0302, .0303, .0305, .0306, .0307, .0310, .0311, .0312, .0314, and .0315.

**Section 4. Temporary and Limited Nature of Waivers**

Waivers and modifications under authority of this Executive Order are temporary and shall be in place only for the time required to meet the need, subject to Section 5 of this Executive Order. The undersigned delegates to the Secretary the authority to reimpose any regulations, policies, or guidance for which the Secretary has waived or modified enforcement under this Executive Order.

To the extent possible, the Secretary shall only waive or modify any regulation herein for those North Carolina counties named in the September 28, 2024, Federal Major Disaster Declaration, FEMA-4827-DR, or subsequently added, and within the boundary of the Eastern Band of Cherokee Indians.

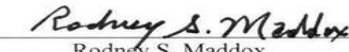
**Section 5. Effect and Duration**

This Executive Order is effective immediately and shall remain in effect until rescinded or superseded by another applicable Executive Order. An Executive Order rescinding the Declaration of a State of Emergency will automatically rescind this Executive Order, with the exception of those provisions which by their terms survive the expiration 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 9<sup>th</sup> 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 15, 2024

**EXECUTIVE ORDER NO. 320**

**MEETING WATER SYSTEM AND ENVIRONMENTAL NEEDS IN RESPONSE TO  
HURRICANE HELENE**

**WHEREAS**, Hurricane Helene ("Helene") entered the State of North Carolina on September 26, 2024 as a tropical storm; 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**, Helene has inflicted significant damage on numerous public water systems in North Carolina; and

**WHEREAS**, it is a high priority of the State to ensure delivery of safe drinking water to affected residents as quickly as possible; and

**WHEREAS**, numerous wastewater treatment plants in North Carolina were damaged or rendered inoperable by Helene; and

**WHEREAS**, hurricane response activities require the establishment of temporary disaster debris storage sites and other waste management activities; and

**WHEREAS**, ensuring the integrity of dam structures is crucial to averting further damage to communities in North Carolina; and

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

**WHEREAS**, projects necessary for the restoration of damaged infrastructure and utility services may require licensing or permitting by federal agencies such as the U.S. Army Corps of Engineers or the Federal Energy Regulatory Commission; and

**WHEREAS**, projects necessary for the restoration of damaged infrastructure and utility services may require a water quality certification issued by the North Carolina Department of Environmental Quality ("DEQ") under Section 401 of the Clean Water Act; and

**WHEREAS**, the U.S. Army Corps of Engineers has recently confirmed that, in accordance with 33 C.F.R. § 323.4(a)(2), restoration of damaged infrastructure and utility services will not require new permitting under Section 404 of the Clean Water Act so long as the repair or replacement does not change the character, scope, or size of the original fill design; and

**WHEREAS**, restoration of some infrastructure will require modification to the original design to account for modern design standards or other changes that will require the restoration project to be permitted by the U.S. Army Corps of Engineers; and

**WHEREAS**, the U.S. Army Corps of Engineers has confirmed that it expects that many projects will qualify for nationwide permits that streamline the permitting process for common activities that have minimal environmental impact and do not require minimum public notice periods before proceeding; and

**WHEREAS**, some of these projects will also require individual water quality certifications from DEQ pursuant to 15A N.C. Admin. Code 02H .0500 et seq., before work can begin; and

**WHEREAS**, 15A N.C. Admin. Code 02H .0503(b) requires that DEQ wait a minimum of thirty (30) days after public notice is given before issuing an individual water quality certification, even if the project is to repair or replace pre-existing critical infrastructure; and

**WHEREAS**, it is important to preserve the State of North Carolina's authority to issue and condition Section 401 water quality certifications while at the same time allowing vital infrastructure repair and replacement projects to proceed without undue delay; 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**, 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; 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. Assessing and Addressing Impacts on Water Systems and other Impacted Infrastructure**

1. DEQ shall assess the impacts across the region and provide technical support for drinking water systems, wastewater facilities, and other impacted infrastructure sites.
2. DEQ shall continue to coordinate with and send assessment teams to drinking water and wastewater treatment systems in affected areas and identify the operational status of each system, evaluate the needs for system restoration, and provide technical assistance. DEQ shall also coordinate with drinking water systems to find additional lab capacity so that as

systems get back online, they can conduct water quality sampling and lift their boil water advisories.

3. To the extent that resources are available, DEQ shall assist drinking water systems and wastewater systems with any gaps in their funding needs. When necessary, the Secretary of DEQ shall exercise their authority in N.C. Gen. Stat. § 159G-33(a)(4) and N.C. Gen. Stat. § 159G-34(a)(4) to certify that a serious public health hazard related to a damaged water supply system or wastewater system is present or imminent in an affected community. Upon the Secretary's certification, DEQ shall be authorized to make emergency loans to designated water or wastewater systems from the Drinking Water Reserve and Wastewater Reserve. Where review of an emergency loan by the Local Government Commission or any other political body is required by law, DEQ shall seek such review on an expedited basis.
4. DEQ shall continue to coordinate and approve the siting of disaster debris sites, identify available landfill capacity, and provide guidance on diverting recyclable materials so that clean-up efforts can move quickly and responsibly.
5. DEQ shall continue to conduct on-site inspections of accessible high hazard dams in impacted areas.
6. While carrying out the directives of this Executive Order, DEQ shall continue to coordinate its efforts and share information with local, state, and federal partners including the Environmental Protection Agency, the Federal Emergency Management Agency, and the Army Corps of Engineers, at the Emergency Operations Center and in the impacted areas.

**Section 2. Temporary Waiver of Regulatory Requirement to Expedite Infrastructure Repair**

The undersigned delegates to the Secretary of DEQ the authority to:

Waive or modify the requirement in Rule 15A N.C. Admin. Code 02H .0503(b) that the North Carolina Division of Water Resources must wait thirty (30) days from public notice before taking final action on repair and restoration projects necessitated by the impacts of Hurricane Helene that require an individual water quality certification but for which the process for issuing the corresponding federal permit or license either does not require public notice or that requirement has been waived by the federal agency. DEQ shall provide public notice of each pending application for an individual water quality certification as specified in Rule 15A N.C. Admin. Code 02H .0503.

**Section 3. 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 15<sup>th</sup> 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 16, 2024

EXECUTIVE ORDER NO. 321

## STATE TYPE I DISASTER DECLARATION FOR INDIVIDUAL ASSISTANCE FOR BRUNSWICK COUNTY

**WHEREAS**, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes, authorizes the issuance of a disaster declaration for an emergency area as defined in N.C. Gen. Stat. § 166A-19.3(7) that has been impacted by a Type I disaster as defined in N.C. Gen. Stat. § 166A-19.21(b); and

**WHEREAS**, on September 16, 2024, the State of North Carolina, experienced severe weather in the form of a severe weather system named Potential Tropical Cyclone Eight, resulting in major riverine and flash flooding, damaging homes and businesses and causing one confirmed death; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.20, the undersigned declared a state of emergency for the following counties: Bladen, Brunswick, Carteret, Dare, Columbus, New Hanover, Onslow, and Pender; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.22, Brunswick County declared a local state of emergency on September 16, 2024; and

**WHEREAS**, due to the impacts from the severe weather, local, state, and federal emergency management officials conducted a joint preliminary damage assessment on October 1-2, 2024; and

**WHEREAS**, the President of the United States has not declared a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (hereinafter "Stafford Act"), as amended (42 U.S.C. § 5121-5206); and

**WHEREAS**, Brunswick County would not qualify based on the preliminary damage assessment for Federal Individual Assistance according to the requirements of 44 C.F.R. § 206.48; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.21(b)(1), the criteria for a Type I disaster have been met: (1) the Secretary of the North Carolina Department of Public Safety has provided a preliminary damage assessment to the Governor and the General Assembly; (2) Brunswick County declared a local state of emergency pursuant to N.C. Gen. Stat. § 166A-19.22; (3) the preliminary damage assessment has met or exceeded the criteria established for the Small Business Disaster Loan Program pursuant to 13 C.F.R. Part 123; and (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared; and

WHEREAS, the undersigned has determined that a Type I disaster, as defined in N.C. Gen. Stat. § 166A-19.21(b)(1), exists in the State of North Carolina, specifically Brunswick County; and the surrounding counties of Columbus, New Hanover, and Pender.

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.41, if a disaster is declared, the undersigned may make state funds available for emergency assistance in the form of individual assistance and public assistance for recovery from those disasters for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of residents in the emergency area.

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.**

For purposes of this Executive Order only, the emergency area as defined in N.C. Gen. Stat. § 166A-19.3(7), is Brunswick County and the surrounding counties of Columbus, New Hanover, and Pender (“the Emergency Area”).

**Section 2.**

Pursuant to N.C. Gen. Stat. § 166A-19.21(b)(1), a Type I disaster is hereby declared for the Emergency Area.

**Section 3.**

I authorize state emergency assistance funds in the form of grants to individuals and families located within the emergency area that meet the terms and conditions under N.C. Gen. Stat. § 166A-19.41(b)(1).

**Section 4.**

I hereby order that this declaration 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 the Secretary of the North Carolina Department of Public Safety, the North Carolina Secretary of State, and the Clerks of Superior Court in the Brunswick, Columbus, New Hanover and Pender counties; and (c) distributed to others as necessary to ensure proper implementation of this declaration.

**Section 5.**

Pursuant to N.C. Gen. Stat. § 166A-19.21(c)(1), this Type I disaster declaration shall expire sixty (60) days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of thirty (30) days each, not to exceed a total of 120 days from the date of first issuance.

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 16<sup>th</sup> day of October in the year of our Lord two thousand and twenty-four.

*Roy Cooper*

Roy Cooper  
Governor

ATTEST:

*Elaine F. Marshall*

Elaine F. Marshall  
Secretary of State





# State of North Carolina

**ROY COOPER**  
GOVERNOR

OCTOBER 16, 2024

EXECUTIVE ORDER NO. 322

**PROVIDING UNEMPLOYMENT INSURANCE RELIEF FOR NORTH  
CAROLINIANS IMPACTED BY HURRICANE HELENE**

**WHEREAS**, Hurricane Helene (“Helene”) entered the State of North Carolina on September 26, 2024 as a tropical storm; 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**, many jobs in western North Carolina have been lost due to the unprecedented damage from Helene; and

**WHEREAS**, many western North Carolinians have had their work hours reduced following the storm and others are prevented from working or searching for work due to the impacts of Helene to their homes or families; and

**WHEREAS**, the State has seen a marked increase in unemployment claims from residents of impacted counties since Helene; and

**WHEREAS**, data from the North Carolina Department of Commerce’s Division of Employment Security (“DES”) indicate that, as of October 13<sup>th</sup>, unemployment claims originating from claimants in counties impacted by Helene make up nearly eighty percent (80%) of total new claims in the state; and

**WHEREAS**, North Carolina’s current weekly unemployment benefit amount has been capped at three hundred and fifty dollars (\$350) a week, and DES data indicate that approximately half of claimants in disaster-impacted counties stand to receive less than this amount, due to previously reported income; and

**WHEREAS**, North Carolina’s current maximum benefit of \$350 a week has not been increased or adjusted for inflation since 2013 despite substantial wage growth in the state and ranks 42<sup>nd</sup> in the country for maximum weekly benefit amounts, according to the United States Department of Labor’s most recent publication of “Significant Provisions of State UI Laws” found at <https://oui.doleta.gov/unemploy/statelaws.asp>; and

**WHEREAS**, North Carolina currently ranks 49<sup>th</sup> of the states for the minimum weekly benefit paid according to the same study; and

**WHEREAS**, temporarily increasing the weekly benefit amount would enable those individuals out of work due to the impacts of Helene to continue to provide for themselves and their families while western North Carolina recovers from the catastrophic damage sustained by Helene; and

**WHEREAS**, a temporary increase in the weekly benefit amount to claimants can be paid fully by North Carolina’s Unemployment Trust Fund, with no additional cost to the claimant’s employer, state, or taxpayer; and

**WHEREAS**, the United States Department of Labor approved North Carolina for federal Disaster Unemployment Assistance (“DUA”) benefits for weeks of unemployment beginning September 29, 2024, for individuals unemployed directly as a result of the disaster, which may also include business owners and self-employed individuals not otherwise eligible for state benefits; and

**WHEREAS**, an increase in the state’s weekly benefit amount will also result, in most circumstances, in an increased benefit amount to eligible claimants in federal DUA benefits, which is available to claimants for an additional fourteen (14) weeks if the claimant receives twelve (12) weeks of state benefits following the disaster and up to twenty-six (26) weeks for otherwise eligible claimants who do not qualify for state unemployment benefits; and

**WHEREAS**, DUA benefits are provided by the federal government at no cost to the state; and

**WHEREAS**, the undersigned desires to minimize the tax burden on employers from temporarily increasing the weekly benefit amount; and

**WHEREAS**, therefore, the undersigned delegates the authority to the Secretary of the North Carolina Department of Commerce (“Secretary”) to waive, and the Secretary shall waive, any legal or regulatory constraints to ensure that employers do not experience an increase in their unemployment insurance tax rate due to an increase in unemployment claims following the disaster or from an increased weekly benefit amount paid out by the state; 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**, 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**, N.C. Gen. Stat. § 166A-19.30(b)(4) authorizes the undersigned, with the concurrence of the Council of State, to waive provisions of any regulation or ordinance of a State agency or a political subdivision which restricts the immediate relief of human suffering; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.30(b)(5), authorizes the undersigned, with the concurrence of the Council of State, to perform and exercise other such functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.30(b)(2), authorizes the Governor, with concurrence of the Council of State, to establish a system of economic controls over all resources, materials, and services, including administration and enforcement; 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. Unemployment Insurance Policy Related to Hurricane Helene**

The North Carolina Department of Commerce (“Commerce”), through the Secretary and Assistant Secretary of DES, is directed to ensure that individuals who, as a result of the disaster covered by the federal disaster declaration concerning Helene, are separated from employment, have had their hours of employment reduced, or are prevented from working or searching for work due to the impacts caused by Helene and its effects and aftereffects, shall be eligible for unemployment benefits to the maximum extent permitted by federal law.

**Section 2. Unemployment Insurance Changes**

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

- A. To provide necessary unemployment benefits the Secretary and Assistant Secretary of DES are authorized, to the maximum extent permitted under federal law, and for so long as this Executive Order remains in place, to interpret flexibly or waive, as appropriate, the following:
  - 1. The minimum and maximum weekly benefit amount as imposed by N.C. Gen. Stat. § 96-14.2(a) by increasing all weekly benefits amounts by up to two hundred fifty dollars (\$250), provided that in setting weekly benefit amounts Commerce shall ensure that monies in the State’s Unemployment Insurance Fund created under N.C. Gen. Stat. § 96-6 remain sufficient to meet the anticipated needs of the State and no weekly benefit amount may exceed six hundred dollars (\$600). However, this waiver shall not modify the calculation of a weekly benefit amount for purposes of determining a valid claim as defined by N.C. Gen. Stat. § 96-14.1(b).
  - 2. The total benefit amount as calculated by N.C. Gen. Stat. § 96-14.3(b)
  - 3. The allocation of charges to employers imposed by N.C. Gen. Stat. § 96-11.2 for benefits paid to individuals.
- B. To provide the necessary unemployment benefits to those in the counties and the Eastern Band of Cherokee Indians designated by the federal disaster declaration concerning Helene on September 28, 2024, or subsequently added, the Secretary and Assistant Secretary of DES are authorized, to the maximum extent permitted under federal law, and for so long as this Executive Order remains in place, to interpret flexibly or waive, as appropriate, the work search requirements as set forth in N.C. Gen. Stat. §§ 96-14.9(a)(3)

to work, be available to work, and be actively seeking work until such time as work search requirements are required by Commerce in accordance with N.C. Gen. Stat § 96-14.9(1).

