

NORTH CAROLINA REGISTER

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January 2, 2025

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PUBLISHED BY

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Contact List for Rulemaking Questions or Concerns

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

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

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Raleigh, North Carolina 27603-8005

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984-236-0694

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215 North Dawson Street

Raleigh, North Carolina 27603

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919-715-2893

amy.bason@ncacc.org

NC League of Municipalities

424 Fayetteville Street, Suite 1900

Raleigh, North Carolina 27601

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bwells@nclm.org

Legislative Process Concerning Rulemaking

545 Legislative Office Building

300 North Salisbury Street

Raleigh, North Carolina 27611

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Aaron McGlothlin, Staff Attorney

NORTH CAROLINA REGISTER
Publication Schedule for January 2025 – December 2025

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 th day from publication in the Register
39:13	01/02/25	12/06/24	01/17/25	03/03/25	03/20/25	04/24/2025	05/01/25	09/29/25
39:14	01/15/25	12/19/24	01/30/25	03/17/25	03/20/25	04/24/2025	05/01/25	10/12/25
39:15	02/03/25	01/10/25	02/18/25	04/04/25	04/20/25	05/29/2025	06/01/25	10/31/25
39:16	02/17/25	01/27/25	03/04/25	04/21/25	05/20/25	06/26/2025	07/01/25	11/14/25
39:17	03/03/25	02/10/25	03/18/25	05/02/25	05/20/25	06/26/2025	07/01/25	11/28/25
39:18	03/17/25	02/24/25	04/01/25	05/16/25	05/20/25	06/26/2025	07/01/25	12/12/25
39:19	04/01/25	03/11/25	04/16/25	06/02/25	06/20/25	07/30/2025	08/01/25	12/27/25
39:20	04/15/25	03/25/25	04/30/25	06/16/25	06/20/25	07/30/2025	08/01/25	01/10/26
39:21	05/01/25	04/09/25	05/16/25	06/30/25	07/20/25	08/28/2025	09/01/25	01/26/26
39:22	05/15/25	04/24/25	05/30/25	07/14/25	07/20/25	08/28/2025	09/01/25	02/09/26
39:23	06/02/25	05/09/25	06/17/25	08/01/25	08/20/25	09/25/2025	10/01/25	02/27/26
39:24	06/16/25	05/23/25	07/01/25	08/15/25	08/20/25	09/25/2025	10/01/25	03/13/26
40:01	07/01/25	06/10/25	07/16/25	09/02/25	09/20/25	10/30/2025	11/01/25	03/28/26
40:02	07/15/25	06/23/25	07/30/25	09/15/25	09/20/25	10/30/2025	11/01/25	04/11/26
40:03	08/01/25	07/11/25	08/16/25	09/30/25	10/20/25	11/20/2025	12/01/25	04/28/26
40:04	08/15/25	07/25/25	08/30/25	10/14/25	10/20/25	11/20/2025	12/01/25	05/12/26
40:05	09/02/25	08/11/25	09/17/25	11/03/25	11/20/25	12/18/2025	01/01/26	05/30/26
40:06	09/15/25	08/22/25	09/30/25	11/14/25	11/20/25	12/18/2025	01/01/26	06/12/26
40:07	10/01/25	09/10/25	10/16/25	12/01/25	12/20/25	*01/29/2026	02/01/26	06/28/26
40:08	10/15/25	09/24/25	10/30/25	12/15/25	12/20/25	*01/29/2026	02/01/26	07/12/26
40:09	11/03/25	10/13/25	11/18/25	01/02/26	01/20/26	*02/26/2026	03/01/26	07/31/26
40:10	11/17/25	10/24/25	12/02/25	01/16/26	01/20/26	*02/26/2026	03/01/26	08/14/26
40:11	12/01/25	11/05/25	12/16/25	01/30/26	02/20/26	*03/26/2026	04/01/26	08/28/26
40:12	12/15/25	11/20/25	12/30/25	02/13/26	02/20/26	*03/26/2026	04/01/26	09/11/26

*Dates not approved by RRC

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.

**NARROW THERAPEUTIC INDEX DRUGS DESIGNATED BY THE NORTH
CAROLINA SECRETARY OF HUMAN RESOURCES**

Pursuant to N.C.G.S. §90-85.27(4a), this is a revised publication from the North Carolina Board of Pharmacy of narrow therapeutic index drugs designated by the North Carolina Secretary of Human Resources upon the advice of the State Health Director, North Carolina Board of Pharmacy, and North Carolina Medical Board.

Carbamazepine: all oral dosage forms

Cyclosporine: all oral dosage forms

Digoxin: all oral dosage forms

Ethosuximide

Levothyroxine sodium tablets

Lithium (including all salts): all oral dosage forms

Phenytoin (including all salts): all oral dosage forms

Procainamide

Theophylline (including all salts): all oral dosage forms

Warfarin sodium tablets

Tacrolimus: all oral dosage forms



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

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

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

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

Application by: Scott Samuelson
FujiClean USA, LLC
42-1 Greenwood Rd
Brunswick, ME 04011

For: Modifications to the Innovative Approval for FujiClean USA Models

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

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

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

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

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

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

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 02 – DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Gasoline and Oil Inspection Board intends to amend the rule cited as 02 NCAC 42 .0201.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.ncagr.gov/divisions/legal-affairs/legal-affairs-rules>

Proposed Effective Date: May 1, 2025

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): Any person may request a public hearing on the proposed rules by submitting a request in writing no later than February 1st, 2025 to Anna Hayworth, NCDA&CS Rule-Making coordinator, 1002 Mail Service Center, Raleigh, NC 27699 or at rulesreview@ncagr.gov.

Reason for Proposed Action: Recent changes in the specifications for gasoline published in ASTM test method D4814 have lowered the minimum temperature at 50% evaporated for distillation Class-D gasoline that contains between 1-15% ethanol by volume to 62.8°C (145°F). This value is lower than the minimum specified in Chapter 42.0201(b)4 of the NC Administrative Code. As we adopt the most current version of this ASTM test method by reference, this administrative rule is now in contradiction with the new specifications. Thus, the rule now limits the ability of terminals to import and distribute Class-D gasoline in North Carolina during the months of October through March when this fuel can be used.

Comments may be submitted to: Anna Rebecca Hayworth, 1002 Mail Service Center, Raleigh, NC 27699; phone (984) 236-4509; email anna.hayworth@ncagr.gov

Comment period ends: March 3, 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 42 - GAS AND OIL INSPECTION

SECTION .0200 - QUALITY OF LIQUID FUEL PRODUCTS

02 NCAC 42 .0201 STANDARD SPECIFICATIONS

(a) The Board hereby adopts by reference, including subsequent amendments and editions, ASTM D 4814, "Standard Specification for Automotive Spark-Ignition Engine Fuel" as standard specification for gasoline with the following modifications:

- (1) applications for temporary exceptions to vapor pressure and vapor-liquid ratio specifications as provided in this Subparagraph shall be made to the Director. Said applications shall contain evidence that outlets marketing gasoline in North Carolina cannot be supplied from bulk terminals furnishing specified volatility level gasoline or that customary sources of supply have been temporarily interrupted by product shortage and alternate sources furnishing specified volatility level gasoline are not available. Such temporary exceptions granted shall apply only until the next meeting of the Board at which time the Board shall establish the duration of the exception;
- (2) the minimum lead content for gasoline registered or labeled as "leaded" shall be as defined in 02 NCAC 42 .0102;
- (3) vapor pressure and vapor-liquid ratio seasonal specifications as listed in this Subparagraph may be extended for a maximum period of 15 days to allow for the disbursement of old stocks. However, new stocks of a higher volatility classification shall not be offered for retail sale prior to the effective date of the higher volatility classification.

(b) The Board hereby adopts by reference, including subsequent amendments and editions, ASTM D 4814, "Standard

Specification for Automotive Spark-Ignition Engine Fuel" as standard specification for alcohol blends with the following modifications:

- (1) a vapor pressure tolerance not exceeding one pound per square inch (1 psi) for ethanol blends of 9 percent to 15 percent by volume;
 - (2) vapor pressure seasonal specifications as listed in this Subparagraph may be extended for a maximum period of 15 days to allow for the disbursement of old stocks. However, new stocks of a higher volatility classification shall not be offered for retail sale prior to the effective date of the higher volatility classification;
 - (3) applications for temporary exceptions to vapor pressure specifications as provided in this Subparagraph shall be made to the Director. Said applications shall contain evidence that outlets marketing gasoline in North Carolina cannot feasibly be supplied from bulk terminals furnishing specified volatility level gasoline or that customary sources of supply have been temporarily interrupted by product shortage and alternate sources furnishing specified volatility level gasoline are not available. Such temporary exceptions granted shall apply only until the next meeting of the Board at which time the Board shall establish the duration of the exception;
 - ~~(4) the minimum temperature at 50 percent evaporated shall be 150 degrees F (66 degrees C) as determined by ASTM Test Method D 86 for ethanol blends of 1 percent to 15 percent by volume;~~
 - ~~(5)~~(4) the minimum lead content for gasoline and alcohol blends registered or labeled as "leaded" shall be as defined in 02 NCAC 42 .0102;
 - ~~(6)~~(5) octane rating shall not be less than the octane index certified on the brand name registration as required by 02 NCAC 42 .0500;
 - ~~(7)~~(6) all blends, both leaded and unleaded, shall be blended according to the EPA "Substantially Similar" rule found in the Clean Air Act, CAA Section 211(f)(1)(B), or an EPA waiver for unleaded fuel;
 - ~~(8)~~(7) water tolerance shall be such that no phase separation occurs when subjected to a temperature equal to the temperatures specified in the table for "Maximum Temperature for Phase Separation, C," ASTM D 4814;
 - ~~(9)~~(8) the vapor-liquid ratio specification shall be waived for ethanol blends of up to 10 percent.
- (c) The Board hereby adopts by reference, including subsequent amendments and editions, ASTM D 975, "Standard Specification for Diesel Fuel Oils" as standard specification for diesel motor fuels and renewable diesel fuels with the following modification: For diesel motor fuel grade 2-D, the minimum flash point as determined by ASTM Test Method D 56 shall be 115 degrees F (46 degrees C).

(d) The Board hereby adopts by reference, including subsequent amendments and editions, ASTM D 396, "Standard Specification for Fuel Oils" as standard specification for fuel oils and blends of biodiesel and fuel oil.

(e) The Board hereby adopts by reference, including subsequent amendments and editions, ASTM D 3699, "Standard Specification for Kerosene" as standard specification for kerosenes with the following modification: For grade 2-K, the presence or absence of coloring matter shall in no way be determinative of whether a substance meets the requirements of this grade of kerosene.

(f) The Board hereby adopts by reference, including subsequent amendments and editions, ASTM D 6751, "Standard Specification for Biodiesel (B100) Blend Stock for Distillate Fuels" as standard specification for biodiesel (B100) and for B99 (a blend of 99 percent biodiesel and one percent petroleum diesel).

(g) The Board hereby adopts by reference, including subsequent amendments and editions, ASTM D 5798, "Standard Specification for Ethanol Fuel Blends for Flexible Fuel Automotive Spark-Ignition Engines" as standard specification for Ethanol Flex Fuel.

(h) The Board hereby adopts by reference, including subsequent amendments and editions, NIST Handbook 130, "Uniform Engine Fuels, Petroleum Products and Automotive Lubricants Regulation," section 2.2.1 "Premium Diesel Fuel" as the standard specification of premium diesel fuels in addition to ASTM D 975. Copies of this document may be obtained at no cost from the NIST Web site - <https://www.nist.gov/pml/weights-and-measures/publications/nist-handbooks/other-nist-handbooks/other-nist-handbooks-2-1>

(i) In addition to meeting all specification requirements as set forth in this Rule, each fuel must be suitable for the intended use. Motor fuels shall not contain concentrations of methyl tertiary butyl ether (MTBE) in violation of G.S. 119-26.3.

(j) ASTM documents adopted by reference herein are available for inspection in the office of the Director of the Standards Division and may be obtained from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959 or their Web site - www.astm.org, at the following cost for each document: D 396, fifty-eight dollars (\$58.00); D 975, seventy-five dollars (\$75.00); D 3699, fifty-two dollars (\$52.00); D 4814, seventy-five dollars (\$75.00); D 5798, fifty-two dollars (\$52.00); and D 6751 fifty-eight dollars (\$58.00).

Authority G.S. 119-26; 119-26.1.

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to amend the rule cited as 15A NCAC 02B .0733.

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

Proposed Effective Date: June 1, 2025

Public Hearing:

Date: February 6, 2025

Time: 6:00 p.m.

Location: Pitt County Agricultural Center - Mark Owens, Jr. Auditorium, 403 Government Circle, Greenville, NC 27834

Reason for Proposed Action: The Tar-Pamlico Wastewater Rule (15A NCAC 02B .0733) was adopted in 1997 to address requirements for non-association new and expanding wastewater dischargers in the Tar-Pamlico basin. This rule was readopted with revisions in 2020, at which time its applicability was expanded to address all new and expanding facilities in the basin. This Rule in its current form does not address the implementation requirements for existing wastewater dischargers that are members of the Tar-Pamlico Basin Association (TPBA), which are addressed in the Association’s Group Discharge Permit and a signed Agreement between the Association, Division of Water Resources, and Environmental Management Commission.

The Division is proposing to revise the language in the .0733 rule to fully incorporate the wastewater discharge requirements for the TPBA as currently established in their Group Discharge Permit and Agreement. Codifying the point source requirements in the rule adds benefits of establishing a more enforceable foundation for the Total Maximum Daily Load (TMDL) driven requirements of the nutrient management strategy.

Finally, the proposed revisions to the Rule provide an opportunity to modernize the language and improve the clarity of the requirements for the regulated community, while also providing the opportunity for stakeholder input on the proposed rule.

Comments may be submitted to: John Huisman, NC DEQ Division of Water Resources, Planning Section, 1611 Mail Service Center, Raleigh, NC 27699-1611; phone (919) 707-3677; email john.huisman@deq.nc.gov

Comment period ends: March 3, 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 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02B - SURFACE WATER AND WETLAND STANDARDS

SECTION .0700 – NUTRIENT MANAGEMENT STRATEGY RULES FOR SURFACE WATERS

15A NCAC 02B .0733 TAR-PAMLICO NUTRIENT STRATEGY: WASTEWATER DISCHARGE REQUIREMENTS NEW AND EXPANDING WASTEWATER DISCHARGER REQUIREMENTS

The following is the National Pollutant Discharge Elimination System (NPDES) wastewater discharge management strategy for ~~new and expanding wastewater dischargers in~~ the Tar-Pamlico River basin:

- (1) Purpose. The purpose of this Rule is to establish minimum nutrient control requirements for ~~new and expanding~~ point source discharges in the Tar-Pamlico River Basin in order to maintain or restore water quality in the Pamlico Estuary and protect its designated uses.
- (2) Applicability. This Rule applies to all discharges from wastewater treatment facilities in the Tar-Pamlico River Basin that receive nitrogen- or phosphorus-bearing wastewater and are required to obtain individual NPDES permits. ~~This Rule applies to Tar Pamlico Basin Association member facilities on or after June 1, 2025. This Rule applies to other facilities upon this Rule's effective date.~~
- (3) Definitions. The terms used in this Rule, in regard to point source dischargers, treatment facilities, wastewater flows or discharges, or like matters, shall be as defined in Rule .0701 of this Section and as follows:
 - (a) "Active Allocation" means that portion of an allocation that has been applied toward and is expressed as a nutrient limit in an individual NPDES permit.
 - (b) "Association" means the Tar-Pamlico Basin Association, a not-for-profit corporation consisting of NPDES-permitted dischargers in the Tar-Pamlico River Basin; established voluntarily by its members to work cooperatively to meet the aggregate TN and TP allocations originally established in the Tar-Pamlico

- Nutrient TMDL and subsequently in the group permit.
- (c) "Commission" means the North Carolina Environmental Management Commission.
- ~~(a)~~(d) "Existing" means that which obtained an NPDES permit on or before December 8, 1994.
- ~~(b)~~(e) "Expanding" means that which increases beyond its permitted flow as defined in Sub-Item (3)(h) Item (4) of this Rule.
- (f) "Limit" means the mass quantity of nitrogen or phosphorus that a discharger or group of dischargers is authorized through an NPDES permit to release into surface waters of the Tar-Pamlico River Basin.
- ~~(e)~~(g) "New" means that which had not obtained an NPDES permit on or before December 8, 1994.
- ~~(4)~~(h) "Permitted flow" means the maximum monthly average flow authorized in a facility's NPDES permit as of December 8, 1994.
- (i) "Reserve Allocation" means allocation that is held by a permittee or other person but that has not been applied toward and is not expressed as a nutrient limit in an individual NPDES permit.
- (4) This Item specifies the total combined end of pipe nitrogen and phosphorus discharge allocation for existing Association point source dischargers.
- (a) Unless revised as provided for in Items (7) through (9) of this Rule, in accordance with the Nitrogen and Phosphorus TMDL for the Tar-Pamlico River Estuary, approved in 1995 by the US Environmental Protection Agency (EPA), the total
- active nitrogen and phosphorus discharge allocations for Association point source dischargers shall not exceed 891,271 in pounds of nitrogen and 161,070 pounds of phosphorus per calendar year. The nutrient loads discharged annually by these point sources shall not exceed these nitrogen and phosphorus discharge allocations plus any nutrient offset credits obtained in accordance with G.S. 143-214.26 and Rule .0703 of this Section. In the event the Association's allocations are revised as provided for in Items (7) through (9) of this Rule, the NPDES group permit shall be modified to reflect those changes to the active nitrogen and phosphorus discharge mass allocations and limits set forth in this Rule.
- (b) The Commission shall order future revisions in the Nitrogen and Phosphorus TMDL and nitrogen and phosphorus discharge allocations whenever necessary to ensure that water quality in the estuary meets all applicable standards in 15A NCAC 02B .0200 or to conform with applicable State or federal requirements.
- (5) This Item specifies the individual nitrogen and phosphorus discharge allocations for existing Association point source dischargers in accordance with the 1995 TMDL.
- (a) Unless revised as provided for in Items (7) through (9) of this Rule, the following individual discharge mass allocations for total nitrogen and total phosphorus shall apply in conformance with the values in Item (4) of this Rule:

<u>Facility Name</u>	<u>NPDES No.</u>	<u>Mass Allocations (pounds/year)</u>	
		<u>Total Nitrogen</u>	<u>Total Phosphorus</u>
<u>Belhaven</u>	<u>NC0026492</u>	<u>14,261</u>	<u>2,577</u>
<u>Bunn</u>	<u>NC0042269</u>	<u>4,278</u>	<u>773</u>
<u>Enfield</u>	<u>NC0025402</u>	<u>14,261</u>	<u>2,577</u>
<u>Franklin County</u>	<u>NC0069311</u>	<u>42,784</u>	<u>7,732</u>
<u>Greenville</u>	<u>NC0023931</u>	<u>249,576</u>	<u>45,103</u>
<u>Louisburg</u>	<u>NC0020231</u>	<u>19,538</u>	<u>3,531</u>
<u>Oxford</u>	<u>NC0025054</u>	<u>49,915</u>	<u>9,021</u>
<u>Pinetops</u>	<u>NC0020435</u>	<u>4,278</u>	<u>773</u>

PROPOSED RULES

<u>Robersonville</u>	<u>NC0026042</u>	<u>25,671</u>	<u>4,639</u>
<u>Rocky Mount</u>	<u>NC0030317</u>	<u>299,491</u>	<u>54,124</u>
<u>Scotland Neck</u>	<u>NC0023337</u>	<u>9,626</u>	<u>1,740</u>
<u>Spring Hope</u>	<u>NC0020061</u>	<u>5,705</u>	<u>1,031</u>
<u>Tarboro</u>	<u>NC0020605</u>	<u>71,307</u>	<u>12,887</u>
<u>Warrenton</u>	<u>NC0020834</u>	<u>28,523</u>	<u>5,155</u>
<u>Washington</u>	<u>NC0020648</u>	<u>52,054</u>	<u>9,407</u>
<u>Association Total</u>			
<u>Active Allocation</u>		<u>891,271</u>	<u>161,070</u>
<u>Allocation in Reserve</u>		<u>59,798</u>	<u>3,898</u>

- (b) In the event that the nitrogen and phosphorus TMDL and their discharge allocations for point sources are revised, as provided in Item (4) of this Rule, the Commission shall apportion the revised load among the existing facilities and shall revise discharge allocations as needed. The Commission may consider such factors as:
- (i) fate and transport of nitrogen and phosphorus in the river basin;
 - (ii) technical feasibility and economic reasonableness of source reduction and treatment methods;
 - (iii) economies of scale;
 - (iv) nitrogen and phosphorus control measures already implemented;
 - (v) probable need for growth and expansion; and
 - (vi) incentives for nutrient management planning, utilities management, resource protection, and cooperative efforts among dischargers.
- required elsewhere in this Item for the proposed discharge:
- (i) nitrogen and phosphorus allocations from existing dischargers;
 - (ii) reserve allocation pursuant to Sub-Item (c) of this Item; and
 - (iii) nitrogen and phosphorus offset credits pursuant to Rule .0703 of this Section.

Allocation and offset credits shall be sufficient for no less than 10 subsequent years of discharge at the proposed design flow rate in accordance with 15A NCAC 02H .0112(c).

- (c) New facilities proposing to use any portion of the reserve allocation described in Sub-Item (5)(a) of this Rule shall submit a written request to the Division for approval of the proposed use. The request shall include concurrence for its use by the Association.

- (b)(d) New facilities shall meet The technology-based nitrogen and phosphorus discharge limits that shall not exceed the following: for a new facility shall not exceed:

~~(5)(6)~~ This Item specifies nutrient controls for new facilities.

- (a) ~~Proposed new wastewater dischargers~~ New facilities proposing to discharge wastewater shall evaluate all practical alternatives to surface water discharge pursuant to 15A NCAC 02H .0105(c)(2) prior to submitting an application to discharge.

- (b) New facilities shall document in their permit application that they have acquired some combination of the following allocations and offsets sufficient to meet the annual limits

- (i) For facilities treating municipal or domestic wastewater, the mass load equivalent to a concentration of 3.5 mg/L TN and 0.5 mg/L TP at the monthly average flow limit in the facility's NPDES permit; and

- (ii) For facilities treating industrial wastewater, the mass load equivalent to the best available technology economically achievable, calculated at the monthly

- average flow limit in the facility's NPDES permit.
- (e) ~~Proposed new dischargers submitting an application shall acquire nutrient allocation from existing dischargers or nutrient offset credits pursuant to Rule .0703 of this Section for the mass load dictated by this Item. The allocation and offset credits shall be sufficient for any partial calendar year in which the permit becomes effective plus 10 subsequent years of discharge at the proposed design flow rate in accordance with 15A NCAC 02H .0112(e).~~
 - (d) ~~The Director shall not issue a permit authorizing discharge from a new facility unless the applicant has satisfied the requirements of Sub-Items (a), (c), and (e) of this Item. If a facility's permit contains tiered flow limits for expansion, the Director shall not authorize an increased discharge unless the applicant has satisfied the requirements of Sub-Items (a), (c), and (e) of this Item.~~
 - (e) ~~Subsequent applications for permit renewal or, where an existing permit will contain tiered limits, requests to discharge at an increased flow, shall demonstrate that the facility has sufficient nitrogen and phosphorus allocation or offset credits to meet its effluent nutrient limitations for any partial calendar year in which the permit becomes effective plus 10 subsequent years of discharge at the proposed an increased design flow rate in accordance with 15A NCAC 02H .0112(c).~~
 - (f) ~~The Director shall not issue a permit authorizing discharge from a new facility unless the applicant has satisfied the requirements of Sub-Items (a) through (d) of this Item. If a facility's permit contains tiered flow limits for expansion, the Director shall not authorize an increased discharge unless the applicant has satisfied the same requirements of this Item.~~
 - ~~(f)(g)~~ The Director shall establish more stringent limits for nitrogen or phosphorus upon finding that such limits are necessary to protect water quality standards in localized areas.
 - ~~(6)(7)~~ This Item specifies nutrient controls for expanding facilities.
 - (a) Expanding facilities shall evaluate all practical alternatives to surface water discharge pursuant to 15A NCAC 02H .0105(c)(2) prior to submitting an application to discharge.
 - (b) The nitrogen and phosphorus discharge limits for expanding non-Association facilities shall be assigned in accordance with the following:
 - (i) Expanding non-Association municipal or domestic wastewater facilities requesting permitted flows greater or equal to 0.1 MGD shall be assigned the mass equivalent to a concentration of 3.5 mg/L TN and 0.5 mg/L TP at the monthly average flow limit in the facility's NPDES permit; and
 - (ii) Expanding non-Association facilities treating industrial wastewater shall be assigned the mass load equivalent to the best available technology economically achievable, calculated at the monthly average flow limit in the facility's NPDES permit.
 - (c) An expanding facility that is a member of the Association, as defined in Sub-Item (3)(b) of this Rule, shall not exceed the nitrogen and phosphorus loads equivalent to its active allocations unless they receive Division approval for an increase in their discharge as described in this Item.
 - (d) Facilities submitting application for increased discharge or, where an existing permit will contain tiered limits, for authorization to discharge at an increased flow, may acquire nitrogen and phosphorus allocations from existing dischargers or nitrogen and phosphorus offset credits pursuant to Rule .0703 of this Section, or may acquire reserve allocation in compliance with Sub-Item (e) of this Item for the proposed discharge. The acquired allocations and offset credits, combined with any preexisting allocations, shall be sufficient to meet its effluent nutrient limits as established in this item for any partial calendar year in which the permit becomes effective plus 10 subsequent years of discharge at an increased design flow rate in accordance with 15A NCAC 02H .0112(c).

- (e) A facility that submits an application to increase its discharge may request approval from the Division to use a portion of the reserve allocation described in Sub-Item (5)(a) of this Rule. Approval shall be based on the following criteria:
 - (i) The expanding facility demonstrates that upon expansion their nitrogen and phosphorus discharge would not exceed the mass load equivalent to a concentration of 3.5 mg/L TN and 0.5 mg/L TP, calculated at the monthly average flow limit in the facility's NPDES permit;
 - (ii) The expanding facility requesting use of reserve allocation has received written approval from the Association.
 - (iii) Should the facility cease to discharge, the portion of the reserve allocation that was activated shall revert back to reserve allocation; and
- (f) The Director shall not issue an NPDES permit authorizing increased discharge from an existing facility unless the applicant has satisfied the requirements of Sub-Items (a) through (e) of this Item. If a facility's permit contains tiered flow limits for expansion, the Director shall not authorize discharge at an increased flow unless the applicant has satisfied the same requirements of this Item.
- (f)(g) The Director shall modify an expanding facility's permit to establish more stringent limits for nitrogen or phosphorus upon finding that such limits are necessary to protect water quality standards in localized areas.
- (b) ~~The nitrogen and phosphorus discharge limits for an expanding facility shall not exceed the greater of loads equivalent to its active allocation and offset credit, or the following technology based mass limits:~~
 - (i) ~~For facilities treating municipal or domestic wastewater, the mass equivalent to a concentration of 3.5 mg/L TN and 0.5 mg/L TP at the monthly average flow limit in the NPDES permit; and~~
 - (ii) ~~For facilities treating industrial wastewater, the mass load equivalent to the best available technology economically achievable, calculated at the monthly average flow limit in the facility's NPDES permit.~~
- (e) ~~Facilities submitting application for increased discharge or, where an existing permit contains tiered flow limits, for authorization to discharge at an increased flow, shall acquire or demonstrate contractual agreement to acquire, prior to authorization to discharge at the increased flow, nutrient allocation from existing dischargers or nutrient offset credits pursuant to Rule .0703 of this Section for the proposed discharge above 0.5 million gallons per day (MGD). The allocation and offset credits shall be sufficient to meet its effluent nutrient limitations for any partial calendar year in which the permit becomes effective plus 10 subsequent years of discharge at the proposed design flow rate in accordance with 15A NCAC 02H .0112(e).~~
- (d) ~~The Director shall not issue a permit authorizing increased discharge from an existing facility unless the applicant has satisfied the requirements of Sub-Items (a), (c), and (e) of this Item. If a facility's permit contains tiered flow limits for expansion, the Director shall not authorize discharge at an increased flow unless the applicant has satisfied the requirements of Sub-Items (a), (c), and (e) of this Item.~~
- (e) ~~Subsequent applications for permit renewal shall demonstrate that the facility has sufficient nitrogen allocation or offset credits to meet its effluent nutrient limitations for any partial calendar year in which the permit becomes effective plus 10 subsequent years of discharge at the proposed design flow rate in accordance with 15A NCAC 02H .0112(e).~~
- (g) ~~Existing wastewater dischargers expanding to greater than 0.5 MGD design capacity may petition the Director for an exemption from Sub-Items (a) through (c) and (e) of this Item upon meeting and maintaining all of the following conditions:~~

- (i) ~~The facility has reduced its annual average TN and TP loading by 30 percent from its annual average 1991 TN and TP loading. Industrial facilities may alternatively demonstrate that nitrogen and phosphorus are not part of the waste stream above background levels.~~
- (ii) ~~The expansion does not result in annual average TN or TP loading greater than 70 percent of the 1991 annual average TN or TP load. Permit limits shall be established to ensure that the 70 percent load is not exceeded.~~

(8) This Item describes the option for dischargers to form a group compliance association or join an existing group compliance association, to collectively meet nitrogen and phosphorus load limits.

- (a) Any or all facilities within the basin may form a group compliance association or join an existing group compliance association, to meet nitrogen and phosphorus limits collectively. Any new association formed shall apply for and shall be subject to an NPDES group permit that establishes the effective total nitrogen and phosphorus limits for the association and for its members. More than one group compliance association may be established. No facility may be a co-permittee member of more than one association formed pursuant to this Rule at any given time.
- (b) An association may modify its membership at any time upon notification to the Division. The Division shall adjust the nitrogen and phosphorus allocations and limits in the NPDES group permit to reflect the change in membership.
- (c) No later than 180 days prior to coverage under a new NPDES group permit, or expiration of an existing group permit, the association and its members shall submit an application for an NPDES permit for the discharge of total nitrogen and total phosphorus to the surface waters of the Tar-Pamlico River Basin. The NPDES group permit shall be issued to the association and its members as co-permittees.

- (d) An association's limit of total nitrogen and total phosphorus shall be the sum of its members' individual allocations and nutrient offset credits plus any other allocation and offset credits obtained by the association or its members pursuant to this Rule.
- (e) An association and its members may reapportion their individual allocations and nutrient offset credits on an annual basis. The NPDES group permit shall be modified to reflect the revised individual allocations and limits.
- (f) If an association does not meet its limits in any year, it shall obtain or use existing nutrient offset credits in accordance with G.S. 143-214.26 and Rule .0703 of this Section to offset its mass exceedance no later than July 1 of the following year.
- (g) An association's members shall be deemed compliant with the permit limits for total nitrogen and total phosphorus contained in their individually issued NPDES permits while they are members in an association. An association's members shall be deemed compliant with their individual limits in the NPDES group permit in any year in which the association is in compliance with its limit. If the association exceeds its group limit, the association and any members that exceed their individual limits in the NPDES group permit shall be deemed to be out of compliance with the group permit.
- (h) Upon the termination of a group compliance association, members of the association shall be subject to the limits and other nutrient requirements of their individual NPDES permits.
- (9) If an NPDES-permitted discharger or association of dischargers accepts wastewater from another NPDES-permitted treatment facility in the Tar-Pamlico River Basin and that acceptance results in the elimination of the discharge from that other treatment facility, the eliminated facility's total nitrogen and phosphorus allocations shall be transferred into the receiving facility's NPDES permit and added to its allocations.

Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); 143-215.8B; 143B-282.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to amend the rules cited as 15A NCAC 02Q .0303-.0305, .0312, .0503, .0505, .0507, .0515, and .0525.

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

Proposed Effective Date: Pending On the first day of a month that is 60 days after the Secretary of the Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental Protection Agency has approved the amended rule into the North Carolina State Implementation Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.

Public Hearing:

Date: February 4, 2025

Time: 6:00 p.m.

Location:

1st Floor Training Room (#1210), DEQ Green Square Office Building, 217 West Jones St., Raleigh, NC 27603 or virtually using Cisco WebEx, Digital Hearing Link: <https://tinyurl.com/mrxj5238>

Event password: NCDAQ

Audio conference: To receive a call back, provide your phone number when you join the event, or call the number below and enter the access code. US TOLL +1-415-655-0003, Access code: 2431 214 7646

If you wish to speak at the digital public hearing, you must register, provide the required information, and follow instructions on ways to join the public hearing. Registration must be completed by 4:00 PM on February 4, 2025. To register, please click the following link: <https://forms.office.com/g/YRE3eveJBZ> *For instructions on ways to join the public hearing, please refer to the following link:

<https://files.nc.gov/ncdeq/Air%20Quality/rules/hearing/instructions-on-ways-to-join-webex.pdf>

<https://www.webex.com/test-meeting.html>

*If you have technical difficulties, the following automated voicemail has been set up to receive your verbal comments: 919-707-8430

Reason for Proposed Action: To receive comments on the proposed amendments to permit modification review timelines and definitions in 15A NCAC 02Q .0303, .0304, .0305, .0312, .0503, .0505, .0507, .0515, and .0525, and the accompanying regulatory impact analysis (RIA). The revisions in this rulemaking are proposed to align the permit modification application review timelines specified in 15A NCAC, Subchapter 02Q with those established in Session Law (S.L.) 2023-134, Section 12.11(a), which specifies review periods of 90 calendar days for minor permit modifications and 270 calendar days for significant modifications. The specified review timelines apply from the date that the Division of Air Quality (DAQ) receives an administratively complete application, through the date that the DAQ issues, denies, or publishes the modified permit for public notice and comment. The proposed rule amendments also

incorporate the definition of "administratively complete" that was added to North Carolina General Statute (NCGS) 143-213 pursuant to S.L. 2023-134, Section 12.11(c). On November 14, 2024, the Environmental Management Commission approved proceeding to public comment on the proposed amendments to 15A NCAC 02Q .0303, .0304, .0305, .0312, .0503, .0505, .0507, .0515, and .0525 and the accompanying RIA. The text of the rules and RIA are available on the DAQ website: <http://deq.nc.gov/about/divisions/air-quality/air-quality-rules/rules-hearing-process>

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

Comment period ends: March 3, 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 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02Q - AIR QUALITY PERMITS PROCEDURES

SECTION .0300 - CONSTRUCTION AND OPERATION PERMITS

15A NCAC 02Q .0303 DEFINITIONS

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

- (1) "Complete application" means an application that is administratively complete, as defined in G.S. 143-213, and provides all information necessary to determine compliance with all applicable federal and State requirements.

- (1)(2) "Modified facility" means a modification of an existing facility or source and:
- (a) the permitted facility or source is being modified in such a manner as to require a new or reissued permit pursuant to this Section; or
 - (b) a new source is being added in such a manner as to require a new or reissued permit pursuant to this Section.

A modified facility does not include a facility or source that requests to change name or ownership, construction or test dates, or reporting procedures.

- (2)(3) "New facility" means a facility that is receiving a permit from the Division for construction and operation of an emission source that it is not currently permitted.

- (3)(4) "Plans and Specifications" means the completed application and any other documents required to define the operating conditions of the air pollution source.

- (4)(5) "Responsible official" means one of the following:

- (a) for a corporation: a president, secretary, treasurer, or vice-president of the corporation who is in charge of a principal business function; any other person who performs similar policy or decision-making functions for the corporation; or a duly-authorized representative of such a person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either;
 - (i) the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000)(in second quarter 1980 dollars); or
 - (ii) the delegation of authority to such representatives is approved in advance by the permitting authority;
- (b) for a partnership or sole proprietorship: a general partner or the proprietor, respectively; or
- (c) for a municipality, State, federal, or other public agency: either a principal executive officer or ranking elected official. A principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal

geographic unit of the agency (e.g., a Regional Administrator of EPA).

- (5)(6) "Title IV source" means a source that is required to be permitted pursuant to 15A NCAC 02Q .0400.

- (6)(7) "Title V source" means a source that is required to be permitted pursuant to 15A NCAC 02Q .0500.

Authority G.S. 143-213; 143-215.3(a)(1).

15A NCAC 02Q .0304 APPLICATIONS

(a) Obtaining and filing application. Permit, permit modification, or permit renewal applications may be obtained and shall be filed according to 15A NCAC 02Q .0104.

(b) Information to accompany application. Along with ~~filing a complete application form, the applicant shall also file the completed applicable application forms, the application shall contain~~ the following:

- (1) for a new facility or an expansion of existing facility, a zoning consistency determination according to G.S. 143-215.108(f) that:
 - (A) bears the date of receipt entered by the clerk of the local government; or
 - (B) consists of a letter from the local government indicating that zoning or subdivision ordinances are met by the facility;
- (2) for a new facility or an expansion of existing facility in an area without zoning, an affidavit and proof of publication of a legal notice as required pursuant to 15A NCAC 02Q .0113;
- (3) for permit renewal, an emissions inventory that contains the information specified pursuant to 15A NCAC 02D .0202 using emission inventory forms or electronic data systems provided by the Division; and
- (4) documentation showing the applicant complies with Parts (A) or (B) of this Subparagraph if this information is necessary to evaluate the source, its air pollution abatement equipment, or the facility:
 - (A) the applicant is financially qualified to carry out the permitted activities; or
 - (B) the applicant has substantially complied with the air quality and emissions standards applicable to any activity in which the applicant has previously been engaged, and has been in substantial compliance with federal and State environmental laws and rules.

(c) When to file application. For sources subject to the requirements of 15A NCAC 02D .0530 or .0531, applicants shall file air permit applications no less than 180 days before the projected construction date. For other sources, applicants shall file air permit applications no less than 90 days before the projected date of construction of a new source or modification of an existing source.

(d) Permit renewal, name, or ownership changes with no modifications. If no modification has been made to the originally permitted source, application for permit change may be made by application to the Director as specified in 15A NCAC 02Q .0104. The permit renewal, name, or ownership change application shall state that there have been no changes in the permitted facility since the permit was last issued.

To make a name or ownership change, the applicant shall send the Director the content specified in 15A NCAC 02Q .0305(3) or (4) signed by the responsible official as defined in 15A NCAC 02Q .0303.

(e) Applications for date and reporting changes. Application for changes in construction or test dates or reporting procedures may be made by letter to the Director as specified in 15A NCAC 02Q .0104. To make changes in construction or test dates or reporting procedures, the applicant shall send the Director the letter specified in 15A NCAC 02Q .0305(5) signed by the responsible official as defined in 15A NCAC 02Q .0303.

(f) When to file applications for permit renewal. Applicants shall file applications for renewals as specified in 15A NCAC 02Q .0104 no less than 90 days before expiration of the permit. If a hard copy of the application is mailed to the Director, the application shall be postmarked no later than 90 days before expiration of the permit.

(g) Name or ownership change. The permittee shall file requests for permit name or ownership changes when the permittee is aware of the name or ownership change.

(h) Requesting additional information. Whenever the information provided on the permit application forms does not adequately describe the source or its air cleaning device, the Director may request that the applicant provide other information to evaluate the source or its air cleaning device. Before acting on a permit application, the Director may request information from an applicant and conduct an inquiry or investigation to determine compliance with standards.

(i) Application fee. With the exceptions specified in 15A NCAC 02Q ~~.0203(i)~~, .0203(l), a non-refundable permit application processing fee shall accompany the application. The permit application processing fees are listed in 15A NCAC 02Q .0200. ~~A permit application shall be incomplete until the permit application processing fee is received.~~

(j) Correcting submittals of incorrect information. An applicant shall have a continuing obligation to submit relevant facts pertaining to his or her permit application and to correct incorrect information in his or her permit application.

(k) Retaining copy of permit application package. The applicant shall retain during the permit term one complete copy of the application package and the information submitted in support of the application package.

Authority G.S. 143-215.3(a)(1); 143-215.108.

15A NCAC 02Q .0305 APPLICATION SUBMITTAL CONTENT

If an applicant does not submit the following information with the application package, the application package shall be considered incomplete ~~for processing~~; and not accepted by the Division for processing:

- (1) for new facilities and modified facilities:

- (a) an application fee required pursuant to 15A NCAC 02Q .0200;
 - (b) a zoning consistency determination required pursuant to 15A NCAC 02Q .0304(b)(1);
 - (c) the documentation required pursuant to 15A NCAC 02Q .0304(b)(2) if required;
 - (d) a financial qualification or substantial compliance statement pursuant to 15A NCAC 02Q .0507(d)(3), if required; and
 - (e) ~~applications~~ application forms required and submitted pursuant to 15A NCAC 02Q .0304(a) and signed by the responsible official;
- (2) for renewals: the application required pursuant to 15A NCAC 02Q .0304(a) and (d), signed by the responsible official, and an emissions inventory that contains the information specified pursuant to 15A NCAC 02D .0202, Registration of Air Pollution Sources;
 - (3) for a name change: a letter signed by the responsible official indicating the current facility name, the date on which the name change will occur, and the new facility name;
 - (4) for an ownership change: an application fee required pursuant to 15A NCAC 02Q .0200 and:
 - (a) a letter signed by the seller and the buyer, indicating the change;
 - (b) a letter bearing the signature of both the seller and buyer, containing a written agreement with a specific date for the transfer of permit responsibility, coverage, and liability between the current and new permittee; or
 - (c) submit the form provided by the Division pursuant to 15A NCAC 02Q .0104; and
 - (5) for corrections of typographical errors; changes in name, address, or telephone number of the individual identified in the permit; changes in test dates or construction dates; or similar minor changes: a letter signed by the responsible official describing the proposed change and explaining the need for the proposed change.

Authority G.S. 143-215.3(a)(1); 143-215.108.

15A NCAC 02Q .0312 APPLICATION PROCESSING SCHEDULE

(a) The Division shall adhere to the ~~following schedule~~ schedules of this Paragraph for processing applications for ~~permits, permit modifications, permits and permit renewals~~ renewals; submitted pursuant to this Section. The schedules of this Paragraph shall only apply to applications for permit modifications as specified in Paragraph (b) of this Rule.

(1) ~~for~~ For permit applications, except for applications that do not require review for prevention of significant deterioration pursuant to 15A NCAC 02D .0530 and or case-by-case maximum achievable control technology pursuant to 15A NCAC 02D .1109 or ~~1112~~ .1112, the Division shall follow the procedures of Parts (a)(1)(A) through (F) of this Rule.

(A) Within 10 days of receiving an application, the ~~The~~ Division shall send the applicant written acknowledgment of receipt of the permit application. ~~The acknowledgement letter shall also state whether the application is accepted for processing. Applications containing the minimum processing elements of 15A NCAC 02Q .0305 shall be accepted for processing. If the application does not contain the minimum processing elements of 15A NCAC 02Q .0305, the acknowledgement letter shall state to the applicant within 10 days of receipt of the application, that the application is not accepted for processing and shall list the application elements of 15A NCAC 02Q .0305 that are missing from the application package.~~

(B) For applications accepted for processing by the Division pursuant to Part (a)(1)(A) of this Rule, the ~~The~~ Division shall review all permit applications within 45 days of receipt of the application to determine whether the application if it is a complete application, or incomplete for processing purposes. Within 45 days of receiving the application, The ~~the~~ Division shall notify the applicant in writing that:

- (i) the application as submitted is complete and complete, specifying the completeness date, date;
- (ii) the application is incomplete, requesting additional information necessary to make the application complete, and specifying the deadline date by which the requested information is to shall be received by the Division, Division to deem the application complete; or
- (iii) the application is incomplete incomplete, requesting that the applicant rewrite and resubmit the application.

If the Division does not notify the applicant in writing within 45 days of receipt of ~~the an accepted~~ application that the application is incomplete, the application shall be deemed complete. A completeness determination shall not prevent the Director from requesting additional information ~~at a later date~~ later in the review process if such information is necessary to properly evaluate the source, its air pollution abatement equipment, or the facility. If the applicant has not provided the requested additional information by the date specified in a written request for additional information, ~~information, information pursuant to Subpart (ii) of this Part, the Director shall cease processing the application until additional information is provided. The applicant may request a time extension for submittal of the requested additional information.~~

~~(C)~~ The Division shall determine within 45 days of receipt of a complete application if any additional information is needed to conduct the technical review of the application. A technical completeness determination shall not prevent the Director from requesting additional information at a later date if such information is necessary to properly evaluate the source, its air pollution abatement equipment, or the facility. The Division shall complete the technical review within 90 days of receipt of a complete application or 10 days after receipt of requested additional information, whichever is later.

~~(D)(C)~~ If the draft permit is not required to go to public notice or to public hearing, the Director shall issue or deny the permit within 90 days of receipt of a complete application or 10 days after receipt of requested additional information, whichever is later.

~~(E)(D)~~ If the draft permit is required to go to public notice with a ~~an request for~~ opportunity to request a ~~for~~ public hearing pursuant to 15A NCAC 02Q .0306(a), the Director shall:

- (i) send publish ~~to for~~ the draft permit for public notice within 90 days after receipt of a complete application; and
- (ii) complete the review of the record and take final action on the permit within 30 days

after the close of the public comment period.

~~(F)~~(E) If the draft permit is required to go to public hearing as a result of a request for public hearing pursuant to 15A NCAC 02Q .0306 or .0307, ~~.0307(e)~~, the Director shall:

- (i) send the draft permit to public hearing within 45 days after approving the request for the public hearing; and
- (ii) complete the review of the record and take final action on the permit within 30 days after the close of the public hearing.

(2) ~~for~~ For permit applications for prevention of significant deterioration pursuant to 15A NCAC 02D .0530, the processing schedules are set out in that Rule.

(3) ~~for~~ For permit applications for case-by-case maximum achievable control technology pursuant to 15A NCAC 02D .1109 or ~~.1112~~; .1112 that are not permit modification applications, the processing schedules and procedures of Parts (A) through (E) of this Subparagraph shall apply.

(A) Within 10 days of receiving an application the ~~The~~ Division shall send the applicant written acknowledgment of receipt of the permit ~~application~~ application. The acknowledgement letter shall also state whether the application is accepted for processing. Applications containing the minimum processing elements of 15A NCAC 02Q .0305 shall be accepted for processing. If the application does not contain the minimum processing elements of 15A NCAC 02Q .0305, the acknowledgement letter shall state to the applicant within 10 days of receipt of the application, that the application has not been accepted for processing and shall list the application elements of 15A NCAC 02Q .0305 that are missing from the application package.

(B) For applications accepted by the Division pursuant to Part (A) of this Subparagraph, the ~~The~~ Division shall review all permit applications within 45 days of receipt of the application to determine ~~whether the application if it is a complete application, or incomplete for processing purposes.~~ The ~~Within 45 days of receiving the application, the~~ Division shall notify the applicant in writing that:

- (i) the application as submitted is ~~complete and~~ complete, specifying the completeness ~~date, date;~~
- (ii) the application is incomplete, requesting additional information necessary to make the application complete, and specifying the ~~deadline~~ date by which the requested information ~~is to~~ shall be received by the ~~Division,~~ Division to determine the application as complete; or
- (iii) the application is ~~incomplete~~ incomplete, requesting that the applicant rewrite and resubmit the application.

If the Division does not notify the applicant in writing within 45 days of receipt of ~~the an~~ accepted application that the application is incomplete, the application shall be deemed complete. A completeness determination shall not prevent the Director from requesting additional information ~~at a later date~~ later in the review process if such information is necessary to properly evaluate the source, its air pollution abatement equipment, or the facility. If the applicant has not provided the requested additional information by the date specified in the letter requesting additional ~~information,~~ information pursuant to Subpart (ii) of this Part, the Director shall cease processing the application until additional information is provided. The applicant may request a time extension for submittal of the requested additional information.

(C) ~~The Division shall determine within 60 days of receipt of a complete application if any additional information is needed to conduct the technical review of the application. A technical completeness determination shall not prevent the Director from requesting additional information at a later date if such information is necessary to properly evaluate the source, its air pollution abatement equipment, or the facility. The Division shall complete the technical review within 120 days of receipt of a complete application or 10 days after receipt of requested additional information, whichever is later.~~

- ~~(D)(C)~~ The Director shall:
 - (i) ~~send~~ publish the draft permit ~~to~~ for public notice within 120 days after receipt of a complete application or 10 days after receipt of requested additional information, whichever is later; and
 - (ii) complete the review of the record and take final action on the permit within 30 days after the close of the public comment period.
- ~~(E)(D)~~ If the draft permit is required to go to public hearing as a result of a request for public hearing pursuant to 15A NCAC 02Q .0306 or .0307, ~~.0307(e)~~, the Director shall:
 - (i) send the draft permit to public hearing within 45 days after approving the request for the public hearing; and
 - (ii) complete the review of the record and take final action on the permit within 30 days after the close of the public hearing.

The days that fall between sending out a written notification requesting additional information and receiving that additional information shall not be counted in the schedules pursuant to this Paragraph.

~~(b) The days that fall between sending out a written notification requesting additional information and receiving that additional information shall not be counted in the schedules pursuant to Paragraph (a) of this Rule.~~

(b) For permit modification applications reviewed pursuant to this Section, the Division shall adhere to the processing schedule of this Paragraph.

- (1) The Division shall send written acknowledgement of receipt and acceptance or non-acceptance of permit modification applications using the procedures and timelines Part (a)(1)(A) or (a)(3)(A) of this Rule, as applicable.
- (2) For permit modification applications that are accepted for processing by the Division pursuant to Subparagraph (1) of this Paragraph, the Division shall notify the applicant of the completeness determination of the application using the procedures and timelines of Part (a)(1)(B) or (a)(3)(B) of this Rule, as applicable.
- (3) Within 90 calendar days of the application completeness date pursuant to Subparagraph (2) of this Paragraph, the Director shall take one of the following actions:
 - (A) If the draft permit is not required to go to public notice or to public hearing,

the Director shall issue or deny the permit.

(B) If the draft permit is required to go to public notice with an opportunity to request a public hearing pursuant to 15A NCAC 02Q .0306 or .0307, the Director shall publish the draft permit for public notice within 90 calendar days of receipt of a complete application, and shall complete the review of the record and take final action on the permit within the timeline specified in Subpart (a)(1)(D)(ii) or (a)(3)(C)(ii) of this Rule, as applicable.

(4) If the draft permit is required to go to public hearing as a result of a request for public hearing pursuant to 15A NCAC 02Q .0306 or .0307, the Director shall follow the procedures and timelines of Part (a)(1)(E) or (a)(3)(D) of this Rule, as applicable.

(c) The Director shall cease processing an application that contains insufficient information to complete the review.

Authority G.S. 143-215.3(a)(1); 143-215.108.

SECTION .0500 - TITLE V PROCEDURES

15A NCAC 02Q .0503 DEFINITIONS

For the purposes of this Section, the definitions in G.S. 143-212, G.S. 143-213, 15A NCAC 02Q .0103, and the following definitions apply:

- (1) "Affected States" means all states or local air pollution control agencies whose areas of jurisdiction are:
 - (a) contiguous to North Carolina and located less than D=Q/12.5 from the facility, where:
 - (i) Q = emissions of the pollutant emitted at the highest permitted rate in tons per year, and
 - (ii) D = distance from the facility to the contiguous state or local air pollution control agency in miles unless the applicant can demonstrate that the ambient impact in the contiguous states or local air pollution control agencies is less than the incremental ambient levels in 15A NCAC 02D .0532(c)(5); or
 - (b) within 50 miles of the permitted facility.
- (2) "Complete application" means an application that is administratively complete, as defined in G.S. 143-213, and provides all information described in 40 CFR 70.5(c) and such other

- information that is necessary to determine compliance with all applicable federal and State requirements.
- (3) "Draft permit" means the version of a permit that the Division offers for public participation pursuant to 15A NCAC 02Q .0521 or affected state review pursuant to 15A NCAC 02Q .0522.
- (4) "Emissions allowable under the permit" means an emissions limit, including a work practice standard, established by a federally enforceable permit term or condition, or a federally enforceable emissions cap that the facility has assumed to avoid an applicable requirement to which the facility would otherwise be subject.
- (5) "Final permit" means the version of a permit that the Director issues that has completed all review procedures required pursuant to this Section if the permittee does not file a petition pursuant to Article 3 of G.S. 150B that is related to the permit.
- (6) "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.
- (7) "Insignificant activities because of category" means:
- (a) mobile sources;
 - (b) air-conditioning units used for human comfort that are not subject to applicable requirements pursuant to Title VI of the federal Clean Air Act and do not exhaust air pollutants into the ambient air from any manufacturing or other industrial process;
 - (c) ventilating units used for human comfort that do not exhaust air pollutants into the ambient air from any manufacturing or other industrial process;
 - (d) heating units used for human comfort that have a heat input of less than 10,000,000 Btu per hour and that do not provide heat for any manufacturing or other industrial process;
 - (e) noncommercial food preparation;
 - (f) consumer use of office equipment and products;
 - (g) janitorial services and consumer use of janitorial products;
 - (h) internal combustion engines used for landscaping purposes;
 - (i) new residential wood heaters subject to 40 CFR Part 60, Subpart AAA; and
 - (j) demolition and renovation activities covered solely pursuant to 40 CFR Part 61, Subpart M.
- (8) "Insignificant activities because of size or production rate" means any activity whose emissions would not violate any applicable emissions standard and whose potential emission of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide before air pollution control devices, are each no more than five tons per year and whose potential emissions of hazardous air pollutants before air pollution control devices, are each below 1000 pounds per year.
- (9) "Minor facility" means any facility that is not a major facility.
- (10) "Operation" means the use of equipment that emits regulated pollutants.
- (11) "Permit renewal" means the process by which a permit is reissued at the end of its term.
- (12) "Permit revision" means any permit modification pursuant to 15A NCAC 02Q .0515, .0516, or .0517 or any administrative permit amendment pursuant to 15A NCAC 02Q .0514.
- (13) "Proposed permit" means the version of a permit that the Director proposes to issue and forwards to EPA for review pursuant to 15A NCAC 02Q .0522.
- (14) "Responsible official" means a responsible official as defined in 40 CFR 70.2.
- (15) "Section 502(b)(10) changes" means changes that contravene an express permit term or condition. Such changes shall not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring, including test methods, recordkeeping, reporting, or compliance certification requirements.
- (16) "Synthetic minor facility" means a facility that would otherwise be required to follow the procedures of this Section except that the potential to emit is restricted by one or more federally enforceable physical or operational limitations, including air pollution control equipment and restrictions on hours or operation, the type or amount of material combusted, stored, or processed, or similar parameters.
- (17) "Timely" means:
- (a) for a new facility or newly subject facility, 12 months from the date that the facility or source becomes subject to the Title V operating permit program pursuant to 15A NCAC 02Q .0500;
 - (b) for renewal of a permit previously issued pursuant to this Section, six months before the expiration of that permit;

- (c) for a minor modification pursuant to 15A NCAC 02Q .0515, before commencing the modification;
- (d) for a significant modification pursuant to 15A NCAC 02Q .0516 where the change would not contravene or conflict with a condition in the existing permit, 12 months after commencing operation;
- (e) for reopening for cause pursuant to 15A NCAC 02Q .0517, as specified by the Director in a request for additional information by the Director;
- (f) for requests for additional information, as specified by the Director in a request for additional information by the Director; or
- (g) for modifications made pursuant to Section 112(j) of the federal Clean Air Act, 18 months after EPA fails to promulgate a standard for that category of source pursuant to Section 112 of the federal Clean Air Act by the date established pursuant to Section 112(e)(1) or (3) of the federal Clean Air Act.

- (4) name, the date on which the name change will occur, and the new facility name;
- (4) for an ownership change: an application fee as required pursuant to 15A NCAC 02Q .0200; and a letter bearing the signature of both the seller and buyer and containing a written agreement with a specific date for the transfer of permit responsibility, coverage, and liability between the current and new permittee; and
- (5) for corrections of typographical errors; changes of the name, address, or telephone number of an individual identified in the permit; changes in test dates or construction dates; or similar ~~minor changes~~; administrative changes pursuant to 15A NCAC 02Q .0514; a letter signed by a responsible official in accordance with 15A NCAC 02Q .0520 describing the proposed change and explaining the need for the proposed change.

Authority G.S. 143-215.3(a)(1),(1a); 143-215.107(a)(10); 143-215.108.

15A NCAC 02Q .0507 APPLICATION

- (a) Except for:
 - (1) minor permit modifications covered pursuant to 15A NCAC 02Q .0515;
 - (2) significant modifications covered pursuant to 15A NCAC 02Q .0516(c); or
 - (3) renewals submitted pursuant to 15A NCAC 02Q .0513;

the owner or operator of a new or existing source shall have 12 months after the facility or source becomes subject to the Title V operating permit program pursuant to 15A NCAC 02Q .0500 to file a complete application for a permit or permit revision. However, the owner or operator of a source shall not begin construction or operation of a source until he or she has obtained a construction and operation permit pursuant to 15A NCAC 02Q .0501(b) or (c) and 15A NCAC 02Q .0504.

(b) An application shall include the information described in 40 CFR 70.3(d) and 70.5(c), including a list of insignificant activities because of size or production rate but not including insignificant activities because of category. An application shall be certified by a responsible official for truth, accuracy, and completeness. In an application submitted pursuant to this Rule, the applicant may attach copies of applications submitted pursuant to 15A NCAC 02Q .0400 or 15A NCAC 02D .0530 or .0531 if the information in those applications contains information required in this Section and is current, accurate, and complete.

(c) Application for a permit, permit revision, or permit renewal shall be made in accordance with 15A NCAC 02Q .0104 on forms of the Division and shall include plans and specifications with complete data and information as required by this Rule. If the information provided on these forms does not describe the source or its air pollution abatement equipment to the extent necessary to evaluate the application, the Director shall request that the applicant provide other information necessary to evaluate the source and its air pollution abatement equipment.

Authority G.S. 143-212; 143-213; 143-215.3(a)(1).

15A NCAC 02Q .0505 APPLICATION SUBMITTAL CONTENT

If an applicant does not submit the following information with its application package, the application package shall not be accepted by the Division for processing; ~~returned~~:

- (1) for new facilities and modified facilities:
 - (a) an application fee as required pursuant to 15A NCAC 02Q .0200;
 - (b) a consistency determination as required pursuant to 15A NCAC 02Q ~~.0507(d)(1)~~; .0507(d)(1) or the documentation required pursuant to 15A NCAC 02Q .0507(d)(2);
 - ~~(c)~~ (e) ~~the documentation required pursuant to 15A NCAC 02Q .0507(d)(2)~~;
 - ~~(d)~~ (c) a financial qualification or substantial compliance statement pursuant to 15A NCAC 02Q .0507(d)(3) if required; and
 - ~~(e)~~ (d) applications submitted as required pursuant to 15A NCAC 02Q .0507(a), signed as required by 15A NCAC 02Q .0520;
- (2) for renewals: applications ~~as required pursuant to 15A NCAC 02Q .0507(a)~~; signed as required by 15A NCAC 02Q .0520;
- (3) for a name change: a letter signed by a responsible official in accordance with 15A NCAC 02Q .0520 indicating the current facility

(d) ~~Along with filing a complete application, the applicant shall also file the following: The application shall contain a zoning consistency determination, financial qualification demonstration, and substantial compliance statement as specified in Subparagraphs (1) through (3) of this Paragraph.~~

- (1) for a new facility or an expansion of existing facility, a consistency determination in accordance with G.S. 143-215.108(f) that:
 - (A) bears the date of receipt entered by the clerk of the local government; or
 - (B) consists of a letter from the local government indicating that zoning or subdivision ordinances are met by the facility;
- (2) for a new facility or an expansion of an existing facility in an area without zoning, an affidavit and proof of publication of a legal notice as required pursuant to 15A NCAC 02Q .0113; and
- (3) if required by the Director, information showing that:
 - (A) the applicant is financially qualified to carry out the permitted activities; or
 - (B) the applicant has substantially complied with the air quality and emissions standards applicable to any activity in which the applicant has previously been engaged and has been in substantial compliance with federal and State environmental laws and rules.

(e) An applicant who fails to submit relevant facts or submits incorrect information in a permit application shall, upon becoming aware of the failure or incorrect submittal, submit supplementary facts or corrected information to resolve the deficiency. In addition, an applicant shall provide additional information to address requirements to which the source becomes subject after the date the applicant filed a complete application but prior to release of a draft permit.

(f) The submittal of a complete permit application shall not affect the requirement that a facility have a permit pursuant to 15A NCAC 02D .0530, .0531, or .0532 or pursuant to 15A NCAC 02Q .0400.

(g) The Director shall give priority to permit applications containing early reduction demonstrations pursuant to Section 112(i)(5) of the federal Clean Air Act. The Director shall take final action on these permit applications after receipt of the complete permit application.

(h) Except as specified in 15A NCAC 02Q ~~.0203(i)~~, .0203(l), a non-refundable permit application processing fee, defined in 15A NCAC 02Q .0200, shall accompany the application. ~~The permit application shall be deemed incomplete until the permit application processing fee is received.~~

(i) The applicant shall retain during the permit term one complete copy of the application package and the information submitted in support of the application package.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108.

15A NCAC 02Q .0515 MINOR PERMIT MODIFICATIONS

(a) The procedures set out in this Rule shall apply to permit modifications if the modifications:

- (1) do not violate any applicable requirement;
- (2) do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;
- (3) do not require or change a case-by-case determination of an emission limitation or other standard, a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;
- (4) do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the facility has assumed to avoid an applicable requirement to which the facility would otherwise be subject. Such terms and conditions include:
 - (A) a federally enforceable emissions cap assumed to avoid an applicable requirement pursuant to any provision of Title I of the federal Clean Air Act; or
 - (B) an alternative emissions limit approved as part of an early reduction plan submitted pursuant to Section 112(i)(5) of the federal Clean Air Act;
- (5) are not modifications pursuant to any provision of Title I of the federal Clean Air Act; and
- (6) are not required to be processed as a significant modification pursuant to 15A NCAC 02Q .0516.

(b) In addition to the items required pursuant to 15A NCAC 02Q .0505, an application requesting the use of the procedures set out in this Rule shall include:

- (1) an application form including:
 - (A) a description of the change;
 - (B) the emissions resulting from the change; and
 - (C) identification of any new applicable requirements that will apply if the change occurs;
- (2) a list of the facility's other pending applications awaiting group processing and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the thresholds set out in Subparagraphs (c)(1) through (3) of this Rule;
- (3) the applicant's suggested draft permit;
- (4) certification by a responsible official that the proposed modification meets the criteria for using the procedures set out in this Rule and a request that these procedures be used; and
- (5) complete information for the Director to use to notify EPA and affected states.

(c) The Director ~~shall~~ may use group processing for minor permit modifications processed pursuant to this Rule. The Director shall

notify EPA and affected states of the requested permit revisions pursuant to this Rule and shall provide the information specified in 15A NCAC 02Q .0522 on a quarterly basis. If the aggregated emissions from all pending minor permit modifications equal or exceed:

- (1) 10 percent of the emissions allowed for the source for which the change is requested;
- (2) 20 percent of the applicable definition of major facility; or
- (3) five tons per year,

then the Director shall notify EPA and affected states within five business days of the requested permit revision pursuant to this Rule and provide the information specified in 15A NCAC 02Q .0522.

(d) Within 90 calendar days after of receiving a complete an application for a minor permit modification that is accepted by the Division for processing, that exceeds the thresholds in Subparagraphs (c)(1), (2), or (3) of this Rule or 15 days after the end of EPA's 45 day review period, whichever is later, the Director shall: shall take one of the following actions:

- (1) issue the permit modification as proposed; and transmit the proposed permit to EPA for a review period of 45 days. The effective date of the modified permit shall be 60 days after the issuance date unless EPA objects in writing to the modified permit as proposed, in which case the procedures of Paragraph (e) of this Rule shall apply;
- (2) deny the permit modification application; or
- (3) determine that the requested modification does not qualify for the procedures set out in this Rule and should be processed pursuant to 15A NCAC 02Q .0516; or .0516.
- (4) revise the draft permit modification and transmit the proposed permit to EPA.

(e) If EPA objects in writing to issuance of a permit modification within its 45-day review period pursuant to Subparagraph (d)(1) of this Rule, the Director shall notify the permittee of EPA's objection. Within 15 days of the objection, the Division shall revise the draft permit modification and transmit to the EPA a revised proposed permit in response to EPA's objections. The revised permit modification shall be issued and effective upon concurrence with the EPA.

(e) ~~If the thresholds in Subparagraphs (c)(1), (2), and (3) of this Rule are not exceeded, the Director shall, within 180 days after receiving a completed application for a permit modification or 15 days after the end of EPA's 45day review period, whichever is later:~~

- (1) ~~issue the permit modification as proposed;~~
- (2) ~~deny the permit modification application;~~
- (3) ~~determine that the requested modification does not qualify for the procedures set out in this Rule and should be processed pursuant to 15A NCAC 02Q .0516; or~~
- (4) ~~revise the draft permit modification and transmit the proposed permit to EPA.~~

(f) The permit applicant may make the change proposed in his minor permit modification application immediately after filing the completed an application with that is accepted by the Division.

After the applicant makes the change, the facility shall comply with both the applicable requirements governing the change and the proposed permit terms and conditions until the Director takes one of the final actions specified in ~~Paragraph~~ Paragraphs (d) or (e) of this Rule. Between the filing of the permit modification application and the Director's final action, the facility need not comply with the existing permit terms and conditions it seeks to modify. However, if the facility fails to comply with its proposed permit terms and conditions during this time period, the Director may enforce the terms and conditions of the existing permit that the applicant seeks to modify, as necessary to ensure protection of air quality.

(g) The permit shield allowed pursuant to 15A NCAC 02Q .0512 shall not extend to minor permit modifications.

(h) If the State-enforceable only portion of the permit is revised, the procedures in 15A NCAC 02Q. 0300 shall be followed.

(i) The proceedings shall affect only those parts of the permit related to the modification.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108.

15A NCAC 02Q .0525 APPLICATION PROCESSING SCHEDULE

(a) The Division shall adhere to the following schedule in processing permit applications:

(1) Within 10 days of receiving an application, the Division shall send the applicant written acknowledgment of receipt of an application to the applicant within 10 days of receipt of the application, that the application was received. The acknowledgement letter shall also state whether the application was accepted for processing pursuant to Part (A) of this Subparagraph, or the application is not accepted for processing pursuant to Part (B) of this Subparagraph.

(A) For an application that contains the minimum processing elements of 15A NCAC 02Q .0505 and .0507, the acknowledgement letter shall state that the application is accepted by the Division for processing; and

(B) For an application that does not contain the minimum processing elements of 15A NCAC 02Q .0505 and .0507, the acknowledgement letter shall state that the application is not accepted for processing, indicate the application elements of 15A NCAC 02Q .0505 or .0507 that are missing from the application package, and request that the applicant resubmit the application package.

(2) For applications accepted by the Division pursuant to Part (a)(1)(A) of this Rule, the Division shall review all the permit application applications within 60 days of receipt of the application to determine whether the

application is complete or incomplete. A completeness determination shall not be necessary for minor modifications pursuant to 15A NCAC 02Q .0515. The Division shall notify the applicant by letter, in writing that:

- (a)(A) ~~stating that the application as submitted is complete and complete, specifying the completeness date;~~
- (b)(B) ~~stating that the application is incomplete, requesting additional information necessary to make the application complete, ~~conduct the technical review of the application,~~ and specifying the date by which the requested information is ~~required to~~ shall be received by the ~~Division;~~ Division; or~~
- (c)(C) ~~stating that the application is incomplete and incomplete,~~ requesting that the applicant rewrite and resubmit the application.

If the Division does not notify the applicant by letter dated within 60 days of receipt of the application that the application is incomplete, the application shall be deemed complete. A completeness determination shall not prevent the Director from requesting additional information at a later date if such information is necessary to properly evaluate the source, its air pollution abatement equipment, or the facility. If the applicant has not provided the requested additional information by the date specified in the letter requesting additional information, the Director shall cease processing the application until additional information is provided. The applicant may request a time extension for submittal of the requested additional information.

- (3) A completeness determination shall not be necessary for, and the completeness determination provisions specified in Subparagraph (a)(2) of this Rule shall not apply to minor modifications submitted pursuant to 15A NCAC 02Q .0515.
- (4) For all permit application types, a completeness determination shall not prevent the Director from requesting additional information later in the review process if such information is necessary to evaluate the source, its air pollution abatement equipment, or the facility. If the applicant has not provided the requested additional information by the date specified in a written request for additional information, the Director shall cease processing the application until additional information is provided. The applicant may request a time extension for submittal of the requested additional information.

- (3) ~~The Division shall complete the technical review of significant modifications received pursuant to 15A NCAC 02Q .0516 in accordance with 40 CFR 70.7(e)(4)(ii).~~
- (4) ~~The Division shall provide for public participation in accordance with 15A NCAC 02Q .0521. If a public hearing is requested and approved by the Director for a draft permit, it shall be held within 45 days of the Director's decision to hold a public hearing.~~
- (5) ~~The Director shall complete the review of the record and send the proposed permit to EPA and affected states in accordance with 15A NCAC 02Q .0522.~~
- (6) ~~Final permit action shall be taken in accordance with 15A NCAC 02Q .0518.~~

(b) In addition to the schedule in Paragraph (a) of this Rule, the Division shall adhere to the following timelines when processing applications for permit revisions:

- (1) For minor modification applications received pursuant to 15A NCAC 02Q .0515, the Division shall complete the review and take action on the permit application pursuant to 15A NCAC 02Q .0515(d) and (e).
- (2) The Division shall complete the technical review of significant modifications received pursuant to 15A NCAC 02Q .0516 in accordance with 40 CFR 70.7(e)(4)(ii). Within 270 calendar days of receipt of a complete application for a significant permit modification pursuant to 15A NCAC 02Q .0516, the Division shall complete the review of the application and either issue the modified permit, deny the modified permit, or publish the modified permit for public notice and comment.
- (3) For applications for permit revisions that are not minor modifications pursuant to 15A NCAC 02Q .0515 or significant modifications pursuant to 15A NCAC 02Q .0516, the application shall be reviewed pursuant to 15A NCAC 02Q .0514 or .0517, as applicable.

(c) The Division shall provide for public participation in accordance with 15A NCAC 02Q .0521. If a public hearing is requested and approved by the Director for a draft permit, it shall be held within 45 days of the Director's decision to hold a public hearing.

(d) The Director shall complete the review of the record and send the proposed permit to EPA and affected states in accordance with 15A NCAC 02Q .0522.

(e) Final permit action shall be taken in accordance with 15A NCAC 02Q .0518.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108.

TITLE 18 – DEPARTMENT OF THE SECRETARY OF STATE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of the Secretary of State intends to adopt the rules cited as 18 NCAC 07B .0111, .0313, .0314, .0420-.0431, .0609, .0610, .0801-.0810; 07C .0801-.0805; 07D .0105, .0106, .0309, .0310, .0401-.0406, .0501-.0507, .0601-.0606; 07F .0202, .0710, .0815, .0816; 07G .0101-.0110, 07H .0101-.0104, .0201-.0208, .0301-.0304, .0401-.0406, .0501-.0512, .0601-.0612, .0701; 07J .0101-.0117, .0202-.0216, .0301-.0315, .0401, .0403-.0423, .0501-.0505, .0602-.0629, .0701-.0706, .0801-.0814, .0901-.0910, .1001-.1023, .1101-.1104, .1201-.1210, .1301-.1307, .1401-.1429, .1501-.1507, .1601-.1614, .1701-.1703, .1801-.1814, .1901-.1903, .2001-.2022, .2101-.2103, .2201-.2211, amend the rules cited as 18 NCAC 07B .0101, .0102, .0105, .0110, .0305, .0308, .0310, .0402, .0405, .0408, .0409, .0411, .0414, .0601, .0603, .0607; 07F .0102, .0103, .0303, .0601, .0704, .0804, .0807, .0814, .1003, .1004, 07I .0102, .0106, .0207, .0302, .0303, .0308, .0404, .0406; 07J .0201, .0402, .0601; 07K .0101, and repeal the rules cited as 18 NCAC 07D .0103 and .0104.