**Section 3. No Private Right of Action**

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable to law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person.

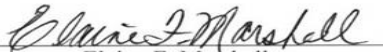
**Section 4. Effective Date and Duration**

This Executive Order is effective for weeks of unemployment beginning on or after September 29, 2024, and shall remain in effect until rescinded or superseded by another applicable Executive Order. 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 16<sup>th</sup> day of October in the year of our Lord two thousand and twenty-four.

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

ATTEST:

  
\_\_\_\_\_  
Elaine F. Marshall  
Secretary of State



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

2  
3                                   **NORTH CAROLINA BUILDING CODE COUNCIL**

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

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

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

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

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

21  
22 **Comment Procedures:** *Written comments may be sent to David B. Rittlinger, Secretary, NC Building*  
23 *Code Council, NC Department of Insurance: Office of the State Fire Marshal, 1429 Rock Quarry Road,*  
24 *Raleigh, NC 27610 (email david.rittlinger@ncdoi.gov). Comments on both the proposed rule and any*  
25 *fiscal impact will be accepted. Comment period expires on January 14, 2025.*

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

29  
30 **Statement of Subject Matter:**

31  
32 **1. Request from Carl Martin representing himself to amend the 2024 NC Building Code, Section**  
33 **1108.6.1.2 Type B units as follows:**

34  
35 **1108.6.1.2 Type B units. (Deleted)** *In structures with four or more dwelling units or sleeping units*  
36 *intended to be occupied as a residence, every dwelling unit and sleeping unit intended to be occupied as a*

1 ~~residence shall be a Type B unit. Exception: The number of Type B units is permitted to be reduced in~~  
2 ~~accordance with Section 1108.7.~~

3  
4 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is January  
5 1, 2026, unless the BCC assigns a delayed effective date.

6  
7 **Reason Given** – The proposed amendment deletes section 1108.6.1.2 because the requirements of that  
8 section should only apply to dwelling and sleeping units intended to be occupied for a period greater than  
9 30 days which would make the units Group R-2, and section 1108.6.2.2.2 will apply. I do not see a logical  
10 need to require dwelling and sleeping unit that are occupied by a tenant for 30 days or less to be Type B.

11  
12 **Fiscal Statement** – No impact to federal, state and local government funds. No substantial impact and/or  
13 an increase of more than \$80 per dwelling. A fiscal note has not been prepared.

14  
15 **2. Request from Anthony L. Smith and Kerry J. Smith representing Carteret Boat Storage to amend**  
16 **the 2024 NC Fire Code by adding an exception to Section 906.1 as follows and as amended during the**  
17 **9/10/24 NCBCC meeting and public hearing:**

18  
19 **906.1 Where required.** Portable fire extinguishers shall be installed in all of the following locations:

- 20 1. In new and existing Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies.

21 **Exceptions:**

- 22 1. In Group R-2 occupancies, portable fire extinguishers shall be required only in  
23 locations specified in Items 2 through 6 where each dwelling unit is provided with a  
24 portable fire extinguisher having a minimum rating of 1-A:10-B:C.  
25 2. In Group E occupancies, portable fire extinguishers shall be required only in  
26 locations specified in Items 2 through 6 where each classroom is provided with a  
27 portable fire extinguisher having a minimum rating of 2-A:20-B:C.  
28 3. In storage areas of Group S occupancies where forklift, powered industrial truck or  
29 powered cart operators are the primary occupants, fixed extinguishers, as specified in  
30 NFPA 10, shall not be required where in accordance with all of the following:  
31 3.1. Use of vehicle-mounted extinguishers shall be *approved* by the *fire code*  
32 *official*.  
33 3.2. Each vehicle shall be equipped with a 10-pound, 40A:80B:C extinguisher  
34 affixed to the vehicle using a mounting bracket *approved* by the extinguisher  
35 manufacturer or the *fire code official* for vehicular use.  
36 3.3. Not less than two spare extinguishers of equal or greater rating shall be  
37 available on-site to replace a discharged extinguisher.

1                                   3.4. Vehicle operators shall be trained in the proper operation, use and  
2                                   inspection of extinguishers.

3                                   3.5. Inspections of vehicle-mounted extinguishers shall be performed daily.

4                                   4. Group S Self Service Dry Boat storage buildings that are a maximum of one-story in  
5                                   height and contain leased units that are locked and have no common corridor for egress  
6                                   shall only require a portable fire extinguisher in the onsite business office of the storage  
7                                   facility. If no business office is located onsite, a portable fire extinguisher shall not be  
8                                   required. When a fire extinguisher is provided in the business office and this exception is  
9                                   used, a sign located on the exterior of each leased unit door shall be permanently  
10                                   mounted a minimum of 48 inches and a maximum of 60 inches above grade with a  
11                                   minimum height of 2 inches and contrast with the background, that reads as follows: IN  
12                                   CASE OF FIRE CALL 911. The sign lettering shall be all capitals.

13  
14   **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is January  
15   1, 2026, unless the BCC assigns a delayed effective date.

16  
17   **Reason Given** – Buildings in which Group S-1 and S-2 items are stored may be very different. One-story  
18   buildings with individual locked units have minimal occupant load as compared to warehouse buildings or  
19   dry-stack boat storage where multiple units are stored in large facilities, and human activity is present. The  
20   need for escape from an individually leased unit which is locked and inaccessible is minimal, and since the  
21   only place for a fire extinguisher to be installed is outside the building, the extinguisher cannot aid in the  
22   escape from inside the building. There is no common corridor from which to escape. Once outside, an  
23   individual’s escape has already been accomplished. In addition, if the exterior fire extinguisher is meant to  
24   provide a tool for fighting a fire, large or small, NFPA states that only adults who know how to operate a  
25   fire extinguisher should use them. If safe escape is the primary use of a fire extinguisher, and only trained  
26   adults should use them, requiring exterior fire extinguishers, in situations where doors are locked, and any  
27   untrained person or vandal is invited to use the device is a gross defiance of the standards of the National  
28   Fire Protection Association. Therefore, the Code should be changed to more specifically address the  
29   practical need for extinguishers.

30  
31   **Fiscal Statement** – No impact to federal, state and local government funds. No substantial impact and/or  
32   an increase of more than \$80 per dwelling. A fiscal note has not been prepared.

33  
34   **NOTICE:**

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

37   <https://www.ncosfm.gov/interpretations>

1

2 **NOTICE:**

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

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

5

6 **NOTICE:**

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

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

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: NEW RIVER MANUFACTURING INC

Applicant's Address: 165 NRM LANE, JEFFERSON, NC 28640

Application Date: 10/24/2024

Names and titles of any individual listed on the application as an owner, partner, member or officer of the applicant: JESSIE BRYAN DAVIS-CEO and GARY DOUGLAS SNYDER

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: TJCW INC

Applicant's Address: 1100 Thompson DR, Douglas GA 31535

Application Date: 10/8/2024

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

Tony Lee Wright – President

Caleb Eustace Wright – Secretary & Treasurer

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 04 – DEPARTMENT OF COMMERCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Innovation Council intends to adopt the rules cited as 04 NCAC 25 .0101-.0111.

Link to agency website pursuant to G.S. 150B-19.1(c): https://www.innovation.nc.gov/

Proposed Effective Date: March 1, 2025

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): Requests for a public hearing may be submitted to Victoria Avramovic at Victoria.Avramovic@nc.gov or (704) 648-1217.

Reason for Proposed Action: The NC Innovation Council proposed permanent rules are necessary for the public to have a clear understanding of how the authorizing legislation is being implemented, to provide transparency, and direction on how the sandbox program will be administered, how fees will be determined, and how the NC Innovation Council will be managed.

Comments may be submitted to: Victoria Avramovic, 301 N. Wilmington Street, Raleigh, NC 27699; phone (704) 648-1217; email victoria.avramovic@nc.gov

Comment period ends: January 14, 2025

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

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

- State funds affected
Local funds affected

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

CHAPTER 25 – INNOVATION COUNCIL

04 NCAC 25 .0101 DEFINITIONS

For the purposes of the rules in this Chapter, the definitions found in G.S. 169-1, and subsequent amendments and editions are hereby incorporated by reference. In addition to the definitions set forth in G.S. 169-1, the following definitions shall apply to this Section:

- (1) "Executive Director" means the Executive Director of the North Carolina Innovation Council or an authorized designee of the Executive Director.
(2) "Expression of Interest" shall mean a method for potential applicants to contact the NC Innovation Council through its website to document their interest in submitting an application to be a Sandbox participant.
(3) "Monitoring and Evaluation Plan" means a written plan submitted by a Sandbox applicant that requires the applicant to periodically measure the success or risks of the innovative product or service during and at the end of the Sandbox period.
(4) "Nonprofit corporation" as defined in 55A-1-40(17).
(5) "Control person" means an entity or individual who has the power to influence, direct, or control the activities of a publicly traded company. Control persons can be directors, officers, shareholders, affiliates, or any other person with authority over the public company's management and operations.
(6) "DUNS Number" means a data universal numbering system or DUNS number, is a unique, nine-digit series or numerals that identifies a business. Dun & Bradstreet (D&B) creates the number, which generates a business profile in its database and provides a company's name, phone number, address, number of workers and line of business, along with other relevant corporate information.

Authority G.S. 169-1.

04 NCAC 25 .0102 NONPROFIT PARTNERS

(a) Nonprofit organizations wishing to assist applicants or participants as a nonprofit partner shall submit an application to

the Council. Applications may be found on the Council's website at [www.innovation.nc.gov](http://www.innovation.nc.gov).

(b) Nonprofit organization applications shall include the following:

- (1) The formal legal name of the organization applying to be a nonprofit partner;
- (2) If applicable, the nonprofit applicant must provide documentation of registration of associated trade names or Doing Business As (DBA);
- (3) The name and address of the registered agent;
- (4) Proof that the organization is a nonprofit organization duly authorized by the North Carolina Office of the Secretary of State and provide a North Carolina Certificate of Good Standing;
- (5) A single point of contact must be designated for all correspondence, including the individual's name, role, phone number, and email address;
- (6) A list of individuals that are directors of the board, partners, managers, and other individuals who are legally responsible for the governance of the entity, including their names, titles, expertise related to the product or service, and whether they have been convicted of, or are currently under investigation for, fraud or State or federal securities law violations;
- (7) A summary of how the nonprofit organization's mission is aligned with the Sandbox program, to be used by the Council in a published list of nonprofit partners; and
- (8) A description of the nonprofit organization's capabilities, including its data security capabilities and practices as required by law to ensure the confidentiality of information submitted by Sandbox applicants and participants.

(c) The Council may request additional information from the applicant pertaining to their application and eligibility to participate in the Sandbox based on the criteria set forth in Paragraph (b) of this Rule.

(d) Within 30 business days of receipt of a nonprofit organization's application, the Executive Director shall review the application for completeness. Applications that the Executive Director has determined have met the application submittal requirements shall be forwarded to all Council members for review. If an application is incomplete, the Executive Director shall request that any missing information from the nonprofit organization be submitted within 14 business days of the request.

(e) At the next Council meeting that is at least 14 business days after the Council has received a complete application, the Council shall discuss the application to determine the next appropriate action. Upon the motion of any member, the Council may enter a closed session, pursuant to G.S. 143-318.11(a)(1) and/or G.S. 132-1.2(1)(a)-(c)a. - c., to discuss the application, however, all votes on an application shall be in an open session.

(f) Within 14 business days of a Council vote on an application, the Executive Director shall notify the nonprofit organization in writing of the Council's decision. If the Council denied the

nonprofit organization's application, the written notification shall include the specific reasons for the denial.

(g) Upon the motion of any member, at a duly called meeting of the Council, the Council may rescind its approval of a nonprofit partner by a majority vote of the Council.

(h) A nonprofit partner whose approval is denied or rescinded by the Council may not reapply to be a nonprofit partner for a period of two years from the date of the Council vote.

*Authority G.S. 169-5.*

**04 NCAC 25 .0103 NONPROFIT PARTNERS APPLICATION DENIAL**

Reasons for denial of a nonprofit application shall include at least one of the following:

- (1) Perceived or actual conflicts of interest;
- (2) Failure to provide proof that the organization is a nonprofit organization duly authorized by the North Carolina Office of the Secretary of State;
- (3) Failure to provide a current North Carolina Certificate of Good Standing;
- (4) Failure to implement and utilize data security practices, as required by law, that ensure the confidentiality of information submitted by Sandbox applicants and participants;
- (5) Failure to illustrate the organization's capabilities or expertise in FinTech, InsurTech, blockchain technologies, or other new or emerging technology products or services; and
- (6) Failure to provide any required missing information related to the application, or any additional information upon request of the Executive Director within 14 business days, as set forth in 04 NCAC 25 .0102(c).

*Authority G.S. 169-4; 169-5.*

**04 NCAC 25 .0104 EXPRESSION OF INTEREST TO PARTICIPATE**

(a) An applicant may contact the Council to request a consultation regarding the Sandbox prior to submitting a formal application. An applicant may also request to present the innovative product or service at a Council meeting. All requests to present will be approved by the Council based on a determination of whether the expression of interest indicates that the applicant intends to propose a FinTech, InsurTech, blockchain or other new or emerging technology for participation in the Sandbox. Each request shall be submitted through the Expression of Interest to Participate form on the Council's website at [www.innovation.nc.gov](http://www.innovation.nc.gov).

(b) The applicant must provide basic contact information for the entity or business, the industry type (finance or insurance), and a brief description of the proposed product or service that would be tested in the Sandbox.

(c) The Executive Director or a designee will acknowledge receipt of a submission within five business days. The Executive Director will provide the completed Expression of Interest to Participate form to the Council. If the applicant has requested to present, and the Council has approved the request, the proposed

applicant will be allotted time to present at the next regularly scheduled Council meeting. If a consultation has been requested, the Executive Director will facilitate a meeting with either the Chair or Co-Chair of the Council within 14 business days after submission.

Authority G.S. 169-4.

**04 NCAC 25 .0105 REGULATORY SANDBOX APPLICATIONS**

(a) An applicant for the Regulatory Sandbox shall provide to the Council an application that includes applicant information, product or service information, a business plan, and a monitoring and evaluation plan for the proposed product or service. The application can be found on the Council's website at [www.innovation.nc.gov](http://www.innovation.nc.gov).