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

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://sosnc.gov/rulemaking>

Proposed Effective Date: July 1, 2025

Public Hearing:

Date: February 4, 2025

Time: 10:00 a.m. - 11:00 a.m.

Location: 4701 Atlantic Avenue, Suite 116, Conference Room 115, Raleigh, NC 27604

Reason for Proposed Action: A Notice of Informational Meeting is included at the end of this explanation. The Information Meeting is not required by the NC Administrative Procedures Act and is in addition to the Public Hearing for which notice is also provided.

This rulemaking package is the third of three rulemaking tranches which the Department of the Secretary of State (Department) has undertaken in order to comply with, implement and interpret the Remote Electronic Notarization Act (RENA), adopted July 8, 2022, S.L. 2022-54. RENA was modified on June 23, 2023 by S.L. 2023-57, on September 28, 2023 by S.L. 2023-124, and on September 9, 2024 by S.L. 2024-47. G.S. 10B-4 and various other provisions in RENA provide authority for the Department to promulgate rules addressing all aspects of the notary public program.

G.S. 150B-21.3A separately requires all state agencies to review existing rules every ten years in accordance with a prescribed process that includes rule re-adoption. Many of the existing notary rules are nearing the end of their decadal cycle and thus are due for review and re-adoption. This third rulemaking tranche is undertaken to satisfy the mandates found in both RENA and G.S. 150B-21.3A.

Notaries public are public officers. The main function of a notary public is to serve as an impartial witness to the execution of legal and other documents upon which members of the public may rely, whether in private transactions or upon placement into the public record. RENA directs the Secretary of State to adopt rules on a large number of topics. The rules must fulfill the purposes of the Notary Public Act, including:

- To simplify, clarify, and modernize the law governing notaries,
- To prevent fraud and forgery,
- To foster ethical conduct among notaries,
- To enhance interstate recognition of notarial acts, and
- To integrate procedures for all of the following notarial acts: Traditional paper, electronic notarization, and remote electronic notarization.

RENA requirements for remote electronic notarial acts (RENs) are based on requirements for traditional notaries and notarial acts, as well as the requirements for eNotaries and electronic notarial acts. To the extent feasible, the RENA rules, must, therefore, harmonize the requirements for traditional notaries, eNotaries performing in-person notarizations, and eNotaries performing remote electronic notarial acts.

The General Assembly mandated that the Department adopt rules that promote public confidence in the reliability of the identification of principals and signatures made by those principals, whether appearing in person or remotely. Rules adopted by the Department help to ensure that transactions are not repudiated as a result of:

- Mental incapacity of the principal,
- Coercion or duress, or
- Fraud.

By enhancing reliability and accountability, the Secretary facilitates economic growth while reducing costly and avoidable litigation.

In order to achieve these goals, the Secretary promulgated two Advance Notices of Proposed Rulemaking (ANPRs). The ANPRs were published on the Department's website and emailed to stakeholders and others. The ANPRs requested comments on a number of issues to help the Department address requirements in RENA in a manner that remains true to the statute and also provides stakeholders useful instruction. The first ANPR focused primarily on issues related to the eNotary and the REN act. The second ANPR focused on issues related to the technology notaries will use to perform remote electronic notarial acts. Neither ANPR was required by RENA or North Carolina's Administrative Procedure Act.

Due to the scope and scale of the requirements for this rulemaking process, the Secretary has proposed the rules in three sets. The first set of proposed rules dealt with fundamental issues related to all three methods of performing notarial acts and established certain common rules. The second set of rules focused on updating existing rules and harmonizing them with the requirements of RENA. The first and second sets of rules were approved by the Rules Review Commission (RRC) in December 2023, January 2024, and April 2024, with varying effective dates.

This final set of rules: (1) establishes performance criteria for the technology used to perform remote electronic notarial acts; (2) the licensure and approval processes for the providers of that technology, as well as certain other ancillary requirements of RENA;

(3) directs notaries on proper use of the technology; (4) makes changes to previously approved RENA-related rules necessary for harmonization with this latest tranche; and (5) addresses recently adopted statutory requirements applicable to manufacturers and sellers of physical notary seals. The rules are intended to be:

- A. Technology agnostic;
- B. Provide clear direction to the regulated community;
- C. Be sufficiently flexible to adjust to technological advances; and
- D. Assert no more regulatory oversight than necessary to satisfy statutory directives.

In preparing these rules, the Department comprehensively researched the statutes and regulations of other states implementing remote notarization programs. The Department also researched industry, state, and federal standards and sought input from various academics, colleagues in other state agencies and states, and industry experts. Although providing useful information, ideas, and insights, the laws, regulations, and standards identified seldom met the level of specificity, clarity, and lack of ambiguity required for rules promulgated pursuant to the North Carolina Administrative Procedures Act.

The Department has to date expended between 8500 and 9000 hours in connection with its RENA rulemaking efforts. While recognizing the need for positions to conduct the rulemaking, the General Assembly has not appropriated funds to support the rulemaking effort mandated by statute in 2022, despite repeated Departmental requests. Departmental allocation of resources to the mandatory rulemaking has been at the expense of other statutorily mandated Departmental duties.

Specific topics addressed in these proposed rules include:

(1) Assuring the statutorily mandated security and reliability of the RENA process and the underlying technologies used in the remote electronic notarization process. Security considerations have included the risks of known exploits arising from ransomware attacks and deepfake insertions. Together, these considerations have mandated rulemaking attention to:

- * digital and physical security;
- * disaster recovery;
- * business continuity; and
- * establishing a means to measure the reliability of the required identity proofing and credential analysis technologies that can then be disclosed in a uniform way for stakeholder evaluation and vendor accountability.

(2) Defining the circumstances when geolocation technology must be used to verify the location of a remotely located principal under RENA, and the precision that must be delivered by geolocation technology. Geolocation technology currently is reliable only when a global

positioning system is enabled on a device. Geolocation technology may not be appropriate for use due to national security where the remotely located principal is actively deployed under military orders.

(3) Addressing the statutory requirement that the technologies make reasonable accommodations for remotely located principals with vision, hearing or speech impairments. Generally, a notary must be able to communicate directly with a principal and without an intermediary in order to establish identity, mental capacity and the absence of fraud or duress.

(4) Protecting the personal information of RENA participants and the confidential nature of matters subject to notarization.

(5) Establishing retention requirements for mandated communication technology recordings and journal entries, chain of custody tracking and the circumstances under which and to whom these journal entries and recordings may be released.

(6) The licensing and approval process for these technologies. RENA requires that the Department award platform licenses only to applicants who are of good moral character and who can meet security and reliability standards. The statutory licensing process also requires a background investigation of the applicant and key individuals. Other technology providers must go through an approval process that is not as exhaustive as the licensing process.

(7) Assuring accurate fee remission to the Department of the \$5 statutorily-required fee that a platform must collect for every REN act. This fee is to be used to fund implementation and enforcement of RENA. The fee must be reliably collected and accounted for in an auditable manner that meets State of North Carolina fiscal management laws and regulations.

(8) Establishing the process by which physical and electronic seal vendors and manufacturers identify and confirm the authority of an individual to obtain a North Carolina notarial seal. RENA sets out that failure on the part of seal vendors and manufacturers to meet these requirements exposes those parties to a \$1,000 fine per violation and a possible felony charge.

NOTICE OF INFORMATIONAL MEETING FOR STAKEHOLDERS: On January 14, 2025, the Department will host an informational meeting for stakeholders. During the meeting, the Department will provide an overview of the proposed rules, including:

- The rulemaking process,
- The technology provider application, licensure and approval processes,
- The technology provider requirements,
- The technological processes necessary to perform REN acts, and
- The procedures for conducting RENs.

The informational meeting may be attended in-person or remotely, upon pre-registration and as space and the available technology allows.

Location: Remotely (link to be provided upon registration) and Room A202, Old Revenue Building, 2 S. Salisbury Street, Raleigh NC 27601

Time: 10 a.m. – 11:30 a.m.

Pre-registration is required for in-person attendance and to obtain the link to attend remotely. Register Bit.ly/RENAInfo.

Notice of the informational meeting was sent to all those on the Department’s rulemaking interested persons list and other potential stakeholders identified by the Department.

Comments may be submitted to: Ann B. Wall, P.O. Box 29622, Raleigh, NC 27626-0622; phone (919) 814-5400; email rules@sosnc.gov (Email submissions preferred to: rules@sosnc.gov. By Courier or Hand-delivery to: 2 S. Salisbury St., Raleigh, NC 27601)

Comment period ends: March 3, 2025 (Please cite the rule numbers to which your comments refer.)

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

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

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

CHAPTER 07 - NOTARY PUBLIC DIVISION

SUBCHAPTER 07B – GENERAL REQUIREMENTS

SECTION .0100 – GENERAL PROVISIONS

18 NCAC 07B .0101 SCOPE

The rules in this Subchapter implement Chapter 10B of the General Statutes. The rules govern:

- (1) the qualification, commissioning, notarial acts, conduct, and discipline of notaries public as public officers of the State;
(2) the qualification, certification, and discipline of certified notary instructors; and
(3) the qualification, approval or licensing, conduct, and discipline of technology providers; providers; and
(4) the conduct and discipline of manufacturers and vendors of notary public seals.

Authority G.S. 10B-4; 10B-14(f); 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07B .0102 DEFINITIONS

For purposes of this Chapter:

- (1) "Appoint" or "Appointment" means the naming of an individual to the office of notary public after determination that the individual has complied with Chapter 10B of the General Statutes and Subchapter 07C of this Chapter. For the purposes of the rules in this Chapter, the terms "appoint," "reappoint," "appointment," "reappointment," "commission," "recommission," "commissioning," and "recommissioning" all refer to the term "commission" as defined in G.S. 10B-3(4) or to the process of acquiring or maintaining the commission.
(2) "Appointee" means an individual who has been appointed or reappointed to the office of notary public but has not yet taken the oath of office to be commissioned.
(3) "Authorization" means a notary commission, an electronic notary registration, an instructor certification, an approval, a manufacturer or vendor registration, or a license issued by the Department pursuant to Chapter 10B of the General Statutes.
(4) "Authorize" means the Department's action to issue an authorization.
(5) "Commission date" means the beginning date of commissioning or recommissioning as entered on a commission certificate.
(6) "Court" means a tribunal of a locality, state, the Armed Forces of the United States, a federally recognized tribe, or any nation.
(7) "Crime" means:
(a) an offense designated by law as a felony or misdemeanor;
(b) an attempt to commit an offense;
(c) an accessory to commission of an offense;
(d) aiding and abetting of an offense;
(e) conspiracy to commit an offense;
(f) solicitation to commit an offense; or
(g) threat to commit an offense.

- An infraction as defined in G.S. 14-3.1 is not a crime.
- (8) "Crime involving dishonesty" means a crime that involves untruthfulness, deceit, fraud, false dealing, cheating or stealing.
- (9) "Criminal convictions" means the following dispositions of criminal charges:
- (a) adjudications of guilt;
 - (b) pleas of nolo contendere;
 - (c) pleas of guilty;
 - (d) Alford pleas;
 - (e) conditional discharges;
 - (f) prayers for judgment continued; and
 - (g) dispositions denominated differently but equivalent to Sub-Items (a)-(f) in this Item.
- (10) "Denial" with regard to public office means an individualized action:
- (a) to disqualify an individual from:
 - (i) being a candidate for an elected public office; or
 - (ii) holding or filling a public office; and
 - (b) that is taken by:
 - (i) a governmental agency, a legislative body, or a member of the executive branch of any locality, state, federally recognized tribe, or nation; or
 - (ii) a court.
- (11) "Disciplinary action" means an official action by a court, legislative body, governmental agency, board, or commission of any locality, state, federally recognized tribe, or nation resulting in:
- (a) a disciplinary order;
 - (b) a censure;
 - (c) a reprimand;
 - (d) an admonition;
 - (e) a resignation in lieu of termination or revocation;
 - (f) a denial;
 - (g) a written warning; ~~or~~
 - (h) a civil penalty or fine; or
 - ~~(h)~~(i) actions denominated differently but equivalent to Sub-Items (a)-(g)(h) in this Item.
- (12) "Disciplinary order" means a directive or its equivalent that:
- (a) is directed to a holder of a professional license or a commissioned notary public;
 - (b) prohibits or conditions an individual from engaging in the practice of the profession or acting as a notary public for any amount of time;
 - (c) is issued by a court or government agency, board, or commission of any locality, state, federally recognized
- tribe, or nation with authority to discipline or sanction the individual or notary public; and
- (d) is not stayed, rescinded, reversed, or expunged.
- Note: Suspensions, restrictions, and revocations of commissions or licenses are examples of disciplinary orders.
- (13) "Family member" means an individual related by blood, marriage, or adoption.
- (14) "Finding" means a decision, conclusion, or opinion by a court, legislative body, or governmental agency, board, or commission of any locality, state, federally recognized tribe, or nation that is based upon a review of evidence in an investigation, a quasi-judicial proceeding, or a judicial proceeding resulting in a determination that:
- (a) a fact has been proved according to the applicable legal standard; or
 - (b) a law applies to the specific facts in a matter.
- (15) "Harm" means:
- (a) loss or damage to a person affecting:
 - (i) liberty;
 - (ii) child custody, parental rights, child support, or visitation;
 - (iii) reputation;
 - (iv) money;
 - (v) property;
 - (vi) time; or
 - (vii) a contract or transaction; or
 - (b) an act that undermines public confidence in the reliability of notarial acts or notarial instructor certification.
- (16) "IPEN" means an in-person electronic notary solution, comprised of an electronic notary public seal, an electronic notary signature, and an electronic notary journal.
- ~~(16)~~(17) "Issuance" with regard to public office means an action:
- (a) to certify the results of an election signifying that an individual has been elected to the public office; or
 - (b) to appoint an individual to fill a public office; and
 - (c) that is taken by:
 - (i) a governmental agency, board, or commission, a legislative body, or a member of the executive branch of any locality, state, federally recognized tribe, or nation; or
 - (ii) a court.
- (18) "Journal" means a collection of entries describing notarial acts that is created and maintained by a notary public in compliance with Chapter 10B of the General Statutes and the rules in this Chapter.

~~(17)~~(19) "Licensed member of the North Carolina State Bar" means an active member as defined in 27 NCAC 01A .0201(b).

~~(18)~~(20) "Name for use on a notary public commission" or "commission name" means the name chosen by a commission applicant as the applicant's commission name and consisting of:

- (a) the full legal name of the commission applicant; or
- (b) a combination of the applicant's surname and:
 - (i) full first or middle name; or
 - (ii) full first or middle name and one or more initials derived from the applicant's full legal name.

Note: Full legal names, full first names, and full middle names shall not include nicknames.

~~(19)~~(21) "Notarial act" means, in addition to those acts listed in G.S. 10B-3(11), acts authorized to be performed by a notary public pursuant to:

- (a) G.S. 163-231(a); and
- (b) G.S. 53C-6-13(a).

~~(20)~~(22) "Notary course" means a course taught by a certified notary instructor for purposes of:

- (a) commissioning or recommissioning a notary public; ~~or~~
- (b) registering or reregistering an electronic notary ~~public~~; public; or
- (c) educating a compliance contact of a platform or IPEN regarding Chapter 10B of the General Statutes and the rules in this Chapter.

~~(21)~~(23) "Probation" with regard to criminal convictions means active supervision by a governmental agency or its legally authorized designee in lieu of jail or prison.

~~(22)~~(24) "Professional license" means an issuance that involves a grant of authority by a governmental agency, board, or commission of any locality, state, federally recognized tribe, or nation, to an individual to act in a fiduciary capacity, or in a capacity that affects the public interest or public trust, and that regards an occupation requiring training and formal qualification. Professional licenses are:

- (a) attorney;
- (b) appraiser;
- (c) architect;
- (d) boiler inspector;
- (e) building, electrical, fire, mechanical, or plumbing inspector;
- (f) certified nursing assistant;
- (g) certified public accountant;
- (h) code enforcement official;
- (i) electrical contractor;
- (j) engineer;
- (k) general contractor;
- (l) geologist;

- (m) insurance agent;
- (n) insurance company adjuster;
- (o) interpreter or transliterator;
- (p) investment advisor;
- (q) locksmith;
- (r) motor vehicle damage appraiser;
- (s) on-site wastewater contractor inspector;
- (t) pharmacist;
- (u) physician;
- (v) physician assistant;
- (w) plumbing, heating, and fire sprinkler contractor;
- (x) private investigator;
- (y) professional bondsman;
- (z) real estate broker;
- (aa) registered nurse, licensed practical nurse, nurse practitioner;
- (bb) securities broker, dealer, salesman;
- (cc) self-employed insurance adjuster;
- (dd) surety bondsman;
- (ee) sworn law enforcement officer; and
- (ff) teacher.

~~(23)~~(25) "Public office" means a position:

- (a) created by law to which an individual has been elected or appointed;
- (b) involving a delegation to the individual of some of the functions of government to be exercised by the individual for the benefit of the public; and
- (c) with authority that is not solely advisory.

~~(24)~~ "Restriction" with regard to public office means ~~an individualized action:~~

- ~~(a) to restrain an individual from serving in public office; and~~
- ~~(b) that is taken by:~~
 - ~~(i) a governmental agency, board, or commission, a legislative body, or a member of the executive branch of any locality, state, federally recognized tribe, or nation; or~~
 - ~~(ii) a court.~~

~~(25)~~(26) "Release from prison, probation or parole" means:

- (a) completion of all terms of a sentence or judgment entered as part of a disposition of a criminal charge;
- (b) a certificate or order related to a criminal charge evidencing the individual's unconditional discharge;
- (c) a certificate of relief pursuant to G.S. 15A-173.4;
- (d) an endorsement from the Governor after satisfaction of conditions of a conditional pardon pursuant to G.S. 13-4;

- (e) an unconditional pardon pursuant to G.S. 13-3;
- (f) an order that a conviction is vacated; and
- (g) the individual's citizenship has been restored pursuant to G.S. 13-1;
- (h) an action that is equivalent to Sub-Items (a)-(f) of this Item entered by a court, or an official or body of a state, federally recognized tribe, or nation with the authority to grant pardons.

Authority G.S. 10B-4; 10B-14(f); 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

~~(26)~~(27) "Residence address" means a physical location with a street name, and a number designating the building in which an individual resides, including an apartment or unit number if applicable, the city, state, zip code, and nation if not the United States.

18 NCAC 07B .0105 OBTAINING REQUESTED INFORMATION

A ~~filer~~ person responding to a departmental information request shall:

- (1) use reasonable efforts to obtain information requested by the Department;
- (2) deliver to the Department all requested information that is available to the ~~filer~~; person; and
- (3) if unable to obtain requested information, describe to the Department the efforts taken to obtain the information.

(28) "Restriction" with regard to public office means an individualized action:

Authority G.S. 10B-4; 10B-14(f); 10B-107; 10B-134.21.

- (a) to restrain an individual from serving in public office; and
- (b) that is taken by:
 - (i) a governmental agency, board, or commission, a legislative body, or a member of the executive branch of any locality, state, federally recognized tribe, or nation; or
 - (ii) a court.

18 NCAC 07B .0110 REQUEST TO DEPARTMENT FOR CONFIDENTIAL INFORMATION

A request to the Department for information about a notary public or a technology provider that is confidential pursuant to ~~G.S. 10B-7, G.S. 10B-60, G.S. 10B-106,~~ law, rule, or regulation or that is personally identifiable information shall:

- (1) be in writing;
- (2) include the name of the requestor and contact information for the requestor; and
- (3) document the right and authority of the requestor to receive the confidential information.

~~(27)~~(29) "Revocation" with regard to an individual's capacity to serve in a public office means an individualized action:

Note: Confidentiality laws include: G.S. 10B-7, G.S. 10B-60, G.S. Chapter 66, Article 24, G.S. 132-1.2.

- (a) to void or cancel a certification of election to office; or
- (b) to remove an individual from a public office; and
- (c) that is taken by:
 - (i) a governmental agency, board, or commission, a legislative body, or a member of the executive branch of any locality, state, federally recognized tribe, or nation; or
 - (ii) a court.

Authority G.S. 10B-4; 10B-106.

18 NCAC 07B .0111 PROPERTY OF NOTARY PUBLIC

A notary public's traditional notarial seal, electronic notary seal and signature, journals, communication technology recordings, session records, notarial records and any information in them are the personal property of the notary.

~~(28)~~(30) "Suspension" with regard to a public office means an individualized action:

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

- (a) to prohibit, for a finite period of time, an individual's authority to serve in a public office; and
- (b) that is taken by:
 - (i) a governmental agency, board, or commission, legislative body, or a member of the executive branch of any locality, state, federally recognized tribe, or nation; or
 - (ii) a court.

SECTION .0300 – FILING, SIGNATURES ON FILINGS, AND RESPONSES TO REQUESTS FOR INFORMATION

18 NCAC 07B .0305 RESPONSE TO QUESTIONS AND REQUESTS FOR INFORMATION

A ~~filer~~ person responding to a departmental information request shall respond to departmental requests for information within the time and in the manner specified based upon the Department's consideration of:

- (1) the nature of the information requested;
- (2) the urgency of the Department's need for the information; and

- (3) the ease of production by the recipient of the request.

Authority G.S. 10B-4; 10B-126; 10B-134.17; 10B-134.19; 10B-134.21.

18 NCAC 07B .0308 SIGNATURE FOR ENTITY

(a) If a ~~person~~ an individual is signing a form or other filing document for a technology provider or other business entity:

- (1) the signer shall be duly authorized by law or the entity to sign; and
- (2) the signer shall state the signer's title, position, and authorization to sign.

(b) For purposes of this Rule, "duly authorized by law" means as required by G.S. 55D-10(b)(5) for an entity, by the owner for a sole proprietorship, or by a general partner for a general partnership.

Authority G.S. 10B-4; 10B-6; 10B-106; 10B-125; 10B-134.19; 10B-134.21.

18 NCAC 07B .0310 INCOMPLETE FILINGS

The Department shall consider a filing incomplete for:

- (1) failure to provide information required pursuant to Chapter 10B of the General Statutes or the rules in this Chapter;
- (2) failure to tender any fee required by Chapter 10B of the General Statutes or the rules in this Chapter;
- ~~(2)~~(3) lack of a signature required by Chapter 10B of the General Statutes or the rules in this Chapter; or
- ~~(3)~~(4) lack of a notarial act where required by Chapter 10B or the rules in this Chapter.

Authority G.S. 10B-4; 10B-125; 10B-126; 10B-134.17; 10B-134.19; 10B-134.21.

18 NCAC 07B .0313 EXTENSION REQUEST TO DEPARTMENT

(a) A person responding to a departmental information request may submit a request for an extension of time to respond to a Department request pursuant to Rule .0305 of this Section.

(b) A request pursuant to Paragraph (a) of this Rule shall:

- (1) be for an extension lasting no more than 30 days; and
- (2) include the reason an extension is necessary.

(c) This rule does not apply to Department investigations made pursuant to G.S. 10B-60.

Authority G.S. 10B-4; 10B-134.21.

18 NCAC 07B .0314 DEPARTMENT RESPONSE TO EXTENSION REQUEST

When deciding whether to grant an extension request, the Department shall consider the factors listed in Rule .0108 of this Subchapter.

Authority G.S. 10B-4; 10B-134.21.

SECTION .0400 – FORMS

18 NCAC 07B .0402 CONTACT INFORMATION

For purposes of the rules in this Section, unless otherwise indicated, "contact information" means:

- (1) for a key ~~an~~ individual who is identified pursuant to ~~G.S. 10B-134.19(e)(2); G.S. 10B-134.19(c)(2)~~ by a platform, by an IPEN, or for key individuals operating a sole proprietorship or general partnership:

- (a) the full name of the individual;
- (b) the following addresses:
 - (i) residential address;
 - (ii) business address;
 - (iii) mailing address;
- (c) business telephone numbers;
- (d) business email addresses;
- (e) any other names by which the individual is known, including nicknames;

- (2) for a business entity:

- (a) the name of the entity on record with the Secretary of State, formation or filing office in its state, federally recognized tribe, or country of formation;
- (b) the name of the state, federally recognized tribe, or country of formation;
- (c) the year of formation;
- ~~(e)~~(d) the street address, and the mailing address if different, of the entity's principal office;
- ~~(d)~~(e) the street address, and the mailing address if different, of the entity's registered office;
- ~~(e)~~(f) the principal office telephone number of the entity;
- ~~(f)~~(g) the email address of the entity;
- ~~(g)~~(h) the URL for the entity's website, if any;
- ~~(h)~~(i) the name of an individual who is designated by the entity as the primary contact between the Department and the entity, and for that individual:
 - (i) title and position;
 - (ii) telephone number;
 - (iii) mailing address if different from the addresses provided in Sub-Items (2)(c) and (d) of this Item;
 - (iv) primary email address;
 - (v) secondary email address, if applicable;
- ~~(i)~~(j) the name of an individual designated as the secondary contact between the Department and the entity if the individual named in ~~Sub-Item (2)(h)~~

- Sub-Item (2)(i) of this Item is not available; and
- ~~(j)(k)~~ the information in ~~Sub-Item (2)(h)~~ Sub-Item (2)(i) of this Item for the secondary contact individual named in ~~Sub-Item (i)~~ Sub-Item (2)(j) of this Item; or
- (3) for a technology provider's, or traditional seal manufacturer or vendor's registered agent listed on an ~~application filed pursuant to G.S. 10B-134.19;~~ application:
- (a) the name of the registered agent;
 - (b) the registered office address for the registered agent and mailing address if different; and
 - (c) a business email address for the registered agent.

Authority G.S. 10B-4; 10B-134.21.

18 NCAC 07B .0405 FORM NOTIFYING DEPARTMENT OF SELECTION OF TECHNOLOGY PROVIDERS BY ELECTRONIC NOTARIES NOTARY PUBLIC

The form notifying the Department of the selection of technology providers by ~~an electronic~~ a notary public includes:

- (1) the name on the notary's commission;
- (2) the notary's commission number;
- (3) the name of the technology providers selected by the notary to provide:
 - (a) ~~electronic signatures;~~ signatures and
 - ~~(b)~~ electronic seals; and
 - ~~(c)~~ electronic journals;
- (4) the name of the custodian selected by the notary to provide custodial services ~~for for:~~
 - (a) ~~electronic journals;~~ journals and their backups, if applicable;
 - (b) communication technology recordings and their backups, if applicable;
- (5) if the notary named himself or herself in Sub-Item (4)(a) of this Rule as custodian of the notary's electronic journals and journal backups, the notary's certification that the notary shall:
 - (a) serve as a custodial notary; and
 - (b) comply with all custodial notary rules in 18 NCAC 07J Section .2200;
- ~~(5)(6)~~ for an electronic notary who plans to perform remote electronic notarial acts, the names of the technology providers selected by the notary to provide platform services;
- ~~(6)(7)~~ the anticipated dates on which the notary will begin using the technology providers;
- ~~(7)(8)~~ the signature of the notary; and
- ~~(8)(9)~~ the date on which the notary signs the form.

Authority G.S. 10B-4; 10B-106; 10B-125; 10B-126; 10B-127; 10B-134.15; 10B-134.21; 10B-134.23.

18 NCAC 07B .0408 AFFIDAVIT OF MORAL CHARACTER

The affidavit of moral character form requires:

- (1) the applicant's name for use on a notary public commission, ~~if available, the full legal name of the key individual,~~ or the full legal name of the individual about whom the affidavit is ~~prepared;~~ prepared, as applicable;
- (2) information about the character witness:
 - (a) the affiant's name, contact information, and occupation;
 - (b) how the affiant knows the individual;
 - (c) how long the affiant has known the individual;
 - (d) how the affiant has had the opportunity to form an opinion of the individual's character; and
 - (e) whether the affiant is aware of criminal charges against, or criminal convictions of, the individual;
- (3) the affiant's opinion whether the charges against, or convictions of, the individual will affect the ability of the individual to comply with Chapter 10B of the General Statutes;
- (4) a declaration whether the affiant personally recommends the individual for an authorization requiring honesty, integrity, trustworthiness, and high standards of moral character;
- ~~(5)~~ the signature of the affiant and the date signed;
- ~~(6)(5)~~ a declaration under penalty of perjury that the information provided is true and complete to the best of the affiant's knowledge and ~~belief.~~ belief; and
- (6) the signature of the affiant and the date signed.

Authority G.S. 10B-4; 10B-134.19.

18 NCAC 07B .0409 APPLICATION FOR RECOMMISSIONING AS NOTARY PUBLIC

The form for application for recommissioning as a notary public before expiration of a commission or within 12 months of commission expiration requires:

- (1) information regarding the applicant's current or, if expired, the most recent commission, including the commission number;
- (2) an imprint or stamp from the applicant's current seal, or most recently expired seal, if the applicant currently possesses a seal;
- (3) information required pursuant to G.S. 10B-11;
- (4) the instructor's signature, if the applicant takes the notary course as part of the recommissioning process;
- (5) information required pursuant to Rule .0407 of this Section that is not otherwise included in Items (1)-(3) of this Rule; ~~and~~
- (6) for recommissioning for a traditional notary who is not also an electronic notary, a statement with regard to technology providers:
 - (a) the notary will continue to use:

- (i) the name of the technology provider for which the notary has previously provided notice; and
- (ii) the custodian for the electronic journal for which the notary has previously provided notice;
- (b) the name of the technology provider that the notary will now use; or
- (c) at this time, the notary does not have a technology provider; and
- ~~(6)~~(7) the declaration under penalty of perjury that is required by G.S. 10B-12.

Authority G.S. 10B-4.

18 NCAC 07B .0411 NOTICE OF CHANGES REGARDING CRIMINAL HISTORY RECORD

The form for notice of changes in criminal history record requires:

- (1) the name of the individual;
- (2) if a commissioned notary public the notary's commission number;
- (3) the last four digits of the individual's SSN;
- (4) contact information for the individual;
- (5) for a previously unreported criminal charge:
 - (a) the date of the charge;
 - (b) the court in which the charge is filed;
 - (c) whether the charge is for a felony or misdemeanor;
 - (d) the name of the charge;
 - (e) whether the charge has been set for a hearing or trial and, if yes, the scheduled date; and
 - (f) the case number;
- (6) for notice of a disposition of a criminal charge:
 - (a) the date of the disposition;
 - (b) the name of the court and the case number;
 - (c) if the disposition resulted in a conviction:
 - (i) whether the conviction was for a felony or misdemeanor; and
 - (ii) the sentence imposed;
 - (d) a copy of the disposition document or judgment;
 - (e) a copy of any document restoring citizenship rights; ~~and~~
- (7) a declaration under penalty of perjury that the information provided is true and correct to the best of the affiant's knowledge and belief; and
- ~~(7)~~(8) the signature of the individual and the date signed.

Authority G.S. 10B-4.

18 NCAC 07B .0414 APPLICATION FOR CERTIFICATION AS NOTARY INSTRUCTOR

The application for certification as a notary instructor form requires:

- (1) the information required by ~~Rule .0407(1)–(2)(f)~~ Rule .0407(1)–(2)(f) of this Section;
- (2) whether the applicant is currently employed as:
 - (a) a register of deeds or clerk of court; or
 - (b) an employee of the Department and is authorized by the Secretary to serve as an instructor;
- (3) the eligible institution for which the applicant will teach if certified as an instructor;
- (4) the name, telephone number, and email address of a contact person at the eligible institution who is knowledgeable about the conditional hiring of the applicant to teach notary courses;
- (5) whether the applicant has a personal copy of the most recent notary public manual approved by the Department and, if yes, the year and edition number;
- (6) whether the applicant has active experience as a notary public;
- (7) whether the applicant has notified the Department of changes as required by Chapter 10B of the General Statutes and the rules in this Chapter or is submitting a change form with the application;
- ~~(8) the printed name and signature of the applicant and the date signed; and~~
- ~~(9)~~(8) a declaration under penalty of perjury that:
 - (a) the information provided is true and complete to the best of the applicant's knowledge and belief;
 - (b) the applicant remains qualified to be commissioned as a notary public; and
 - (c) the applicant will perform the duties and responsibilities of a certified notary ~~instructor. instructor; and~~
- (9) the printed name and signature of the applicant and the date signed.

Authority G.S. 10B-4; 10B-14; 10B-134.21.

18 NCAC 07B .0420 NOTARY FORM TO REPORT TECHNOLOGY DYSFUNCTIONS

The form notaries public and electronic notaries public use to report technology dysfunctions pursuant to 18 NCAC 07D .0309 requires:

- (1) the notary's commission name;
- (2) the name of the technology provider with which the notary is experiencing dysfunctions;
- (3) a description of the dysfunction;
- (4) the basis for concern if a dysfunction is suspected to involve security, privacy or accuracy of credential verification or identity proofing;
- (5) the dates, times, and duration of the dysfunctions; and

- (6) the efforts undertaken to resolve the dysfunctions by the notary or the technology provider.

Authority G.S. 10B-4; 10B-134.19.

18 NCAC 07B .0421 STAND-ALONE NOTARIAL CERTIFICATE

If the notarial certificate selected by the principal is on a page separate from the document being notarized, then the notary public shall include on or near the notary certificate the following descriptive language:

- (1) the title or type of document;
- (2) the number of pages of the document being notarized, exclusive of the certificate;
- (3) the names of the principal signers; and
- (4) the date the principals signed.

Authority G.S. 10B-2; 10B-4; 10B-134.19.