(b) The applicant information should include the following:

- (1) Confirmation that the applicant or its parent company are subject to the jurisdiction of the State; this shall be established by any of the following applicable documentation: Articles of Organization, Certificate of Formation, Certificate of Authority, Certificate of Organization, Articles of Formation, or other applicable company formation documents.
- (2) Proof that the applicant has a physical location within the State from where the waiver project will be developed and performed, and where all records, documents, and data will be maintained, shall be established by providing:
  - (A) The name and address of the registered agent;
  - (B) The physical address of the applying entity's headquarters;
  - (C) The physical address of the North Carolina operations, if different from the headquarters;
  - (D) The legal name of the applicant to participate in the Sandbox and, if the entity applying is a subsidiary of a parent entity, the legal name of the parent entity; and
  - (E) If applicable, the applicant must provide documentation of registration of associated trade names or doing business as assumed names.
- (3) A single point of contact must be designated for all correspondence, including the individual's name, role, phone number, and email address.
- (4) A list of individuals that are directors of the board, partners, managers, other individuals who are legally or financially responsible, or liable for the governance of the entity. The list of individuals shall include their names, titles, expertise related to the product or service, and whether they have been convicted of, or are currently under investigation for, fraud or State or federal securities law violations.

- (5) Details of criminal convictions of the applicant and any individuals identified in Subparagraph (b)(4) of this Rule.
- (6) If available, the entity's and any parent entity's Dun and Bradstreet Data Universal Numbering System (D-U-N-S) Number.
- (7) A list of each government agency, if any, that the applicant knows regulates the applicant's business.
- (8) The applicant's number of employees and, if the entity is a subsidiary of a parent company, the parent entity's number of employees.
- (9) The number of the applicant's employees that are residents of North Carolina.
- (10) The name of any entity, be it nonprofit organization, for profit organization, professional, or individual assisting with the application process.
- (11) The name of any partner organization or individual(s) assisting with the design and implementation of the product or service.
- (12) A description of the product or service the applicant seeks to provide through the Sandbox, including statements regarding:
  - (A) How the product or service is subject to licensing, legal prohibition or other authorization requirements outside the Regulatory Sandbox or whether the product or service is not subject to any regulation;
  - (B) Each law or regulation the applicant seeks to have waived while participating in the Regulatory Sandbox;
  - (C) How the product or service will benefit consumers or businesses;
  - (D) What risks may exist for consumers who use the product or service;
  - (E) A description of the methods that will be used to protect consumers or businesses;
  - (F) A statement outlining a process to resolve complaints during the Sandbox period;
  - (G) A description of the methods and controls to ensure consumers are residents of the State; and
  - (H) Applicable only to products and services related to money transmitters, a description of how they will ensure customers are physically present in the State at the time of transaction.
- (13) A business plan for the intended product or service, which shall include the following information:
  - (A) A description of the proposed implementation plan, including estimated time periods for beginning and ending;

- (B) A description of how the applicant will end the Sandbox offering and protect consumers if the demonstration fails;
  - (C) Technical details and requirements for the product or services;
  - (D) Proposed sales methods, methods of pricing, and the target market;
  - (E) Proposed consumer disclosures required by G.S. 169-8 and applicable State agencies;
  - (F) Copy of the proposed consumer contract for the applicant's product or service;
  - (G) The expected distribution of consumers across rural, urban, and suburban areas of the State;
  - (H) The maximum number of consumers or businesses expected to utilize the product or service;
  - (I) The expected revenue; and
  - (J) The availability of capital for the product or service.
- (14) A monitoring and evaluation plan, including a definition of risk metrics to be evaluated and the frequency of measurement, and a description of compensating controls that assist in managing risk and harm to consumers and the Sandbox participant.
- (A) The appropriate State agency, upon approval of the Sandbox applicant, will provide input and request modifications to the proposed monitoring and evaluation plan to ensure the proper metrics and risks are monitored related to the waiver.
  - (B) The approved monitoring and evaluation plan will be included in the waiver agreement.
- (15) The applicant may provide any additional information the applicant determines to be irrelevant to the review and consideration of the Sandbox application.
- (16) All Sandbox applicants are required to pay a fifty dollar (\$50.00) application fee that must be received in a format determined by the Council.
- (17) Council may request additional information from the applicant pertaining to their application and eligibility to participate in the Sandbox based on the criteria set forth in Paragraph (b) of this Rule.

additional information from the applicant. When the Executive Director determines that an application is complete based on the established criteria, they shall notify the applicant and refer the complete application to the applicable State agencies and the Council for review. If the applicant is deemed ineligible due to an incomplete application, the Executive Director shall notify the applicant of their ineligibility, and reasons for ineligibility, and provide notice of such denial to the Council.

(b) Upon receipt from the Executive Director of a Sandbox application, the applicable State agency or agencies shall provide a review of the Sandbox application to the Council in writing, including in its review a recommendation of any reporting requirements or restrictions to be required of the Sandbox applicant. If the agency or agencies do not provide a written review within 45 business days, the Council, in its discretion, may deem the Sandbox application acceptable. If the applicable State agency or agencies cannot complete the review of the Sandbox application within 45 business days, the agency or agencies may request additional time for review by submitting a written request to the Executive Director. Upon receipt of a written request for additional time from an agency, the Executive Director shall inform the Council of the request, and the Council may, in its discretion, allow additional time for review.

(c) The Council will review and evaluate the following:

- (1) Potential risks and benefits of the innovative product or service to the State, industry, and consumers;
- (2) The statutes and rules that the applicant is seeking a waiver of;
- (3) The applicant's monitoring and evaluation plan;
- (4) Recommendations regarding consumer caps, limitations, reporting requirements, and disclosure statements;
- (5) A recommendation on the amount of a bond or cash deposit required from the applicant;
- (6) Whether the applicable State agency recommends that the application be granted or denied; and
- (7) The recommended length of waiver if less than 24 months.

(d) As part of its review of a complete application, the Council, the Executive Director, or the applicable State agency may request a presentation or additional information from the applicant.

(e) After receipt of the applicable State agency's written statement of its review of a completed application, the Council shall discuss the completed application at the next meeting of the Council. At the meeting:

- (1) There shall be an opportunity for members of the public to comment on the complete application;
- (2) There shall be an opportunity for the applicant to present the product or services to the Council;
- (3) There shall be an opportunity for the any Council member to request clarification or additional information;
- (4) Any Council member may make a motion to enter a closed session, pursuant to G.S. 143-

*Authority G.S. 169-4; 169-6, 169-8.*

**04 NCAC 25 .0106      SANDBOX APPLICATION REVIEW**

(a) The Executive Director or designee shall review the application for completeness according to the criteria set forth in 04 NCAC 25 .0105. If there is missing or incomplete information in the application, the Executive Director shall request the

**PROPOSED RULES**

- 318.11 or G.S. 132-1.2, to discuss the application; and
- (5) The vote to approve or deny an application shall be made in open session.
- (6) If the Council approves an application, the approval, with any conditions, including any consumer caps, bond requirements, reporting requirements, notice requirements or fees, shall be set out in a written document, the waiver agreement. Upon review and acceptance by the applicable State agency, this document will be the Council's waiver and, along with the

- applicable statutes and rules, shall govern the applicant's participation in the Sandbox.
- (f) A waiver granted by the Council is not effective until all fees have been paid and all conditions of the waiver have been met.
- (g) If the Council denies a complete application, the Executive Director will disseminate the Council's determinations for denial and must provide the reasons for the denial to the applicant in writing within 10 business days of the Council's vote denying the application.

*Authority G.S. 169-4; 169-6.*

**04 NCAC 25 .0107      SANDBOX OPERATIONS**

(a) The Sandbox waiver agreement will be developed by the Executive Director within 15 business days of the Sandbox participant's waiver approval, and will be provided to the Council Chair and applicable State agency for review and approval. The Council Chair and applicable State agency will notify the Executive Director in writing within five business days if the waiver agreement is approved. If changes or modifications are required, the Executive Director has two business days to incorporate the prescribed changes into the waiver agreement.

(b) The waiver agreement shall include the following information:

- (1) Sandbox waiver time period, when the waiver begins and when the waiver expires;
- (2) Approved monitoring and evaluation plan;
- (3) Approved business plan including all components required from 04 NCAC 25 .0105(b)(13);
- (4) Approved notice to consumer participants, informing of consumer rights, risks and the complaint and appeals processes;
- (5) A statement acknowledging that the applicant will be subject to all laws and regulations pertaining to the applicant's offering after conclusion of the demonstration;
- (6) Amount of consumer protection bond or cash deposit required;
- (7) Amount of Sandbox participation fee; and
- (8) Approved wind down plan.

(c) Sandbox applicants must pay a participation fee, due upon execution of the waiver agreement, based on the number of employees the entity or parent entity, as appropriate, has and the expected revenue of the innovative product as set out below:

<u>Number of Employees</u>	<u>Revenue (or) Risk</u>				
	<u>Less than \$10,000</u>	<u>\$10,000 to less than \$100,000</u>	<u>\$100,000 to less than \$1,000,000</u>	<u>\$1,000,000 to less than \$10,000,000</u>	<u>\$10,000,000 and more</u>
<u>1-10</u>	<u>\$450</u>	<u>\$900</u>	<u>\$1,800</u>	<u>\$3,600</u>	<u>\$7,200</u>
<u>11-100</u>	<u>\$900</u>	<u>\$1,800</u>	<u>\$3,600</u>	<u>\$7,200</u>	<u>\$14,400</u>
<u>101-1000</u>	<u>\$1,800</u>	<u>\$3,600</u>	<u>\$7,200</u>	<u>\$14,400</u>	<u>\$28,800</u>
<u>1,001-50,000</u>	<u>\$3,600</u>	<u>\$7,200</u>	<u>\$14,400</u>	<u>\$28,800</u>	<u>\$57,600</u>
<u>50,001 and more</u>	<u>\$7,200</u>	<u>\$14,400</u>	<u>\$28,800</u>	<u>\$57,600</u>	<u>\$115,200</u>

(d) During the period of Sandbox participation, the Sandbox participant shall submit reports, to the Executive Director, pursuant to the approved monitoring and evaluation plan. The Executive Director, Council or applicable State agency may request interim or additional reports.

(e) The Sandbox participant may request to raise consumer caps set in the waiver agreement. This request shall be submitted in writing to the Executive Director.

(f) A request to raise consumer caps shall include:

- (1) An updated business plan demonstrating financial capability;
- (2) An updated assessment of risks and potential for consumer harm;

(3) A current monitoring and evaluation plan report;

(4) Additional information supporting raised caps; and

(5) The new maximum consumer caps being sought.

(g) The Council or applicable state agency may request additional information relevant to the request.

(h) A request to raise caps shall be forwarded to the applicable State agency for a recommendation on whether to approve or deny the request. Recommendations shall be made within 20 business days after the receipt of the request. If the applicable State agency cannot review the request within 20 business days, the applicable

State agency may submit in writing to the Executive Director the prescribed timeline for completing the review.

(i) Within 20 business days of receiving the recommendation from the applicable State agency, the Council shall make a determination, granting or denying the request to raise caps. If the request is denied, at the direction of the Council, the Executive Director shall provide written reasons for the denial.

(j) A Sandbox participant's request for an extension of the Sandbox waiver for the purpose of obtaining a license or other authorization required by law shall be made to the Executive Director in writing no less than 30 business days prior to expiration of the waiver and shall include: a current monitoring and evaluation report, a statement of the reasons for the extension, and any modifications or changes to the innovative product or service needed for the extension. The Executive Director shall forward the request to the Council and applicable State agency.

Authority G.S. 169-4; 169-6.

**04 NCAC 25 .0108 SANDBOX PARTICIPANT REQUEST FOR EXTENSION**

(a) A Sandbox participant may request an extension, no later than 30 business days before the end of the Sandbox period, of not more than 12 months, for the purpose of obtaining a license or other authorization required by law, to offer the Sandbox product or service in the open market.

(b) The written request for an extension shall be made to the Executive Director and shall include:

- (1) A current monitoring and evaluation report;
- (2) A statement of the reasons for the extension; and
- (3) A statement of any modifications or changes required for the innovative product or services during the extension period.

(c) Upon receipt from the Executive Director of a request for an extension, the applicable State agency or agencies shall provide a determination for the request to the Council in writing. If the agency or agencies do not provide a determination within 10 business days, the Council, in its discretion, may deem the request for an extension acceptable. If the applicable State agency or agencies cannot complete the review of the extension request within 10 business days, the agency or agencies may request additional time for review by submitting a written request to the Executive Director. Upon receipt of a written request for additional time from an agency, the Executive Director shall inform the Council of the request, and the Council may, in its discretion, allow additional time for review.

(d) The Executive Director will notify the Sandbox participant of approval or denial within five business days of the end of the Sandbox period.

(e) The Council and the applicable State agency shall provide for an expedited process for an innovative product or service that is substantially similar to a product or service for which a waiver has previously been granted.

Authority G.S. 169-4; 169-6.

**04 NCAC 25 .0109 DISCIPLINARY GUIDELINES**

(a) Sandbox participants may be subject to disciplinary actions for any of the following:

- (1) Failure to respond to consumer complaints according to the waiver agreement;
- (2) Failure to resolve consumer complaints according to the waiver agreement;
- (3) Failure to submit required reports;
- (4) Security breaches impacting consumer data;
- (5) Potential harm for the consumer or public has been identified;
- (6) Substantial changes in the product or service delivery not approved by the applicable State agency;
- (7) Sandbox participant or designee attempt to conceal a violation or mislead the applicable State agency; or
- (8) Other relevant circumstances, including fraud or any violation of criminal or consumer protection laws.

(b) Applicable State agencies shall notify the Executive Director, in writing when they have identified cause for exercising their authority to limit or change a Sandbox participant's waiver or the innovative product or service operation, including enforcement activities pursuant to G.S. 169-4(a)(4) c., d. and 169-7(a). The applicable State agencies must provide this notice prior to exercising their authority. The Executive Director or designee shall deliver this finding to the Chair or Co-Chair of the Council within five business days of receipt.

(c) Within 15 business days of notifying the Council to exercise their authority, the applicable State agency shall provide a written statement of disciplinary actions to the Executive Director specifying the reasons for imposing limitations or changes to the waiver or innovative product or service, and what actions are to be imposed, along with the timeline for the Sandbox participant to implement the actions. The Executive Director or designee shall deliver this finding to the Chair or Co-Chair of the Council within five business days of receipt.

(d) The Chair or Co-Chair may call a meeting with the applicable State agency as needed to review the disciplinary actions.

(e) The Executive Director, at the direction of the Chair or Co-Chair, will deliver the statement of disciplinary actions to the Sandbox applicant.

Authority G.S. 169-4; 169-7.

**04 NCAC 25 .0110 EARLY TERMINATION NOTICE AND CLOSE OUT PLAN REPORT**

(a) When a Sandbox participant's business objectives fail before the end of the sandbox testing period, a written notice of early termination shall be provided, as soon as reasonably practicable, pursuant to G.S. 169-7(e), to the applicable State agency and the Executive Director, at least 30 business days prior to the planned termination of the Sandbox product or service and shall include:

- (1) An updated monitoring and evaluation report;
- (2) A description of why the product or service failed;
- (3) A description of the proposed steps the Sandbox participant will need to terminate the

innovative product or service to ensure that consumers have not been harmed;

(4) A copy of the consumer notice of termination of the product or service; and

(5) The proposed date for termination.

(b) The proposed termination steps must be approved by the applicable State agency before the Sandbox participant may notify consumers and begin winding down operations. The applicable State agency and the Sandbox participant will collaborate to determine a termination date that will ensure consumers are informed and rights are protected during this process.

Authority G.S. 169-4; 169-7.

**04 NCAC 25 .0111 CONCLUSION OF SANDBOX PERIOD AND BUSINESS OPERATIONS**

(a) If the Sandbox participant cannot obtain regulatory compliance within 90 days following the expiration of the Sandbox period, the participant shall wind down operations with existing consumers within 90 days after the conclusion of the Sandbox period, as directed by the applicable State agency.

(b) Written notification to consumers, by way of electronic notification email or a letter sent via first class mail, regarding the conclusion of the initial or extended Sandbox period, must be provided by the Sandbox participant, within 30 business days of conclusion and include:

- (1) Date the notice was sent;
- (2) The expiration date of the Sandbox period;
- (3) Summary of outstanding activities, actions, fees for products, or services the consumer utilized;
- (4) Any steps the consumer needs to take to close out their liabilities; and
- (4) The name, title, email, and telephone number of a contact person(s) whom the consumer may contact after the conclusion of the Sandbox period.

(c) A final report shall be submitted to the Executive Director, in writing, in a format approved by the Council, by the Sandbox participant within 90 days after the conclusion of the Sandbox period, and shall include:

- (1) A final monitoring and evaluation report;
- (2) A final report of consumer complaints and actions taken to remediate the complaints during the Sandbox period;
- (3) Financial reports, including a report detailing all money owed by consumers based on agreements made before the conclusion of the Sandbox period;
- (4) A statement outlining all additional steps the Sandbox applicant must take to wind down the innovative product or service;
- (5) A written statement outlining all additional duties owed to consumers arising from the innovative product or service, including the name, contact information and role of any third party, acceptable to the applicable State agency, the Sandbox participant has arranged to fulfill those duties, and copies of contracts or

agreements binding the fulfillment of said duties to consumers; and

(6) A written statement describing any insights into current regulations and their impact on the innovative product or service; and

(7) If the Sandbox participant has ongoing duties after the expiration of the Sandbox period, it shall submit an updated final report once all ongoing duties have been completed. The applicable State agency shall verify that all ongoing duties have been completed. The State agency will confirm and will advise the Council of their satisfaction of all outstanding duties and responsibilities.

(d) The Sandbox participant shall remain liable for any consumer harm resulting from its Sandbox participation or winding down regardless of whether a third party assists in the winding down.

(e) The Executive Director, at the request of the Council, shall issue a closeout letter to the Sandbox participant informing them of the official close out date, that all outstanding duties have been reconciled, and the records retention terms and conditions, as per the waiver agreement.

Authority G.S. 169-4; 169-7.

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

*Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Radiation Protection Commission intends to amend the rules cited as 10A NCAC 15 .0201, .0208, .0211, .0212 and readopt with substantive changes the rules cited as 10A NCAC 15 .0202-.0207, .0209, .0210 and .0213.*

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

**Proposed Effective Date:** May 1, 2025

**Public Hearing:**

**Date:** December 11, 2024

**Time:** 10:00 a.m.

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

**Reason for Proposed Action:** *The rules in 10A NCAC 15 regulate the use of radioactive materials and radiation machines in the State of North Carolina pursuant to G.S. 104E. Rules in Section .0200 of Chapter 15 regulate all registrants who use radiation machines, radiation generating devices (RGDs), and who provide radiological services in the state.*

*Pursuant to G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules, all rules are reviewed at least every 10 years, or they shall expire. As a result of the periodic review of the rules in Chapter 10A NCAC 15, Radiation Protection, 10A NCAC 15 Section .0200 had four rules, .0201, .0208, .0211, and .0212 that were determined to be "Necessary Without Substantive Public*

Interest” and will be amended with this rulemaking action. Nine rules, Rules 10A NCAC 15 .0202 - .0207, .0209, .0210, and .0213 were determined to be “Necessary with Substantive Public Interest” and will be readopted with this rulemaking action.

As mandated by G.S. 150B-19 (4) the agency may not adopt a rule that repeats the content of a law, a rule, or a federal regulation. To comply with this mandate, the federal regulations in 21 CFR 1020.30(d) are proposed for incorporation by reference, including subsequent amendments and editions. The federal regulations are being incorporated by reference into Rule 10A NCAC 15 .0205(f)(2)(A).

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

**Comment period ends:** January 14, 2025

**Procedure for Subjecting a Proposed Rule to Legislative Review:**

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

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

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

**CHAPTER 15 - RADIATION PROTECTION**

**SECTION .0200 - REGISTRATION OF RADIATION MACHINES: FACILITIES AND SERVICES**

**10A NCAC 15 .0201 PURPOSE AND SCOPE**

(a) This Section provides for the registration of radiation machines, machines, radiation generating devices, radiation machine facilities, and persons providing other radiological services.

(b) For purposes of this Section, "facility" means the location at which one or more radiation machines are installed or located within one building, vehicle, or under one roof and are under the same administrative control. A person who acquires, owns, possesses, or receives a radiation machine or radiation generating

device before receiving a notice of registration in accordance with Rule .0209 of this Section is subject to the requirements of this Chapter.

(c) In addition to the requirements of this Section, all registrants are subject to the provisions in ~~of the other sections~~ Sections .0100, .1000, .1100, and .1600 of this Chapter.

~~Special requirements for registration of particle accelerators are provided in Section .0900 of this Chapter and are in addition to the requirements of this Section.~~ Registrants using radiation machines for human and veterinary use are subject to the requirements in Section .0600 of this Chapter.

(e) Service providers using radiation machines for demonstration purposes or that provide mobile leasing services are subject to the requirements of Rule .0205 of this Section. Service providers that provide those services by bringing radiation machines or radiation generating devices from out state are subject to the additional requirements of Rule .0208 of this Section.

(f) Emerging technologies for radiation machines and radiation generating devices that do not meet the equipment requirements of this Chapter are subject to the requirements in Rule .0212 of this Section.

~~In addition to the requirements of this Section, all registrants are subject to the annual fee provisions contained in Section .1100 of this Chapter.~~ Registrants using radiation machines for non-human use at educational facilities, for forensic medicine, or by service providers for demonstration purposes are subject to the requirements of Section .0600 of this Chapter.

(h) Registrants using industrial radiographic machines are subject to the requirements of Section .0500 of this Chapter.

(i) Registrants using ionizing radiation generating devices are subject to the requirements of Section .0800 of this Chapter.

Authority G.S. 104E-7; 104E-9(8); 104E-19(a).

**10A NCAC 15 .0202 EXEMPTIONS**

(a) Electronic equipment that produces radiation incidental to its operation for other purposes is exempt from the registration and notification requirements of this Section provided that the dose equivalent rate average over an area of ~~ten~~ 10 square centimeters does not exceed 0.5 mrem per hour at ~~five~~ 5 centimeters from any accessible surface of the equipment when any external shielding is removed. The production, testing, or factory servicing of such equipment is not exempt.

~~Radiation machines while in transit or storage incident thereto are exempt from the requirements of this Section.~~ The following are exempt from the requirements of this Section:

- (1) all radioactive materials; and
- (2) radiation machines while in transit.

~~Domestic television receivers are exempt from the requirements of this Section.~~ The agency may, upon application, grant individual exemptions or exceptions from the requirements of these Rules if it will not result in a radiation dose that exceeds the limits prescribed in these Rules for the protection of public health, safety, or property.

Authority G.S. 104E-7.

**10A NCAC 15 .0203 APPLICATION:  
REGISTRATION: RADIATION MACHINES:  
FACILITIES APPLICATION FOR REGISTRATION  
PROCESS: GENERAL REQUIREMENTS FOR ALL  
FACILITIES, RADIATION MACHINES, AND SERVICES  
PROVIDED**

~~(a) Each person having an unregistered radiation machine or facility shall:~~

- ~~(1) apply for registration of such facility and each radiation machine within 30 days following initial operation of that facility and each radiation machine. Application for registration shall be completed on agency forms and shall contain all information required by the forms and accompanying instructions. The registration of the first radiation machine at a facility constitutes registration of the facility itself.~~
- ~~(2) designate on the application form an individual who shall be responsible for radiation protection.~~

~~(b) Agency forms described in Subparagraph (a)(1) of this Rule require the following and other information:~~

- ~~(1) name, address and telephone number of the radiation machine facility;~~
- ~~(2) name of the person responsible for radiation protection in the facility;~~
- ~~(3) name, training and experience of the person designated in Subparagraph (a)(2) of this Rule;~~
- ~~(4) the manufacturer, model number, serial number and type of each radiation machine located within the facility;~~
- ~~(5) the date of the application and the signatures of the persons specified in Subparagraphs (b)(2) and (3) of this Rule.~~

(a) A person with an unregistered facility, radiation machine, radiation generating device, or an unregistered service provider, shall apply for registration with the agency. After submitting the required application forms prescribed by the agency in this Rule, registration of the first radiation machine, radiation generating device, or registration of services provided, constitutes registration of the facility or service provider.

(b) All application forms in this Rule shall be completed by meeting the following requirements:

- (1) The individual with administrative control of a radiation machine, radiation generating device, or that is responsible for providing services shall ensure application forms, required by the agency in this Rule, meet the following requirements:
  - (A) are accurate, complete, and contain all the information required by the application forms and accompanying instructions; and
  - (B) submitted to the agency at the e-mail address on the application for registration forms or mailed to the address in Rule .0111 of this Chapter.

(2) Incomplete application forms or application forms submitted without the requested documentation to provide services, will not be processed.

(3) The agency may require additional information at any time after submission of the application to determine if the notice of registration should be issued or denied.

(4) Application forms can be found at <https://radiation.ncdohhs.gov/Xray/applic.htm>.

(c) A Business Application form shall be submitted prior to the operation of a facility or providing services in this state and the following additional requirements shall be met:

(1) The application shall be submitted by any person:

- (A) with one or more radiation machines at a facility; or
- (B) that plans to engage in services listed in Paragraphs (f) and (g) of this Rule.

(2) The application form requires the following:

- (A) indication if the application is for a new facility, a change of ownership, when a facility moves, or to update information by marking the corresponding checkbox;
- (B) the legal business name, facility physical address, phone number, type of business, days and hours of operation;
- (C) the name, title, mailing address, phone, and e-mail address of business manager;
- (D) the name of the individual on-site who is responsible for radiation protection. The training and experience qualifying him or her to perform the job duties and responsibilities in Rule .0211 of this Section, shall be documented on the application;
- (E) the name, title, mailing address, phone, and e-mail address for the invoice contact;
- (F) description of facility use;
- (G) description of service provider equipment;
- (H) dated and signed by the owner or the individual with administrative control; and
- (I) identify equipment forms included with the application form by marking the corresponding checkbox.

(d) Equipment application forms shall be submitted in accordance with Rule .0204(c)(1) through (5) of this Section, for the type of radiation machine or radiation generating device owned by the registrant or potential registrant or the service provided. The following additional requirements shall be met:

(1) The application shall be submitted by any person:

- (A) with one or more unregistered radiation machines or radiation generating devices at a facility; or
- (B) that is engaged in leasing or performing demonstrations using an unregistered radiation machine or radiation generating device.

(2) The application requires the following information:

- (A) registration number;
- (B) equipment location;
- (C) manufacturer, model, serial number, number of tubes, install date, modality, application, type, and use;
- (D) location of equipment not in use;
- (E) installer information; and
- (F) shall be dated and signed by the individual with administrative control.

The individual with administrative control can delegate a responsible person or persons within the organization to sign when amendments are made to this form by notifying the agency in writing.

(e) A Delete X-Ray Equipment form shall be submitted when a facility disposes of a radiation machine or radiation generating device. The agency form requires the following information:

- (1) registration number, facility name, and physical address;
- (2) identify if the application is for a new facility, for a change of ownership, a facility moves, or to update information;
- (3) equipment location; manufacturer, model, serial number;
- (4) identify the reason for deleting the equipment;
- (5) the recipient of the equipment, to the individual or business name, physical and e-mail address, and phone number; and
- (6) dated and signed by the owner or the individual with administrative control of the radiation machine or radiation generating device.

(f) A Company Service application form shall be submitted prior to furnishing or offering to furnish services in Parts (A) through (C) of this Paragraph and the following additional requirements shall be met:

- (1) The application shall be submitted by any person engaged in:
  - (A) direct sales, demonstration, leasing, or transfer of radiation machines or radiation generating devices;
  - (B) providing individual monitoring devices; and
  - (C) radiation survey equipment calibration.
- (2) The application requires the following information:
  - (A) registration number;
  - (B) business name, facility physical address;

(C) identify if the application is for a new service provider, for a change of ownership, if a facility moves, or to update information;

(D) identify each class and modality of services requested to be provided in the state;

(E) submit the requirements listed on the agency form for each class and modality requesting to provide services in the state;

(F) list any class or modality not listed on this form;

(G) description of service provider equipment used for output measurements and surveys; and

(H) signature of the individual with administrative control.

(g) A Company Employee Services application form shall be submitted prior to furnishing or offering to furnish services in Parts (A) through (H) of this Paragraph and the following additional requirements shall be met:

(1) The application shall be submitted by any person engaged in providing the following services:

(A) area radiation surveys for diagnostic radiographic and fluoroscopy facilities;

(B) equipment surveys and shielding designs for radiation generating devices;

(C) general health physics consulting services to perform dose estimates, radiation output measurements, radiation safety program development, and radiation safety program training;

(D) installation or service repair of radiation machines or radiation generating devices;

(E) qualified expert consulting services for CT and mammography radiation machines;

(F) radiation protection expert;

(G) shielding designs for diagnostic radiographic and fluoroscopy facilities; and

(H) therapeutic facility and shielding design, area radiation survey, or calibration.

(2) The application requires the following information:

(A) name of the employee to be registered;

(B) start date if the employee is being added and the stop date if the employee is being removed from the registration;

(C) business registration number, name, physical address, and contact e-mail;

- (D) identify class and modality of services to be provided;
- (E) training and experience to submit for each class of services to be provided;
- (F) the date and signature of the employee applying for registration;
- (G) the date and signature of the individual with administrative control; and
- (H) any additional information the agency determines to be necessary for evaluation of the application for registration.

(h) The following general requirements apply to all facilities and services provided in North Carolina.

- (1) The registrant shall notify the agency when any change will render the information in an application for registration or notice of registration no longer accurate.
- (2) A registrant that terminates all activities of radiation machines, radiation generating devices, or providing services shall meet the following requirements within 30 days:
  - (A) request termination of the notice of registration in writing by the owner or the individual with administrative control;
  - (B) submit to the agency, a delete a radiation machine or radiation generation device form, in accordance with Paragraph (e) of this Rule; and
  - (C) pay any outstanding fees pursuant to Section .1100 of this Chapter.
- (3) A registrant shall not transfer the registration as part of a change of ownership.
- (4) A person who takes possession of a radiation machine or radiation generating device because of bankruptcy, foreclosure, or state auction may possess the machine or device when the following additional requirements are met:
  - (A) The machine or device shall be posted stating that the new owner is responsible for registering with the agency if used in this state.
  - (B) If the machine or device is energized, it shall only be energized by someone registered in accordance with this Section and only to demonstrate that it is operable for sale or transfer.
- (5) No person shall in any advertisement refer to the fact that his or her facility is registered with the agency pursuant to the provisions of Rule .0204 or .0205 of this Section, and no person shall state or imply that under such registration any activities have been approved by the agency.