18 NCAC 07B .0422 APPLICATION FOR TECHNOLOGY PROVIDER AUTHORIZATION – GENERAL

Technology provider application forms shall require:

- (1) the type or types of authorization to which the application applies:
 - (a) IPEN;
 - (b) platform;
 - (c) credential analysis;
 - (d) identity proofing; or
 - (e) custodian;
- (2) contact information:
 - (a) the information specified in Rule .0402(2) of this Section for the applicant;
 - (b) the information specified in Rule .0402(3) of this Section for the registered agent of a business entity that is an applicant;
 - (c) the information specified in Rule .0402(1) of this Section for:
 - (i) the applicant's key individuals; and
 - (ii) the applicant's compliance contact employee designated pursuant to Item (4)(b) of this Rule, except that the residential address shall not be required; and
- (3) the following general information about the technology provider applicant and its business:
 - (a) the type of business entity;
 - (b) all states and nations in which the technology provider applicant has obtained a certificate of authority to do business, or its equivalent;
 - (c) all assumed business names, trade names, or "doing business as" names

- (d) used by the applicant in North Carolina, other states, or nations;
- (d) all fictitious or equivalent names registered with the Department or other states or nations because the business' legal name is not available. Note: An example would be a fictitious name registered with the Department pursuant to G.S. 55D-22(a)(6);
- (e) for legal actions, the information required by 18 NCAC 07J .0416;
- (f) for debarment involving the applicant or the applicant's key individuals, the information specified in 18 NCAC 07J .0414;
- (g) for disciplinary actions, the information specified in 18 NCAC 07J .0418;
- (h) for voluntary exclusion in lieu of debarment involving the applicant or the applicant's key individuals, the information specified in 18 NCAC 07J .0415;
- (i) for bankruptcy, the information required by 18 NCAC 07J .0420;
- (j) a summary of its most recent IT security audit as required by 18 NCAC 07J .0621;
- (4) the following information related to the authorization that the applicant seeks:
 - (a) the name of the product and the version number for which authorization is sought;
 - (b) the full name of the compliance contact who meets the requirements of, and has the duties set forth in, 18 NCAC 07J .0406;
 - (c) minimum hardware and software specifications as required by 18 NCAC 07J .0608;
- (5) the following information regarding the applicant's provision of the same or similar notarial services in jurisdictions other than North Carolina:
 - (a) the name of each state, tribe or nation; and
 - (b) for each named jurisdiction, the information required by 18 NCAC 07J .0405;
- (6) a URL link to the information that the applicant is required to provide pursuant to 18 NCAC 07J .0607;
- (7) information regarding whether the applicant's services as a technology provider have within the preceding five years been the subject of:
 - (a) a security breach; or
 - (b) a ransomware attack, as defined at G.S. 143B-1320(a)(14a);

- (8) identification and information for third-party vendors, supporting vendors, and businesses pursuant to 18 NCAC 07J .0408-.0411;
- (9) the applicant's certifications, compliance reports, or equivalents by independent third-party entities with:
 - (a) the information required by 18 NCAC .07J .0413; and
 - (b) if the certifications, compliance reports, or equivalents have levels, grades, or annotations, those applicable to the applicant;

Note: Examples of acceptable certifications are ISO 270001 and SOC2;

- (10) the applicant's certification that it complies with the requirements to have and implement the plans required by 18 NCAC 07J Section .0600; and
- (11) signature by a key individual employed by the technology provider applicant who has the authority to:
 - (a) bind the applicant;
 - (b) make certifications required by this rule and the rules in 18 NCAC Subchapter 07J; and
 - (c) declare under penalty of perjury that:
 - (i) the information provided is true and complete to the best of the signer's knowledge and belief;
 - (ii) the application was prepared under the signer's authority and supervision;
 - (iii) the applicant agrees that representations, promises and assurances of performance in the application are binding on it; and
 - (d) the date on which the application was signed.

- (3) the information required by the rules in 18 NCAC 07J .1303.

Authority G.S. 10B-4; 10B-126(d); 10B-134.21.

18 NCAC 07B .0424 APPLICATION FOR PLATFORM LICENSE

The form used to apply for authorization as a licensed platform requires:

- (1) the information required by Rule .0422 of this Section;
- (2) for each of the technology provider's key individuals:
 - (a) the information required by 18 NCAC 07J .1505;
 - (b) a brief description of the individuals' duties; and
 - (c) the information required by 18 NCAC 07B Section .0700; and
- (3) the information required by 18 NCAC 07J.

Authority G.S. 10B-4; 10B-134.21.

18 NCAC 07B .0425 APPLICATION FOR CREDENTIAL ANALYSIS AUTHORIZATION

The form used to apply for authorization as an approved credential analysis provider requires:

- (1) the information required by Rule .0422 of this Section; and
- (2) the information required by 18 NCAC 07J .1701.

Authority G.S. 10B-4; 10B-134.21.

18 NCAC 07B .0426 APPLICATION FOR IDENTITY PROOFING AUTHORIZATION

The form used to apply for authorization as an approved identity proofing provider requires:

- (1) the information required by Rule .0422 of this Section; and
- (2) the information required by 18 NCAC 07J .1901.

Authority G.S. 10B-4; 10B-134.21.

18 NCAC 07B .0427 APPLICATION FOR CUSTODIAN AUTHORIZATION

The form used to apply for authorization as an approved custodian requires:

- (1) the information required by Rule .0422 of this Section; and
- (2) the information required by 18 NCAC 07J .2101.

Authority G.S. 10B-4; 10B-134.21.

18 NCAC 07B .0428 CUSTODIAL NOTARY ANNUAL REPORT FORM

The form for annual reports by custodial notaries public requires:

Authority G.S. 10B-4; 10B-126(d); 10B-134.19; 10B-134.21; 10B-134.23(b).

18 NCAC 07B .0423 APPLICATION FOR IPEN AUTHORIZATION

The form used to apply for authorization as an IPEN technology provider requires:

- (1) the information required by Rule .0422 of this Section;
- (2) for each of the technology provider's key individuals:
 - (a) the information required by 18 NCAC 07J .1304;
 - (b) a brief description of the individuals' duties; and
 - (c) the information required by Section .0700 of this Subchapter; and

- (1) the commission name and number of the custodial notary;
- (2) the calendar year covered by the annual report;
- (3) the information required by 18 NCAC 07D Section .0300;
- (4) certification that the custodial notary:
 - (a) intends to continue serving as a custodial notary and will continue to comply with the custodial notary rules in 18 NCAC 07H and 18 NCAC 07J;
 - (b) will cease serving within the next 12 months as a custodial notary, and, unless the retention period pursuant to 18 NCAC 07I .0212 will expire during that period, the name of the approved custodian to which the custodial notary will transfer the notary's records and the projected date of transfer;
 - (c) if the notary has already ceased serving as a custodial notary, the date on which the notary's records were transferred to an approved custodian and the name of the approved custodian, unless the retention period pursuant to 18 NCAC 07I .0212 has expired; or
 - (d) has ceased serving as a custodial notary because the period of retention for all records has expired;
- (5) certification that the information provided in the form is true and correct; and
- (6) the signature of the custodial notary and the date signed.

Authority G.S. 10B-4; 10B-125(b); 10B-126(a).

18 NCAC 07B .0429 TECHNOLOGY PROVIDERS OTHER THAN PLATFORMS VERIFYING CONTINUING COMPLIANCE

The form for technology providers other than platforms verifying their continuing compliance requires:

- (1) the name of the technology provider;
- (2) the electronic notary solution for which the provider has been approved;
- (3) the information required by 18 NCAC 07J .0211;
- (4) either a statement that the Department has been notified of changes as required in 18 NCAC 07J .0203 or inclusion of required notice of changes;
- (5) the signature of the compliance officer and the date signed;
- (6) certification that the information provided in the form is true and correct; and
- (7) the signature of a key individual employed by the technology provider who has the authority to bind the technology provider and the date signed.

Authority G.S. 10B-4; 10B-126(d); 10B-134.21; 10B-134.23(b).

18 NCAC 07B .0430 TRADITIONAL SEAL MANUFACTURER OR VENDOR REGISTRATION WITH DEPARTMENT FORM

The form used by a manufacturer or vendor of traditional notary seals to register with the Department requires:

- (1) the information required by Rule .0402 of this Section, except that the residential address shall not be required for a key individual operating a sole proprietorship or a general partnership;
- (2) certification that the manufacturer or vendor:
 - (a) manufactures or sells traditional notary seals to North Carolina notaries public; and
 - (b) complies with, and will continue to comply with, the requirements of:
 - (i) G.S. 10B-36 and 10B-37; and
 - (ii) the applicable rules in 18 NCAC 07G; and
 - (c) the manufacturer or vendor agrees that it will comply with the rules in 18 NCAC 07G;
 - (d) the information provided on the form is true and correct; and
- (3) signature by an individual with the authority to bind the manufacturer or vendor with:
 - (a) printed name and title of the individual; and
 - (b) the date signed.

Authority G.S. 10B-4; 10B-36(e); 10B-125(b); 10B-134.21.

18 NCAC 07B .0431 FORM FOR NOTARY REPORTABLE INCIDENTS

The form for a notary public notifying the Department of reportable incidents pursuant to 18 NCAC 07D .0310 requires:

- (1) the notary's commission name and commission number;
- (2) how the notary discovered the reportable incident;
- (3) the date of the last notarization performed by the notary before the reportable incident occurred or was discovered;
- (4) the date on which the notary discovered the reportable incident regarding the notary's physical seal, electronic seal, signature, journal, notarial records, or communication technology recording;
- (5) the date on which the reportable incident occurred, if different from the date of discovery;
- (6) the date on which the notary reported to:
 - (a) the Register of Deeds, and the county of that Register of Deeds; and
 - (b) law enforcement, if applicable, including the name of the law enforcement agency and a copy of the law enforcement report if available;

- (7) how the notary discovered the reportable incident;
- (8) any other information that the notary believes may be useful to the Department in assessing the reportable incident; and
- (9) the notary's signature and the date of the report to the Department.

Authority G.S. 10B-4; 10B-36; 10B-125(b); 10B-126(d); 10B-134.21.

SECTION .0600 – DENIALS, DISCIPLINE, AND ENFORCEMENT

18 NCAC 07B .0601 FACTORS FOR DISCIPLINARY ACTIONS

When determining whether and what disciplinary action to take, the Department shall consider:

- (1) the qualifications of the person;
- (2) the nature, number, timing, and severity of any acts, offenses, official misconduct, or crimes under consideration;
- (3) evidence pertaining to the honesty, credibility, truthfulness, and integrity of the person;
- (4) actual or potential harm;
- (5) the history of complaints against the person received by the Department;
- (6) the record of prior disciplinary actions against the person;
- (7) evidence in mitigation;
- (8) evidence in aggravation;
- (9) occupational, vocational, or professional license disciplinary record;
- (10) evidence of rehabilitation;
- (11) criminal history record;
- (12) information and reports received from other law enforcement agencies;
- (13) willfulness;
- (14) negligence;
- (15) the response of the person to any alleged violations; ~~and~~
- (16) whether the person self-reported a matter affecting qualification or the performance of an activity pursuant to ~~authorization~~ authorization; and
- (17) the purposes of the Notary Act as set forth in G.S. 10B-2.

Authority G.S. 10B-4; 10B-14(f); 10B-60.

18 NCAC 07B .0603 LEVELS OF ENFORCEMENT

Upon consideration of the evidence before it, the purposes and requirements of Chapter 10B of the General Statutes, and the rules in this Chapter, the Department may:

- (1) upon a finding of a violation of Chapter 10B of the General Statutes or the rules in this Chapter:
 - (a) issue a letter of caution to a person along with:
 - (i) a request for compliance; and

- (ii) a statement that future noncompliance may lead to disciplinary action by the Department;

- (b) issue a letter of warning to a person, with or without a corrective action plan. Note: A requirement for additional education is an example of a corrective action plan;
- (c) suspend a person's authorization and bar the grant of an authorization for a specific period of time not to exceed 24 months, with or without a corrective action plan;
- (d) issue a revocation of a person's authorization;
- (e) issue a permanent revocation of a person's authorization;
- (f) issue an administrative action restricting, for a specific period of time, an unauthorized person from submitting an application or from being becoming authorized; or
- (g) issue an administrative action permanently restricting an unauthorized person from submitting an application or from becoming authorized; and
- (h) issue a civil penalty pursuant to G.S. 10B-60(m) or 10B-134.23(c)(4); and
- (2) use the factors in Rule .0601 of this Section to take action to withdraw, stay, rescind, or expunge a disciplinary action.

Note: An application submitted in violation of an administrative action pursuant to Paragraphs (f) and (g) of this Rule shall be denied by the Department immediately upon identification of the applicant as being subject to the administrative action during the period of time applicable to the action. The application fee shall not be refunded.

Authority G.S. 10B-4; 10B-14(f); 10B-60; 10B-126; 10B-134.19; 10B-134.21.

18 NCAC 07B .0607 RESTRICTION

Upon a finding that the person has acted without being authorized by the Department, the Department may issue an administrative action to restrict that person from applying for authorization or from becoming authorized to:

- (1) perform a notarial act;
- (2) teach a notarial course;
- (3) offer an electronic ~~notarization system~~ notary solution to an electronic notary public; or
- (4) act as a ~~depository~~ depository or custodian.

Authority G.S. 10B-4; 10B-14(f); 10B-60; 10B-126; 10B-134.19; 10B-134.21.

18 NCAC 07B .0609 FAILURE TO REMIT FEES

- (a) Failure of a platform provider to remit fees in accordance with G.S. 10B-134.19 and the rules in this Chapter shall be a basis for the Department to revoke a platform license.
- (b) Revocation shall not preclude other disciplinary action or remedies available to the Department.

Authority G.S. 10B-4; 10B-134.19.

18 NCAC 07B .0610 FAILURE TO VERIFY

A technology provider, or physical seal manufacturer or vendor shall be deemed to have knowingly created, manufactured or distributed a notary seal in violation of G.S. 10B-60(n) if the provider fails to comply with, as applicable:

- (1) 18 NCAC 07J .1202 for IPEN account creation;
- (2) 18 NCAC 07J .1410 for platform account creation for an electronic notary;
- (3) 18 NCAC 07J .1411 for platform account creation for a traditional notary;
- (4) 18 NCAC 07J .1203 for change of name on IPEN solution;
- (5) 18 NCAC 07J .1414 for change of name on platform for an electronic notary;
- (6) 18 NCAC 07J .1415 for change of name on platform for a traditional notary; and
- (7) 18 NCAC 07G.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

**SECTION .0800 – INVESTIGATIONS – RESERVED
ACCOMMODATIONS FOR PRINCIPALS**

18 NCAC 07B .0801 DEFINITIONS

For the purpose of this Chapter, the following definitions shall apply:

- (1) "Accessibility", "accommodation", and "reasonable accommodation" mean actions facilitating participation in a remote electronic notarial act by a remotely located principal with a vision, hearing, or speech impairment.
- (2) "Auxiliary aid" means a device or tool to enable an individual with vision, hearing, or speech impairments to communicate with a notary public and participate in the notarial transaction process but does not mean interpretation or transliteration or CART captioning. Note: Examples are screen reader software, magnification software, optical readers for an individual with low vision or a portable device that either writes or produces speech for an individual with speech impairment.
- (3) "CART" or "Communication Access Realtime Translation" means live translation of the spoken English language into English text by an individual certified as a captioner by the National Court Reporters Association and made available on screen with video to a remotely located principal with hearing loss.

(4) "Interpreter" means an individual:

- (a) with a full North Carolina interpreter license as defined at 21 NCAC 25 .0101(b)(7);
- (b) interpreting, as defined at G.S. 90D-3(5), to a remotely located principal with vision, hearing, or speech impairments; and
- (c) who does not have a provisional interpreting license.

(5) "Transliterater" means an individual:

- (a) with a full North Carolina transliterator license as defined at 21 NCAC 25 .0101(b)(7);
- (b) transliterating, as defined at G.S. 90D-3(9), to a remotely located principal with vision, hearing, or speech impairments; and
- (c) who does not have a provisional transliterating license.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07B .0802 PRINCIPAL SEEKING ACCOMMODATION

(a) Before performing a notarial act, a notary public shall require a principal needing reasonable accommodation for vision, hearing, or speech impairments to describe:

- (1) any auxiliary aid that the principal is using; and
- (2) any interpreter, transliterator, or CART captioner that the principal is using.

(b) If the notarial act is a remote notarial act, then the notary shall comply with Paragraph (a) of this Rule before starting the communication technology recording.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07B .0803 PRINCIPAL USE OF CERTAIN ACCOMMODATIONS PERMITTED

A notary public may perform a notarization for a principal with a vision, hearing, or speech impairment whose communications are accurately conveyed by:

- (1) an auxiliary aid; or
- (2) an interpreter, transliterator, or certified CART captioner.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07B .0804 PROHIBITION ON USE OF ACCOMMODATION AS INTERMEDIARY LANGUAGE

An interpreter, transliterator, or CART captioner shall not act as a bridge or relay interpreter to facilitate communication between a notary public and a principal who do not share a common language. This rule does not prohibit interpretation by an interpreter between a principal who uses American Sign Language and a notary who speaks English.

Note: An example of a bridge or relay interpretation between a notary and principal who do not share a common language would be an interpreter who translates a principal's Chinese into English for a notary and the notary's English into Chinese sign language for the principal with hearing impairment.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07B .0805 PROHIBITION ON USE OF AUXILIARY AID FOR INTERMEDIARY LANGUAGE

A notary public shall not allow a principal to use an auxiliary aid to act as a bridge or to provide relay interpretation to facilitate communication between a notary public and a principal who do not share a common language.

Note: An example of an auxiliary aid acting as a bridge or relay between a principal with speech impairment whose language of communication is German and a notary who speaks English, and the aid translates the German into spoken English for the notary and the English into German for the principal.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07B .0806 INTERPRETER OR TRANSLITERATOR INFORMATION

(a) Before performing a notarial act, a notary public shall require any interpreter or transliterator used by a principal to state:

- (1) the name of the interpreter or transliterator as it appears on the North Carolina license;
- (2) the license number; and
- (3) that the interpreter or transliterator has no financial interest in the notarial acts to be performed for the principal.

(b) If the notarial act is a remote notarial act, then the notary shall comply with Paragraph (a) of this Rule before starting the communication technology recording.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07B .0807 CART CAPTIONER INFORMATION

(a) Before performing a notarial act, a notary public shall require any CART captioner used by a remotely located principal to state:

- (1) the CART captioner's name as it appears on the National Court Reporters Association certification;
- (2) the National Court Reporters Association identification number;
- (3) the CART captioner's status as a National Court Reporters Association-certified realtime captioner; and
- (4) that the CART captioner has no financial interest in the notarial acts to be performed for the principal.

(b) If the notarial act is a remote notarial act, then the notary shall comply with Paragraph (a) of this Rule before starting the communication technology recording.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07B .0808 LIMITS ON ACCOMMODATIONS

A notary public shall not perform a notarial act if an individual identified pursuant to Rules .0806 and .0807 of this Section is:

- (1) not certified as a CART captioner;
- (2) not licensed as an interpreter or a transliterator; or
- (3) indicates or is known to the electronic notary to have a financial interest in the transactions that are subject to the notarial acts.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07B .0809 JOURNAL ENTRY REQUIRED REGARDING ACCOMMODATIONS

A notary public shall document within each journal entry any accommodations used by a principal during the notarial transaction.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07B .0810 CONTENTS OF JOURNAL ENTRY REGARDING ACCOMMODATIONS

A notary public's journal entry pursuant to Rule .0809 of this Section shall include:

- (1) the type of auxiliary aid specified by the principal;
- (2) the information regarding a transliterator or interpreter required by Rule .0806 of this Section; and
- (3) the information regarding a CART captioner required by Rule .0807 of this Section.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

SUBCHAPTER 07C – PROCESS TO BECOME A NOTARY AND RENEW A NOTARY COMMISSION

**~~SECTION .0800 – ELECTRONIC NOTARY ACT INVESTIGATION AND ENFORCEMENT – RESERVED~~
TRADITIONAL NOTARY SEAL**

18 NCAC 07C .0801 INITIAL SEAL

An applicant or appointee for an initial commission as a notary public shall not order or purchase a seal until the applicant or appointee has complied with the requirements of Section .0400 of this Subchapter.

Authority G.S. 10B-4.

18 NCAC 07C .0802 SEAL IMAGE

A notary public's seal shall be deemed by the Department to comply with G.S. 10B-37 if it contains the words "State of North Carolina" in lieu of the designations in G.S. 10B-37(b)(4).

Authority G.S. 10B-4.

18 NCAC 07C .0803 SEAL LIMITATION

A notary public's seal manufactured after the effective date of this Rule shall include no information or images other than those required or permitted by G.S. 10B-37 and Rule .0802 of this Section.

Authority G.S. 10B-4.

18 NCAC 07C .0804 OBTAINING SEAL

A notary public who seeks to order or purchase a seal shall:

- (1) select a seal manufacturer or vendor from among the registered seal manufacturers and vendors listed on the Department's website; and
- (2) present the notary's commission certificate to the manufacturer or vendor.

Authority G.S. 10B-4; 10B-36.

18 NCAC 07C .0805 IN-PERSON SEAL PURCHASE

If a notary public seeks to order or purchase a seal in person, the notary shall comply with Rule .0804 of this Section and:

- (1) be personally known to the manufacturer or vendor; or
- (2) present satisfactory evidence of identity to the manufacturer or vendor.

Authority G.S. 10B-4; 10B-36.

SUBCHAPTER 07D – CONTINUING OBLIGATIONS OF NOTARIES

SECTION .0100 – GENERAL OBLIGATIONS

18 NCAC 07D .0103 EXTENSION REQUEST TO DEPARTMENT

Authority G.S. 10B-4; 10B-126(f); 10B-134.17(c).

18 NCAC 07D .0104 DEPARTMENT RESPONSE TO EXTENSION REQUEST

Authority G.S. 10B-4; 10B-126(f); 10B-134.17(c).

18 NCAC 07D .0105 NOTARIZATION OF OPEN VEHICLE TITLE PROHIBITED

A notary public shall not notarize an assignment and warranty of title on the reverse of the certificate of title form approved by the Division of Motor Vehicles unless the following fields have been completed by an individual other than the notary:

- (1) the name and address of the buyer or transferee, except as provided in G.S. 20-72(b) for insurers and used motor vehicle dealers;

- (2) the required odometer reading disclosures;
- (3) the required disclosures about repairs, flood, and reconstruction or salvage;
- (4) the date the vehicle was delivered to the buyer or transferred;
- (5) the printed name of the seller; and
- (6) the signature of the seller.

Authority G.S. 10B-2; 10B-4; 20-72(b).

18 NCAC 07D .0106 NO USE OF FOREIGN LANGUAGE TRANSLATORS

A notary public shall not allow a principal or remotely located principal to communicate with the notary by means of an individual converting one language to a different language, orally or in writing. An interpreter, transliterator, or CART captioner may facilitate communication between the notary and principal in compliance with 18 NCAC 07B Section .0800.

Authority G.S. 10B-2; 10B-4.

SECTION .0300 – NOTICE TO DEPARTMENT OF CHANGES

18 NCAC 07D .0309 NOTIFICATION OF ELECTRONIC NOTARY SOLUTION SERIOUS SERVICE PERFORMANCE PROBLEMS

An electronic notary public shall use the form described in 18 NCAC 07B .0420 to notify the Department of any electronic notary solution dysfunction that the electronic notary considers:

- (1) to be persistent and disruptive; or
- (2) to indicate possible problems with security, privacy, or accuracy of credential verification or identity proofing.

Note: For purposes of this rule, persistent and disruptive dysfunctions include repeated abnormal system interruptions or stoppages, extremely slow system responses, and other unusual system interactions that delay or hinder the notarial act, as determined by the electronic notary.

Authority G.S. 10B-4; 10B-36.

18 NCAC 07D .0310 NOTARY REPORT OF LOSS, THEFT AND SIMILAR ISSUES

Within 10 days of discovery, a notary public shall report to the Department using the form specified in 18 NCAC 07B .0431:

- (1) for a physical notary seal or journal, its unauthorized use, loss, theft, or vandalism;
- (2) for an electronic notary seal or signature, its unauthorized use, loss of use, compromise of security, unauthorized use, or having been rendered incapable of affixing a legible image; or
- (3) for an electronic notary journal, a communication technology recording, a session record, or other notarial records:
 - (a) the permanent loss of data, use, or access;

- (b) compromise of security or unauthorized use; or
- (c) theft.

- (3) comply with G.S. 10B-134.11(a)(2).

Authority G.S. 10B-4; 10B-134.21; 10B-134.23.

Authority G.S. 10B-4; 10B-36; 10B-125(b); 10B-126(d); 10B-134.21.

SECTION .0400 – GENERAL REQUIREMENTS FOR USE OF TECHNOLOGY

18 NCAC 07D .0401 ELECTRONIC NOTARY SEAL

An electronic notary public shall:

- (1) obtain an electronic notary seal only from an authorized IPEN solution or platform provider;
- (2) present the electronic notary's commission certificate and registration certificate to the provider; and
- (3) undergo credential analysis and identity proofing upon:
 - (a) account creation with the provider;
 - (b) presentation of:
 - (i) a commission certificate with a name, county, or expiration date change; or
 - (ii) a recommissioning certificate; and
 - (c) at any time requested by the provider.

Authority G.S. 10B-4; 10B-125(b).

18 NCAC 07D .0402 LICENSED PLATFORM USE FOR REMOTE OATHS AND AFFIRMATIONS PURSUANT TO G.S. 10B-134.9(D)

A notary public shall use a licensed platform for administration of oaths or affirmations pursuant to G.S. 10B-134.9(d) and comply with the rules in Section .0500 of this Subchapter.

Authority G.S. 10B-4; 10B-134.21.

18 NCAC 07D .0403 TRADITIONAL NOTARY PUBLIC USE OF APPROVED CUSTODIAN FOR JOURNAL

Any custodial services used by a traditional notary public shall have been approved by the Department.

Authority G.S. 10B-4; 10B-134.19; 10B-134.21.

18 NCAC 07D .0404 NOTARY USE OF IDENTITY PROOFING AND CREDENTIAL ANALYSIS INDEPENDENT OF PLATFORM

A notary public electing to use identity proofing or credential analysis solutions when performing an in-person notarial act shall:

- (1) not use identity proofing and credential analysis as a replacement for the notary's independent evaluation of whether satisfactory evidence of identification has been met;
- (2) use only approved identity proofing or credential analysis vendors and solutions; and

18 NCAC 07D .0405 APPROVED OR LICENSED TECHNOLOGY TO BE USED BY AN ELECTRONIC NOTARY PUBLIC

An electronic notary public shall use only authorized technology providers when performing electronic notarial acts and remote electronic notarial acts.

Authority G.S. 10B-4; 10B-134.21.

18 NCAC 07D .0406 NOTIFICATION TO TECHNOLOGY PROVIDER OF CHANGES

Prior to conducting any electronic notarial act, a notary public shall have provided the notary's technology providers with a copy of any new commission certificate reflecting changes to the notary's:

- (1) commission name;
- (2) commission county; or
- (3) commission expiration date.

Authority G.S. 10B-4; 10B-134.21.

SECTION .0500 – REQUIREMENTS FOR GS 10B-134.9(D) OATHS AND AFFIRMATIONS

18 NCAC 07D .0501 NOTARY ADMINISTRATION OF REMOTE OATH OR AFFIRMATION PURSUANT TO G.S. 10B-134.9(D)

A notary public administering a remote oath or affirmation pursuant to G.S. 10B-134.9(d) shall comply with:

- (1) the rules in this Section; and
- (2) the rules in 18 NCAC 07H, with the exception of Sections .0500 and .0600.

Authority G.S. 10B-4; 10B-134.21.

18 NCAC 07D .0502 DECLARATION OF JUDICIAL OFFICIAL OR OFFICER OF THE COURT

A notary public may administer a remote oath or affirmation pursuant to G.S. 10B-134.9(d) only if:

- (1) the notarial act is requested by a judicial officer or an officer of the court; and
- (2) the requesting officer declares to the notary prior to the administration of the remote oath or affirmation that:
 - (a) the oath or affirmation is one that will be performed in the course of a judicial action or proceeding; and
 - (b) the oath or affirmation will not involve the notarization of a document.

Authority G.S. 10B-4; 10B-134.21.

18 NCAC 07D .0503 PLATFORM CONFIRMATION OF NOTARY STATUS

Before completing the platform account registration process in order to administer an oath or affirmation pursuant to G.S. 10B-134.9(d), a notary public shall:

- (1) undergo credential analysis and identity proofing by the platform upon initial account creation;
- (2) present the notary's commission certificate and registration certificate, if applicable, to the platform; and
- (3) if the notary will use the platform's journal, inform the platform and provide the platform with the name of the notary's approved custodian.

Authority G.S. 10B-4; 10B-134.21.

18 NCAC 07D .0504 TRAINING REQUIREMENT FOR NOTARY PUBLIC ADMINISTERING A G.S. 10B-134.9(D) OATH OR AFFIRMATION

A notary public shall not administer a remote oath or affirmation pursuant to G.S. 10B-134.9(d) unless the notary has completed the Department's educational module specific to G.S. 10B-134.9(d).

Note: The educational module may be taken separately or as part of the electronic notary public course.

Authority G.S. 10B-4; 10B-134.21.

18 NCAC 07D .0505 DOCUMENTATION OF REMOTE OATH OR AFFIRMATION PURSUANT TO G.S. 10B-134.9(D)

An entry shall be made in a notarial journal for each administration of a remote oath or affirmation pursuant to G.S. 10B-134.9(a) by any notary public who keeps a journal.

Authority G.S. 10B-4; 10B-134.15(b); 10B-134.21.

18 NCAC 07D .0506 JOURNAL ENTRY

An entry in a notarial journal pursuant to Rule .0505 of this Section shall include the name of the judicial official or officer of the court who made the declaration pursuant to Rule .0502 of this Section.

Authority G.S. 10B-4; 10B-134.15(b); 10B-134.21.

18 NCAC 07D .0507 RECORDING COUNT OF NOTARIAL ACTS

Before ending a session in which remote oaths or affirmations are administered pursuant to G.S. 10B-134.9(d), a notary public shall:

- (1) count the number of notarial acts performed; and
- (2) enter the number of notarial acts in the field designated by the platform for that purpose.

Authority G.S. 10B-4; 10B-134.21.

SECTION .0600 – ACCESS TO NOTARIAL RECORDS

18 NCAC 07D .0601 DISCLOSURE OF CONFIDENTIAL INFORMATION

A notary public may disclose confidential information or provide a copy of a journal, a journal entry, or notarial records only pursuant to:

- (1) G.S. 10B-20(p)(1)-(5);
- (2) a waiver of information confidentiality that complies with Rule .0602 of this Section;
- (3) a request that complies with Rule .0603 of this Section; or
- (4) a request for an electronic journal by an employer of the electronic notary public that is made pursuant to G.S. 10B-134.15(c) and Rules .0603 and .0604 of this Section.

Authority G.S. 10B-4; 10B-125(b); 10B-126(a); 10B-134.15(d); 10B-134.21.

18 NCAC 07D .0602 RELEASE OF CONFIDENTIAL INFORMATION ON REQUEST OF PRINCIPALS

A notary public may release confidential information learned from the principals or records generated during a notarial transaction only if:

- (1) all principals who participated in the notarial transaction agree;
- (2) the request is provided to the notary in writing with a statement signed and dated by each principal with:
 - (a) the printed name of each principal who participated in the transaction;
 - (b) the date of the transaction;
 - (c) a description of the types of notarial acts performed by the notary during the transaction;
 - (d) a description of the confidential information sought; and
 - (e) an instruction stating to whom the confidential information may be delivered; and
- (3) the principal provides any other information that the notary may request for purposes of determining the information to be provided or to whom it is to be provided.

Authority G.S. 10B-4; 10B-125(b); 10B-126(a); 10B-134.15(d); 10B-134.21.

18 NCAC 07D .0603 EMPLOYER REQUEST FOR JOURNAL ENTRIES

An electronic notary may provide the electronic notary's former employer with a copy of work-related entries in the electronic notary's electronic journal upon:

- (1) leaving employment with the employer; and
- (2) request of the employer.

Note: For purposes of this rule, "work-related" means electronic notarial acts and remote electronic notarial acts performed for the electronic notary public's employer in the course of the electronic notary's employment.

Authority G.S. 10B-4; 10B-38; 10B-126(a); 10B-134.15(a).

18 NCAC 07D .0604 ADDITIONAL ELECTRONIC NOTARY OBLIGATIONS UPON EMPLOYER REQUEST

An electronic notary public shall not provide the electronic notary's work-related electronic journal entries to the electronic notary's employer unless the notary retains a backup copy as required by G.S. 10B-134.15(c).

Authority G.S. 10B-4; 10B-38; 10B-126(a); 10B-134.15(a).

18 NCAC 07D .0605 SUPPLEMENTAL ENTRIES RE ACCESS TO JOURNALS

Upon releasing confidential information pursuant to this Section of this Subchapter and unless directed otherwise by court order or the Department, a notary public or electronic notary public shall make a supplemental entry in:

- (1) the electronic notary's electronic journal; or
- (2) the traditional notary's journal, if any.

Authority G.S. 10B-4; 10B-38; 10B-126(a); 10B-134.15(a).

18 NCAC 07D .0606 CONTENTS OF SUPPLEMENTAL ENTRY RE RELEASE OF CONFIDENTIAL INFORMATION

A notary public or an electronic notary public who makes a supplemental journal entry pursuant to Rule .0605 of this Section shall include the following in the entry:

- (1) the name of the requestor;
- (2) the dates of the request and the notary's response to the request;
- (3) the information requested; and
- (4) any other information that the notary determines necessary to include.

Authority G.S. 10B-4; 10B-38; 10B-126(a); 10B-134.15(a).

SUBCHAPTER 07F – ELECTRONIC NOTARY PUBLIC REQUIREMENTS

SECTION .0100 – GENERAL

18 NCAC 07F .0102 DEFINITIONS

For purposes of Article 2 of Chapter 10B of the General Statutes and this Subchapter: Statutes, this Subchapter, and Subchapters 07H and 07J of this Chapter:

- (1) "Approved vendor for electronic notarizations," "approved electronic notary solution provider," or "AVEN" means a person approved by the Department to provide an electronic notarization system pursuant to Article 2 of Chapter 10B of the General Statutes.
- (2) "Biometric authentication" means proving the identity of a user by requiring verification of the user's identity through technologies that require measurement and analysis of one or more human physiological or behavioral characteristics of the user in order to access and use an electronic notarization system. Note:

~~Biometric authentication technologies include fingerprint scanning devices, retinal scanning devices, and handwriting analysis devices.~~

(3) ~~"Electronic notarization system" means a set of applications, programs, hardware, software, or technology approved by the Department that is designed to enable a notary to perform electronic or remote electronic notarizations.~~

(4)(1) "Electronic notary applicant" means a commissioned North Carolina notary public who applies to be registered or reregistered as an electronic notary public.

(5)(2) "Electronic notary's electronic signature" means:

(a) an electronic image of the handwritten signature of the electronic notary public in the name of the notary as it appears on the notary's commission; and

(b) the AVEN's or other technology provider's security features attached to the signature in ~~Sub Item (5)(a) Sub-Item (2)(a)~~ Sub-Item (2)(a) of this Rule.

(6)(3) "Independently verifiable" means capable of government or third-party authentication of a notarial act, an electronic notary's identity and current status with the Department.

(7)(4) "In the presence of the electronic notary at the time of notarization" means that an individual and an electronic notary public are in close physical proximity to one another without using technology to establish personal appearance.

(8) ~~"Password authentication" means requiring the user to enter a secret word, phrase, or symbol set in order to access and use an electronic notary solution.~~

(9) ~~"Token authentication" means requiring use of a physical device in addition to a password or personal identification number ("PIN" number) in order to access and use an electronic notary solution. Note: Physical devices used in token authentication technologies include magnetic cards or "smart cards" and Universal Serial Bus (USB) memory sticks or "USB keys."~~

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.21.

18 NCAC 07F .0103 ELECTRONIC NOTARIES PERFORMING REMOTE ELECTRONIC NOTARIAL ACTS

An electronic notary public shall not perform a remote electronic notarial act until the electronic notary has complied with the requirements of this Chapter. of:

- (1) this Subchapter; and
- (2) 18 NCAC 07D Section .0400 and 18 NCAC 07H.

Authority G.S. 10B-4; 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.21.

SECTION .0200 – QUALIFICATIONS TO BE ELECTRONIC NOTARY

18 NCAC 07F .0202 CURRENT PERSONAL COPY OF MANUAL

An electronic notary applicant shall possess a current and personal copy of the North Carolina notary manual applicable to electronic notaries.

Authority G.S. 10B-4; 10B-134.21.

SECTION .0300 – EDUCATION OF ELECTRONIC NOTARIES PUBLIC

18 NCAC 07F .0303 ELECTRONIC NOTARY COURSE

Before performing a remote electronic notarization, electronic notaries public registered prior to July 1, 2024, 2025, shall either:

- (1) successfully complete a remote electronic notarization course ~~module~~; module taught by a certified notary instructor or designee of the Department; or
- (2) successfully complete an electronic notary ~~class including training on remote electronic notarization~~; course pursuant to Rule .0302 of this Section.

Authority G.S. 10B-4; 10B-14; 10B-125; 10B-126; 10B-134.21.