**10A NCAC 15 .0204 PROHIBITED SERVICES AND INSTALLATION FACILITY RESPONSIBILITIES**

~~(a) Except as provided in Paragraph (b) of this Rule or otherwise authorized in writing by the agency, each person registered pursuant to Rule .0203 of this Section shall prohibit any person from furnishing equipment services described in Rule .0205(d) of this Section to his facility until such person provides evidence that he is currently registered with the agency as a provider of such services in accordance with Rule .0205 of this Section.~~

~~(b) No person registered pursuant to the provisions of Rule .0203 of this Section shall perform any services listed in Rule .0205(d) of this Section in his facility unless such person satisfies the applicable requirements in Rules .0205, .0213, and .0214 of this Section and has received written authorization from the agency to perform such services.~~

(a) All forms in this Rule shall be completed in accordance with Rule .0203 of this Section and any accompanying instructions.

(b) Shielding design requirements:

- (1) Prior to construction for all new installations of radiation machines for human or veterinary use and prior to structural modification of existing installations, an applicant, shall have the floor plans, shielding specifications, and equipment arrangement reviewed by a registered service provider.
- (2) The registrant shall submit the shielding design and the agency shielding design review form to the agency for review. The agency form shall include the following information:
  - (A) facility and service provider name, registration number, e-mail and physical address, and phone number;
  - (B) equipment location, manufacturer, status, kVp, mA, mA min per week, facility type; and
  - (C) proposed date of installation.
- (3) A radiation machine shall not be installed until the applicant has received acknowledgment of the shielding design from the agency.
- (4) A radiation machine shall not be replaced until the existing shielding design, acknowledged previously by the agency, is reviewed by a service provider. The registrant shall have a service provider review the acknowledged shielding design for the proposed radiation machine replacement to assess if the existing shielding meets the requirements of this Chapter. The documentation provided to the registrant from the service provider shall be submitted to the agency and maintained for agency review during inspection.
- (5) The acknowledgment of such plans shall not preclude the requirement for additional modifications should a subsequent analysis of operating conditions indicate the possibility of a dose that exceeds the limits in Rule .1601 of this Chapter.
- (6) Shielding designs are not required to be submitted for the following radiation machines:

Authority G.S. 104E-7; 104E-12; 104E-20.

- (A) bone densitometry;
- (B) dental handheld;
- (C) mammography; or
- (D) mobile or portable radiographic machines used in more than two locations.

(c) Facility registration

- (1) Mobile radiation machines that are fixed in a vehicle or trailer shall meet the following requirements prior to use:
  - (A) submit a shielding design in accordance with Paragraph (a) of this Rule, except out-of-state fixed radiation machines used in a vehicle or trailer shall submit a shielding design with the Equipment Form application in Part (B) of this Subparagraph and maintain documentation for agency review during inspection;
  - (B) submit an Equipment Form application in accordance with Rule .0203(d) of this Section. Radiation machines leased or on loan from a registered service provider shall register the radiation machine if used for more than 30 days;
  - (C) submit a copy of the operating and safety procedures to protect patients, operators, and the public from radiation that exceeds doses in Rule .1601 of this Chapter;
  - (D) receive a notice of registration from the agency;
  - (E) the individual with administrative control shall ensure that radiation machines are operated in accordance with Part (c)(4)(B) or (c)(5)(B) of this Rule; and
  - (F) in addition to the requirements of this Rule, out of state mobile radiation machines shall have a notice submitted to the agency in accordance with Rule .0208 of this Section.
- (2) Radiation machines for human or veterinary use shall meet the following additional requirements:
  - (A) have a shielding design acknowledged by the agency in accordance with Paragraph (b) of this Rule; and
  - (B) submit an Equipment Form application in accordance with Rule .0203 (d) of this Section within 30 days of use.
- (3) Radiation machines for clinical studies, research, and screenings shall meet the following additional requirements prior to use:
  - (A) submit a request in accordance with Rule .0213 of this Section; and

- (B) receive a notice of acknowledgment and conditions for use from the agency to conduct the study.
- (4) Radiation generating devices in Section .0800 of this Chapter shall meet the following additional requirements prior to use:
  - (A) submit an Equipment Form application in accordance with Rule .0203(d) of this Section; and
  - (B) the individual with administrative control shall ensure operators are qualified in accordance with Rule .0800 of this Chapter to use the radiation generating device indicated on the equipment application.
- (5) Industrial radiography radiation machines in Section .0500 of this Chapter shall meet the following additional requirements prior to use:
  - (A) submit an Equipment Form application in accordance with Rule .0203(d) of this Section; and
  - (B) the individual with administrative control shall ensure operators are qualified in accordance with Section .0500 of this Chapter to use the machines indicated on the equipment application.

(d) Persons registered pursuant to Paragraph (c) of this Rule shall notify the agency, using the Delete Radiation Machine or Radiation Generating Devices form, prior to disposition or the transfer of a registered radiation machine or radiation generating device to another person required to be registered pursuant to Paragraph (c) of this Rule.

(e) Persons registered pursuant to Paragraph(c) of this Rule shall prohibit any person from furnishing services described in Rule .0205(d) of this Section, at his or her facility, until such person provides evidence they are currently registered with the agency as a provider of such services in accordance with Rule .0205 of this Section.

(f) No person registered pursuant to the provisions of Paragraph (c) of this Rule shall perform any services listed in Rule .0205(d) of this Section in his or her facility unless such person meets the requirements in Rules .0205 and .0206 of this Section and has received written authorization from the agency to perform such services.

*Authority G.S. 104E-7; 104E-9(a)(3); 104E-12.*

**10A NCAC 15 .0205 APPLICATION FOR REGISTRATION OF SERVICES SERVICE PROVIDER RESPONSIBILITIES**

(a) Each person who is engaged in the business of ~~installing or offering to install radiation machines and machine components or is engaged in the business of~~ furnishing or offering to furnish any ~~equipment~~ services listed in Paragraph ~~(d)~~(e) of this Rule in this state, to any agency licensee or registrant, state or any agency registrant shall apply for registration of such services with the agency prior to furnishing or offering to furnish any of these services.

(b) ~~Application~~ Applications for registration shall be completed ~~on appropriate form(s) provided by the agency in accordance with Rule .0203 of this Section~~ and contain all information required by the agency as indicated on the form and accompanying instructions. ~~This information shall include:~~

- (1) ~~the name, address and telephone number of:~~
  - (A) ~~the individual or the company to be registered;~~
  - (B) ~~the owner(s) of the company;~~
- (2) ~~the description of the services to be provided;~~
- (3) ~~the name, training and experience of each person who provides services specified in Paragraph (d) of this Rule;~~
- (4) ~~the date of the application and the signature of the person responsible for the company; and~~
- (5) ~~any additional information the agency determines to be necessary for evaluation of the application for registration.~~

(c) Each person applying for registration ~~under~~ pursuant to Paragraph (a) of this Rule shall certify that he or she has read and understands the requirements of the rules in this Chapter. Chapter by signing the company or employee services application.

(d) ~~For the purpose of this Section, equipment services include:~~

- (1) ~~direct sale and transfer of radiation machines and machine components to end users;~~
- (2) ~~installation or servicing of radiation machines and associated radiation machine components;~~
- (3) ~~diagnostic radiographic facility and shielding design;~~
- (4) ~~diagnostic fluoroscopic facility and shielding design;~~
- (5) ~~diagnostic area radiation survey, e.g., shielding evaluation;~~
- (6) ~~radiation instrument calibration;~~
- (7) ~~therapeutic facility and shielding design, area radiation survey or calibration;~~
- (8) ~~personnel dosimetry services; and~~
- (9) ~~general health physics consulting, e.g., independent diagnostic radiation output measurements, dose analysis, design of safety programs and radiation safety training programs, non healing arts facility and shielding design and area radiation surveys.~~

(d) Applicants for registration of services are subject to the requirements of Rules .0206 and .0207 of this Section.

(e) Applicants for registration of services are subject to the applicable requirements of Rules .0213 and .0214 of this Section.

(e) For purposes of this Section, services include:

- (1) area radiation surveys and shielding evaluations for diagnostic radiographic and fluoroscopy facilities;
- (2) direct sales, transfer, leasing, lending, demonstration, or manufacturer training for the use of radiation machines or radiation generating devices;
- (3) general health and medical physics consulting to include the following services:

(A) equipment surveys and shielding designs for radiation generating devices;

(B) dose estimates;

(C) radiation output measurements;

(D) radiation safety program development; and

(E) radiation safety program training, installation or service repair to include the following:

(A) radiation machines and machine components, including the making of diagnostic radiation output measurements; or

(B) radiation generating devices to include equipment surveys.

(5) manufacturer training for the use of radiation machines or radiation generating devices;

(6) providing individual monitoring devices;

(7) a radiation protection expert;

(A) developing radiation safety programs;

(B) performing output measurements; and

(C) providing radiation safety program training.

(8) radiation survey equipment calibrations;

(9) shielding designs for diagnostic radiographic and fluoroscopy facilities; and

(10) therapeutic facility and shielding design, area radiation survey, or calibration.

(f) Persons registered pursuant to Subparagraph (e)(7) of this Rule shall have all surveys, reports, or other work performed, reviewed and signed by a general health or medical physicist registered in accordance with this Rule.

(g) Report of installation

(1) Persons, registered pursuant to Paragraph (a) of this Rule, who sell, lease, transfer, lend, dispose of, or install radiation machines in this state shall, within 15 days after each calendar quarter, notify the agency at XrayNORS@dhhs.nc.gov or the address in accordance with Rule .0111 of this Chapter of the following:

(A) whether any radiation machines were installed, transferred, or disposed of during the calendar quarter;

(B) the name and address of persons who received radiation machines during the calendar quarter;

(C) the manufacturer, model, and serial number of each radiation machine transferred or disposed of; and

(D) the transfer date of each radiation machine.

(2) The information specified in Parts (g)(1)(A) through (D) of this Rule may be omitted from the quarterly reports when the following requirements are met:

(A) for any diagnostic x-ray system that contains certified components when a

copy of the assembler's report prepared in compliance with 21 CFR 1020.30(d) is submitted to the agency;

- or
- (B) for radiation machines for non-human use and radiation generating devices, when a report of sale and installation pursuant to Paragraph (h) of this Rule is submitted to the agency.

(h) A report of sale and installation of radiation generating devices shall include the following information:

- (1) facility registration number, street address, city, state, and telephone number;
- (2) service provider registration number, company name, street address, city, state, and telephone number;
- (3) identify if the radiation machine or the radiation generating device was sold or installed by checking the corresponding checkbox;
- (4) identify the system type by checking the corresponding checkbox;
- (5) room location, date of sale or installation;
- (6) manufacturer, serial number, and control model number;
- (7) the seller's signature or signature of the individual responsible for installation; and
- (8) the date signed.

(i) No person registered pursuant to Paragraph (a) of this Rule for x-ray sales or installations shall make, sell, lease, transfer, lend, assemble, or install radiation machines, radiation machine components, or radiation generating devices unless such machines and devices when placed in operation shall meet the requirements of these Rules.

(j) No person registered pursuant to Rule .0205 of this Section shall install radiation machines that are subject to provisions of Section .0600 of this Chapter unless the registrant first determines that the agency has issued a written acknowledgment of a shielding design in accordance with Rule .0204(b) of this Section.

(k) Tests performed at the time of installation for fluoroscopy machine output measurement and radiation generating devices equipment surveys, demonstrating the requirements of these Rules are met, shall be provided to the registrant at the time of installation.

(l) Records of any routine maintenance, repair, alterations, or reassembly of radiation machines or radiation generating devices shall:

- (1) include the date that the service was performed and a legible signature of the person performing the service; and
- (2) be provided to the registrant when the service is provided.

*Authority G.S. 104E-7; 104E-12; 104E-20.*

**10A NCAC 15 .0206 REPORTS OF INSTALLATION TRAINING AND EDUCATIONAL REQUIREMENTS TO PROVIDE SERVICES**

(a) Persons, registered pursuant to Rule .0205 of this Section, who sell, lease, transfer, lend, dispose of, assemble or install radiation

machines in this state shall, within 30 days after each calendar quarter, notify the agency at the address in Rule .0111 of this Chapter, of:

- (1) whether any radiation machines were installed, transferred, or disposed of during the calendar quarter;
- (2) the name and address of persons who received radiation machines during the calendar quarter;
- (3) the manufacturer, model and serial number of each radiation machine transferred or disposed of;
- (4) the date of transfer of each radiation machine.

(b) The information specified in Subparagraphs (a)(2), (3) and (4) of this Rule may be omitted from the quarterly reports required in (a) of this Rule for any diagnostic x ray system which contains certified components when a copy of the assembler's report prepared in compliance with 21 CFR 1020.30(d) is submitted to the agency.

(a) A person registered to provide services pursuant to Rule .0205 of this Section shall be qualified by reason of education, training, and experience to provide the services for which registration is requested. The following are the minimum qualifications for specific types of services:

- (1) Class I - direct sales, transfer, leasing, lending, demonstration, or manufacturer training for the use of radiation machines or radiation generating devices: The applicant shall certify all persons providing services are knowledgeable, familiar, and comply with the rules which govern the possession, installation, and use of radiation machines in North Carolina.
- (2) Class II - installation or service to verify performance associated with the installation or service:
  - (A) manufacturer's equipment school for service, maintenance, and installation for the type of radiation machine used for dental hand-held, intraoral, and extra-oral, medical diagnostic, or medical fluoroscopic or equivalent training;
  - (B) training in basic principles of radiation protection; and
  - (C) three months of experience in the installation and service of radiation machines and machine components services are requested.
- (3) Class III -shielding design for diagnostic radiographic facilities:
  - (A) training in basic principles of radiation protection;
  - (B) training in shielding design for each modality registering to provide services; and
  - (C) one year of experience in diagnostic radiographic facility and shielding for the specific type of machine application.

- (4) Class IV - shielding design for diagnostic fluoroscopic facilities:
    - (A) training in basic principles of radiation protection;
    - (B) training in shielding design for each modality registering to provide services; and
    - (C) one year of experience in diagnostic fluoroscopic facility and shielding for the specific type of machine application.
  - (5) Class V - area radiation surveys and shielding evaluation for diagnostic radiographic and fluoroscopy facilities:
    - (A) training in basic principles of radiation protection;
    - (B) training in shielding evaluation for each modality registering to provide services; and
    - (C) one year of experience performing area radiation surveys for the specific type of machine application.
  - (6) Class VI - radiation instrument calibration: The applicant must possess a current radioactive materials license or registration authorizing radiation instrument calibration.
  - (7) Class VII - therapeutic facility and shielding design, area radiation survey, or calibration:
    - (A) certification by the American Board of Radiology in therapeutic radiological physics, radiological physics, roentgen-ray and gamma ray physics, or x-ray and radium physics;
    - (B) certification by the American Board of Medical Physics; or
    - (C) have a master's degree in physics, biophysics, radiological physics, or health physics, one year of full-time training in therapeutic radiological physics, one year of full-time experience in a therapeutic facility including personal calibration and spot-check of at least one machine, submit a description of the procedures that will be utilized in performing therapeutic calibrations including a list of all guides and references to be employed, submit a copy of all forms, reports, and documents that will be supplied to customers; and submit one sample of each specific type of therapy modality service provided.
  - (8) Class VIII – providing individual monitoring dosimetry: The applicant must hold current personnel dosimetry accreditation from the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute of Standards and Technology or use NVLAP-accredited dosimetry.
  - (9) Class IX - general health or medical physics consulting shall be performed by a person meeting one of the following requirements:
    - (A) certified by the American Board of Health Physics in health physics in the appropriate field or specialties for services provided;
    - (B) certified by the American Board of Medical Physics;
    - (C) certified by the American Board of Radiology in therapeutic radiological physics, radiological physics, roentgen-ray and gamma ray physics, x-ray and radium physics; or
    - (D) hold a master's or doctorate in physics, medical physics, other physical science, engineering, or applied mathematics, from an accredited college or university and have 40 hours of practical training or supervised experience in x-ray physics.
  - (10) Class X - radiation protection expert:
    - (A) having education and experience equivalent to a graduate or a master's degree from an accredited college or university in radiation protection, radiation safety, biology, chemistry, engineering, physics, or a closely related physical or biological science; and
    - (B) acquired competence in radiation protection, by receiving special studies, training, and practical experience. Such special studies and training must have been sufficient in the above sciences to provide the understanding, ability, and competency.
- (b) Any person registered to provide Class IX services prior to the effective date of this rule and holding a baccalaureate degree in physical science of physics, chemistry, or radiologic science, engineering or related field, and having two years of progressive experience in medical or health physics or two years of graduate training in medical or health physics is exempt from the requirements in Parts (a)(9)(A) through (D) of this Rule, provided he or she is in good standing with the agency.
- (c) The agency shall initiate action to terminate the registration of any person who fails to meet the requirements of this Rule.

Authority G.S. 104E-7; ~~104E-12~~; 104E-13.

**10A NCAC 15 .0207 ISSUANCE OF NOTICE OF REGISTRATION ADDITIONAL REQUIREMENTS TO PROVIDE SERVICES**

- (a) The agency shall issue a notice of registration upon a determination that an applicant:
  - (1) is qualified by reason of education, training or experience in the use and hazards of radiation

~~sources described in the application for registration;~~

- ~~(2) has facilities and equipment which meet the requirements in these Rules;~~
- ~~(3) has established a radiation protection program, appropriate to the registered activities, which assures compliance with radiation protection requirements in these Rules; and~~
- ~~(4) meets the applicable requirements in this Chapter.~~

~~(b) The agency may, by registration condition or order, when not in conflict with any law, waive any requirement in these Rules or impose requirements with respect to the registrant's receipt, possession, use and transfer of radiation machines as the agency deems appropriate or necessary for compliance with the rules in this Chapter. Such additional requirements are subject to appeal under 15A NCAC 1B .0200.~~

~~(c) The agency may refuse to grant a registration required in Rules .0203 and .0205 of this Section to any applicant who does not possess adequate qualifications or equipment or satisfy the applicable requirements in this Chapter; provided that, before any order is entered denying an application for registration, the agency shall give notice and grant a hearing as provided in G.S. 150B.~~

~~(a) A person applying for registration of diagnostic area radiation survey, diagnostic radiation output measurements, or therapeutic calibration services pursuant to Rule .0205 of this Section shall meet the following additional requirements:~~

- ~~(1) The applicant shall have radiation survey and radiation measurement equipment appropriate to the services requested for authorization.~~
- ~~(2) The applicant shall ensure that the equipment in Subparagraph (a)(1) of this Rule is calibrated at least every 12 months by a person registered to provide such services pursuant to Rule .0205 of this Section, except as provided in Subparagraph (a)(3) of this Rule. The agency may approve less frequent calibration of equipment used, provided the applicant satisfies to the agency that the proposed frequency and procedures will provide equivalent or better assurance of proper calibration.~~
- ~~(3) The applicant may perform the equipment calibrations required in Subparagraph (a)(2) of this Rule provided that:
 
  - ~~(A) such calibrations are current and traceable to the National Institute of Standards and Technology;~~
  - ~~(B) calibration procedures are approved by the agency;~~
  - ~~(C) radiation sources used for such calibration are licensed or registered as required by the rules in this Chapter; and~~
  - ~~(D) the equipment is labeled to indicate the date of calibration and records of the calibration are maintained.~~~~

~~(4) The applicant shall submit:~~

- ~~(A) a description of the procedures that will be used in performing area radiation surveys including a list of all guides and references to the employed;~~
- ~~(B) a copy of all forms, reports, and documents that will be supplied to customers;~~
- ~~(C) samples of three different types of surveys;~~
- ~~(D) samples of three reports of diagnostic radiation output measurements; and~~
- ~~(E) samples of three therapeutic kV imaging calibration reports.~~

~~(b) A person applying for registration of diagnostic radiographic, fluoroscopic, and therapeutic facility and shielding design services shall meet the following additional requirements:~~

- ~~(1) The applicant shall submit examples of the facility and shielding design which will be provided to registrants.~~
- ~~(2) The applicant shall submit examples of the calculations, which will be performed as part of the facility and shielding design, along with any guides, occupancy factor rationales, and workload estimation rationales, that will be used.~~
- ~~(3) The applicant shall ensure that the facility and shielding design services provided to registrants of the agency meet the requirements in this Chapter.~~

*Authority G.S. 104E-7.*

**10A NCAC 15 .0208 PRIOR NOTIFICATION OF TRANSFER OUT-OF-STATE RADIATION MACHINES AND RADIATION GENERATION DEVICES**

~~(a) Persons registered pursuant to Rule .0203 of this Section shall notify the agency in writing prior to transfer of a registered radiation machine to another person required to be registered pursuant to Rule .0203(a) of this Section. This Rule does not prohibit transfer without prior notification to sales and service companies registered pursuant to Rule .0205 of this Section.~~

~~(b) The notification shall include:~~

- ~~(1) the name and address of the transferee, and~~
- ~~(2) the manufacturer, model number and serial number of the radiation machine to be transferred.~~

~~(a) No person shall bring any radiation machine or radiation generating device into the state, for any temporary use, unless such person has given a written notice to the agency at least five working days prior to use in the state. The notice shall include the type of radiation machine; the nature, duration, and scope of use; and the exact location(s) where the radiation machine or radiation generating device will be used. If, for a specific case, the five working day period would impose an undue hardship on the person, he or she may, upon application to the agency, obtain permission to proceed sooner.~~

(b) A person bringing a radiation machine or radiation generating device into this state, for any temporary use, shall meet the following requirements:

- (1) complete the registration process in accordance with Rules .0203, .0204, and .0205 of this Section prior to beginning operations in this state;
- (2) supply the agency with other information the agency may reasonably request; and
- (3) comply with the Rules of this Chapter.

(c) The out of state registrant shall maintain with the radiation machine or radiation generating device, when located and used in this state, the following:

- (1) the current notice of registration from this agency;
- (2) a copy of the notice submitted to the agency in accordance with Paragraph (a) of the Rule;
- (3) the shielding design, if required, in accordance with Rule .0204(c)(1)(A) of this Section; and
- (4) a copy of the out of state registrant's operating and safety procedure.

(d) An inspection may be conducted by an authorized representative of the agency on any radiation machine or radiation generating device used in this state.

*Authority G.S. 104E-7.*

**10A NCAC 15 .0209 REPORT OF CHANGES  
ISSUANCE OF NOTICE OF REGISTRATION**

Any registrant shall notify the agency in writing when any change will render the information contained in the application for registration or notice of registration no longer accurate.

(a) The agency shall issue a notice of registration upon a determination that an applicant:

- (1) is qualified by reason of education, training, or experience in the use and hazards of radiation sources described in the application for registration;
- (2) has facilities and equipment which meet the requirements in these Rules;
- (3) has established a radiation protection program, appropriate to the registered activities, which assures compliance with radiation protection requirements in these Rules; and
- (4) meets the applicable requirements in this Chapter.

(b) The agency may, by registration condition or order, when not in conflict with any law, waive any requirement in these Rules or impose requirements with respect to the registrant's receipt, possession, use, and transfer of radiation machines or radiation generating devices as the agency deems appropriate or necessary for compliance with the rules in this Chapter.

(c) The agency may refuse to grant a registration required in Rules .0203, .0204, and .0205 of this Section to any applicant who does not possess adequate qualifications or equipment or satisfy the applicable requirements in this Chapter; provided that, before any order is entered denying an application for registration, the agency shall give notice and grant a hearing as provided in G.S. 150B.

*Authority G.S. 104E-7, 104E-12.*

**10A NCAC 15 .0210 OTHER PROHIBITED  
ACTIVITIES MODIFICATIONS: REVOCATION;  
TERMINATION OF REGISTRATIONS**

(a) No person registered pursuant to Rule .0205 of this Section for x ray sales or installations shall make, sell, lease, transfer, lend, assemble, or install radiation machines or equipment used in connection with such machines unless such machines and equipment when placed in operation shall meet the applicable requirements of these Rules.

(b) No person, in any advertisement, shall refer to the fact that he or his facility is registered with the agency pursuant to the provisions of Rule .0203 or .0205 of this Section and no person shall state or imply that any activity under such registration has been approved by the agency.

(c) No person registered pursuant to Rule .0205 of this Section shall install radiation machines which are subject to provisions of Section .0600 of this Chapter unless the registrant first determines that the agency has issued written acknowledgement of receipt of any facility and shielding design required in Rule .0603 of this Chapter.

(a) The terms and conditions of all registrations are subject to amendment, revision or modification and all registrations are subject to suspension or revocation by reason of:

- (1) rules adopted pursuant to provisions of the Act; or
- (2) orders issued by the agency pursuant to provisions of the Act and rules adopted pursuant to provisions of the Act.

(b) Any registration may be revoked, suspended, or modified in whole or in part:

- (1) for any material false statement in the application or in any statement of fact required by provisions of this Section;
- (2) because of conditions that would warrant the agency to refuse to grant a registration on the original application revealed by:
  - (A) the application;
  - (B) any statement of fact;
  - (C) any report, record, inspection, or other means; or
- (3) for violations of, or failure to observe any of the terms and conditions of the Act, the registration, the rules of this Chapter, or the order of the agency.

(c) Except in cases of willfulness or those in which the public health, interest, or safety requires otherwise, prior to the institution of proceedings for modification, revocation, or suspension of a registrant, the agency shall:

- (1) call to the attention of the registrant in writing the facts or conduct which may warrant these actions, and
- (2) provide an opportunity for the registrant to demonstrate or achieve compliance with all lawful requirements.

(d) Before any order is entered suspending, revoking, or modifying a registration, the agency shall give notice and grant a

hearing as provided in Chapter 150B of the North Carolina General Statutes.

(e) The agency may terminate a registration upon written request submitted by the registrant to the agency.

Authority G.S. 104E-7; ~~104E-20~~; 104E-13.

**10A NCAC 15 .0211 OUT-OF-STATE RADIATION MACHINES INDIVIDUAL RESPONSIBLE FOR RADIATION PROTECTION REQUIREMENTS AND RESPONSIBILITIES**

(a) ~~No person shall bring any radiation machine into the state, for any temporary use, unless such person has given a written notice to the agency at least five working days before the machine is to be used in the state. The notice shall include the type of radiation machine; the nature, duration, and scope of use; and the exact location(s) where the radiation machine is to be used. If, for a specific case, the five working day period would impose an undue hardship on the person, he may, upon application to the agency, obtain permission to proceed sooner.~~

(b) ~~The person in Paragraph (a) of this Rule shall:~~

- (1) ~~comply with all applicable rules in this Chapter, including registration pursuant to Rule .0203 of this Section; and~~
- (2) ~~supply the agency with such other information as the agency may reasonably request.~~

(a) A person applying for registration shall designate an individual responsible for radiation protection on the Business Application form pursuant to Rule .0203(c) of this Section. The individual shall be qualified by reason of education, training, and experience commensurate with the registration requested. The following are the minimum qualifications that must be met to carry out the job duties:

- (1) training in basic radiation protection principles;
- (2) completed educational courses relating to ionizing radiation;
- (3) know potential radiation hazards and emergency precautions; and
- (3) training and experience in and knowing the proper use of the type of equipment used.

(b) The individual shall be responsible for the following:

- (1) Establishing and overseeing operating and safety procedures:
  - (A) that maintain radiation exposures as low as reasonably achievable (ALARA); and
  - (B) to review the procedures annually, or when changes occur to ensure the procedures are current.
- (2) Ensuring individual monitoring devices are used in accordance with these Rules by occupationally exposed personnel and records of monitoring results shall be:
  - (A) reviewed;
  - (B) maintained; and
  - (C) notifications are made in accordance with Rule .1601 of this Chapter.
- (3) Ensuring that personnel are complying with:
  - (A) this Chapter;

- (B) the conditions of the notice of registration; and
- (C) the operating and safety procedures of the registrant.

(4) Knowing:

- (A) the management policies and administrative procedures of the registrant; and
- (B) keeping management informed of the registrant's radiation protection program.

(5) Investigating and reporting to the agency:

- (A) known or suspected radiation exposure to an individual; or
- (B) radiation levels that exceed the limits in this Chapter.

(6) Assuming control and having the authority to carry out corrective actions including stopping operations in emergencies or unsafe conditions.

Authority G.S. 104E-7.

**10A NCAC 15 .0212 MODIFICATIONS: REVOCATION: TERMINATION OF REGISTRANTS EMERGING TECHNOLOGIES THAT DO NOT MEET EQUIPMENT REQUIREMENTS**

(a) ~~The terms and conditions of all registrations are subject to amendment, revision or modification and all registrations are subject to suspension or revocation by reason of:~~

- (1) ~~rules adopted pursuant to provisions of the Act; or~~
- (2) ~~orders issued by the agency pursuant to provisions of the Act and rules adopted pursuant to provisions of the Act.~~

(b) ~~Any registration may be revoked, suspended or modified in whole or in part:~~

- (1) ~~for any material false statement in the application or in any statement of fact required by provisions of this Section;~~
- (2) ~~because of conditions which would warrant the agency to refuse to grant a registration on original application revealed by:~~
  - (A) ~~the application;~~
  - (B) ~~any statement of fact;~~
  - (C) ~~any report, record, inspection or other means; or~~
- (3) ~~for violations of, or failure to observe any of the terms and conditions of the Act, the registration, the rules of this Chapter, or order of the agency.~~

(e) ~~Except in cases of willfulness or those in which the public health, interest or safety requires otherwise, prior to the institution of proceedings for modification, revocation or suspension of a registrant, the agency shall:~~

- (1) ~~call to the attention of the registrant in writing the facts or conduct which may warrant these actions, and~~

(2) ~~provide an opportunity for the registrant to demonstrate or achieve compliance with all lawful requirements.~~

(d) ~~Before any order is entered suspending, revoking or modifying a registration, the agency shall give notice and grant a hearing as provided in Chapter 150B of the North Carolina General Statutes.~~

(e) ~~The agency may terminate a registration upon written request submitted by the registrant to the agency.~~

(a) Radiation machines or radiation generating devices that are not able to meet the equipment requirements of these Rules shall not be sold, installed, or used prior to the agency completing a review of information regarding the radiation machine and determining if the use of the radiation machine is allowed. The user or manufacturer of the radiation machine shall submit the following to the agency for review:

- (1) an equipment application form in accordance with Rule .0204(c) of this Section;
- (2) the manufacturer manual;
- (3) description of intended use;
- (4) operator training provided to the end user;
- (5) an independent equipment survey to include the following:
  - (A) all equipment settings available to the operator;
  - (B) output at the highest setting;
  - (C) leakage radiation around the radiation machine;
- (6) an area survey to include the following:
  - (A) radiation levels in adjacent areas, the operator location, and annual exposure to operator;
  - (B) the survey instrument used; and
  - (C) the name and legible signature of the person who performed the survey; and
- (7) the hazard level associated with the use of the RGD.