SECTION .0600 – SELECTION AND USE OF TECHNOLOGY PROVIDER TO PERFORM ELECTRONIC NOTARIAL ACTS

18 NCAC 07F .0601 NOTICE TO DEPARTMENT OF TECHNOLOGY PROVIDER

An electronic notary public shall use the form described in 18 NCAC 07B .0405 to provide notice to the Department of all technology providers proposed to be used:

- (1) to affix the electronic notary's ~~electronic signature~~; signature and
- (2) ~~to affix the~~ electronic notary's seal;
- ~~(3)~~(2) as the means to create and maintain the electronic notary's electronic journal and a backup copy of the journal;
- ~~(4)~~(3) as the custodian of the electronic notary's journal;
- ~~(5)~~(4) as the platform that the electronic notary will use if the notary intends to perform remote electronic notarial acts; and
- (5) for identity proofing and credential analysis technologies not otherwise associated with platforms disclosed in Item (4) of this Rule.

Authority G.S. 10B-4; 10B-125; 10B-126; 10B-127; 10B-134.15; 10B-134.17; 10B-134.21.

SECTION .0700 – ELECTRONIC NOTARY SIGNATURE

18 NCAC 07F .0704 ELECTRONIC SIGNATURE

The electronic notary public's public shall apply the electronic notary's electronic signature shall: to the document being notarized and upon commitment the signature shall be permanently affixed to the document.

- ~~(1) be applied to and logically associated electronically with the notarized document; and~~
- ~~(2) link the data in such a manner that any subsequent alterations are observable through visual examination of:~~
 - ~~(a) the underlying document; or~~
 - ~~(b) the electronic notary certificate.~~

Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-127; 10B-134.21.

18 NCAC 07F .0710 PLACEMENT OF ELECTRONIC SIGNATURE

Before committal, the electronic notary shall move or delete and reaffix an electronic signature to ensure that no portion of the electronic record is illegible or obscured.

Authority G.S. 10B-4; 10B-125(b); 10B-126(a); 10B-134.21.

SECTION .0800 – ELECTRONIC NOTARY SEAL

18 NCAC 07F .0804 ATTRIBUTES OF ELECTRONIC SEAL

The electronic notary seal shall: public shall apply the electronic notary's electronic seal to the document being notarized and upon commitment the seal shall be permanently affixed to the document.

- ~~(1) be attached to, or logically associated with, a notarized document; and~~
- ~~(2) link the data in such a manner that any subsequent alterations are observable through visual examination of:~~
 - ~~(a) the underlying document; or~~
 - ~~(b) the electronic notary certificate.~~

Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-127; 10B-134.21.

18 NCAC 07F .0807 CONTENTS OF ELECTRONIC NOTARY SEAL

An electronic notary public shall ensure that the electronic notary's electronic notary seal has: When the electronic record to which the electronic notary's electronic seal is affixed is printed on an 8 and one-half by 11 sheet of paper, the notary's seal shall have:

- (1) a visible border:
 - (a) having a physical appearance of the seal that replicates the appearance of an inked seal on paper;
 - (b) with the size and shape required by G.S. 10B-37(c); and

- (c) that includes an identifier in no less than an 8 point type assigned by the Department to the producer of the electronic seal; and
- (2) inside its ~~border~~; border with a minimum 8 point type:
 - (a) the information required by G.S. 10B-117(1), (2), and (4);
 - (b) the words:
 - (i) "State of North Carolina";
 - (ii) "North Carolina"; or
 - (iii) the abbreviation "N.C.";
 - (c) the name of the county of commission with either:
 - (i) the word "County"; or
 - (ii) the abbreviation "Co."; and
 - (d) the expiration date of the electronic notary's commission.

Authority G.S. 10B-4; 10B-125(b); 10B-126(d).

18 NCAC 07F .0814 COMMITMENT FINALIZATION OF NOTARIAL SESSION

After an electronic notary public has complied with the requirements of Sections .0700 and .0800 of this Subchapter with regard to review of signatures and seals after affixing them, the electronic notary shall:

- (1) ensure that the required journal entry has been made; ~~and~~
- (2) ~~then~~ commit:
 - (a) the electronic notarial signature;
 - (b) the electronic notarial seal; and
 - (c) the content of the journal ~~entry~~; entry; ~~and~~
- (3) apply the notary's digital certificate to the electronic record to which the notary has applied his or her electronic notary seal and signature.

Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-134.5(b); 10B-134.21.

18 NCAC 07F .0815 PLACEMENT OF ELECTRONIC SEAL

Before committal, the electronic notary shall move or delete and reaffix an electronic seal to ensure that no portion of the electronic record is illegible or obscured.

Authority G.S. 10B-4; 10B-125(b); 10B-126(a); 10B-134.21.

18 NCAC 07F .0816 APPLICATION OF ELECTRONIC NOTARY'S DIGITAL CERTIFICATE

An electronic notary public shall apply, or allow the platform or IPEN provider to apply, the electronic notary's digital certificate to a document after the electronic notary's electronic signature and seal has been:

- (1) affixed; and
- (2) reviewed.

Authority G.S. 10B-4; 10B-125(b); 10B-126(a); 10B-134.5(b); 10B-134.21.

SECTION .1000 – CONFIDENTIALITY, SECURITY, AND RECORDS RETENTION

18 NCAC 07F .1003 RETENTION OF ELECTRONIC JOURNAL

An electronic notary public shall maintain a copy of the electronic notary's electronic journal and the backup copy of the journal for at least 10 years after the last notarial act.

Authority G.S. 10B-4; 10B-126(d); 10B-134.15; 10B-134.17; 10B-134.21.

18 NCAC 07F .1004 NOTARY CREDENTIAL SHARING FORBIDDEN

An electronic notary public shall not share the means of authentication that the electronic notary uses to access an electronic ~~notarization system~~ notary solution with anyone.

Authority G.S. 10B-4; 10B-126; 10B-134.15; 10B-134.17; 10B-134.21.

SUBCHAPTER 07G - NOTARY SEAL MANUFACTURERS AND VENDORS

18 NCAC 07G .0101 SCOPE

The rules in this Subchapter govern notary public seals made, offered for sale, sold, or delivered for use by North Carolina notaries public by:

- (1) manufacturers of physical notary public seals;
- (2) vendors of physical notary public seals; and
- (3) platforms and IPENs providing electronic notary public seals.

Authority G.S. 10B-4; 10B-36; 10B-125(b).

18 NCAC 07G .0102 PHYSICAL SEAL REQUIREMENTS

A manufacturer or vendor of physical notary public seals shall not offer, sell, or deliver a physical notary public seal to a North Carolina notary public unless the seal complies with G.S. 10B-36 and 10B-37.

Authority G.S. 10B-4; 10B-36; 10B-125(b).

18 NCAC 07G .0103 ELECTRONIC NOTARY SEAL REQUIREMENTS

A platform or IPEN provider shall not provide an electronic notary seal unless the seal complies with:

- (1) G.S. 10B-117(1)-(4);
- (2) 18 NCAC 07F .0804-.0807 and .0810; and
- (3) 18 NCAC 07J .2600.

Authority G.S. 10B-4; 10B-125(b).

18 NCAC 07G .0104 REQUIREMENTS FOR SALE OF PHYSICAL SEAL TO NORTH CAROLINA NOTARY

A manufacturer or vendor shall comply with the requirements in Rule .0105 before offering for sale, selling, mailing, or delivering a physical notary public seal to an individual claiming to be a North Carolina notary.

Authority G.S. 10B-4; 10B-36(e)(2).

18 NCAC 07G .0105 IDENTIFICATION OF NOTARY PUBLIC APPEARING IN PERSON

A manufacturer or vendor shall not provide a physical notary seal to an individual claiming to be a North Carolina notary public appearing in person for the purchase unless:

- (1) the individual is personally known to the manufacturer or vendor and the individual's information matches the information on the notary commission certificate presented; or
- (2) the individual:
 - (a) presents documents qualifying as satisfactory evidence of identity as defined in G.S. 10B-3(22);
 - (b) the manufacturer compares the face and name of the individual to information on the document; and
 - (c) the manufacturer or vendor confirms the identity of the individual.

Authority G.S. 10B-4; 10B-36(e)(2).

18 NCAC 07G .0106 NOTARY COMMISSION CERTIFICATE RECEIPT BY MANUFACTURER OR VENDOR

A manufacturer or vendor shall require any individual claiming to be a North Carolina notary public purchasing or ordering a physical notary public seal to present:

- (1) for an in-person purchase, the original notary commission certificate from the Department; and
- (2) for an order by mail or delivery service, an exact, legible copy of the original commission certificate from the Department.

Authority G.S. 10B-4; 10B-36(e)(2).

18 NCAC 07G .0107 MAKING AND RETAINING COPY OF NOTARY COMMISSION CERTIFICATE

A manufacturer or vendor shall retain a copy of the commission certificate in its records for 10 years.

Authority G.S. 10B-4; 10B-36(e)(2).

18 NCAC 07G .0108 CONFIRMATION OF NOTARY'S ACTIVE STATUS WITH THE DEPARTMENT

A manufacturer or vendor shall not deliver a physical seal to an individual claiming to be a North Carolina notary public until the manufacturer has:

- (1) obtained the commission number from the notarial commission certificate;

(2) entered the commission number found on the notarial commission certificate into the search field in the Department's online notary confirmation tool;

(3) compared the information returned by the Department's online notary confirmation tool to the information on the commission certificate to determine if there is an exact match between the commission certificate, the individual's order form, and the information returned by the search for:

- (a) the name of the notary;
- (b) the commission expiration date; and
- (c) the county of the notary's commission; and

(4) confirmed that the notary is in active status with the Department.

Authority G.S. 10B-4; 10B-36(e)(2).

18 NCAC 07G .0109 REGISTRATION WITH THE DEPARTMENT

Prior to making or selling a physical seal to a North Carolina notary, the manufacturer or vendor shall register with the Department by electronically submitting the form specified in 18 NCAC 07B .0429.

Authority G.S. 10B-4; 10B-36(e)(2).

18 NCAC 07G .0110 ANNUAL REGISTRATION UPDATE

On or before the first day of July each year, a manufacturer or vendor shall electronically update its registration with the Department by electronically submitting the form specified in 18 NCAC 07B .0429 to inform the Department of any changes since its registration in the prior year.

Authority G.S. 10B-4; 10B-36(e)(2).

SUBCHAPTER 07H - REMOTE ELECTRONIC NOTARIAL ACT AND IPEN REQUIREMENTS

SECTION .0100 - GENERAL PROVISIONS

18 NCAC 07H .0101 SCOPE

(a) The rules in this Subchapter implement Part 4A, Remote Electronic Notarization of Article 2, Electronic Notary Act, of Chapter 10B of the General Statutes.

(b) The rules in this Subchapter are adopted pursuant to the provisions of Subchapter I of Chapter 96 of Title 15 of the United States Code, Electronic Records and Signatures in Commerce.

Authority G.S. 10B-4; 10B-134.21.

18 NCAC 07H .0102 REQUIREMENTS FOR ELECTRONIC NOTARIES PERFORMING REMOTE ELECTRONIC NOTARIAL ACTS

Before performing a remote electronic notarial act, other than one subject to 18 NCAC 07D .0500, an electronic notary public shall comply with the applicable rules in:

- (1) this Subchapter; and
- (2) Subchapter 07F of this Chapter.

Authority G.S. 10B-4; 10B-134.21.

18 NCAC 07H .0103 DEFINITIONS

For purposes of this Subchapter:

- (1) "Active duty" means that term as it is defined in 10 U.S.C. 101(d)(1).
- (2) "Armed Forces" means that term as it is defined in 18 NCAC 07K .0101(2).
- (3) "Credential" or "credentials" means a document presented as satisfactory evidence of identity pursuant to G.S. 10B-3(22)(a) and G.S. 10B-134.11(a)(2)(a).
- (4) "Dependent" means that term as it is defined in 37 U.S.C. 401.
- (5) "Military orders" means that term as it is defined in 50 U.S.C. 3955(i)(1), except that it shall not include orders for separation or retirement.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0104 PROHIBITIONS ON TYPES OF REMOTE ELECTRONIC NOTARIAL ACTS

A notary public shall not perform a remote electronic notarial act if the act:

- (1) is prohibited by G.S. 10B-20, 10B-22, 10B-23, 10B-134.3, or 163-231; or
- (2) is an inventory of a safe deposit box as described in G.S. 53C-6-13(a).

Authority G.S. 10B-4; 10B-134.21.

SECTION .0200 – ESTABLISHING LOCATION OF PRINCIPALS

18 NCAC 07H .0201 TIMING OF VERIFICATION OF LOCATION

An electronic notary public shall:

- (1) as a preliminary matter, verify the location of a principal seeking a remote electronic notarization as required by G.S. 10B-134.9(a)(6); and
- (2) state how the location was verified during the recorded recitation required by Rule .0607 of this Subchapter.

Authority G.S. 10B-4; 10B-134.9; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0202 MEANS OF DETERMINING PRINCIPAL LOCATION

An electronic notary public shall determine the location of a principal seeking a remote electronic notarization by:

- (1) geolocation if the principal is using a GPS-enabled device; or
- (2) self-attestation if the principal is not using a GPS-enabled device.

Authority G.S. 10B-4; 10B-134.9; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0203 PROCEDURE WHEN PRINCIPAL USES GPS-ENABLED DEVICE

Unless an exception in Rule .0204 of this Section applies, an electronic notary public shall terminate a notarial transaction if:

- (1) the platform indicates that the principal has a GPS-enabled device that:
 - (a) has the GPS location feature disabled; and
 - (b) the principal declines to enable the GPS-location feature of the device; or
- (2) the principal is not in a permitted location pursuant to G.S. 10B-134.1(10).

Authority G.S. 10B-4; 10B-134.9; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0204 EXCEPTION TO RULE .0203

An electronic notary public shall not terminate a notarial transaction pursuant to Rule .0203 of this Section if the principal seeking a remote electronic notarization makes a self-attestation pursuant to Rules .0206 or .0207 of this Section.

Authority G.S. 10B-4; 10B-134.9; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0205 CONTENTS OF ATTESTATION OF LOCATION

A principal's self-attestation of current location shall consist of:

- (1) the name of the principal who is identified to the electronic notary public;
- (2) a statement that the principal is currently located:
 - (a) inside the United States including:
 - (i) the name of the state, territory, or federally recognized tribal area in which the principal is located; and
 - (ii) the name of the county, parish, or equivalent governmental subdivision;
 - (b) outside the United States in a United States embassy, consulate or diplomatic mission including:
 - (i) whether the principal is located in a U.S. embassy, a

U.S. consulate, or a U.S. diplomatic mission;

(ii) the name of the country and city in which the embassy, consulate, or diplomatic mission is located; and

(iii) the name of the U.S. embassy, consulate, or diplomatic mission; or

(3) the information required by Rule .0206 of this Section for a principal on a United States military installation or vessel outside the United States.

Authority G.S. 10B-4; 10B-134.9; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0206 CONTENTS OF ATTESTATION OF LOCATION ON U.S. MILITARY INSTALLATION OR VESSEL

Self-attestation by a principal of current location on a United States military installation or vessel outside the United States shall consist of:

(1) the name of the principal making the attestation to the electronic notary public;

(2) whether the principal is:
 (a) a member of the Armed Forces of the United States; or
 (b) a dependent of a member of the Armed Forces, and the name of the member;

(3) the branch of the Armed Forces in which the member serves;

(4) that the principal is physically located outside the United States on:

(a) a U.S. military installation; or
 (b) a U.S. military vessel; and

(5) unless Rule .0207 of this Section applies, the name of:

(a) the installation and the country in which the installation is located; or
 (b) the name of the vessel; and

(6) that the principal is on the named installation or vessel pursuant to military orders assigning the member to active duty for more than 120 days.

Authority G.S. 10B-4; 10B-134.9; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0207 EXCEPTION TO RULE .0206

If a principal cannot provide the information in Rule .0206 of this Section for reasons of U.S. national security, the principal may attest that:

(1) the principal is on a U.S. military installation or vessel pursuant to military orders assigning the member to active duty for more than 120 days; and

(2) the name and location cannot be divulged for reasons of national security.

Authority G.S. 10B-4; 10B-134.9; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0208 ADDITIONAL REQUIREMENTS FOR WRITTEN ATTESTATION OF LOCATION

A remotely located principal may self-attest to the principal's location by using communication technology to deliver a writing to the electronic notary public that conforms to Rules .0205 or .0206 of this Section and, in addition, contains:

- (1) the printed name of the principal;
- (2) the signature of the principal; and
- (3) the date on which the principal signed the self-attestation, which shall be the same date as the remote electronic notarization.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

SECTION .0300 – IDENTITY VERIFICATION

18 NCAC 07H .0301 VERIFICATION OF IDENTITY BY ELECTRONIC NOTARY PUBLIC

Prior to performing a remote electronic notarial act, an electronic notary public shall identify the remotely located principal by:

- (1) personal knowledge as defined in G.S. 10B-3(17); or
- (2) reviewing to the satisfaction of the notary:
 - (a) all results, both separately and together, provided by the technology provider for:
 - (i) credential analysis; and
 - (ii) identity proofing;
 - (b) comparing the face of the remotely located principal to the image on the credential uploaded for credential analysis; and
 - (c) any additional information or identification credentials that the notary deems necessary to confirm the identity of the remotely located principal.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0302 CREDIBLE WITNESS PROHIBITED FOR IDENTITY VERIFICATION OF REMOTE PRINCIPALS

For purposes of identifying a remotely located principal, an electronic notary public shall not rely upon a credible witness.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0303 NUMBER OF TIMES IDENTITY VERIFICATION PROCESSES USED

For a remote electronic notarization, an electronic notary public shall:

- (1) determine whether the identity verification processes required by G.S. 10B-134.11 shall be used more than once; and
- (2) follow the procedures required by G.S. 10B-134.11 and the rules in this Section of this Subchapter each time the identity verification processes are used.

- (2) does not accurately reflect a real-time two-way communication between the electronic notary and the principal.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0304 NOTARY REQUEST FOR ADDITIONAL INFORMATION

If an electronic notary public determines that additional information or identification credentials are necessary to confirm the identity of the remotely located principal, then the electronic notary shall:

18 NCAC 07H .0403 AUDIO IMPAIRMENT

An electronic notary public shall not perform a remote electronic notarization if the communication technology does not provide sound clear enough that each participant can hear and understand all other participants. For purposes of this Rule, "sound clear enough" shall be as determined by the electronic notary.

Authority G.S. 10B-4; 10B-134.5; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

- (1) require the principal to:
 - (a) provide additional information; or
 - (b) undergo additional credential analysis by the technology provider; or
- (2) cancel the remote notarial transaction if:
 - (a) the principal refuses to provide additional information or undergo additional credential analysis; or
 - (b) the notary decides the principal's identity has not been verified.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0404 MODIFIED VOICE OF PRINCIPAL

Except as permitted in Rule .0405 of this Section, an electronic notary public shall not perform a remote electronic notarization if, in the judgment of the electronic notary, the voice of the remotely located principal:

- (1) appears to be:
 - (a) altered;
 - (b) filtered; or
 - (c) simulated; or
- (2) does not accurately reflect a live two-way communication between the electronic notary and the remotely located principal.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

SECTION .0400 – CONTINUOUS COMMUNICATION BETWEEN NOTARY AND PRINCIPAL

18 NCAC 07H .0401 UNOBSTRUCTED VIEW

Except as noted in Rule .0406 of this Section, an electronic notary public shall not perform a remote electronic notarization unless, in the judgment of the electronic notary, there is a clear and unobstructed view of:

- (1) all principals;
- (2) any interpreter or transliterator who is interpreting for a principal; and
- (3) the text that a CART captioner is providing to the principal.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0405 EXCEPTION TO RULE .0404

An electronic notary public may perform a remote electronic notarization if the electronic notary concludes that any alteration, filtration, simulation, or asynchronicity of a principal's voice is otherwise in compliance with the accommodation rules in 18 NCAC 07B .0800.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0402 MODIFIED IMAGE OF PRINCIPAL

An electronic notary public shall not perform a remote electronic notarization if, in the judgment of the electronic notary, the live on-screen image of the remotely located principal:

- (1) appears to be:
 - (a) altered;
 - (b) filtered; or
 - (c) simulated; or

18 NCAC 07H .0406 PRINCIPAL DISAPPEARANCE OR EXIT

An electronic notary public shall terminate the remote electronic notarial transaction process if the remotely located principal:

- (1) disappears from the electronic notary's view for an excessive amount of time, as determined by the electronic notary; or
- (2) exits the session.

Note: Examples of disappearing would be moving out of view or turning off the camera.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

SECTION .0500 – ELECTRONIC NOTARY PUBLIC STORAGE OF RECORDS

18 NCAC 07H .0501 DESIGNATION OF APPROVED CUSTODIAN

An electronic notary public shall designate an approved custodian to maintain the electronic notary's records, using the form described 18 NCAC 07B .0405.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0502 CUSTODIAN DESIGNATION LIMITATION

An electronic notary public shall designate as custodian only an approved custodian that has agreed to provide custodial services to the electronic notary.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0503 NOTICE TO DEPARTMENT OF CUSTODIAN

An electronic notary public shall use the form in 18 NCAC 07B .0405 to notify the Department of:

- (1) designation of an approved custodian for the electronic notary's records;
- (2) designation of the electronic notary as a custodial notary; or
- (3) designation of a new approved custodian upon a change in custodians.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0504 SELF-DESIGNATION AS CUSTODIAL NOTARY

An electronic notary public may be designated as custodian of the electronic notary's own electronic journal consisting solely of IPEN acts only if the electronic notary:

- (1) lists the electronic notary's name as custodial notary on the form described in 18 NCAC 07B .0405;
- (2) agrees to comply with the rules of this Subchapter applicable to custodial notaries; and
- (3) complies with the requirements of the custodial notary rules in 18 NCAC 07J Section . 2200.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0505 CUSTODIAL NOTARY PROHIBITIONS

A custodial notary shall not serve as the custodian for:

- (1) the records of another notary public; or
- (2) the records of a remote electronic notarial act.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0506 ELECTRONIC NOTARY NOTICE TO PLATFORM OR IPEN PROVIDER OF CUSTODIAN

An electronic notary public shall notify the electronic notary's designated platform or IPEN provider of the name of the electronic notary's custodian:

- (1) before the first use of the platform or IPEN solution; and
- (2) before a change in custodian that will require transfer of records to a different custodian.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0507 STORING RECORDS WITH APPROVED DEPOSITORIES AND CUSTODIANS

An electronic notary public shall ensure that the electronic notary's session records are accessible to, and readable by, the electronic notary while stored with:

- (1) an approved depository; and
- (2) an approved custodian:
 - (a) for 10 years from the date of the journal entry for a notarial act; or
 - (b) for any period of more than 10 years during which:
 - (i) there is a litigation hold or other order requiring retention for more than 10 years; or
 - (ii) the electronic notary public arranges for the custodian to keep the records more than 10 years.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0508 TRANSFER OF RECORDS FOR WHICH RETENTION PERIOD HAS NOT ENDED

If the retention period for an electronic notary public's records has not expired, an electronic notary public shall:

- (1) transfer the records only to another approved custodian; and
- (2) notify the Department of the change in custodian as required by Rule .0503 of this Section.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0509 RECORDS FOR WHICH RETENTION PERIOD HAS ENDED

An electronic notary public shall, with regard to session records for which the retention period has expired:

- (1) direct the custodian to destroy the records;
- (2) if a custodial notary, destroy the records; or
- (3) retain or arrange for further retention of the records.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0510 NO DELETION OF SESSION RECORDS PRIOR TO EXPIRATION OF RETENTION PERIOD

An electronic notary public shall not direct a custodian to delete a session record or its backup prior to the end of the retention period established by Rule .0507 of this Section.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0511 CUSTODIAL NOTARY LIMITATIONS ON DELETION OF SESSION RECORD

A custodial notary shall not delete a session record or its backup prior to the end of the retention period established by Rule .0507 of this Section.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0512 ELECTRONIC NOTARY DIRECTION OF DELETION OF RECORDS AFTER TRANSFER TO CUSTODIAN

After a session record has been transferred to a custodian, then an electronic notary public may direct a depository to delete any of the notary's journal convenience copies.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

SECTION .0600 – COMMUNICATION TECHNOLOGY RECORDINGS

18 NCAC 07H .0601 SCOPE

The rules in this Section of this Subchapter shall apply to communication technology recordings and shall not apply to recordings of remote oaths or affirmations administered pursuant to G.S. 10B-134.9(d).

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0602 PRINCIPAL REFUSAL TO BE RECORDED

If a remotely located principal refuses to be recorded, the electronic notary public shall cancel the remote electronic notarization.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0603 REQUESTS FOR ATTORNEY

If a remotely located principal requests the presence of an attorney, the electronic notary public shall not proceed with the remote electronic notarial transaction process unless:

- (1) the attorney is present;

- (a) physically in the same place with the principal; or
- (b) through the communication technology; or
- (2) the principal withdraws the request.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0604 RECORDING SHALL START BEFORE NOTARIAL ACT IS PERFORMED

An electronic notary public shall begin the communication technology recording before performing a remote electronic notarial act.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0605 RECORDING SHALL BE CONTINUOUS

Once an electronic notary public starts a communication technology recording, the electronic notary shall not end the recording until:

- (1) all remote electronic notarial acts comprising the remote electronic notarial transaction have been completed; or
- (2) the remote electronic notarial transaction has been canceled.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0606 COMMUNICATION RECORDING PREFACE TO REMOTE ELECTRONIC NOTARIAL ACT

When an electronic notary public starts a communication technology recording of a remote electronic notarial act, the electronic notary shall:

- (1) state the information required by Rule .0607 of this Section; and
- (2) direct the remotely located principal to provide the information required by Rule .0608 of this Section.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0607 ELECTRONIC NOTARY RECITATION FOR COMMUNICATION TECHNOLOGY RECORDING

Immediately after initiating a communication technology recording, an electronic notary public shall state:

- (1) the electronic notary's commission name;
- (2) that the electronic notary is then located in the State of North Carolina and the county in which the electronic notary is located;
- (3) the names of all participants;
- (4) that all individuals present have been informed that the remote notarization will be recorded;

- (5) the date on which the notarial act is being performed;
- (6) whether the remote electronic notarial act will be performed on an electronic record;
- (7) how the remotely located principal for whom the notarial act is being performed has been identified; and
- (8) whether the principal's location was verified by geolocation or self-attestation.

- (1) their names; and
- (2) their role, if any, with respect to the notarial act.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0611 ACKNOWLEDGMENT – ADDITIONAL REQUIREMENTS FOR COMMUNICATION TECHNOLOGY RECORDING

An electronic notary public performing a remote acknowledgment for a remotely located principal shall require the principal to acknowledge during the communication technology recording:

- (1) that the signature on the record being notarized is that of the principal; and
- (2) the date the principal signed the record being notarized.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0612 COMMUNICATION TECHNOLOGY RECORDING OWNERSHIP

A communication technology recording shall be the private property of the electronic notary public.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

SECTION .0700 - SECURITY AND CONFIDENTIALITY REQUIREMENTS

18 NCAC 07H .0701 ACCESS TO COMMUNICATION TECHNOLOGY RECORDINGS

An electronic notary public shall not permit access to communication technology recordings by any person unless allowed pursuant to G.S. 10B-20(p) and the rules in this Chapter.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

SUBCHAPTER 07I – JOURNAL REQUIREMENTS JOURNALS

SECTION .0100 – GENERAL

18 NCAC 07I .0102 DEFINITIONS

The definitions in this Rule apply to this Subchapter:

- (1) "Canceled act" means an instance where a notary public or a principal begins the notarial transaction process and halts it for any reason. Note: An example of a canceled act would be one where the notary is not able to establish the identity of the signer as required by G.S. 10B-20.
- (2) "Journal" means a record of notarial acts that is created and maintained by a notary public in compliance with Chapter 10B of the General Statutes and the rules in this Subchapter.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0608 REMOTELY LOCATED PRINCIPAL'S DECLARATION FOR COMMUNICATION TECHNOLOGY RECORDING

Prior to performing any remote electronic notarial act, the electronic notary public shall direct each remotely located principal to state:

- (1) the remotely located principal's name as it appears on the credential presented by the principal for credential analysis;
- (2) that the principal agrees to be recorded;
- (3) if an attorney is not present, that the principal was informed of the right to have an attorney present and declined;
- (4) the documents being signed or a description of the general nature of the transaction;
- (5) the principal's location; and
- (6) if the principal's location is not established by geolocation, the principal's self-attestation establishing location pursuant to Section .0200 of this Subchapter.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0609 IDENTIFYING INDIVIDUALS IN SAME LOCATION AS PRINCIPAL

While recording the remote electronic notarial transaction process, an electronic notary public shall direct the remotely located principal to:

- (1) state the names of any individuals who are then physically present at the same place as the principal, if known; and
- (2) inform the electronic notary if any other individuals become physically present with the principal during the notarial session and their names, if known.

Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23.

18 NCAC 07H .0610 STATEMENT FROM NON-PRINCIPALS APPEARING VIA COMMUNICATION TECHNOLOGY

After the communication technology recording begins, the electronic notary public shall direct all participants who are not principals to state:

- ~~(3)~~(2) "Mode of notarial act" means a traditional notarization, an electronic notarization, or a remote electronic notarization.
- ~~(4)~~(3) Supplemental information" means information that a notary public enters into a journal:
 - (a) as a separate entry that is not for a notarial act;
 - (b) that relates to a prior notarial act recorded in the journal; and
 - (c) that may be appended to the prior notarial act entry in the electronic journal.

Note: An entry six months after the initial committed entry stating that the notary public received a subpoena for that initial committed journal entry is an example of supplemental information.

Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21.

18 NCAC 07I .0106 EXCEPTIONS TO RULE .0105

Exceptions to Rule .0105 of this Section shall be limited to ~~to~~ entries in traditional journals consisting of the following:

- (1) ~~the signatures of by the~~ principals;
- (2) ~~the signatures of by~~ credible witnesses; or
- (3) ~~the signatures of by the~~ designees of the principals pursuant to G.S. 10B-20(e).

Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21.

SECTION .0200 – JOURNAL BASICS

18 NCAC 07I .0207 ACTS INCLUDED IN JOURNAL

~~The journal shall contain entries by the notary public that document all notarial acts completed by the notary or canceled. A~~ notary public or an electronic notary public shall make a separate entry for each notarial act performed or canceled in the notary's journal, if any, or electronic notary's journal.

Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21.

SECTION .0300 – GENERAL JOURNAL CONTENTS

18 NCAC 07I .0302 CONTENTS OF JOURNAL

Notaries public shall enter the following information in the journal for each notarial act:

- (1) the date and time at the notary's location that the notarial act occurs;
- (2) the name of each principal and designee, if any;
- (3) the type and mode of notarial act performed;
- (4) the title of the document notarized, if any;
- (5) how the identity of each principal was determined;
- (6) if satisfactory evidence of the principal's identity was presented:
 - (a) the type of satisfactory evidence;

- (b) the addresses of each ~~principal~~ principal:
 - (i) as shown on any documents used as satisfactory evidence; and
 - (ii) the address as stated by the principal if the principal indicates the address on the documents used as satisfactory evidence is incorrect;
- (c) where the satisfactory evidence was based on the sworn statement of a credible witness in a traditional or in-person electronic notarial act:
 - (i) the name of the credible witness;
 - (ii) the contact information of the credible witness;
 - (iii) the signature of the credible witness in a traditional notary's journal; or
 - (iv) the signature of the credible witness has been added to the electronic journal by the notary;
- (7) ~~the signature of each principal in a tangible journal or the notary's addition of each principal's acknowledged signature to an electronic journal; as specified in Rule .0404 of this Subchapter;~~
- (8) the address of the designee, if any;
- ~~(8)~~(9) information required by 18 NCAC 07K .0203 for any fees charged; and
- ~~(9)~~(10) designation of each notarial act as employer-related or non-employer related if the journal includes both categories of notarial ~~acts.~~ acts and which employer the notarial act is related to, if any.

Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21.

18 NCAC 07I .0303 ADDITIONAL JOURNAL CONTENTS FOR REMOTE ELECTRONIC NOTARIZATIONS

In addition to the requirements of Rule .0302 of this Section, for each remote electronic notarial act completed, an electronic notary public shall enter in the journal:

- (1) the locations of the principals and notary at the time of the act;
- (2) the method of establishing the location of the remotely located principals;
- (3) the names of any individuals ~~who are physically present at the same place as the remotely located principals;~~ identified pursuant to 18 NCAC 07H .0609 and .0610; and
- (4) ~~the names of any individuals in addition to the principals and those listed in Item (3) of this~~

~~Rule who are present remotely using the communication technology during the notarial transaction process. the total number of notarial acts.~~

Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21.

18 NCAC 07I .0308 JOURNAL SUPPLEMENTS

A notary public may add supplemental information to a journal if:

- (1) ~~the notary does not in any way change the original committed journal entry; and~~
- (2) ~~specifies the journal entry to which the supplemental information relates; relates;~~
- (2) for an electronic notarial act or a remote electronic notarial act, the notary includes the applicable journal entry or session record identifier; and
- (3) the notary enters the names of the principals in the notarial session to whom the supplemental entry relates.

Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21.

SECTION .0400 – ELECTRONIC JOURNAL REQUIREMENTS

18 NCAC 07I .0404 INCLUDING SIGNATURES IN JOURNAL

A notary public who maintains an electronic journal shall ensure that:

- (1) the principals acknowledge that their electronic signatures have been included in the journal as signed on the documents in the transaction;
- (2) with regard to designees signing on behalf of a principal:
 - (a) ~~the designee signs the principal's name pursuant to G.S. 10B-20(e) as signed on the documents being notarized pursuant to G.S. 10B-20(e), and the notary then includes the signature in the journal; and~~
 - (b) the designee signs his or her own name on the electronic notary solution for capture and the notary then includes the signature of the designee in the journal; and
- (3) the credible witness signs his or her own name on the electronic notary solution for capture and the notary then includes the signature of the credible witness in the journal.

Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21.

18 NCAC 07I .0406 PRE-FILLED DATA TO BE CONFIRMED BY NOTARY PUBLIC

A notary public may enter the information listed in Rules .0302 and .0303 of this Subchapter in an electronic journal by:

- (1) reviewing each individual item of information offered as an option or by pre-filling; and
- (2) confirming that offered information is accurate by selecting:
 - (a) the offered information; or
 - (b) the accurate item from among other options ~~offered; offered; or~~
- (3) correcting an incorrect item.

Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21.

SUBCHAPTER 07J – REQUIREMENTS FOR TECHNOLOGY TO CONDUCT ELECTRONIC NOTARIZATION TECHNOLOGY PROVIDER REQUIREMENTS

SECTION .0100 – GENERAL RULES

18 NCAC 07J .0101 DEFINITIONS

For purposes of this Subchapter:

- (1) "Break in service" means:
 - (a) the technology provider is subject to a disciplinary action by the Department that:
 - (i) restricts its services;
 - (ii) suspends its services; or
 - (iii) revokes its authorization;
 - (b) the technology provider has been denied a subsequent license or approval by the Department;
 - (c) the technology provider has not submitted an application to the Department for a renewed license or approval; or
 - (d) the technology provider has discontinued providing its authorized solution in North Carolina or support for the solution for any reason.
- (2) "Communication technology recording" means a data file that contains the audio, video, and written communication that occurred during a remote notarial transaction process via the communication technology in a platform.
- (3) "Custodial notary" means an electronic notary public who designates himself or herself as a custodian of the electronic notary's own session records pursuant to 18 NCAC 07H .0504.
- (4) "Cybersecurity incident" means an occurrence defined in G.S. 143B-1320(a)(4a).
- (5) "Depository" means a storage services solution for electronic journal entries and communication technology recordings, if applicable, that is offered by an IPEN solution provider or a platform provider.