(b) After receiving the information in Paragraph (a) of this Rule, the agency will respond to the applicant in writing within 90 days. Upon review, the agency may require additional information to determine if the radiation machine is allowed for use.

*Authority G.S. 104E-7; 104E-13; 104E-20.*

**10A NCAC 15 .0213 ADDITIONAL REQUIREMENTS: REGISTERED SERVICES CLINICAL STUDIES, RESEARCH, AND SCREENING PROGRAM REQUIREMENTS**

~~(a) An applicant for registration of diagnostic area radiation survey, diagnostic radiation output measurements or therapeutic calibration services pursuant to Rule .0205 of this Section shall meet the following additional requirements:~~

- (1) ~~The applicant shall have adequate radiation survey and radiation measurement equipment appropriate to the services requested for authorization.~~
- (2) ~~The applicant shall ensure that the equipment in Subparagraph (a)(1) of this Rule is calibrated at least every 12 months by persons registered to~~

~~provide such services pursuant to Rule .0205 of this Section, except as provided in Subparagraph (a)(3) of this Rule. The agency may approve less frequent calibration of equipment used for therapy calibration, provided the applicant satisfies the agency that the proposed frequency and procedures will provide equivalent or better assurance of proper calibration.~~

(3) ~~The applicant may perform the equipment calibrations required in Subparagraph (a)(2) of this Rule provided that:~~

- (A) ~~such calibrations are currently traceable to the National Institute of Standards and Technology;~~
- (B) ~~the calibration procedures are approved by the agency;~~
- (C) ~~the radiation sources used for such calibration are licensed or registered as required by the rules in this Chapter; and~~
- (D) ~~the equipment is labeled to indicate the date of calibration and records of the calibration are maintained.~~

(4) ~~The applicant shall submit:~~

- (A) ~~a description of the procedures that will be used in performing area radiation surveys including a list of all guides and references to the employed;~~
- (B) ~~a copy of all forms, reports and documents that will be supplied to customers;~~
- (C) ~~samples of three different types of surveys;~~
- (D) ~~samples of three reports of diagnostic radiation output measurements; and~~
- (E) ~~samples of three therapeutic calibration reports.~~

~~(b) An applicant for registration of services pursuant to Rule .0205 of this Section who proposes to provide diagnostic radiographic, fluoroscopic and therapeutic facility and shielding design services shall meet the following additional requirements:~~

- (1) ~~The applicant shall submit examples of the facility and shielding design which will be provided to clients.~~
- (2) ~~The applicant shall submit examples of the calculations which will be performed as part of the facility and shielding design along with any guides, occupancy factor rationales, and workload estimation rationales which will be used.~~
- (3) ~~The applicant shall ensure that the facility and shielding design services provided to licensees and registrants of the agency satisfy the applicable requirements in this Chapter.~~

(a) Persons proposing to conduct clinical studies, research, or screenings on humans may not initiate a program without receiving acknowledgment from the agency.

(b) A person shall provide to the agency a request to waive the requirements of Rule .0603(a)(1)(G) of this Chapter and receive an acknowledgment to initiate the program from the agency prior to conducting a clinical study, research, or screenings. Clinical studies and research programs that have received approval through an Institutional Review Board (IRB) are not exempt from meeting the requirements of this Section.

(c) A person requesting a waiver shall submit the following for agency review:

- (1) Programs with an IRB approval:
  - (A) the study protocol submitted to the IRB;
  - (B) the IRB approval; and
  - (C) qualifications for radiation machine operators.
- (2) Programs without an IRB approval:
  - (A) the registrant or applicant's business name, street address, city, state, and zip code;
  - (B) person(s) name proposing the research activity;
  - (C) a business address where all research activities will be conducted;
  - (D) contact name, telephone number, and e-mail address;
  - (E) copy of the informed consent provided to the subjects;
  - (F) machine model and serial number to be used;
  - (G) start and end date of the research program;
  - (H) description of the population to be examined in the program;
  - (I) purpose of the research program;
  - (J) diseases or conditions for which the examinations will be used in diagnosing;
  - (K) description of the X-ray procedure proposed in the program, the number of exposures, the number of procedures, total time involvement period for each subject;
  - (L) an evaluation of any known alternative methods not involving ionizing radiation that could achieve the goals of the screening program and reasons why these methods are not used instead of the x-ray examinations;
  - (M) name of the NC licensed practitioner who will supervise the program;
  - (N) name of the NC licensed practitioner(s) who will interpret images;
  - (O) qualifications for radiation machine operators;
  - (P) qualifications for the person who will supervise the radiation machine operators;

- (Q) description of the methods used to advise the subjects and their physicians of the research program results;
- (R) description of the quality control program;
- (S) an evaluation by a medical physicist of the x-ray system to be used in the program. The evaluation by the medical physicist shall include a measurement of patient exposures from the x-ray examinations to be performed;
- (T) description of the procedures for the retention or disposition of the images and other records pertaining to the X-ray exams; and
- (U) plans for the radiation machine once the program is completed.

(d) After receiving the information in Paragraph (c) of this Rule, the agency will respond to the applicant in writing within 60 days. The agency may require additional information to complete the review.

(e) Nothing in this Rule relieves registrants from complying with the other requirements of this Chapter.

Authority G.S. 104E-7.

**TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS**

**CHAPTER 36 – BOARD OF NURSING**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Nursing intends to amend the rules cited as 21 NCAC 36 .0211 and .0218.*

**Link to agency website pursuant to G.S. 150B-19.1(c):** [www.ncbon.com](http://www.ncbon.com)

**Proposed Effective Date:** *March 1, 2025*

**Public Hearing:**

**Date:** *December 12, 2024*

**Time:** *1:00 p.m.*

**Location:** *4516 Lake Boone Trail Raleigh NC 27607*

**Reason for Proposed Action:** *NCBON conducted an extensive review for proposed amendments to align rules 21 NCAC 36 .0211 and .0218 with current procedures.*

**Comments may be submitted to:** *Angela Ellis, PO Box 2129, Raleigh, NC 27602-2129; email [lawsrules@ncbon.com](mailto:lawsrules@ncbon.com)*

**Comment period ends:** *January 14, 2025*

**Procedure for Subjecting a Proposed Rule to Legislative Review:** *If an objection is not resolved prior to the adoption of the*

rule, a person may also submit a written objection to the Rules Review Commission. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

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

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

SECTION .0200 – LICENSURE

21 NCAC 36 .0211 ELIGIBILITY AND APPLICATION FOR LICENSURE BY EXAMINATION

- (a) To be eligible for licensure by examination, an applicant shall:
- (1) submit a completed application for licensure, attesting under oath or affirmation that the information on the application is true and complete and authorizing the release to the Board of all information pertaining to the application. Application for Examination is posted on the Board's website at [www.ncbon.com](http://www.ncbon.com);
  - (2) submit the licensure application fee as established in G.S. 90-171.27(b);
  - (3) have an unencumbered license in all jurisdictions in which a license is or has ever been held;
  - (4) have no pending court conditions as a result of any misdemeanor or felony convictions. The applicant shall provide a written explanation and all investigative reports or court documents evidencing the circumstances of the crimes if requested by the Board. The Board shall use these documents when determining if a license should be denied pursuant to G.S. 90-171.48 and G.S. 90-171.37;
  - (5) submit a written explanation and all related documents if the nurse has ever been listed as a nurse aide and if there have ever been any substantiated findings pursuant to G.S. 131E-255. The Board may take these findings into consideration when determining if a license should be denied pursuant to G.S. 90-171.37. In the event findings are pending, the Board may

- ~~withhold taking any action until the investigation is completed; and~~
- (6) ~~complete a criminal background check in accordance with G.S. 90-171.48;~~
- (7) ~~apply to take and pass the National Council Licensure Examination (NCLEX™).~~

In the event any of the above required information indicates a concern about the applicant's qualifications, an applicant may be required to appear in person for an interview with the Board if the Board determines in its discretion that more information is needed to evaluate the application.

(b) An applicant shall meet the educational qualifications to take the examination for licensure to practice as a registered nurse or licensed practical nurse by:

- (1) ~~graduating from a National Council State Board of Nursing (NCSBN) member Board approved nursing program, in accordance with Section .0300 of these Rules, designed to prepare a person for registered nurse or licensed practical nurse licensure;~~
- (2) ~~graduating from a nursing program outside the United States that is designed to provide graduates with comparable education as required in 21 NCAC 36 .0321(b) through (d) for licensure as a registered nurse or licensed practical nurse, and submitting evidence from an evaluation agency of the required educational qualifications and evidence of English proficiency. The evaluation agencies for educational qualifications shall be selected from a list of evaluation agencies published by NCSBN, incorporated by reference including subsequent amendments and editions and available at no cost at [www.ncsbn.org](http://www.ncsbn.org). The evidence of English proficiency shall be a test as listed by NCSBN, incorporated by reference including subsequent amendments and editions and available at no cost at [www.ncsbn.org](http://www.ncsbn.org); or~~
- (3) ~~being eligible for licensure as a registered nurse or licensed practical nurse in the country of nursing education program completion.~~

(c) An application shall be submitted to the Board and a registration form to Pearson VUE. The applicant shall meet all requirements of NCSBN. Applicants for a North Carolina license may take the examination for licensure developed by NCSBN at any NCSBN approved testing site.

(d) An application for licensure shall be valid for a period of one year from the date the application is filed with the Board or until the Board receives notice that the applicant has either passed or failed the examination.

(e) The examinations for licensure developed by NCSBN shall be the examinations for licensure as a registered nurse or as a licensed practical nurse in North Carolina and these examinations shall be administered in accordance with the contract between the Board and NCSBN.

(f) Any license issued shall be issued for the remainder of the biennial period.

(a) An applicant seeking nurse licensure shall meet the educational requirements of a prelicensure nursing program that

is equivalent or greater to the requirements for NC nursing prelicensure programs as required in Section .0300 of this Chapter and apply to take the NCLEX®. The Board shall review the application and applicant's educational requirements. Once the applicant has passed the NCLEX®, the Board shall consider the applicant's qualifications for licensure.

(b) Applications for licensure by examination shall be posted on the Board's website at [www.ncbon.com](http://www.ncbon.com) and shall contain the following information:

- (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; and
- (4) Other professional or occupational licenses held by the applicant with the licensure number and jurisdiction in which the licensed was issued, if applicable.

(c) An applicant shall meet one of the following educational requirements:

- (1) Complete a Board-approved nursing prelicensure program. Evidence of completion of the program shall be an electronic verification submitted from the program director that the applicant has satisfied the educational requirements of the program pursuant to Section .0300 of this Chapter.
- (2) Complete a National Council State Board of Nursing (NCSBN) member board approved nursing program that is equivalent or greater to the requirements for NC nursing prelicensure programs as required in Section .0300 of this Chapter. Evidence of completion shall be a transcript. Educational transcripts shall be submitted directly to the Board from the program, National Student Clearinghouse, or Parchment.
- (3) Complete a nursing program outside the United States that is designed to provide graduates with comparable education that is equivalent or greater to the requirements for NC nursing prelicensure programs as required in Section .0300 of this Chapter. Foreign-educated applicants shall:

- (A) provide electronic verification from the Commission on Graduates of Foreign Nursing Schools (CGFNS) or International Education Evaluation (IEE) demonstrating the applicant's education is equivalent or greater to the requirements for NC nursing prelicensure programs as required in Section .0300 of this Chapter; and
- (B) Demonstrate proficiency in the English Language. Proof of English proficiency is either an overall score of 6.5 and minimum of 6.0 on all modules on the exam administered by

the International English Language Testing System (IELTS) or an overall score of 83 or higher on the exam administered by Test of English as a Foreign Language (TOEFL).

- (C) Be eligible for licensure as an RN or LPN in the country where the nursing educational program was completed.
- (4) Complete one of the following military courses of study for practical nursing equivalent or greater to the requirements for NC prelicensure nursing programs as evidenced by a transcript: Army Practical Nursing; Army MOS 68C Practical Nursing; Air Force Practical Nursing Technology Associate Degree; or Medical Corpsman to Practical Nurse.

(d) To be eligible for approval to take the NCLEX® examination, an applicant shall:

- (1) Submit an Application for Licensure by Examination to the Board, attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) Meet the educational requirements of a nursing prelicensure program as required in Paragraph (c) of this Rule;
- (3) Provide electronic confirmation from Pearson VUE as proof applicant is registered to take the NCLEX®;
- (4) Pay the application fee as established in G.S. 90-171.27(b).

(e) To be eligible for nurse licensure by examination, an applicant shall:

- (1) Submit an application for licensure to the Board;
- (2) Possess a valid social security number issued by the U.S. Social Security Administration;
- (3) Pass the NCLEX® – examination results submitted electronically from Pearson VUE;
- (4) Hold an unencumbered license in all jurisdictions in which a license is or has been held. If applicant has any disciplinary history on a license or has participated in a drug monitoring program, the applicant shall submit written explanation and all related documents to the Board;
- (5) Complete a criminal background check in accordance with G.S. 171.48;
- (6) Have no pending court conditions as a result of any misdemeanor or felony convictions;
- (7) Submit a written explanation and court documents regarding all criminal convictions, if applicable; and
- (8) If the applicant has been listed as a nurse aide, submit a written explanation and all related documentation if there have been substantiated findings pursuant to G.S. 131E-255. An

applicant shall not be licensed while an investigation is pending.

(f) An application is valid for one year from the date the application is filed with the Board or when the Board is notified by Pearson VUE that the applicant has passed or failed the NCLEX®, whichever comes first.

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

(h) A license issued pursuant to this Rule shall be for the remainder of the biennial period.

Authority G.S. 90-171.23(15); 90-171.29; 90-171.30; 90-171.37(1); 90-171.48.