- (6) "Electronic notary solution" means any of the following products or services:
 - (a) an IPEN solution that is:
 - (i) available from an existing technology provider subject to Section .1100 of this Subchapter; or
 - (ii) subject to approval pursuant to Rule .1301 of this Subchapter;
 - (b) a platform as defined in G.S. 10B-134.1(6) and subject to approval pursuant to Rule .1501 of this Subchapter;
 - (c) an identity proofing solution as defined in G.S. 10B-134.1(5) and subject to approval pursuant to Rule .1901 of this Subchapter;
 - (d) a credential analysis solution as defined in G.S. 10B-134.1(3) and subject to approval pursuant to Rule .1701 of this Subchapter; and
 - (e) custodial services as defined in G.S. 10B-134.1(3a) and subject to approval pursuant to Rule .2101 of this Subchapter.
- (7) "Encryption" shall have the meaning in G.S. 75-61(8).
- (8) "Existing technology providers" means IPEN solution providers approved before the effective date of these rules.
- (9) "Geolocation" means technology that identifies the location of remotely located principals connecting to a platform using a GPS-enabled device with an accuracy rate of within 100 feet.
- (10) "Journal convenience copy" means a collection of a notary's electronic journal entries hosted by a depository in an electronic format for use by the notary as a convenience and that may be retained or deleted by the depository at the notary's discretion. The journal convenience copy is not a session record.
- (11) "Key individuals" are those individuals who are identified by a platform provider or an IPEN solution provider as meeting the criteria identified in G.S. 10B-134.19(c)(2).
- (12) "Protocols" or "Department's Scientific, Architectural, and Engineering Protocols for Technology Providers" means a document prepared by the Department and made available to the public that contains scientific, architectural, and engineering standards, forms, or procedures related to information technology for technology providers.
- (13) "Session record" means the electronic journal entries for a notarial session preserved in PDF/A format in accordance with the Department's protocols, including any

embedded communication technology recording and associated metadata.

- (14) "Supporting vendor" means a person that provides an electronic service to a technology provider:
 - (a) upon which the provider relies to provide the notarial service for which the provider seeks or has approval or licensure; and
 - (b) that must be reported to the Department pursuant to Rule .0410 of this Subchapter.
- (15) "Transferee" means a custodian that receives a session record from a depository or a custodian.
- (16) "Transferor" means a depository or a custodian that transfers a session record to a custodian.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0102 TECHNOLOGY PROVIDERS LICENSED OR APPROVED

Only authorized technology providers may offer electronic notary solutions to any North Carolina notary public.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0103 MULTIPLE SERVICES

A technology provider that seeks or has authorization for a product or service that offers one or more types of electronic notary solution shall comply with the rules in this Subchapter applicable to each solution.

Note: An IPEN solution that includes credential analysis and identity proofing services is an example of a solution to which this rule applies.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0104 NO TRANSFER OF LICENSE OR APPROVAL

A technology provider shall not assign, transfer, or sell its authorization to offer an electronic notary solution in North Carolina.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0105 PERMISSIBLE PROVIDER DESIGNATIONS

An authorized technology provider may use the applicable following designations for its authorized electronic notary solutions only during the period that each approval or license is effective:

- (1) "approved North Carolina in-person electronic notary solution" or "approved North Carolina IPEN solution";

- (2) "licensed North Carolina electronic notary platform";
- (3) "approved North Carolina identity proofing solution";
- (4) "approved North Carolina credential analysis solution"; and
- (5) "approved North Carolina custodial services solution."

Note: An authorized technology provider may use "NC" or "N.C." as well as "North Carolina."

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0106 AUTHORIZATION DOES NOT MEAN ENDORSEMENT

A technology provider shall not state or imply that the Department endorses the services of the technology provider.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0107 TIMELY RESPONSE REQUIRED

A technology provider or applicant shall respond to any inquiry from the Department in the manner and within the time set by the Department. Extensions may be requested and granted pursuant to 18 NCAC 07B .0313 and .0314, respectively.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0108 SUBPOENA OR WARRANT

Within three business days after receiving a subpoena, warrant, or court order that is related to a notary public's records, a technology provider shall notify the notary in writing of the subpoena, warrant, or court order, unless:

- (1) the subpoena, warrant, or court order is issued in relation to an investigation by the Department pursuant to G.S. 10B-60; or
- (2) notice is otherwise prohibited by law.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0109 SERVICE LEVEL AGREEMENT

A technology provider's service level agreement shall include:

- (1) guaranteed uptime for the electronic notary solution; and
- (2) terms and conditions for crediting or reimbursing a notary public for unscheduled service outages.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0110 FEES FOR REGISTRATION

A platform or IPEN solution shall prorate fees due from an electronic notary public to align the usage and cost of their

services with the registration term of the electronic notary, as established in G.S. 10B-106(b).

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0111 ADVERTISING RESTRICTION

A technology provider shall not display any of the following on screen during an electronic notarial transaction:

- (1) its own logos or those of another;
- (2) its own symbols or those of another;
- (3) advertising for itself or others; or
- (4) pre-recorded audio or video.

Note: Display of text from chats between transaction participants or text from a CART captioner shall not be affected by this rule.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0112 COMPLIANCE WITH TECHNOLOGY PROVIDER PROTOCOLS REQUIRED

Technology providers shall comply with applicable provisions of the Department's Scientific, Architectural, and Engineering Protocols for Technology Providers. The protocols may be accessed on the Department's website at no cost.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0113 IMPLEMENTATION OF POLICIES AND PLANS

A technology provider shall implement all plans and policies required by the rules in this Subchapter.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0114 CONTINUITY OF SERVICE

In the event of a break in service, a technology provider shall, pursuant to Rule .0207 of this Subchapter, ensure that notaries public using its authorized services:

- (1) have continuous access to the notaries' records; and
- (2) have assistance, if requested by a notary public, to transfer the notary's records to an approved custodian.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0115 WHEN PROVIDER MAY USE INFORMATION

Facilitating a notarial transaction and mitigating fraud are the only reasons that a technology provider or its supporting vendor may use, disclose, or permit disclosure of information that has not been anonymized and that is specific to:

- (1) the contents of a notarial transaction;
- (2) a transaction participant;

- (3) credentials of a notarial transaction participant;
or
- (4) a notarial transaction record or electronic record.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0116 WHEN PROVIDER MAY RETAIN BACKUP COPIES OF DATA

A technology provider may retain backup copies of data associated with the notarial transaction process longer than the retention period otherwise specified in this Subchapter only if:

- (1) the backup copies of the data are retained offline;
- (2) the provider has a backup retention policy; and
- (3) the offline backup copies are deleted in accordance with the provider's backup policy.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0117 DATA DELETION REQUIREMENT

A technology provider shall delete data upon the finalization of the notarial session record if there is no retention requirement in the rules in this Subchapter.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

SECTION .0200 – PROCESS FOR APPROVAL FOR AVEN TECHNOLOGY TO CONDUCT ELECTRONIC NOTARIZATION NOTICES REQUIRED FROM TECHNOLOGY PROVIDERS

18 NCAC 07J .0201 ELECTRONIC NOTARY SOLUTION PROVIDER APPLICATION NOTICE OF MATERIAL CHANGE TO ELECTRONIC NOTARY SOLUTION

~~(a) Any person or entity applying to the Department for designation as an approved electronic notary solution provider must complete and submit an application to the Department for review and approval before authorizing any electronic notary seals or electronic signatures to North Carolina electronic notaries. The application shall include the following information:~~

- ~~(1) Hardware and software specifications and requirements for the provider's electronic notarization system;~~
- ~~(2) A description of the type(s) of technology used in the provider's electronic notarization system; and~~
- ~~(3) A demonstration of how the technology is used to perform an electronic notarization.~~

~~(b) An electronic notary solution provider may appeal the Department's rejection of the provider's application for designation as an approved electronic notary solution provider as provided under Article 3 of Chapter 150B of the General Statutes.~~

After authorization by the Department and before implementation, a technology provider shall notify the Department of any material change to its authorized electronic notary solution.

Note: For purposes of this Section, a material change is one affecting the electronic notary solution's core:

- (1) functionality;
- (2) security; or
- (3) reliability.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126(d); 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23; 47-16.5; 47-16.7; 147-36; 15 USC 7002.

18 NCAC 07J .0202 IMPLEMENTATION OF MATERIAL CHANGES PROHIBITED PENDING DEPARTMENTAL APPROVAL

No material change to an electronic notary solution shall be implemented and offered to a notary public until the technology provider:

- (1) files written notice pursuant to the rules in this Section;
- (2) complies with Section .0500 of this Subchapter; and
- (3) receives approval from the Department.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0203 NOTICE TO DEPARTMENT OF BUSINESS INFORMATION CHANGES

After authorization by the Department, a technology provider shall provide written notice to the Department:

- (1) within five business days of changes to:
 - (a) the information required by 18 NCAC 07B .0402(2);
 - (b) the information required by 18 NCAC 07B .0402(3);
 - (c) conversion to an alternate type of business entity;
 - (d) conversion to a foreign entity;
 - (e) failure to remain active and current with the Department's Business Registration Division;
 - (f) merger with another business entity;
 - (g) filing of a bankruptcy petition; or
 - (h) a change in the technology provider's controlling ownership; and
- (2) within 45 calendar days of changes to any other information on the provider's application for authorization.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0204 CONTENTS OF NOTICE OF CHANGES

A technology provider's written notice pursuant to Rule .0203 of this Section shall state:

- (1) what has changed; and
- (2) the correct information after the change.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0205 NOTICE TO NOTARIES OF PLANNED SERVICE OUTAGES

A technology provider shall provide at least five calendar days' notice to its subscribers and electronic notaries public that its systems will be unavailable due to planned maintenance, and shall include:

- (1) the date that the service will begin to be unavailable; and
- (2) the approximate amount of time during which the service is expected to be unavailable.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0206 SERVICE OUTAGE NOTIFICATION TO THE DEPARTMENT

As specified in the Department's authorization letter, a technology provider shall notify the Department immediately of any service outage or lack of accessibility to notaries public:

- (1) when the outage exceeds four consecutive hours; and
- (2) when service to notaries is restored.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0207 NOTICE TO NOTARIES OF BREAK IN SERVICE

A technology provider subject to Rule .0114 of this Subchapter shall notify notaries public using its authorized services within three days of the occurrence of a break in service and include:

- (1) the reason for the break in service;
- (2) whether the break in service is for a specific time period or is permanent;
- (3) whether the notaries:
 - (a) can continue using the provider's authorized services:
 - (i) with limits and what the limits are; or
 - (ii) without limits; or
 - (b) cannot continue to use the provider's authorized services and, where the provider is a depository or custodian:
 - (i) will have 60 days to transfer any records maintained by the provider to a custodian; and
 - (ii) that the notaries may continue to access the records maintained by the provider until they are transferred; and
- (4) any actions the provider requires the notaries to take.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0208 NOTICE OF REPORTABLE INCIDENT

Within 72 hours of discovery of a reportable incident, a technology provider shall notify the Department.

Note: For purposes of the rules in this Section of this Subchapter, a reportable incident is one that involves:

- (1) a technology provider's electronic notary solution, a notary public's records, a notary's seal or signature, or a principal's records or information;
- (2) any of the following affecting data or access:
 - (a) unauthorized access, use, alteration, or disclosure;
 - (b) theft;
 - (c) loss; or
 - (d) compromise; or
- (3) a cybersecurity incident.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0209 CONTENT OF NOTIFICATION TO DEPARTMENT

Notification to the Department pursuant to Rule .0208 of this Section shall include the following information when available:

- (1) the names of the affected notaries public including their notary commission numbers;
- (2) a description of the affected records, data, or solution;
- (3) a copy of any law enforcement report made in connection with the incident;
- (4) a description of how the reportable incident occurred;
- (5) the duration of the reportable incident;
- (6) a description of actions taken to prevent or mitigate a similar reportable incident;
- (7) when the reportable incident occurred; and
- (8) a point of contact for the technology provider who has knowledge of:
 - (a) the reportable incident;
 - (b) actions taken to address the reportable incident; and
 - (c) actions to be taken to address the reportable incident.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0210 NOTIFICATION TO OTHER PARTIES

Technology providers shall notify affected persons of a reportable incident as required by applicable law, rule, or regulation. Note: The Identity Theft Protection Act, Chapter 75, Article 2A of the General Statutes is an example of an applicable law.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0211 VERIFICATION OF CONTINUING COMPLIANCE

A technology provider shall:

- (1) annually verify its compliance with the rules in this Subchapter for each approved electronic notary solution, by submitting the form in 18 NCAC 07B .0429; or
- (2) submit notice that it will not apply again pursuant to Rule .0215 of this Subchapter.

Item (1) of this Rule shall not apply to licensed platforms.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0212 TIMING OF VERIFICATION OF CONTINUING COMPLIANCE

A technology provider's verification of compliance pursuant to Rule .0211 of this Section shall be submitted to the Department:

- (1) no more than 60 days before the expiration of its approval; or
- (2) as part of its application for a subsequent approval.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0213 DUE DILIGENCE

A technology provider's verification pursuant to Rule .0211 of this Section shall be made only after the exercise of due diligence to enable the signer to comply with Rule .0214 of this Section.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0214 SIGNER OF VERIFICATION

A technology provider's verification pursuant to Rule .0211 of this Section shall be signed by a person with the authority to bind the provider and who certifies under penalty of perjury that the information on the form is true and correct to the best of the signer's knowledge and belief.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0215 NOTICE TO DEPARTMENT THAT PROVIDER WILL NOT RENEW

At least 90 days before its existing authorization expires, a technology provider shall notify the Department in writing:

- (1) if it declines to apply for a subsequent authorization of its electronic notary solution;
- (2) the date on which it will cease offering its electronic notary solution to North Carolina notaries public; and
- (3) that it has complied with Rule .0216 of this Section.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0216 NOTICE TO SUBSCRIBERS AND NOTARIES OF NONRENEWAL

No later than the date that a technology provider gives notice to the Department pursuant to Rule .0215 of this Section, the provider shall:

- (1) notify each subscriber and notary public account holder in writing that it will cease offering its electronic notary solution to North Carolina notaries public;
- (2) specify the date on which it will cease offering its electronic notary solution; and
- (3) comply with the rules in this Subchapter regarding notary access to records and transfer of records to a custodian.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

SECTION .0300 – RESERVED FOR FUTURE CODIFICATION GENERAL APPLICATION PROCEDURES

18 NCAC 07J .0301 APPLICATION PROCESS

A technology provider applicant for authorization of an electronic notary solution shall:

- (1) submit a complete electronic application to the Department;
- (2) demonstrate the electronic notary solution to the Department to enable it to evaluate the compliance with applicable laws, rules, and protocols; and
- (3) submit the filing fee, if applicable, with the application.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0302 SEPARATE APPLICATIONS FOR EACH SOLUTION

A technology provider shall complete an application designating each type of electronic notary solution for which it seeks authorization.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0303 APPLICATION FEES

- (a) Each application for a platform license shall be accompanied by a non-refundable five thousand dollar (\$5,000) fee pursuant to G.S. 10B-134.19(b).
- (b) No fee is required to accompany an application for any other electronic notary solution.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0304 BINDING REPRESENTATIONS IN APPLICATION

All representations, promises and assurances of performance made to the Department by a technology provider during the application process shall be binding and made under penalty of perjury.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0305 LIMIT ON DESIGNATION OF TRADE SECRET OR CONFIDENTIAL INFORMATION

A technology provider applicant shall not designate its entire application as:

- (1) a trade secret; or
- (2) confidential information.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0306 DESIGNATION OF CONFIDENTIAL OR TRADE SECRET INFORMATION

A technology provider applicant shall designate each specific item on its application, attachments, and other filings for which confidentiality or trade secret protection is claimed. Each designation shall comply with:

- (1) the North Carolina Trade Secrets Protection Act, Chapter 66, Article 24 of the General Statutes; or
- (2) the confidentiality provisions of G.S. 132-1.2.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0307 REDACTED COPY

A technology provider applicant that designates information as confidential or trade secret shall submit:

- (1) the unredacted filing with the confidential and trade secret designations; and
- (2) an exact duplicate of the filing with redactions of the confidential and trade secret information.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0308 DESIGNATION OF REDACTED COPY

For any redacted document submitted pursuant to Rule .0307 of this Section, a technology provider applicant shall include the word "redacted" in:

- (1) the document title;
- (2) the document digital file name; and
- (3) a header on each page.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0309 GOOD FAITH BASIS FOR CONFIDENTIAL OR TRADE SECRET DESIGNATION

If a technology provider designates items on its application as confidential or trade secret, the applicant shall certify on the application that it has formed a good faith opinion that the information claimed as confidential or trade secret meets the requirements for designation under the laws specified in Rule .0306 of this Section.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0310 SOURCES OF CONFIDENTIAL INFORMATION

If designated as confidential or trade secret, the Department shall presume that the following plans and documents are confidential information or trade secrets:

- (1) configuration management plan required by Rule .0616 of this Subchapter;
- (2) information technology security audit and summary required by Rules .0620 and .0621 of this Subchapter;
- (3) security plan required by Rule .0624 of this Subchapter;
- (4) security incident response plan required by Rule .0626 of this Subchapter; and
- (5) contingency plan required by Rule .0628 of this Subchapter.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0311 APPLICATION CHANGES PRIOR TO LICENSURE OR APPROVAL

If information in a technology provider's application changes before the Department's decision on the application, the provider shall inform the Department in writing, and:

- (1) state what has changed; and
- (2) state the correct information after the change.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0312 APPLICATION WITHDRAWAL

A technology provider applicant may withdraw its application:

- (1) before receiving notice of the Department's decision on its application; and
- (2) by providing written notice:
 - (a) with the effective date of the withdrawal; and
 - (b) signed by a person with the authority to bind the applicant.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0313 APPLICATION RESUBMISSION

A technology applicant may resubmit its application without a new application fee if the resubmission is delivered within 45 days of:

- (1) the application initially being rejected as incomplete; or
- (2) the application being withdrawn.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0314 NOTICE OF DEPARTMENT DECISION

The Department shall notify a technology provider applicant whether its application is:

- (1) rejected as incomplete, with:
 - (a) information regarding the areas in which the application is incomplete; and
 - (b) a time within which the application must be amended to include the information;
- (2) denied, in which case the Department shall provide reasons for the denial; or
- (3) approved.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0315 TIMING OF SUBMISSION OF APPLICATION FOR SUBSEQUENT AUTHORIZATION

A technology provider's application for a subsequent authorization shall be submitted:

- (1) no earlier than 120 days before its existing authorization expires; and
- (2) no later than 90 days before its existing authorization expires.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

**SECTION .0400 – IN-PERSON ELECTRONIC NOTARIZATION (AVEN) PROVIDER REQUIREMENTS
GENERAL APPLICATION CONTENTS**

18 NCAC 07J .0401 CONTENTS OF ALL TECHNOLOGY PROVIDER APPLICATIONS

All technology provider applicants shall submit applications that include the information required by:

- (1) this Section; and
- (2) 18 NCAC 07B .0422.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

**18 NCAC 07J .0402 CRITERIA FOR APPROVAL OF ELECTRONIC NOTARY SOLUTION PROVIDERS
PROVIDER NAME**

~~Each applicant and each approved electronic notary solution provider shall:~~

- ~~(1) Provide a free and readily available viewer/reader so as to enable all parties relying on the electronically notarized record or document to view the electronic notary signature and the electronic notary seal without incurring any cost;~~
- ~~(2) Comply with the laws, policies, and rules that govern North Carolina notaries;~~
- ~~(3) Provide an electronic notarization system or solution that complies with the technical specifications of the rules and standards that govern electronic notarization processes and procedures in North Carolina;~~
- ~~(4) Require such of the provider's principals or employees to take the mandatory electronic notary education course online and pass the required examination as is necessary to ensure the provider possesses sufficient familiarity with North Carolina's electronic notary laws and requirements;~~
- ~~(5) Require notaries to present the NC Secretary of State's Electronic Notary Certificate to Perform Electronic Notary Acts prior to authorizing an electronic notary seal and signature;~~
- ~~(6) Verify the authorization of a North Carolina notary to perform electronic notary acts by logging on to the Department's website and comparing the name, notary commission number and commission expiration date with the information on the Electronic Notary Certificate to Perform Electronic Notary Acts prior to authorizing an electronic notary seal and signature;~~
- ~~(7) Provide prorated fees to align the usage and cost of the electronic notary system or solution with the commission term limit of the electronic notary purchasing the electronic notary seal and signature;~~
- ~~(8) Suspend the use of any electronic notarization system or solution for any notary whose commission has been revoked or suspended by the North Carolina Secretary of State; and~~
- ~~(9) Submit an exemplar of the electronic notary signature and the electronic notary seal to the Department for each electronic notary who subscribes to the provider's electronic notary solution.~~

All technology provider applications shall include:

- (1) the provider's name in its state or jurisdiction of formation; and
- (2) the names required by 18 NCAC 07B .0422(3)(c).

Authority G.S. 10B-4; 10B-106; 10B-125(b); ~~10B-126(d)~~; 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23; 47-16.5; 47-16.7; 147-36; 15-USC-7002.

18 NCAC 07J .0403 CONTACT INFORMATION

A technology provider's application shall include the contact information required by 18 NCAC 07B .0422.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0404 CERTIFICATION OF STANDING

A technology provider applicant shall certify in its application that it:

- (1) is currently registered to do business in North Carolina or has a certificate of authority to do business in North Carolina; and
- (2) is in current-active status with the Department and the business registrar in the jurisdiction where formed, if not North Carolina.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0405 NOTARY SERVICES IN OTHER JURISDICTIONS

A technology provider applicant's application shall provide the following information for each state, federally recognized tribe, or nation in which it has offered the same or similar services within the previous 10 years:

- (1) the types of service provided;
- (2) the month and year in which the technology provider received its most recent license or approval or a statement that a license or approval is not required;
- (3) the expiration date of the most recent required license, approval, or equivalent, if any;
- (4) whether any application for a required license, approval, or equivalent has been denied;
- (5) whether the applicant has discontinued a service and if applicable:
 - (a) an explanation of the discontinuance of the service; and
 - (b) the month and year in which the applicant discontinued services; and
- (6) for any open, pending, or active governmental or authorizing entity's investigations in relation to the applicant's provision of services in another jurisdiction and of which the applicant is aware at the time of application:
 - (a) the name of the governmental or authorizing entity; and
 - (b) a brief description of what the applicant believes is being investigated.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0406 COMPLIANCE CONTACT

A technology provider applicant shall name a compliance contact on its application who shall:

- (1) be an employee;
- (2) be a key individual;
- (3) successfully complete the Department's electronic notary public course; and
- (4) successfully complete the Department's technology provider course.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0407 COMPLIANCE CONTACT DUTIES

A technology provider's compliance contact shall, for the duration of the provider's authorization:

- (1) have the duty to monitor the provider's compliance with:
 - (a) Chapter 10B of the General Statutes; and
 - (b) the rules in this Chapter;
- (2) ensure that notices are provided to the Department as required by the rules in this Subchapter; and
- (3) receive notices from the Department made pursuant to the rules in this Chapter.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0408 THIRD-PARTY VENDORS INCLUDED IN ELECTRONIC NOTARY SOLUTION

A technology provider applicant shall list on its application any third-party vendors providing services to the technology provider in connection with the electronic notary solution for which it seeks authorization.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0409 THIRD-PARTY VENDOR INFORMATION

A technology provider applicant shall provide the following information for each third-party vendor listed on its application:

- (1) the type of service that the vendor provides to the applicant; and
- (2) which, if any, of the third-party vendors used by the solution are:
 - (a) currently approved by the Department;
 - (b) currently under consideration for approval by the Department; or
 - (c) being submitted by the applicant with its application for approval by the Department.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0410 SUPPORTING VENDORS

A technology provider applicant shall list on its application any supporting vendors providing the following services to the technology provider in connection with the electronic notary solution for which it seeks authorization:

- (1) cloud services;
- (2) geolocation services;
- (3) communication technology;
- (4) communication recording technology;
- (5) electronic journal;
- (6) digital certificate authorities; and
- (7) electronic signature and electronic seal.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0411 SUPPORTING VENDOR INFORMATION

A technology provider applicant shall specify the type of service provided by each supporting vendor listed on its application.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0412 VENDORS WITH ACCESS TO NOTARIAL TRANSACTION DATA

A technology provider applicant shall disclose on its application the names of all vendors, business entities, and any of their affiliates that will have access to notarial transaction data when at rest.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0413 DISCLOSURE OF CERTIFICATIONS AND COMPLIANCE REPORTS

A technology provider applicant shall disclose on its application each independent third-party certification, SOC 2 Type 2 compliance report, or equivalent pertaining to the electronic notary solution for which authorization is sought, with:

- (1) the name of the issuer of the certification, compliance report, or equivalent;
- (2) the name or title of the certification, compliance report, or equivalent;
- (3) the date of its issuance; and
- (4) its expiration date, if applicable.

Note: FIPS validation, NSA approval, FedRAMP, ISO 27001, or HITRUST are examples of an independent third-party certification or equivalent.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0414 DISCLOSURE OF DEBARMENTS

A technology provider applicant shall disclose on its application if it or any of its key individuals is now or has ever been the subject of a debarment by a state, federally recognized tribe, or nation, and for each:

- (1) whether the debarment was for the applicant or a key individual, and the name of the key individual;
- (2) the name of each government that debarred the applicant or the key individual;
- (3) an explanation of the reason for each debarment; and
- (4) the start and end dates of each debarment.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0415 DISCLOSURE OF VOLUNTARY EXCLUSIONS IN LIEU OF DEBARMENT

A technology provider applicant shall disclose on its application:

- (1) whether, within 10 years of its application, the applicant or any of its key individuals have agreed to voluntary exclusion in lieu of debarment being taken against it or any of its key individuals by a state, federally recognized tribe, or nation; and
- (2) for each disclosed voluntary exclusion of the applicant or its key individuals:
 - (a) the name of the person for whom any voluntary exclusion was agreed to;
 - (b) the name of each governmental entity for which the applicant or the key individual agreed to voluntary exclusion in lieu of debarment;
 - (c) an explanation of the reason for each voluntary exclusion; and
 - (d) the start and end dates of each voluntary exclusion.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0416 DISCLOSURE OF CIVIL LEGAL ACTIONS

A technology provider applicant shall disclose on its application all findings in civil legal actions, including arbitration:

- (1) made within 10 years of its application date;
- (2) that are against the applicant or any of its key individuals for:
 - (a) activity involving dishonesty, untruthfulness, deceit, fraud, false dealing, cheating, stealing, or insider trading;
 - (b) mishandling or misuse of customer data; or
 - (c) failure of the platform to perform as warranted.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0417 CONTENT OF CIVIL LEGAL ACTION DISCLOSURES

A technology provider's application disclosure pursuant to Rule .0416 of this Section shall include:

- (1) a description of each finding or admission;
- (2) a copy of the document containing the finding or admission;
- (3) a brief description of the circumstances surrounding the finding or admission;
- (4) if not included in the document in Item (2) of this Rule:
 - (a) the date on which the finding or admission was made;
 - (b) the court in which the civil lawsuit was filed; and
 - (c) the case name and docket number; and
- (5) any additional information that the applicant wishes the Department to consider.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0418 DISCLOSURE OF DISCIPLINARY ACTIONS

A technology provider shall disclose on its application any disciplinary actions:

- (1) taken against it or any of its key individuals by any state, federally recognized tribe, or nation's government; and
- (2) concluded within 10 years of the application date.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0419 CONTENT OF DISCIPLINARY ACTION DISCLOSURES

For each disciplinary action listed pursuant to Rule .0418 of this Section, a technology provider shall disclose:

- (1) the date of each disciplinary action;
- (2) the disciplinary action taken;
- (3) a copy of each disciplinary action;
- (4) if not included in the copy of the disciplinary action provided:
 - (a) the reason given for the disciplinary action;
 - (b) an explanation of the circumstances that led to the disciplinary action; and
 - (c) the name of the issuing entity;
- (5) where the disciplinary action included any corrective action or conditions:
 - (a) whether the applicant or key individual has complied with the corrective actions or conditions; and
 - (b) the date on which compliance with the corrective actions or conditions was satisfied;

(6) whether the applicant or key individual would be eligible for relicensure or recommissioning; and

(7) other information that the applicant wishes to include in order to aid the Department in assessing the application.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0420 DISCLOSURE OF BANKRUPTCY

A technology provider applicant shall disclose on its application whether the applicant is in, or has previously exited within the past 10 years, bankruptcy proceedings pursuant to the laws of the United States or other nation.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0421 CONTENTS OF BANKRUPTCY DISCLOSURE

A technology provider applicant that discloses a bankruptcy pursuant to Rule .0420 of this Section shall state:

- (1) the status of the matter;
- (2) the style of the case, including the case number; and
- (3) the court in which the bankruptcy was filed.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0422 WEBSITE INFORMATION

The application of a technology provider applicant shall include:

- (1) the single URL link required by Rule .0607 of this Subchapter; and
- (2) the form required by 18 NCAC 07B .0422(6).

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0423 IT SECURITY AUDIT SUMMARY

The application of a technology provider applicant shall include:

- (1) how often the applicant conducts IT security audits; and
- (2) the IT security audit summary required by Rule .0621 of this Subchapter.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

SECTION .0500 – RESERVED FOR FUTURE CODIFICATION TECHNOLOGY DEMONSTRATION

18 NCAC 07J .0501 SOLUTION AVAILABILITY REQUIRED

After submitting its application, a technology provider applicant shall make its electronic notary solution available to the

Department for evaluation as specified in the rules in this Subchapter.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0502 DEMONSTRATION CONTENT

A technology provider's demonstration of its electronic notary solution shall establish that the features, functionality, and instructional materials for users comply with the rules in this Subchapter.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0503 DEMONSTRATION TO INCLUDE USE OF SOLUTION IN NOTARIAL TRANSACTION

A technology provider's demonstration of its electronic notary solution shall include a step-by-step exhibition of how the electronic notary solution will be used for notarial transactions.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0504 ADDITIONAL DEMONSTRATIONS

Upon request by the Department, a technology provider applicant shall provide additional demonstrations of its electronic notary solution to establish:

- (1) resolution of issues identified in a prior demonstration; and
- (2) compliance with the rules in this Subchapter.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0505 WAIVER OF DEMONSTRATION REQUIREMENT

The Department may waive the requirement that a technology provider applicant provide the demonstration required by Rule .0501 of this Section based upon the factors in 18 NCAC 07B .0108.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

SECTION .0600 – CONTINUING OBLIGATIONS OF ELECTRONIC NOTARIZATION TECHNOLOGY PROVIDERS TECHNOLOGY PROVIDER STANDARDS

18 NCAC 07J .0601 ELECTRONIC NOTARY SOLUTION PROVIDER CHANGES SCOPE

~~(a) An electronic notary solution provider shall notify the Department within 45 days of changes, modifications or updates to information previously submitted to the Department.~~

~~(b) An approved electronic notary solution provider shall obtain approval of the Department pursuant to the Act and this Subchapter before making available to North Carolina electronic~~

~~notaries any updates or subsequent versions of the provider's electronic notarization system. The rules in this Section apply to electronic notary solutions.~~

Authority G.S. 10B-4; 10B-106; 10B-125(b); ~~10B-126(d)~~; 10-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23; 47-16.5; 47-16.7; 147-36; 15-USC 7002.

18 NCAC 07J .0602 NOTARY ACCOUNT ACCESS

A technology provider shall ensure that only the notary public, the technology provider, or a person authorized by law can access the notary's:

- (1) account information;
- (2) journals;
- (3) communication technology recordings;
- (4) session records; or
- (5) metadata associated with the notarial transaction.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0603 REQUIRE NOTARY MULTI-FACTOR AUTHENTICATION

A technology provider shall require multi-factor authentication before a notary public may access the notary's account.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0604 INACTIVITY WARNING TIMING

A technology provider's electronic notary solution shall issue a warning on screen to a notary public:

- (1) who is logged into the notary's account; and
- (2) has been inactive longer than 15 minutes.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0605 PROVIDER ACTION AFTER WARNING

No more than five minutes after the on screen warning in Rule .0604 of this Section, a technology provider's electronic notary solution shall:

- (1) determine whether there has been activity by the notary public in that five minutes; and
- (2) log the notary out if there has been no activity.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0606 TECHNOLOGY PROVIDER WEB PAGE

A technology provider shall create a publicly accessible web page or pages containing the information required by Rule .0607 of this Section.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0607 SINGLE LINK AND SUBMISSION TO DEPARTMENT

A technology provider shall ensure that the primary website page required by Rule .0606 of this Section is accessible through a single link provided to the Department:

- (1) for inclusion on the Department's authorized technology provider web page; and
- (2) with any sub-pages directly accessible through the single linked page.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0608 WEBSITE CONTENT

A technology provider's website shall include the following content in the order set out in this Rule:

- (1) the provider's name;
- (2) the provider's contact information, including:
 - (a) a general telephone number;
 - (b) a sales number, if different; and
 - (c) a support or help desk number;
- (3) the types of authorized electronic notary solution offered and each product name;
- (4) if applicable, a notice that North Carolina notaries may use only electronic notary solutions authorized by the Department;
- (5) a product description, including the functions offered;
- (6) service sectors served by the products described;
- (7) the minimum technical specifications for use of the electronic notary solution by:
 - (a) a notary public;
 - (b) a principal; and
 - (c) other participants in an electronic notarial transaction;
- (8) a direct link to the service level agreement required by Rule .0109 of this Subchapter;
- (9) either the disclosures required by the following rules in this Subchapter or a link to them:
 - (a) Rule .1208;
 - (b) Rule .1427;
 - (c) Rule .1611;
 - (d) Rule .1812; and
 - (e) Rule .2021;
- (10) either the instructions for use and demonstrations or tutorials or links to them; and
- (11) other information that the provider wishes to provide, such as pricing.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0609 UPDATING SINGLE LINK URL

A technology provider shall notify the Department within five business days of a change in the URL of the information required by Rule .0606 of this Section.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0610 ENCRYPTION OF DATA

A technology provider shall securely encrypt data while it is at rest and while it is in transit.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0611 DATA STORED DOMESTICALLY

A technology provider shall:

- (1) store all data associated with the notarial transaction process in the United States while the data is at rest; and
- (2) certify compliance with Item (1) of this Rule:
 - (a) on its initial and subsequent applications; and
 - (b) on its verification of compliance pursuant to Rule .0211 of this Subchapter, if applicable.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0612 DATA STORAGE FACILITY REQUIREMENTS

A technology provider shall store all data associated with a notarial session in facilities that are:

- (1) climate-controlled; and
- (2) secure from unauthorized physical access.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0613 DATA CENTER SECURITY

A technology provider shall ensure that each data center it uses has physical security measures in place that include:

- (1) restricting physical system access to personnel authorized by the provider to access the data center's system;
- (2) monitoring and logging physical access to the data center's information systems;
- (3) maintaining the physical access logs for five years; and
- (4) monitoring and responding to:
 - (a) physical intrusion alarms; and
 - (b) surveillance system observations and alerts.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0614 CERTIFICATION RE DATA CENTER SECURITY

A technology provider shall certify its compliance with Rules .0612 and .0613 of this Section on its:

- (1) initial and subsequent applications; and
- (2) verification of compliance pursuant to Rule .0211 of this Subchapter, if applicable.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0615 MAINTENANCE OF SOFTWARE AND HARDWARE

A technology provider's hardware, software, and firmware for systems supporting the electronic notary solution shall:

- (1) not be classified as end-of-life by their manufacturers;
- (2) still be eligible for vendor security patches; and
- (3) comply with the "N-1" principle that states that all systems should be running either the newest stable release or one version prior to that release.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0616 CONFIGURATION MANAGEMENT PLAN

A technology provider shall maintain a configuration management plan for systems supporting the electronic notary solution that addresses:

- (1) maintenance of an accurate inventory of items including:
 - (a) software;
 - (b) hardware; and
 - (c) network components;
- (2) establishment of configuration settings that reflect the most restrictive mode consistent with its operational requirements;
- (3) use of automated mechanisms to detect inventory and configuration changes;
- (4) prevention of unauthorized changes to the systems; and
- (5) evaluation of the potential security impact of proposed changes.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0617 IDENTIFICATION AND ACCESS CONTROL

A technology provider shall implement personnel identification and access control measures for systems supporting the electronic notary solution that:

- (1) designate and authorize users;
- (2) assign access to its data and systems based on users' roles;
- (3) restrict non-privileged users from performing privileged functions;

- (4) review, manage, and monitor users' role-based access;
- (5) restrict notarial transaction process-related data access to authorized persons; and
- (6) delete, revise, or remove access for users:
 - (a) whose role changes; or
 - (b) who are no longer employed with the provider.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0618 IDENTIFICATION AND ACCESS CONTROL BY THIRD-PARTY VENDORS AND SUPPORTING VENDORS

A technology provider shall confirm that each of its third-party and supporting vendors maintain and implement identification and access control measures equivalent to or more stringent than those required by Rule .0617 of this Section.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0619 VULNERABILITY DETECTION AND REMEDIATION

A technology provider shall:

- (1) scan for vulnerabilities of the systems supporting the electronic notary solution at least weekly; and
- (2) detect and remediate IT security vulnerabilities.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0620 IT SECURITY AUDIT

A technology provider shall have a third-party audit of its IT security conducted at least once every three years:

- (1) sufficient to comply with Rule .0622 of this Section; and
- (2) by Certified Information Systems Auditors or the equivalent.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0621 SUMMARY OF IT SECURITY AUDIT

A technology provider shall provide a summary to the Department of its most recent IT security audit, which shall not be more than three years old:

- (1) on its initial and subsequent applications; and
- (2) on its verification of compliance pursuant to Rule .0211 of this Section, if applicable.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0622 CONTENTS OF IT SECURITY AUDIT SUMMARY

(a) The IT audit summary provided to the Department pursuant to Rule .0620 of this Section shall include:

- (1) the date of the audit;
- (2) the third-party audit standards by which the audit was conducted;
- (3) the name, contact information, and title or role of a representative of the organization conducting the audit;
- (4) the IT security audit findings; and
- (5) any plan of action including a timeline to address all findings.

(b) For purposes of this Rule, "finding" means:

- (1) a deficiency in internal control;
- (2) noncompliance with applicable laws and rules; or
- (3) instances of fraud.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0623 CYBERSECURITY INCIDENT PREVENTION

A technology provider shall take steps to prevent cybersecurity incidents by:

- (1) logging and monitoring access to the system; and
- (2) detecting, tracking, and addressing security flaws.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0624 SECURITY PLAN

A technology provider shall maintain a security plan specifying how it will comply with laws, rules, and the Department's protocols related to:

- (1) physical security; and
- (2) IT security.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0625 SECURITY BOUNDARY AND THREAT PROTECTION TECHNOLOGY

A technology provider shall use security boundary and threat protection technology.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0626 SECURITY INCIDENT RESPONSE PLAN

A technology provider shall maintain a security incident response plan that:

- (1) addresses the capabilities required by the rules in this Section;
- (2) includes annual testing; and

(3) is revised annually, as needed.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0627 CYBERSECURITY INCIDENT RESPONSE

A technology provider shall:

- (1) detect and respond to any cybersecurity incident;
- (2) store evidence related to a cybersecurity incident in a manner that:
 - (a) establishes chain of custody; and
 - (b) preserves chain of custody; and
- (3) retain security logs and other data related to cybersecurity incidents and response for at least three years.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0628 CONTINGENCY PLAN REQUIREMENT

A technology provider shall maintain a contingency plan for recovery to a functional state in the event of a cybersecurity incident or other service disruption of:

- (1) its authorized electronic notary solutions;
- (2) the following businesses upon which its electronic notary solutions are reliant:
 - (a) critical infrastructure companies, as defined in G.S. 166A-19.70A; and
 - (b) supporting vendors listed pursuant to Rule .0410 of this Subchapter.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0629 CONTENTS OF CONTINGENCY PLAN

A technology provider's contingency plan shall include:

- (1) the manner in which it will recover its authorized services to a functional state;
- (2) a projected timeline for recovery to a functional state; and
- (3) required notices to the Department and notaries public pursuant to Section .0200 of this Subchapter.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

SECTION .0700 – ELECTRONIC SIGNATURE AND SEAL STANDARDS

18 NCAC 07J .0701 APPLICATION OF ELECTRONIC SEAL

An electronic notary seal shall be applied only by an electronic notary using an IPEN or platform provider's electronic notary solution.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0702 COMPLIANCE WITH ELECTRONIC SIGNATURE AND SEAL RULES

An IPEN or platform provider's electronic notary solution shall enable an electronic notary public to comply with the following rules:

- (1) 18 NCAC 07F Section .0700, Electronic Notary Signature;
- (2) 18 NCAC 07F Section .0800, Electronic Notary Seal; and
- (3) 18 NCAC 07F Section .1000, Confidentiality, Security, and Records Retention.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0703 APPLICATION OF SIGNATURE

An IPEN or platform provider's electronic notary solution shall enable an electronic notary public to affix the electronic notary's signature on an electronic notarial certificate.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0704 SIGNATURE APPEARANCE

An IPEN or platform provider's electronic notary solution shall enable an electronic notary public to apply the electronic notary's electronic signature to a document being notarized only if:

- (1) the signature is an exact copy of the electronic notary's handwritten signature delivered pursuant to Rules .1201 and .1410 of this Subchapter; or
- (2) the signature is handwritten by the electronic notary using electronic means during the notarial transaction.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0705 SIGNATURE AND SEAL REVIEW

An IPEN or platform provider's electronic notary solution shall enable an electronic notary public to comply with 18 NCAC 07F .0710 and .0815 by permitting the electronic notary to:

- (1) view the electronic signature and seal after application; and
- (2) delete and reapply the electronic signature and seal before committal.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0706 SIGNATURE AND SEAL CHANGES

If an IPEN or platform provider's electronic notary solution receives a commission certificate and registration certificate

reflecting a change in an electronic notary public's name, county, or expiration date, the provider shall:

- (1) use the Department's notary public database to:
 - (a) verify that the electronic notary's information has changed as shown on the certificate; and
 - (b) verify that the electronic notary continues to be in active status with the Department;
- (2) generate a new electronic seal reflecting the changed information;
- (3) obtain an updated handwritten signature from the electronic notary if the notary's name has changed;
- (4) provide exemplars of the updated signature and seal to the Department; and
- (5) reconfirm the Department's receipt of the exemplars.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

SECTION .0800 – ELECTRONIC JOURNAL STANDARDS

18 NCAC 07J .0801 ELECTRONIC JOURNAL REQUIRED

An IPEN or platform provider's electronic notary solution shall provide an electronic journal in which an electronic notary can record all completed and cancelled electronic notarial transactions.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0802 COMPLIANCE WITH JOURNAL RULES

An IPEN or platform provider shall design its electronic journals in a way that enables an electronic notary public to comply with the journal rules in this Chapter.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0803 JOURNAL ENTRY FOR EACH NOTARIAL TRANSACTION

An IPEN or platform provider shall design its electronic journals to require a single journal entry for each:

- (1) notarial act;
- (2) canceled notarial act; and
- (3) supplemental journal entry.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0804 IDENTIFICATION OF NOTARIAL ACTS

An IPEN solution or platform provider shall design its electronic journals to separate and count notarial acts as follows:

- (1) for acknowledgments and verifications or proofs, each notarized principal signature shall be its own separate notarial act; and
- (2) for oaths or affirmations, each oath or affirmation administered to an individual shall be its own separate notarial act, without regard to whether the oath was administered simultaneously to more than one individual.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0805 CLASSIFICATION OF JOURNAL ENTRIES

An IPEN solution or platform provider shall design its electronic journals to enable an electronic notary public to classify each journal entry as:

- (1) a completed notarial act;
- (2) a cancelled notarial transaction; or
- (3) a supplemental journal entry.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0806 MINIMUM LENGTH OF NOTES FIELD

An IPEN solution or platform provider shall design its electronic journals to provide a notes field:

- (1) that allows a notary to enter observations about a notarial transaction; and
- (2) that accommodates at least 3,000 characters.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0807 JOURNAL DATA VALIDATION

An IPEN or platform provider shall design its electronic journal to allow a notary public to review, amend, or confirm information in all fields contained within a journal entry before committing it.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0808 COMMITTED JOURNAL ENTRY AMENDMENTS PROHIBITED

An IPEN or platform provider shall design its electronic journal to prohibit amendment of an electronic journal entry after it is committed by the notary public.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0809 PRINTING OF ELECTRONIC JOURNAL INFORMATION

An IPEN or platform provider shall design its electronic journal to permit the notary public to print a tangible and legible copy of each journal entry selected by the notary.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0810 JOURNAL SEARCH

An IPEN or platform provider shall ensure that its electronic journal can be searched based on the information entered by a notary public in any field in the journal.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0811 SEGREGATION OF ENTRIES

An IPEN or platform provider shall ensure that entries in its electronic journals can be designated separately from other entries. Note: An example of separate designation would be flagging entries subject to a litigation hold.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0812 NOTARY ACCESS TO JOURNAL

During the contract period in which a notary public has use of an IPEN or platform provider's electronic journal, the provider shall make the entries and journal:

- (1) viewable by the notary;
- (2) printable by the notary;
- (3) available for download; and
- (4) available for transfer to a custodian.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0813 TERMINATION OF RELATIONSHIP WITH NOTARY

An IPEN or platform provider shall do the following upon the termination of its relationship with a notary public:

- (1) within 45 days, transfer the notary's electronic journal to a custodian; and
- (2) delete the electronic journal entries and journal after transfer to a custodian unless retention is permitted pursuant to law or the rules in this Subchapter.

Note: For purposes of this rule, termination of relationship means:

- (1) termination of a contract between the provider and a notary or the notary's employer; or
- (2) restriction, suspension, or termination of the provider's authorization by the Department or a court of general jurisdiction.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0814 SUPPLEMENTAL JOURNAL ENTRIES

An IPEN or platform provider's electronic journal shall allow a notary public to record one or more supplemental journal entries pursuant to 18 NCAC 07I .0308.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

SECTION .0900 – COMMUNICATION TECHNOLOGY STANDARDS

18 NCAC 07J .0901 ACCESS LIMITED

A platform provider shall limit participation in a notarial session to individuals authorized to have access by:

- (1) the notary public who will perform the notarial acts;
- (2) the principals in the notarial transaction; and
- (3) other parties authorized by the notary or principals.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0902 VIEW OF DOCUMENT

The communication technology shall allow an electronic notary public to view the application of the principal's signature to any document being notarized.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0903 VIDEO STANDARDS

A platform provider's communication technology shall enable:

- (1) comparison by the notary of a remotely located principal's facial features with the credential that was used for credential analysis;
- (2) visual communication between the notary, principals, and any additional participants, including interpreters and transliterators, for the duration of the notarial transaction; and
- (3) the remotely located principal for whom CART captioning is being provided and the speaker to see the CART captions.

Note: Visual communication includes American Sign Language and cued speech.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0904 VIDEO CUSTOMIZATION STANDARD

A platform provider's communication technology shall include a feature that:

- (1) allows each participant to lock the size and position of a priority video window; and
- (2) can be located easily by a participant in a notarial transaction.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0905 AUDIO STANDARDS

A platform provider's communication technology shall support audio interactions between all participants in a notarial transaction that:

- (1) provide live audio transmission for the duration of the notarial transaction;
- (2) provide clarity and volume so that all participants can hear the audio; and
- (3) synchronize the audio with the video transmission, except as permitted pursuant to 18 NCAC 07H .0405.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0906 WRITTEN COMMUNICATION STANDARD

A platform provider's communication technology shall support:

- (1) live transmission of on-screen text communication between all participants in a notarial transaction;
- (2) CART captioning pursuant to Rule .0903 of this Section; and
- (3) customization by each participant of all text outputs generated by the participants of:
 - (a) the contrast between the text and background;
 - (b) the size of the text; and
 - (c) the text font.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0907 RECORDING CAPABILITY

A platform provider's communication technology shall:

- (1) permit recording of a remote electronic notarial session; and
- (2) provide the electronic notary public with the controls to:
 - (a) initiate a communication technology recording;
 - (b) conclude a communication technology recording; and
 - (c) allow creation of a session record in accordance with the rules in this Subchapter.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0908 RECORDING CONTENT

A platform provider's communication technology shall:

- (1) preserve all audio, visual, and written content as it occurred or was presented during the notarial session; and
- (2) exclude or blur the document being notarized.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0909 RECORDING METADATA

A platform provider's communication technology shall associate metadata to a communication technology recording documenting:

- (1) the format of the recording; and
- (2) the length of the recording.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .0910 RECORDING OF REMOTE JUDICIAL ACTIONS OR PROCEEDINGS

Any recording of a remote judicial action or proceeding authorized by G.S. 10B-134.9(d) shall be exempted from the rules of this Subchapter.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

SECTION .1000 – DEPOSITORY SERVICES STANDARDS

18 NCAC 07J .1001 DEPOSITORY REQUIREMENTS

Except as noted, the rules in this Section apply to the depositories of IPEN solution providers and platform providers.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1002 SESSION RECORD CREATION

(a) A session record shall be created at the end of a notarial session and include:

- (1) all journal entries made in the session;
- (2) any communication technology recording made of the session; and
- (3) metadata as required by Rule .1017 of this Section.

(b) A session record shall be created for a traditional notary public using a platform depository's services only if the traditional notary:

- (1) administers an oath or affirmation pursuant to G.S. 10B-134.9(d);
- (2) chooses to make an entry in the provider's electronic journal; and
- (3) designates a custodian.

(c) A session record shall be created for each supplemental journal entry.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1003 SESSION RECORD DIGITAL SIGNATURE

A depository shall digitally sign each session record created using an Organizational Validation certificate issued to it by a trusted certificate authority.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1004 SESSION RECORD

PRESUMPTION

The Department shall consider a session record to be the presumptive record of a notarial act if the session record:

- (1) is unmodified and intact; and
- (2) documents the circumstances of each notarial act occurring within the session.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1005 SESSION IDENTIFIER

A depository shall establish a session identifier for each notarial session or supplemental journal entry by concatenating the following numbers, with no separation or punctuation:

- (1) the four-digit identifying number assigned to the authorized depository by the Department;
- (2) the 12 digit commission number of the notary public who performs notarial acts during the session, padded with leading zeros as necessary;
- (3) the eight-digit date on which the session occurred, comprised of the following numbers in the order listed:
 - (a) the four-digit calendar year;
 - (b) the two-digit month; and
 - (c) the two-digit day; and
- (4) a seven -digit sequential session number that is assigned by the depository and that:
 - (a) begins with number 0000001 on the first day of the calendar year; and
 - (b) ends with the last sequential number for sessions in that same calendar year.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1006 SEARCHABLE SESSION RECORD FIELDS

A depository shall make session records searchable and identifiable by the following fields:

- (1) the session identifier required pursuant to Rule .1005 of this Section;
- (2) the commission name of the notary public;
- (3) the county of the notary's commission;
- (4) the number of notarial acts performed as entered by the notary public;
- (5) the names of the remotely located principals as they appear on the credentials presented for credential analysis;
- (6) the time of day when the session ended;
- (7) whether the session was performed in the conduct of the business of a notary's employer;
- (8) the name of the employer, if applicable;
- (9) the types of notarial acts, or cancellation of the session; and
- (10) whether the electronic notarial act was:
 - (a) an electronic notarial act; or
 - (b) a remote electronic notarial act;

- (i) pursuant to G.S. 10B-134.9(d) for which no electronic journal entry is made; or
- (ii) other remote electronic notarial act pursuant to Article 4A of Chapter 10B of the General Statutes; or

- (11) whether the session record is for a supplemental journal entry.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

**18 NCAC 07J .1007 SESSION RECORD
UNCHANGED**

A depository shall ensure that there are no changes to a session record held in its depository from the time the record is created until transfer to a custodian.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1008 STORAGE LOCATIONS

A depository shall maintain copies of each session record and session record log in two or more geographically separated data facilities.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

**18 NCAC 07J .1009 TIME LIMIT FOR TRANSFER
FROM DEPOSITORY**

A depository shall transfer a session record to a custodian selected by a notary public on the earliest of:

- (1) a time agreed to by the notary;
- (2) no later than 10 days from receipt of a written transfer request from the notary;
- (3) one year from the date the session concluded;
or
- (4) the expiration of the provider's contract with the notary.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

**18 NCAC 07J .1010 EXCEEDANCE OF STORAGE
TIME LIMIT**

A depository that is unable to comply with Rule .1009 of this Section shall:

- (1) notify the Department upon discovering the inability; and
- (2) comply with the rules for custodians in Section .2000 of this Subchapter.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

**18 NCAC 07J .1011 DELETION OF SESSION
RECORD**

A depository shall delete a session record from its depository within 45 days of receiving a confirmation receipt from the electronic notary public's designated transferee custodian.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

**18 NCAC 07J .1012 VALIDATION BEFORE
DELETION**

A depository shall not delete a session record until it receives the transferee custodian's receipt confirming that the record has been:

- (1) received; and
- (2) validated.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

**18 NCAC 07J .1013 NOTARY ACCESS TO SESSION
RECORD FROM DEPOSITORY**

A depository shall allow a notary public to view, copy, print, and download any of the notary's session records in the possession of the depository at any time and at no cost.

Note: This rule shall not apply to planned service outages for which notice is provided pursuant to Rule .0205 of this Subchapter.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

**18 NCAC 07J .1014 DEPOSITORY CONTINUITY OF
SERVICES**

A depository shall not discontinue operation of its depository until all session records and session record logs are transferred to the custodians designated by the notaries public.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1015 JOURNAL ENTRY IDENTIFIER

A depository shall establish a journal entry identifier for each journal entry by concatenating the following numbers in order:

- (1) the session identifier; and
- (2) a three-digit number representing the sequential number of the journal entry within the session record.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

**18 NCAC 07J .1016 SESSION RECORD LOG FOR
WHICH THERE IS NO ELECTRONIC JOURNAL
ENTRY**

If a traditional notary public administers an oath or affirmation pursuant to G.S. 10B-134.9(d) and chooses not to make an electronic journal entry, the platform depository shall create a session record log entry of the oaths or affirmations administered during the session.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1017 REQUIRED METADATA

After the notary public has committed the session record and before the depository digitally signs the PDF/A of the session record, the depository shall add the following metadata:

- (1) the session identifier;
(2) the notary name as shown on the notary's commission certificate;
(3) the notary's count of the number of notarial acts performed, as applicable;
(4) the date and time the session record was created and sealed by the depository;
(5) a list of the types of notarial acts performed; and
(6) whether the notarial acts performed were:
(a) electronic notarial acts;
(b) remote electronic notarial acts pursuant to G.S. 10B-134.9(d) for which no electronic journal entry is made; or
(c) other remote electronic notarial acts.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1018 SESSION RECORD LOG

A depository shall establish a session record log for each session as required by Rule .1019 of this Section.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1019 CONTENTS OF SESSION RECORD LOG

A session record log shall include:

- (1) the session record identifier;
(2) the time and date that the session:
(a) started; and
(b) ended;
(3) whether a session record was created;
(4) the name of the notary public exactly as it appears on the notary's commission certificate;
(5) whether the notarial act was performed for the notary's employer, and the name of the employer, if applicable;
(6) the types of notarial acts performed during the notarial session as defined in G.S. 10B-3(11);
(7) whether the electronic notarial act was:
(a) an electronic notarial act; or
(b) a remote electronic notarial act:
(i) pursuant to G.S. 10B-134.9(d) for which no electronic journal entry is made; or
(ii) other remote electronic notarial act pursuant to Article 4A of Chapter 10B of the General Statutes;

- (8) the IP address of the device used by the notary in the notarial transaction;
(9) for each principal in the notarial transaction:
(a) the principal's name as it appears on the credentials presented for credential analysis;
(b) the IP address of the primary device used by the principal to enter the communication technology of a platform used in the notarial transaction; and
(c) the principal's location:
(i) as determined by geolocation, if available; or
(ii) as entered by the notary if self-attestation is used as the means of verifying the principal's location;
(10) the notary's count of the notarial acts performed during the notarial session;
(11) the platform's count of the notarial acts performed during the notarial session;
(12) whether the platform facilitated payment to the notary, and if applicable:
(a) the name of the person making the payment;
(b) the method of payment:
(i) ACH;
(ii) credit card; or
(iii) other electronic method;
(c) the name of the financial institution; and
(d) the last four digits of the account number used; and
(13) the date on which the session record was deleted.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1020 ENTRY TO DEPARTMENT DATABASE

A depository shall update the Department's database at the conclusion of each notarial session with the following information:

- (1) the session identifier;
(2) the date and time that:
(a) the session began; and
(b) the session ended;
(3) whether a session record was created;
(4) the IP address of the device used by the notary in the notarial transaction;
(5) whether the electronic notarial act was:
(a) an electronic notarial act; or
(b) a remote electronic notarial act:
(i) pursuant to G.S. 10B-134.9(d) for which no electronic journal entry is made; or

- (ii) other remote electronic notarial act pursuant to Article 4A of Chapter 10B of the General Statutes;
- (6) the principal names as they appear on the credentials presented for credential analysis;
- (7) the notary's count of notarial acts performed during the session; and
- (8) the platform's count of notarial acts performed during the session.

- (1) its first complete application submitted pursuant to Rule .1303 of this Subchapter has been approved or denied;
- (2) it discontinues offering its IPEN solution in North Carolina and provides notice pursuant to Rules .0215 and .0216 of this Subchapter; or
- (3) July 1, 2026, whichever is earlier.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1021 RETENTION OF SESSION RECORD LOG BY DEPOSITORY

Each session record log shall be retained by the depository for no less than 15 years from the date of the session record log creation.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1022 TRANSFER OF SESSION RECORD LOG

A depository shall transfer to a custodian a copy of a session record log together with any associated session record. A depository shall not be required to transfer a copy of a session record log to a custodial notary public.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1023 ENTRY IN DEPARTMENT'S DATABASE BY TRANSFEROR

Upon validation pursuant to Rule .1012 of this Section, a transferor shall update the Department's database with the following information:

- (1) the session identifier;
- (2) the four-digit identifying number assigned to the technology provider making the entry into the Department's database;
- (3) the four-digit identifying number assigned to the transferor;
- (4) for the transferee:
 - (a) the four-digit identifying number assigned to the transferee; or
 - (b) the custodial notary public's commission number, if applicable; and
- (5) the date and time of the transfer.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

SECTION .1100 – BRIDGE PROVISIONS

18 NCAC 07J .1101 SAFE HARBOR

An existing technology provider may continue to provide its IPEN solution under its previous approval until:

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1102 DEADLINE FOR EXISTING TECH PROVIDER APPLICATIONS

An existing technology provider shall:

- (1) submit an application for authorization of its IPEN solution:
 - (a) no earlier than the effective date of the rules in this Subchapter; and
 - (b) no later than April 1, 2026; or
- (2) provide notice no later than April 1, 2026, pursuant to Rules .0215 and .0216 of this Subchapter that it will discontinue offering its IPEN solution in North Carolina.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1103 COMPLIANCE WITH RULES DURING BRIDGE PERIOD

An existing technology provider shall comply with the following rules between the effective date of the rules in this Subchapter and the applicable date in Rule .1102 of this Section:

- (1) Rules .0101-.0102, .0104-.0108, and .0110 of this Subchapter;
- (2) Rules .0201-.0202 of this Subchapter;
- (3) Rule .0602 of this Subchapter;
- (4) Rules .0701-.0706 of this Subchapter;
- (5) Rules .1101-.1104 of this Section; and
- (6) Rule .1202(2)-(4) and (6)-(8) of this Subchapter and Rules .1203-.1205 of this Subchapter.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1104 APPLICATION REQUIRED UPON CHANGES

If an existing technology provider operating pursuant to Rule .1101 of this Section undergoes a change reportable pursuant to Rule .0201 of this Subchapter, it shall file an application pursuant to Section .1300 of this Subchapter.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

SECTION .1200 – IPEN SOLUTION STANDARDS

18 NCAC 07J .1201 IPEN SOLUTION ACCOUNT CREATION

An IPEN solution provider shall create an account for an electronic notary public only after it:

- (1) confirms the electronic notary's identity by using approved credential analysis and identity proofing solutions;
- (2) receives the electronic notary's commission certificate and electronic notary registration certificate from the electronic notary;
- (3) uses the Department's online database of notaries to:
 - (a) search for the electronic notary by commission name and number;
 - (b) verify whether the electronic notary:
 - (i) is in active status as an electronic notary;
 - (ii) the expiration date of the individuals' commission certificate; and
 - (iii) the county of commissioning of the electronic notary;
- (4) documents the electronic notary's designated custodian;
- (5) acquires an image of the electronic notary's handwritten signature or arranges for the electronic notary to use its device to, by hand, electronically sign notarial certificates;
- (6) creates an image of the electronic notary's electronic notary seal that complies with 18 NCAC 07F .0807;
- (7) provides to the Department an exemplar of:
 - (a) the electronic notary's electronic signature; and
 - (b) the electronic notary's electronic seal; and
- (8) receives confirmation of receipt of the electronic notary's signature and seal exemplars from the Department.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1202 CHANGES TO NOTARY COMMISSION CERTIFICATE PRESENTED TO IPEN SOLUTION PROVIDER

Upon receiving a commission certificate or electronic notary registration certificate that differs from that previously presented by an electronic notary public, the IPEN solution provider shall comply again with Rule .1201 of this Section.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1203 VERIFICATION OF NOTARY STATUS

When an electronic notary public initiates a notarial session, an IPEN solution provider shall use the Department's notary public

database to verify whether the electronic notary is in active status as an electronic notary.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1204 INABILITY TO VERIFY ACTIVE STATUS

If an IPEN solution provider cannot verify the active status of an electronic notary public, the provider shall:

- (1) not allow the notary to proceed with the notarial session; and
- (2) enable the notary's access to the IPEN solution only to search, view, print, and download existing records.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1205 WHEN PROVIDER MAY RE-ENABLE FULL ACCESS

An IPEN solution provider may re-enable an electronic notary public's full access to the solution if it can verify active status pursuant to Rule .1203 of this Section.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1206 IPEN VERIFICATION OF CUSTODIAN

If an IPEN solution provider does not offer custodial services, it shall not allow an electronic notary to begin a notarial session until:

- (1) the electronic notary discloses the name of the custodian with whom the notary has contracted for custodial services; or
- (2) the electronic notary states that he or she will be a custodial notary.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1207 FORMAT OF SESSION RECORD

An IPEN solution shall render a session record tamper evident by:

- (1) preserving it in PDF/A format; and
- (2) signing the PDF/A with a verifiable digital certificate to indicate the IPEN solution from which the notarized electronic record originated and prevent further alteration.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1208 IPEN SOLUTION DISCLOSURE

Following the information required by Rule .0608 of this Subchapter, an IPEN solution provider shall:

- (1) publish the information required by Rule .1209 of this Section; and

- (2) display the information as required by Rule .1210 of this Section.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1209 CONTENT OF ADDITIONAL IPEN SOLUTION DISCLOSURES

An IPEN solution provider's additional disclosures pursuant to Rule .1208 of this Section shall include information regarding:

- (1) records retention:
- (a) whether the IPEN solution retains a copy of the notarized document upon conclusion of the notarial session and, if so, for how long; and
 - (b) whether the IPEN solution retains the principal's personal information upon conclusion of the notarial session and, if so, for how long;
- (2) availability:
- (a) projected IPEN solution unavailability due to monthly scheduled maintenance;
 - (b) the business hours during which a customer support representative is available for consultation; and
 - (c) average wait time during business hours for a response from a customer support representative; and
- (3) the IPEN solution provider's technical issue resolution targets, which shall include:
- (a) categorization of issue severity based on a numeric scale or denoted by single words such as "critical," "high," "medium," and "low;"
 - (b) a plain language description of each category; and
 - (c) the maximum projected resolution time for issues encountered in each category.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1210 IPEN SOLUTION DISCLOSURE FORMAT

An IPEN solution provider shall present the additional disclosures required by Rule .1208 of this Section in tabular form in the order shown in the table in this Rule:

- (1) add horizontal rows in the service disruption response time section as needed to describe each category;
- (2) engineer as specified in the Department's protocols to support accommodation pursuant to G.S. 10B-134.1(1); and
- (3) replace the rule references with the provider's response to the question in the first column.

[Insert Technology Provider Name]

IPEN Solution Disclosures	
Does IPEN solution retain a copy of the notarized document?	[Rule .1209(1)(a) of this Section]
Does IPEN solution retain principals' personal information?	[Rule .1209(1)(b) of this Section]
Projected monthly unavailability due to maintenance?	[Rule .1209(2)(a) of this Section]
Customer support hours?	[Rule .1209(2)(b) of this Section]
Average customer support response time?	[Rule .1209(2)(c) of this Section]

Unscheduled Service Disruption Response Times		
Service Disruption Categorization?	Category Description?	Projected Response Time?
[Rule .1209(3)(a)]	[Rule .1209(3)(b)]	[Rule .1209(3)(c)]

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

SECTION .1300 – APPLICATION FOR IN-PERSON ELECTRONIC NOTARIZATION SERVICES AUTHORIZATION

18 NCAC 07J .1301 REQUIREMENTS FOR AUTHORIZATION TO PROVIDE IPEN SERVICES

An IPEN provider applicant shall meet requirements established in:

- (1) Article 2 of Chapter 10B of the General Statutes; and
- (2) the rules in this Subchapter, except:
 - (a) Section .0900; and
 - (b) Sections .1400-.2200.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1302 DURATION OF IPEN SOLUTION APPROVAL

The Department's approval of an IPEN solution authorizes the IPEN solution provider to offer its solution to North Carolina notaries public for three years from the date of the approval.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1303 APPLICATION FORM FOR IPEN SERVICES

An IPEN provider applicant shall complete and submit the form described in 18 NCAC 07B .0423.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1304 IDENTIFICATION OF KEY INDIVIDUALS

An IPEN provider applicant shall list key individuals in its application by reference to:

- (1) the applicant's organizational structure; and
- (2) the duties of its officers, directors, and employees.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1305 APPLICATION REQUIREMENTS FOR IPEN PROVIDER KEY INDIVIDUALS

An IPEN provider applicant shall provide to the Department the following information for each key individual identified pursuant to Rule .1304 of this Subchapter:

- (1) the information required by 18 NCAC 07B .0402(1);
- (2) the key individual's position title;
- (3) a nationwide criminal history record for a key individual residing in the United States that:
 - (a) includes applicable records from all United States jurisdictions;
 - (b) is prepared at the applicant's expense; and
 - (c) is issued no more than 90 days before the application date;
- (4) a criminal history record for a key individual residing outside the United States with:
 - (a) a nationwide criminal history record from their country of residence; and
 - (b) the nationwide criminal history record required by Item (3) of this Rule; and
- (5) a written statement by each key individual certifying under penalty of perjury:
 - (a) whether the criminal history record submitted is complete or incomplete; and
 - (b) that the key individual has provided the applicant with the information required by 18 NCAC 07B Section .0500, including submission of affidavits of moral character if applicable.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1306 FREQUENCY OF CRIMINAL HISTORY RECORD CHECKS FOR KEY INDIVIDUALS

Criminal history record checks for key individuals that are submitted by an IPEN provider applicant shall:

- (1) be valid for three years; or
- (2) be updated pursuant to 18 NCAC 07B .0505 and .0506.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1307 WHEN MORE FREQUENT CRIMINAL HISTORY RECORD CHECKS REQUIRED

An IPEN provider's notice of changes pursuant to Item (2) of Rule .0203 of this Subchapter shall be made:

- (1) within the time set forth in Rule .0203 of this Subchapter; and
- (2) using the form specified in 18 NCAC 07B .0411.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

SECTION .1400 – PLATFORM STANDARDS

18 NCAC 07J .1401 REQUIRED GENERAL PLATFORM FUNCTIONS

A platform provider shall integrate into its platform each of the following functions:

- (1) communication technology;
- (2) geolocation when a remotely located principal connects to the platform using a GPS-enabled device;
- (3) credential analysis;
- (4) identity proofing;
- (5) electronic journal;
- (6) electronic signature and seal; and
- (7) depository services.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1402 PLATFORM FUNCTIONS FOR TRADITIONAL NOTARY

(a) A platform provider shall allow a traditional notary public with whom it has a contract to:

- (1) use its platform to administer an oath or affirmation pursuant to G.S. 10B-134.9(d);
- (2) search, review, download, and print the notary's electronic journal entries, if any.

(b) A traditional notary may make an entry into an electronic journal offered by the platform only if the notary designates a custodian.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1403 PLATFORM SESSION RECORD FOR TRADITIONAL NOTARY

A platform provider shall create a session record for a notarial session in which a traditional notary makes a journal entry pursuant to Rule .1402 of this Section.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1404 PLATFORM FUNCTIONS UNAVAILABLE TO TRADITIONAL NOTARY

A platform shall not allow a traditional notary public to:

- (1) create an electronic signature or seal for use in performing electronic or remote electronic notarial acts;
- (2) apply an electronic notary seal; or
- (3) perform a remote notarial act other than as provided in Rule .1402 of this Section.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1405 REASONABLE ACCOMMODATION

A platform provider shall accommodate a principal with vision, hearing, or speech impairment using:

- (1) auxiliary aids;
- (2) interpreters or transliteraters; or
- (3) CART captioning.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1406 GEOLOCATION DETECTION

A platform provider shall detect whether any device used by a principal during the notarial transaction process is:

- (1) GPS-enabled; and
- (2) capable of geolocation at the time of the remote electronic notarial act.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1407 GEOLOCATION COMMUNICATION TO NOTARY

A platform provider shall take the following steps after making the determination required by Rule .1406 of this Section:

- (1) communicate the location of the principal to the notary public by displaying it on a map; or
- (2) inform the notary that the principal:
 - (a) is not using a GPS-enabled device; or
 - (b) has disabled location services on a GPS-enabled device.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1408 NOTICE OF IMAGE OR VOICE ALTERATION

A platform shall notify the notary if it detects that the image or voice of a remotely located principal has been altered, filtered, or simulated.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1409 PERSONAL KNOWLEDGE

A platform shall provide a means to bypass credential analysis and identity proofing functions if the traditional notary public or electronic notary public confirms that the principal is personally known to the notary.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1410 PLATFORM ACCOUNT CREATION FOR ELECTRONIC NOTARY

A platform provider shall create an account for an electronic notary public only after it:

- (1) confirms the electronic notary's identity by using approved credential analysis and identity proofing solutions;
- (2) receives the electronic notary's commission certificate and electronic notary registration certificate from the notary;
- (3) uses the Department's online database of notaries to:
 - (a) search for the electronic notary by commission name and number;
 - (b) verify:
 - (i) whether the electronic notary is in active status as an electronic notary;
 - (ii) the expiration date of the electronic notary's commission certificate; and
 - (iii) the county of the commissioning of the electronic notary;
- (4) documents the electronic notary's designated custodian;
- (5) acquires an image of the electronic notary's handwritten signature or arranges for the electronic notary to use its device to, by hand, electronically sign notarial certificates;
- (6) creates an image of the electronic notary's seal that complies with 18 NCAC 07F .0807;
- (7) provides to the Department an exemplar of:
 - (a) the electronic notary's signature; and
 - (b) an image of the electronic notary's seal; and
- (8) receives confirmation of receipt of the electronic notary's signature and seal exemplars from the Department.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1411 PLATFORM ACCOUNT CREATION FOR TRADITIONAL NOTARY

A platform provider shall create an account for a traditional notary public only after it:

- (1) confirms the notary's identity by using approved credential analysis and identity proofing solutions;
- (2) receives the notary's commission certificate from the notary;
- (3) uses the Department's online database of notaries to verify:
 - (a) whether the notary is in active status as a notary;

- (b) the expiration date of the notary's commission certificate; and
- (c) the county of the commissioning of the notary; and
- (4) documents the notary's designated custodian, if the notary will use the platform's electronic journal.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1412 CHANGES TO COMMISSION OR REGISTRATION CERTIFICATE PRESENTED TO PLATFORM

Upon receiving a commission certificate or electronic notary registration certificate that differs from that previously presented by a traditional notary public or an electronic notary public, the platform provider shall comply again with Rules .1410-.1411 of this Section, as applicable.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1413 VERIFICATION OF NOTARY STATUS

When a traditional notary public or an electronic notary public initiates a notarial session, a platform shall use the Department's notary public database to verify whether:

- (1) the notary public is in active status; and
- (2) if the notary is an electronic notary, whether the notary is in active status as an electronic notary.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1414 INABILITY TO VERIFY ELECTRONIC NOTARY STATUS

If a platform cannot verify that an electronic notary public is in active status as an electronic notary, the platform shall not allow the electronic notary to perform any remote electronic notarial acts other than oaths and affirmations pursuant to G.S. 10B-134.9(d).