**21 NCAC 36 .0218 LICENSURE BY ENDORSEMENT**

~~(a) To be eligible for licensure by endorsement, an applicant shall:~~

- ~~(1) submit a completed application for endorsement, stating that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application. The Application for Endorsement is posted on the Board's website at www.ncbon.com;~~
- ~~(2) submit the licensure application fee as established in G.S. 90-171.27(b);~~
- ~~(3) have an unencumbered license in all jurisdictions in which a license is or has ever been held;~~
- ~~(4) have an active unencumbered license in a jurisdiction. If the license has been inactive or expired for five or more years, the applicant shall meet the requirements for a refresher course as indicated in G.S. 90-171.35 and G.S. 90-171.36;~~
- ~~(5) have no pending court conditions as a result of any misdemeanor or felony convictions. The applicant shall provide a written explanation and all investigative reports or court documents evidencing the circumstances of the crime(s) if requested by the Board. The Board shall use these documents when determining if a license should be denied pursuant to G.S. 90-171.48 and G.S. 90-171.37;~~
- ~~(6) submit a written explanation and all related documents if the nurse has ever been listed as a nurse aide and if there have ever been any substantiated findings pursuant to G.S. 131E-255. The Board may take these findings into consideration when determining if a license should be denied pursuant to G.S. 90-171.37. In the event findings are pending, the Board shall withhold taking any action until the investigation is completed;~~
- ~~(7) submit a self certification that the applicant is of mental and physical health necessary to competently practice nursing;~~

~~(8) show completion of a nursing education program which was approved by the jurisdiction of original licensure. If applying for licensure by endorsement as a licensed practical nurse, applicant may also show evidence that:~~

~~(A) applicant has successfully completed a course of study for military corpsman that is comparable to that required of licensed practical nurse graduates in North Carolina; or~~

~~(B) applicant has been licensed in another NCSBN member jurisdiction for five or more years immediately prior to application submission and has practiced in a nursing position at the same level of licensure for which application is being made for two calendar years of full time employment immediately prior to application as verified by the employer; and~~

~~(9) complete a criminal background check in accordance with G.S. 90-171.48.~~

~~In the event any of the above required information indicates a concern about the applicant's qualifications, an applicant may be required to appear in person for an interview with the Board if more information is needed to evaluate the application.~~

~~(b) Applicants for licensure by endorsement educated in a foreign country, including Canada, shall complete all the requirements of 21 NCAC 36 (a)(1) (7) and shall be eligible for North Carolina licensure by endorsement if the nurse has:~~

~~(1) shown proof of education as required by the jurisdiction issuing the original certificate; and~~

~~(2) shown evidence of passing the NCLEX RN™ or NCLEX PN™.~~

~~(c) An application for endorsement shall be valid for a period of one year from the date the application is filed with the Board or until a license is issued.~~

~~(d) Facts provided by the applicant and the board of original licensure shall be compared to confirm the identity and validity of the applicant's credentials.~~

~~(e) Any license issued shall be issued for the remainder of the biennial period.~~

~~(a) Applications for licensure by endorsement shall be posted on the Board's website at www.ncbon.com and shall contain the following information:~~

~~(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) State or Country, license number, and year of licensure by examination in the original jurisdiction of licensure;~~

~~(5) State or Country and license number of an active license or any license held under which the applicant worked within the previous five years;~~

- (6) Other professional or occupational licenses held by the applicant with the licensure number and jurisdiction in which the license was issued, if applicable; and
  - (7) Dates of employment and position(s) held for the last two nursing employers.
- (b) To be eligible for licensure by endorsement, an applicant shall:
- (1) submit a completed Application for Endorsement, attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
  - (2) a valid social security number issued by the U.S. Social Security Administration;
  - (3) submit the licensure application fee as established in G.S. 90-171.27(b);
  - (4) have an unencumbered license in all jurisdictions in which a license is or has ever been held. If applicant has any disciplinary history on a license or has participated in a drug monitoring program, the applicant shall submit written explanation and all related documents to the Board;
  - (5) request verification of nurse licensure from the jurisdiction of original nurse licensure. If the license has been inactive for five or more years, the applicant shall be required to complete a refresher course pursuant to G.S. 90-171.35 and G.S. 90-171.36;
  - (6) request verification of nurse licensure from the jurisdictions where applicant holds or last held an active license;
  - (7) complete a prelicensure nursing program which is approved by the jurisdiction of original licensure at the time of program completion and is equivalent or greater to the requirements for NC prelicensure nursing programs as required in Section .0300 of this Chapter. Applicant shall provide an educational transcript submitted directly to the Board from the program, National Student Clearinghouse, or Parchment upon request of the Board;
  - (8) Upon request of the Board, if applicant completed a nursing program outside of the United States, applicant shall provide electronic verification from the Commission on Graduates of Foreign Nursing Schools (CGFNS) or International Education Evaluation (IEE) demonstrating the applicant's education is equivalent or greater to the requirements for NC nursing prelicensure programs as required in Section .0300 of this Chapter;
- (9) Complete a criminal background check in accordance with G.S. 171.48. The applicant shall provide a written explanation and all investigative reports or court documents evidencing the circumstances of the crime(s) upon request of the Board. The Board shall use these documents when determining if a license should be denied pursuant to G.S. 90-171.48 and G.S. 90-171.37; and
- (10) Have no pending court conditions as a result of any misdemeanor or felony convictions.
- (c) In addition to the requirements in Paragraph (b) of this Rule, should a practical nurse seeking licensure by endorsement who obtained licensure in a jurisdiction that does not require program completion, the applicant shall:
- (1) have been licensed for five years and provide verification from their employers of full-time nursing employment for the previous two calendar years immediately preceding filing of the application; or
  - (2) complete one of the following military courses of study for practical nursing equivalent or greater to the requirements for NC prelicensure nursing programs as evidenced by a transcript: Army Practical Nursing; Army MOS 68C Practical Nursing; Air Force Practical Nursing Technology Associate Degree; or Medical Corpsman to Practical Nurse.
- (d) An applicant shall be required to appear in person for an interview with the Board if there is a discrepancy in the information submitted.
- (e) An application is valid for:
- (1) One year from the date the application is filed with the Board; or
  - (2) A license is issued.
- A license issued pursuant to this Rule shall be for the remainder of the biennial period.
- Authority G.S. 90-171.23(b); 90-171.32; 90-171.33; 90-171.37; 90-171.48.*

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

**TITLE 11 – DEPARTMENT OF INSURANCE**

**Rule-making Agency:** Code Officials Qualification Board

**Rule Citation:** 11 NCAC 08 .0735

**Effective Date:** November 1, 2024

**Findings Reviewed and Approved by the Codifier:** October 24, 2024

**Reason for Action:** Pursuant to G.S. 143-151.13(d), the North Carolina Code Officials Qualification Board proposes to adopt 11 NCAC 08 .0735 under emergency procedures to assist code-enforcement officials' efforts to contribute to the recovery of Western North Carolina from damage caused by Hurricane Helene. The rule allows the Board to issue temporary certificates to code-enforcement officials with probationary certificates so that they may remain active and employed while assisting with preliminary damage assessments and building evaluations in Western North Carolina. Several North Carolina community colleges that provide the courses and administer the exams that code-enforcement officials with probationary certificates must pass to earn a standard certificate have been impacted by Hurricane Helene and are no longer offering those courses or administering exams. Additionally, many code-enforcement officials from counties that were not impacted by Hurricane Helene are volunteering their time and services to the recovery efforts and may not be available to attend courses or take exams at locations that were not impacted by the hurricane.

Adherence to the notice and hearing requirements is contrary to the public interest because such adherence would take too long to address the immediate need for code-enforcement officials to contribute their expertise to the recovery efforts in Western North Carolina after the devastating impact of Hurricane Helene while maintaining the certifications required to remain employed as code-enforcement officials. In the wake of such a destructive hurricane, the closure of certain community colleges and the importance of code-enforcement officials' contribution to recovery efforts necessitates emergency action by the Code Officials Qualification Board to avoid the serious and unforeseen threat to the public health and safety of code-enforcement officials' probationary certificates expiring during this crucial time.

**CHAPTER 08 – ENGINEERING AND BUILDING CODES  
DIVISION**

**SECTION .0700 - QUALIFICATION BOARD-STANDARD  
CERTIFICATE**

**11 NCAC 08 .0735      TEMPORARY CERTIFICATE**

(a) A temporary certificate shall be issued without examination or additional application to any code-enforcement official who currently possesses a probationary certificate that expires between October 1, 2024 and October 1, 2025. The application the code-enforcement official initially submitted to obtain the probationary certificate shall provide the basis for issuing the temporary certificate.

(b) A temporary certificate shall authorize the code-enforcement official, during the effective period of the certificate, to hold the position of the type, level, and location that corresponds to the probationary certificate the applicant previously received. The certificate shall specify the type and level of code enforcement in which the code-enforcement official may engage and may be conditioned upon his or her having supervision from an official with the specified certification or qualifications included on the code-enforcement official's probationary certificate application.

(c) The temporary certificate shall be effective for a period of two years and shall not be renewed. During this period of time, the code-enforcement official shall complete the requirements set forth in the rules in this Subchapter to qualify for the appropriate standard certificate.

(d) A code-enforcement official who is issued a temporary certificate that the code-enforcement official no longer needs or wants shall return the temporary certificate, within 30 days, to the Engineering and Building Codes Division of the Office of State Fire Marshal for cancellation.

(e) A temporary certificate shall remain valid only so long as the person certified is employed by the State or a local government as a code-enforcement official of the type and level indicated on the certificate. If the person certified leaves such employment for any reason, he shall return the certificate to the Board.

(f) A code-enforcement official with only a temporary certificate and no standard or limited certificate is not required to complete any continuing education courses.

Authority G.S. 143-151.12; 143-151.13;  
Emergency Adoption Eff. April 20, 2020;  
Temporary Adoption Eff. July 1, 2020;  
Emergency Adoption Eff. February 25, 2021;  
Temporary Adoption Eff. April 23, 2021;  
Temporary Adoption Expired Eff. February 11, 2022;  
Emergency Adoption Eff. November 1, 2024.

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**RULES REVIEW COMMISSION**

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

**RULES REVIEW COMMISSION MEMBERS**

**Appointed by Senate**

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

**Appointed by House**

Jake Parker (1<sup>st</sup> Vice – Chair)  
Paul Powell (2<sup>nd</sup> Vice – Chair)  
Wayne R. Boyles, III  
Barbara A. Jackson  
Randy Overton

**COMMISSION COUNSEL**

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

**RULES REVIEW COMMISSION MEETING DATES**

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

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**AGENDA**

**RULES REVIEW COMMISSION**

**Tuesday, November 26, 2024, 10:00 A.M.  
1711 New Hope Church Rd., Raleigh, NC 27609**

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
  1. Criminal Justice Education And Training Standards Commission - 12 NCAC 09A. 0204, .0205, .0208; 09B .0202 .0203, .0204, .0205, .0232, .0304, .0305, .0404, .0405, .0406, .0414, .0415; 09C .0403 (Peaslee)
- IV. Review of Log of Filings (Permanent Rules) for rules filed September 21, 2024 through October 20, 2024
  1. Wildlife Resources Commission (Wiggs)
  2. Medical Board (Liebman)
  3. Board of Nursing (Liebman)
- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
- VI. Existing Rules Review
  - Review of Reports
    1. 04 NCAC 16 - Office of the Commissioner of Banks (Ascher)
    2. 11 NCAC 18, 20, 21 - Department of Insurance (Ascher)
    3. 13 NCAC 01, 04, 06, 13, 16, 17, 19 - Department of Labor (Ascher)
    4. 21 NCAC 20 - Board of Registration for Foresters (Wiggs)
    5. 21 NCAC 21 - Board for Licensing of Geologists (Wiggs)
    6. 21 NCAC 28 - Landscape Contractors Licensing Board (Wiggs)
    7. 21 NCAC 40 - State Board of Opticians (Wiggs)
    8. 21 NCAC 65 - Board of Recreational Therapy Licensure (Wiggs)
    9. 21 NCAC 69 - Board for Licensing of Soil Scientists (Wiggs)
    10. 24 NCAC 03 - Occupational Safety and Health Review Commission (Wiggs)
- VII. Commission Business
  - Closed session, to consult with attorneys regarding CRC v. RRC and CJETS v. RRC; and ASHLEY SNYDER, in her official capacity as CODIFIER OF RULES

- Next meeting: Thursday, December 19, 2024
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**Commission Review  
Log of Permanent Rule Filings  
September 21, 2024 through October 20, 2024**

**WILDLIFE RESOURCES COMMISSION**

The rules in Chapter 10 are promulgated by the Wildlife Resources Commission and concern wildlife resources and water safety.

The rules in Subchapter 10B are hunting and trapping rules and cover general hunting and wildlife provisions (.0100), hunting specific animals (.0200), trapping (.0300), tagging furs (.0400), chronic wasting disease management (.0500).

<u>Wild Turkey</u>	15A NCAC 10B .0209
Amend*	
<u>Definitions</u>	15A NCAC 10B .0301
Amend*	
<u>Attendance and Tagging of Traps</u>	15A NCAC 10B .0306
Amend*	
<u>Fur Dealers</u>	15A NCAC 10B .0405
Amend*	

The rules in Subchapter 10C cover inland fishing including jurisdictional issues involving the Marine Fisheries Commission (.0100); general rules (.0200); game fish in inland fishing waters (.0300); nongame fish in inland fishing waters (.0400); primary nursery areas (.0500); anadromous fish spawning areas (.0600); game fish in coastal fishing waters (.0700); and joint fishing waters (.0800).

<u>Public Mountain Trout Waters</u>	15A NCAC 10C .0205
Amend*	
<u>Crappie</u>	15A NCAC 10C .0306
Amend*	
<u>Striped Mullet and White Mullet</u>	15A NCAC 10C .0422
Amend*	

The rules in Subchapter 10D are game lands rules.

<u>Cold Mountain Game Land in Haywood County</u>	15A NCAC 10D .0219
Amend*	
<u>Goose Creek Game Land in Beaufort and Pamlico Counties</u>	15A NCAC 10D .0229
Amend*	
<u>Gull Rock Game Land in Hyde County</u>	15A NCAC 10D .0232
Amend*	
<u>Johns River Game Land in Burke County</u>	15A NCAC 10D .0239
Amend*	
<u>Lantern Acres Game Land in Tyrrell and Washington Counties</u>	15A NCAC 10D .0244
Amend*	
<u>Little Fork State Forest Game Land in Wilkes County</u>	15A NCAC 10D .0263
Amend*	

**MEDICAL BOARD**

The rules in Subchapter 32M regulate the approval, registration and practice of nurse practitioners (.0100).

<u>Quality Assurance Standards for a Collaborative Practice ...</u>	21 NCAC 32M .0110
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Amend\*

The rules in Subchapter 32N concern formal and informal proceedings.

Investigations and Complaints

21 NCAC 32N .0107

Amend\*

The rules in Subchapter 32S regulate physician assistants including physician assistant registration (.0200).

Physician Supervision of Physician Assistants

21 NCAC 32S .0213

Amend\*

**NURSING, BOARD OF**

The rules in Chapter 36 include rules relating to general provisions (.0100); licensure (.0200); approval of nursing programs (.0300); unlicensed personnel and nurses aides (.0400); professional corporations (.0500); articles of organization (.0600); nurse licensure compact (.0700); and approval and practice parameters for nurse practitioners (.0800).

Determination and Pronouncement of Death

21 NCAC 36 .0229

Adopt\*

Quality Assurance Standards for a Collaborative Practice ...

21 NCAC 36 .0810

Amend\*