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1415 PLATFORM ACCESS FOR NOTARY NOT IN ACTIVE STATUS

If, pursuant to Rule .1413 of this Section, a platform provider is unable to determine that a notary public is in active status, the platform:

- (1) shall not allow the notary to administer oaths or affirmations pursuant to G.S. 10B-134.9(d); and
- (2) shall allow the notary access to any of the notary's existing journal entries on the platform depository to search, review, print, or download until the entries are transferred to a custodian.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1416 VERIFICATION PRIOR TO REMOTELY ADMINISTERING JUDICIAL OATHS AND AFFIRMATIONS

After verifying the status of a notary public, a platform shall allow a traditional notary in active status or an electronic notary whose registration is not active but whose notary commission is active only to:

- (1) proceed with the session and administer oaths or affirmations pursuant to G.S. 10B-134.9(d);
- (2) create an electronic journal entry, if applicable; and
- (3) search, review, print, or download existing journal entries, if applicable.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1417 WHEN PROVIDER MAY RE-ENABLE FUNCTIONS

A platform provider may restore a notary's or electronic notary's privileges at any time after verifying through the Department's notary database that the notary or electronic notary is in active status.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1418 FORMAT OF SESSION RECORD

A platform shall render a session record tamper evident by:

- (1) preserving it in PDF/A format; and
- (2) signing the PDF/A with a verifiable digital certificate to indicate the platform from which the notarized electronic record originated and prevent further alteration.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1419 NOTARY COUNT OF NOTARIAL ACTS

- (a) A platform shall require the notary public to enter the number of notarial acts performed during a notarial session.
- (b) A platform shall not populate the entry field in Paragraph (a) of this Rule nor disclose its automatic tabulation of notarial acts to the notary public before the end of the notarial session.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1420 PLATFORM COUNT OF NOTARIAL ACTS

A platform provider shall automatically tabulate the number of notarial acts completed during each notarial session by:

- (1) tabulating the number of all journal entries associated with the session; and

- (2) subtracting from the number in Item (1) of this Rule:
 - (a) the number of journal entries for cancelled notarial transactions; and
 - (b) the number of supplemental journal entries.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1421 PLATFORM PROVIDER CALCULATION OF MONTHLY FEES REMISSION OWED TO THE DEPARTMENT

When a platform calculates the total amount of monthly fees owed to the Department, the platform shall multiply five dollars (\$5.00) per notarial act by the count of notarial acts entered pursuant to Rule .1419 of this Section by all notaries using the platform in the preceding calendar month.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1422 PLATFORM FEES INDEPENDENT OF NOTARY FEES PAID BY PRINCIPALS

A platform shall not deduct the five dollars (\$5.00) fees owed to the Department from fees paid by principals to notaries public pursuant to G.S. 10B-31.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1423 TIMING OF MONTHLY FEE REMISSION

A platform provider shall make the remittance pursuant to G.S. 10B-134.19(g) no later than 30 days after the calendar month for which fees shall be remitted.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1424 FEE REMISSION LOG

A platform provider shall submit a fee remission log to the Department summarizing its monthly fee remission.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1425 FEE REMISSION LOG CONTENTS

A platform's fee remission log shall include:

- (1) for each session record:
 - (a) the session record identifier;
 - (b) each journal entry identifier;
 - (c) whether the notarial acts were completed;
 - (d) whether the session record identifier applies to a supplemental journal entry;

- (e) whether the session record identifier applies to administration of oaths or affirmations pursuant to G.S. 10B-134.9(d) for which no electronic journal entry was made;

- (2) the number of completed notarial acts for the month calculated pursuant to Rule .1419 of this Section;

- (3) the number of completed notarial acts for the month calculated pursuant to Rule .1420 of this Section; and

- (4) the total fee remitted to the Department pursuant to Rule .1421 of this Section.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1426 FEE REMISSION LOG RETENTION

A platform provider shall maintain a copy of each fee remission log submitted to the Department for no less than five years.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1427 ADDITIONAL PLATFORM DISCLOSURES

Following the information required for the provider's webpage by Rule .0608 of this Subchapter, a platform shall:

- (1) publish the information required by Rule .1428 of this Section or a link to it; and
- (2) display the information as required by Rule .1429 of this Section.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1428 CONTENT OF ADDITIONAL PLATFORM DISCLOSURES

A platform's additional disclosures pursuant to Rule .1427 of this Section shall include information regarding:

- (1) records retention:
 - (a) whether the platform retains a copy of the notarized document upon conclusion of the notarial session and, if so, for how long; and
 - (b) whether the platform retains the principal's personal information upon conclusion of the notarial session and, if so, for how long;
- (2) devices for use with the platform:
 - (a) the electronic device types required for the principal to complete a notarial transaction. Note: Examples of such designations include "computer only," "mobile device only," "computer or mobile device," or "computer and mobile device"; and

- (b) the types of auxiliary aids that have been successfully tested with the platform. Note: Examples of auxiliary aids include screen reader software and magnification software;
- (3) availability:
 - (a) projected platform unavailability due to monthly scheduled maintenance;
 - (b) the business hours during which a customer support representative is available for consultation; and
 - (c) the average wait time during business hours for a response from a customer support representative;
- (4) the maximum number of remote connections that the platform can simultaneously support for a single notarial transaction; and
- (5) the platform provider's technical issue resolution targets, which shall include:
 - (a) categorization of service disruptions based on a numeric scale or denoted by single words such as "critical," "high," "medium," and "low;"
 - (b) a plain language description of each category; and
 - (c) the maximum projected response time for issues encountered in each category.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1429 PLATFORM DISCLOSURE FORMAT

A platform provider shall present the additional disclosures required by Rule .1427 of this Section in tabular form in the order shown in the table in this Rule:

- (1) add horizontal rows to the table of service disruption response times as needed to describe each category;
- (2) engineer the table as specified in the Department's protocols to support accommodation pursuant to G.S. 10B-134.1(1); and
- (3) replace the rule references with the provider's response to the question in the first column.

[Insert Technology Provider Name] Platform Disclosures	
Does platform retain a copy of the notarized document?	[Rule .1428(1)(a) of this Section]
Does platform retain principal's personal information?	[Rule .1428(1)(b) of this Section]
What devices may a principal use to complete a notarial transaction?	[Rule .1428(2)(a) of this Section]
Which auxiliary aids have been successfully tested for use with the platform?	[Rule .1428(2)(b) of this Section]

Projected monthly unavailability due to maintenance?	[Rule .1428(3)(a) of this Section]
Customer support hours?	[Rule .1428(3)(b) of this Section]
Average customer support response time?	[Rule .1428(3)(c) of this Section]
Number of connections supported for a single notarial session?	[Rule .1428(4) of this Section]

Unscheduled Service Disruption Response Times		
Service Disruption Categorization?	Category Description?	Projected Response Time?
[Rule .1428(5)(a) of this Section]	[Rule .1428(5)(b) of this Section]	[Rule .1428(5)(c) of this Section]

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

SECTION .1500 – APPLICATION FOR PLATFORM LICENSURE

18 NCAC 07J .1501 PLATFORM LICENSURE REQUIREMENTS

A platform provider applicant shall establish through its application and demonstration that its platform meets all requirements established in:

- (1) Article 2 of Chapter 10B of the General Statutes;
- (2) the applicable provisions of the Department's Protocols; and
- (3) the rules in this Subchapter except:
 - (a) Section .1100;
 - (b) Section .1200;
 - (c) Section .1300;
 - (d) Section .2000;
 - (e) Section .2100; and
 - (f) Section .2200.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1502 DURATION OF PLATFORM LICENSE

A platform license from the Department authorizes the platform provider to directly or indirectly offer its platform solution to North Carolina notaries public for one year from the date of its approval.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1503 APPLICATION FORM FOR PLATFORM LICENSE

An applicant for a platform license shall complete and submit the form described in 18 NCAC 07B .0424.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1504 IDENTIFICATION OF KEY INDIVIDUALS

A platform provider applicant shall list key individuals in its application by reference to:

- (1) the applicant's organizational structure; and
- (2) the duties of its officers, directors, and employees.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1505 APPLICATION REQUIREMENTS FOR PLATFORM KEY INDIVIDUALS

A platform provider applicant shall provide to the Department the following information for each key individual identified pursuant to Rule .1504 of this Subchapter:

- (1) the information required by 18 NCAC 07B .0402(1);
- (2) the key individual's position title;
- (3) the key individual's country of residence;
- (4) a nationwide criminal history record for a key individual residing in the United States that:
 - (a) includes applicable records from all United States jurisdictions;
 - (b) is prepared at the applicant's expense; and
 - (c) is issued no more than 90 days before the application date;
- (5) a criminal history record for a key individual residing outside the United States with:
 - (a) a nationwide criminal history record from their country of residence; and
 - (b) the nationwide criminal history record required by Item (4) of this Rule; and
- (6) written statement by each key individual certifying under penalty of perjury:
 - (a) whether the criminal history record submitted is complete or incomplete; and
 - (b) that the key individual has provided the applicant with the information required by 18 NCAC 07B Section .0500 including submission of affidavits of moral character if applicable.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1506 FREQUENCY OF CRIMINAL HISTORY RECORD CHECKS FOR KEY INDIVIDUALS

Criminal history record checks for key individuals that are submitted by a platform provider applicant shall:

- (1) be valid for three years; or
- (2) be updated pursuant to 18 NCAC 07B .0505 and .0506.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1507 WHEN MORE FREQUENT CRIMINAL HISTORY RECORD CHECKS REQUIRED

A platform's notice of changes pursuant to Item (2) of Rule .0203 of this Subchapter shall be made:

- (1) within the time set forth in Rule .0203 of this Subchapter; and
- (2) using the form specified in 18 NCAC 07B .0411.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

SECTION .1600 – CREDENTIAL ANALYSIS STANDARDS

18 NCAC 07J .1601 SECTION DEFINITIONS

For the purposes of the rules in this Section:

- (1) "Credential verification false negative rate" means the number of authentic credentials that fail the credential analysis trial process divided by the number of authentic credentials tested.
- (2) "Credential verification false positive rate" means the total number of inauthentic or modified credentials that pass the credential analysis trial process divided by the number of inauthentic or modified credentials tested.
- (3) "Facial match false negative rate" means the number of times a credential is presented by the individual to whom the credential belongs, and fails the facial match test, divided by the number of tests in which the credential depicts the individual offering the credential.
- (4) "Facial match false positive rate" means the number of times a credential is presented by an individual to whom the credential does not belong and passes the facial match test, divided by the number of tests in which the credential does not depict the individual presenting the credential.
- (5) "Overall success rate" means:
 - (a) The sum of the number of tests in which the results are as set out in Sub-item (b) of this Item divided by the total number of tests presented to the solution.
 - (b) The tests to be summed for Sub-item (a) of this Item are the number of times the credential analysis solution accurately:
 - (i) verifies a credential and matches the credential to the individual to whom it belongs;
 - (ii) identifies an inauthentic or modified credential; and

- (iii) identifies a credential that does not belong to the individual who presented the credential.
- (6) "System error rate" means the number of times the solution fails to complete the credential analysis process divided by the number of tests presented to the solution.
- (7) "Test" means a credential analysis solution evaluation of a credential pursuant to Rule .1606 of this Section.
- (8) "Trial" means an analysis of the performance of the credential analysis solution pursuant to Rule .1602 of this Section.

- (1) the overall success rate of the trial;
- (2) the credential analysis verification false positive rate;
- (3) the credential analysis verification false negative rate;
- (4) the facial match false positive rate;
- (5) the facial match false negative rate; and
- (6) the system error rate.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1605 FREQUENCY OF CREDENTIAL ANALYSIS SOLUTION TRIALS

At least once every three years, a credential analysis solution provider shall:

- (1) conduct a trial of its approved solution to assess the reliability of the approved version of the credential analysis solution;
- (2) conduct a trial of the credential analysis solution in connection with a material change that is reported to the Department pursuant to Rules .0201 and .0202 of this Subchapter; and
- (3) update its disclosures pursuant to Rule .1611 of this Section.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1606 CREDENTIAL ANALYSIS TEST
A credential analysis solution shall test a credential presented by an individual pursuant to Rule .1607 of this Section.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1607 CREDENTIAL ANALYSIS
A credential analysis solution shall:

- (1) require the individual to:
 - (a) describe the type of credential being presented; and
 - (b) be in real-time, physical control of his or her credential at the time the credential is presented;
- (2) ensure that the credential complies with G.S. 10B-3(22)(a);
- (3) evaluate, in order to authenticate:
 - (a) the integrity of the visual, physical, and security features of the credential;
 - (b) whether the credential is fraudulent or modified;
 - (c) the validity of the credential in comparison to any available information published by the issuing source;
- (4) compare the photograph from the individual's authenticated credential to the individual's facial features;

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1602 CREDENTIAL ANALYSIS SOLUTION – GENERAL

A credential analysis solution provider shall conduct a trial of its credential analysis solution pursuant to Rule .1603 of this Section before submitting its application for authorization.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1603 CREDENTIAL ANALYSIS SOLUTION TRIAL PROCESS

A credential analysis solution provider shall conduct, or have a third-party conduct, a trial of its solution by presenting the solution with no less than 100 subjects to be evaluated:

- (1) who are real individuals:
 - (a) whose ages, races, and genders are proportionate to the population of North Carolina as established by the most recent United States decennial census; and
 - (b) at least 18 years old; and
- (2) with no less than:
 - (a) 10 percent of the credentials presented being inauthentic or modified; and
 - (b) 10 percent of the credentials presented being authentic but not belonging to the individual depicted in the authentic credential with the individual presenting the credential being:
 - (i) of the same race and gender as the genuine owner of the credential; and
 - (ii) within five years of age of the individual depicted.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1604 EVALUATION OF CREDENTIAL ANALYSIS TRIAL

The results of a credential analysis trial shall describe:

- (5) use liveness detection technology if the individual is remotely located;
- (6) present the image of the individual's credential to the notary; and
- (7) comply with Rules .1607 and .1608 of this Section.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1608 CREDENTIAL ANALYSIS OUTCOME

After the process described in Rule .1607 of this Section is concluded, the credential analysis solution shall provide the outcome of credential analysis testing:

- (1) of a principal, to a notary public prior to a notarial transaction; and
- (2) of a notary public to:
 - (a) an IPEN solution provider pursuant to Rule .1201 of this Subchapter; or
 - (b) a platform provider pursuant to Rules .1410 and .1411 of this Subchapter.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1609 NOTIFICATION OF IMAGE ALTERATION

A credential analysis solution shall:

- (1) detect whether the image of a remotely located principal, whether on screen or as presented on the credential, has been:
 - (a) altered;
 - (b) filtered; or
 - (c) simulated; and
- (2) notify the notary public if it finds alteration, filtering, or simulation of the image of the principal.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1610 VERIFICATION DATA CONFIDENTIAL

The credential analysis solution shall keep confidential all information specific to the notary public or the principal that is used or acquired during the credential analysis process.

18 NCAC 07J .1614 CREDENTIAL ANALYSIS DISCLOSURE FORMAT

A credential analysis solution provider shall:

- (1) present the additional disclosures required by Rule .1611 of this Section in tabular form in the order shown in the table in this Rule;
- (2) place the results described in Rule .1604 of this Section in the table in this Rule in the appropriate location; and
- (3) engineer the table in this Rule as specified in the Department's protocols to support accommodation pursuant to G.S. 10B-134.1(1).

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1611 DATA STORAGE PROHIBITED FOR CREDENTIAL ANALYSIS SOLUTION

A credential analysis solution shall not store any data specific to the notary public or the principal that is acquired from the credential analysis process after the conclusion of the process.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1612 ADDITIONAL CREDENTIAL ANALYSIS DISCLOSURES

Following the information required by Rule .0608 of this Subchapter, a credential analysis solution provider shall:

- (1) publish the information required by Rule .1613 of this Section or a link to it; and
- (2) display the information as required by Rule .1614 of this Section.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1613 CONTENT OF ADDITIONAL CREDENTIAL ANALYSIS DISCLOSURES

A credential analysis solution provider's additional disclosures pursuant to Rule .1612 of this Section shall include:

- (1) the results of the credential analysis solution trial required by Rule .1602 of this Section;
- (2) whether the trial of the credential analysis solution was performed by the solution provider or by a third party, and the name and contact information for the third party, if applicable;
- (3) the year in which the trial was conducted; and
- (4) for each type of electronic device that the individual presenting the credential may use to capture credential and facial images, the results of the credential analysis trial evaluation as required by Rules .1603 and .1604 of this Section.

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

[Insert Technology Provider Name]
Credential Analysis Performance Disclosures
Overall Success Rate: [result from Rule .1604(1)] %

	Score	Number of Tests
Credential verification false positive rate:	[result from Rule .1604(2)] %	[divisor in Rule .1604(2) as defined at Rule .1601(2)]
Credential verification false negative rate:	[result from Rule.1604(3)] %	[divisor in Rule.1604(3) as defined at Rule .1601(1)]
Facial match false positive rate:	[result from Rule.1604(4)] %	[divisor in Rule .1604(4) as defined at Rule .1601(4)]
Facial match false negative rate:	[result from Rule.1604(5)] %	[divisor in Rule .1604(5) as defined at Rule .1601(3)]
System error rate:	[result from Rule .1604(6) as defined at Rule .1601(6)]	
Total number of credential analysis tests:	[divisor from Rule.1603]	
Entity conducting the credential analysis trial:	[See Rule .1613(2)]	
Year of credential analysis trial:	[See Rule .1613(3)]	

Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

SECTION .1700 — APPLICATION FOR CREDENTIAL ANALYSIS AUTHORIZATION

18 NCAC 07J .1701 REQUIREMENTS FOR AUTHORIZATION TO PROVIDE CREDENTIAL ANALYSIS SERVICES

A credential analysis provider applicant shall meet requirements established in:

- (1) Article 2 of Chapter 10B of the General Statutes;
- (2) the applicable standards set forth in the Department's Protocols; and
- (3) the rules in this Subchapter except:
 - (a) Sections .0700-.1500; and
 - (b) Sections .1800-.2200.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1702 DURATION OF CREDENTIAL ANALYSIS APPROVAL

An approval from the Department of a credential analysis solution authorizes the credential analysis provider to directly or indirectly offer its credential analysis solution to North Carolina notaries public for three years from the date of its approval.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1703 APPLICATION FORM FOR CREDENTIAL ANALYSIS SERVICES

A credential analysis solution provider applicant for authorization of its credential analysis solution shall complete and submit the form described in 18 NCAC 07B .0425.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

SECTION .1800 – IDENTITY PROOFING STANDARDS

18 NCAC 07J .1801 SECTION DEFINITIONS

For the purposes of the rules in this Section:

- (1) "Identity proofing false negative rate" means the total number of times authentic individuals fails the identity proofing process based on their own information, divided by the number of authentic individuals tested.
- (2) "Identity proofing false positive rate" means the total number of imposters that pass the identity proofing process divided by the number of imposters tested.
- (3) "Overall success rate" means:
 - (a) the sum of the number of tests in which the identity proofing solution:
 - (i) accurately verifies the identity of an individual; and
 - (ii) accurately screens out an imposter; and
 - (b) divided by the total number of tests presented to the solution.
- (4) "System error rate" means the number of times the identity proofing solution fails to process data needed to complete the identity proofing process, divided by the number of tests presented to the solution.
- (5) "Test" means an identity proofing solution evaluation of identity pursuant to Rule .1806 of this Section.
- (6) "Trial" means an analysis of the performance of the identity proofing solution pursuant to Rule .1802 of this Section.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1802 IDENTITY PROOFING SOLUTION TRIAL – GENERAL

An identity proofing solution provider shall conduct a trial of its identity proofing solution pursuant to Rules .1803 and .1804 of this Section before submitting its application for authorization.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1803 IDENTITY PROOFING SOLUTION TRIAL PROCESS

An identity proofing solution provider shall conduct, or have a third-party conduct, a trial of its solution by presenting the solution with no less than 100 subjects to be evaluated:

- (1) who are real individuals:
 - (a) whose ages, races, and genders are proportionate to the adult population of North Carolina as established by the most recent United States decennial census; and
 - (b) at least 18 years old; and
- (2) with no less than 10 percent of the tests assessing imposters who attempt to complete the identity proofing process using the personal information of other individuals.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1804 EVALUATION OF IDENTITY PROOFING TRIAL

The results of an identity proofing solution trial shall describe:

- (1) the overall success rate of the trial;
- (2) the identity proofing false positive rate;
- (3) the identity proofing false negative rate; and
- (4) the system error rate.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1805 FREQUENCY OF IDENTITY PROOFING SOLUTION TRIALS

At least once every three years, an identity proofing solution provider shall:

- (1) conduct a trial of its approved solution to assess the reliability of the approved version of the identity proofing solution;
- (2) conduct a trial of the identity proofing solution in connection with a material change that is reported to the Department pursuant to Rules .0201 and .0202 of this Subchapter; and
- (3) update its disclosures pursuant to Rule .1812 of this Section.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1806 IDENTITY PROOFING TEST

An identity proofing solution shall test the identity of individuals who present themselves to the solution pursuant to Rules .1807-.1809 of this Section.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1807 IDENTITY PROOFING PROCESS USING KNOWLEDGE-BASED AUTHENTICATION

An identity proofing solution using knowledge-based authentication to comply with G.S. 10B-134.11(a)(2)(b) shall:

- (1) require the remotely located individual to attempt an online quiz meeting the requirements of Item (2) of this Rule;
- (2) present a quiz to the remotely located individual that shall:
 - (a) consist of a minimum of five questions:
 - (i) related to the individual's personal history or identity; and
 - (ii) formulated from public or private data sources;
 - (b) have a minimum of five possible answer choices for each question;
 - (c) require the individual to submit all answers within two minutes;
 - (d) require at least 80 of the questions to be answered correctly in order to receive a passing score; and
- (3) inform the individual whether the quiz has been passed or failed, and if failed, of the option to retake the quiz pursuant to Rule .1808 of this Section.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1808 RE-TAKING OF QUIZ BY INDIVIDUAL

An identity proofing solution using knowledge-based authentication to comply with G.S. 10B-134.11(a)(2)(b) shall:

- (1) allow an individual who failed a first attempt to make a single subsequent attempt to pass the quiz if the attempt is initiated within one minute of the first failed quiz; and
- (2) ensure that at least 40 percent of the questions from the first quiz are replaced for the second quiz.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1809 NOTICE OF IDENTITY PROOFING METHODS AND OUTCOMES

After one or more identity-proofing tests are concluded, an identity proofing solution shall provide the methods and outcomes of all identity proofing tests:

- (1) for a principal, to a notary public prior to a notarial transaction; and
- (2) for a notary public to a technology solution provider pursuant to:
 - (a) Rule .1201 of this Subchapter; or
 - (b) Rules .1410 and .1411 of this Subchapter.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

(2) display the information as required by Rule .1814 of this Section.

**18 NCAC 07J .1810 VERIFICATION DATA
CONFIDENTIAL**

The identity proofing solution shall keep confidential all information specific to the notary public or the principal that is used or acquired during the identity proofing process.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1811 DATA STORAGE PROHIBITED FOR IDENTITY PROOFING SOLUTION

An identity proofing solution shall not store any data specific to the notary public or the principal that is acquired from the identity proofing process after the conclusion of the process.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1812 ADDITIONAL IDENTITY PROOFING DISCLOSURES

Immediately after the information required by Rule .0608 of this Subchapter, an identity proofing solution provider shall:

- (1) publish the information required by Rule .1813 of this Section; and

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1813 CONTENT OF ADDITIONAL IDENTITY PROOFING DISCLOSURES

An identity proofing solution provider's additional disclosures pursuant to Rule .1812 of this Section shall include:

- (1) the method of identity proofing used. Note: Examples of identity proofing methods may be described as biometric or knowledge-based authentication;
- (2) the results of the identity proofing solution trial required by Rule .1805 of this Section;
- (3) whether the trial of the identity proofing solution was performed by the solution provider or by a third party, and the name and contact information for the third party, if applicable; and
- (4) the year in which the trial was conducted.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1814 IDENTITY PROOFING DISCLOSURE FORMAT

An identity proofing solution provider shall:

- (1) present the additional disclosures required by Rule .1813 of this Section in tabular form in the order shown in the table in this Rule;
- (2) place the results described in Rule .1804 of this Section in the table in this Rule in the appropriate location; and
- (3) engineer the table in this Rule as specified in the Department's protocols to support accommodation pursuant to G.S. 10B-134.1(1).

[Insert Technology Provider Name]		
Identity Proofing Performance Disclosures		
Overall Success Rate: [result from Rule .1804(1)] %		
Method of Identity Proofing [Insert method from Rule 18 NCAC .1813(1)]		
	Score	Number of Tests
Identity proofing false positive rate:	[result from Rule .1804(2)] %	[divisor in Rule .1804(3) as defined in Rule .1801(2)]
Identity proofing false negative rate:	[result from Rule .1804(23)] %	[divisor in Rule .1804(2) as defined in Rule .1801(1)]
System error rate:	[result from Rule .1804(4)]	
Total number of identity proofing tests:	[divisor from Rule .1803]	
Entity conducting the identity proofing trial:	[See Rule .1803]	
Year of identity proofing trial:	[See Rule.1805]	

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

SECTION .1900 – APPLICATION FOR IDENTITY PROOFING SOLUTION AUTHORIZATION

18 NCAC 07J .1901 REQUIREMENTS FOR AUTHORIZATION TO PROVIDE IDENTITY PROOFING SERVICES

An identity proofing provider applicant shall meet requirements established in:

- (1) Article 2 of Chapter 10B of the General Statutes;
- (2) applicable standards set forth in the Department's Protocols; and
- (3) the rules in this Subchapter except:
 - (a) Sections .0700-.1700; and
 - (b) Sections .2000-.2200.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1902 DURATION OF IDENTITY PROOFING APPROVAL

An approval from the Department of an identity proofing solution authorizes the identity proofing provider to directly or indirectly offer its identity proofing solution to North Carolina notaries public for three years from the date of its approval.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .1903 APPLICATION FORM FOR IDENTITY PROOFING SERVICES

An applicant for identity proofing services shall complete and submit the form described in 18 NCAC 07B .0426.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

SECTION .2000 – CUSTODIAL SERVICES STANDARDS

18 NCAC 07J .2001 CUSTODIAN REQUIREMENTS

The rules in this Section apply to third-party custodians, and to IPEN solutions and platforms that are or become custodians.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2002 RECEIPT FROM CUSTODIAN TRANSFEREE

A custodian transferee shall create a receipt and provide it to the transferor confirming that:

- (1) the custodian has received from the depository or custodian transferor:
 - (a) one or more session records; and
 - (b) a copy of the session record logs associated with the session records; and
- (2) the session records and associated session record logs have been:
 - (a) received; and
 - (b) validated.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2003 AUTHENTICITY OF CUSTODIAN RECORDS

A custodian shall ensure each session record is stored unchanged upon receipt from a transferring depository or custodian.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2004 NOTARY ACCESS TO SESSION RECORD FROM CUSTODIAN

A custodian shall allow a notary public to view, copy, print, and download any of the notary's session records in its possession within 48 hours of a request by the notary at no cost.

Note: This rule shall not apply to planned service outages for which notice is provided pursuant to Rule .0205 of this Subchapter.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2005 SEARCHABLE SESSION RECORDS

The custodian shall ensure that a notary public's session records may be searched by any field in Rule .1006 of this Subchapter.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2006 SESSION RECORD STORAGE LOCATIONS

A custodian shall maintain copies of each session record and session record log in two or more geographically separated data facilities.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2007 DURATION OF STORAGE FOR CUSTODIAN

Unless it transfers the session record to another custodian, a custodian shall not delete the record until a minimum of 10 years have elapsed since the last committed journal entry associated with that record, whether original or supplemental.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2008 TIME LIMIT FOR TRANSFER FROM CUSTODIAN

A custodian shall transfer a session record and associated session record log to another custodian designated by a notary public no later than 10 days from the earlier of:

- (1) receipt of a written request from the notary public to transfer the record; or
- (2) the expiration of the custodian's contract with the notary.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2009 SESSION RECORD DELETION BY CUSTODIAN UPON TRANSFER

A custodian that transfers a session record to another custodian shall delete the record only after receiving confirmation from the custodian that the record has been:

- (1) accepted; and
- (2) validated.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2010 OPTIONAL EXTENDED RETENTION OF SESSION RECORDS

A custodian may preserve a session record longer than the retention time established by the rules in this Subchapter if:

- (1) the electronic notary public authorizes the extended retention period in writing; and
- (2) the electronic notary specifies the duration of the extended retention period.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2011 SESSION RECORD MARKED FOR EXTENDED RETENTION

A custodian shall provide a means to designate session records that are subject to mandatory retention pursuant to Rule .2012 of this Section.

Authority G.S. 10B-4; 10B-1. 06; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2012 MANDATORY EXTENDED RETENTION OF SESSION RECORD UPON NOTIFICATION

A custodian shall retain a session record longer than the time period identified by Rule .2007 of this Section:

- (1) if directed by the Department to retain the records pursuant to an investigation authorized by G.S. 10B-60; or
- (2) upon receipt of a legal notification requiring the custodian, notary, or principal to preserve the record.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2013 DELETION UPON EXPIRATION OF MANDATORY EXTENDED RETENTION

If a custodian is required to preserve a session record pursuant to Rule .2012 of this Section, the custodian shall not delete the record until:

- (1) the Department notifies the custodian that the investigation is concluded; or
- (2) the custodian has no further legal obligation to preserve the record.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2014 DELETION OF SESSION RECORD ENTRY IN LOG

A custodian shall enter in the associated session record log the date that a session record is deleted.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2015 SESSION RECORD LOG RETENTION BY CUSTODIAN

Each session record log shall be retained by the custodian for no less than 15 years from the date of the notarial session that the entry describes.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2016 TRANSFER OF DEPOSITORY SESSION RECORD LOG BY CUSTODIAN

The depository session record log shall accompany each session record transferred by a transferor custodian to custodian transferee.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2017 CUSTODIAN ENTRY IN DEPARTMENT'S DATABASE

Upon validation pursuant to Rules .1012 and .2002 of this Subchapter, a custodian that is a transferee or a transferor shall update the Department's database with the following information:

- (1) the session identifier;
- (2) the four-digit identifying number assigned to the technology provider making the entry into the Department's database;
- (3) the four-digit identifying number assigned to the transferor;
- (4) for the transferee the four-digit identifying number assigned to the transferee custodian; and
- (5) the date and time of the transfer.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2018 NOTICE OF CESSATION OF CUSTODIAL SERVICES

A custodian shall provide 60 days of notice to its subscribers before it ceases to provide custodial services due to:

- (1) bankruptcy;
- (2) discontinuation of custodial services to North Carolina notaries public; or
- (3) going out of business.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2019 CUSTODIAN CONTINUITY OF SERVICES

A custodian shall not discontinue its custodial services to North Carolina notaries public until all session records and associated session record log entries in its possession are transferred to the custodians designated by the notaries.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2020 ADDITIONAL CUSTODIAN DISCLOSURES

Immediately after the information required by Rule .0608 of this Subchapter, a custodial services provider shall:

- (1) publish the information required by Rule .2021 of this Section; and
- (2) format the information as required by Rule .2022 of this Section.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2021 CONTENT OF ADDITIONAL CUSTODIAN DISCLOSURES

A custodian's additional disclosure pursuant to Rule .2020 of this Section shall include information regarding:

- (1) availability:
 - (a) projected time that the custodial services solution will be unavailable for use to the notary due to scheduled maintenance each month;
 - (b) the business hours during which a customer support representative is available for consultation; and
 - (c) the average wait time during business hours for a response from a customer support representative; and
- (2) the custodian's technical issues resolution targets, which shall include:
 - (a) categorization of service disruptions based on a numeric scale or denoted by single words such as "critical," "high," "medium," and "low;"
 - (b) a plain language description of each category; and
 - (c) the maximum projected resolution time for issues encountered in each category.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2022 CUSTODIAN DISCLOSURE FORMAT

A custodian shall:

- (1) present the additional disclosures required by Rule .2020 of this Section in tabular form in the order shown in the table in this Rule;

- (2) place the results described in Rule .2021 of this Section in the table in this Rule in the appropriate location; and
- (3) engineer the table in this Rule as specified in the Department's protocols to support accommodation pursuant to G.S. 10B-134.1(1).

[Insert Technology Provider Name] Custodian Disclosures		
Projected monthly maintenance downtime:		[Rule .2021(1)(a) of this Section]
Customer support hours:		[See Rule .2021(1)(b) of this Section]
Average customer support wait time:		[See Rule.2021(1)(c) of this Section]
Service Disruption Response Times		
Category	Category Description	Projected Resolution Time
[See Rule .2021(2)(a) of this Section]	[See Rule .2021(2)(b) of this Section]	[See Rule.2021(2)(c) of this Section]

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

SECTION .2100 – APPLICATION FOR CUSTODIAL SERVICES AUTHORIZATION

18 NCAC 07J .2101 REQUIREMENTS FOR AUTHORIZATION TO PROVIDE CUSTODIAL SERVICES

A custodial services applicant shall meet the requirements established in:

- (1) Article 2 of Chapter 10B of the General Statutes;
- (2) the applicable standards set forth in the Department's Protocols; and
- (3) the rules in this Subchapter, except:
 - (a) Sections .0700-.1900; and
 - (b) Section .2200.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2102 DURATION OF CUSTODIAN APPROVAL

A custodial services solution approval authorizes the custodian to directly or indirectly offer its custodial services solution to North Carolina notaries public for three years from the date of its approval.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2103 APPLICATION FORM FOR CUSTODIAL SERVICES

A custodial services provider applicant shall complete and submit the form described in 18 NCAC 07B .0427.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

SECTION .2200 – CUSTODIAL NOTARIES

18 NCAC 07J .2201 SCOPE

The rules in this Section shall apply only to an electronic notary public who self-designates as a custodial notary.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2202 CUSTODIAL NOTARY DEEMED APPROVED

A notary public shall be deemed to have applied and been approved as that notary's own custodian if the notary public:

- (1) complies with 18 NCAC 07H .0506; and
- (2) agrees in writing to comply with the rules of this Subchapter applicable to custodial notaries.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2203 CUSTODIAL NOTARY AS CUSTODIAN AND TECHNOLOGY PROVIDER

A custodial notary shall be deemed a custodian and technology provider subject to rules of this Chapter as specified in Rule .2204 of this Section.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2204 RULES APPLICABLE TO CUSTODIAL NOTARIES

A custodial notary shall comply with the following rules:

- (1) 18 NCAC 07H Section .0500;
- (2) Rules .0101, .0104, .0106-.0108, .0112, and .0115 of this Subchapter;
- (3) Rule .0208 of this Subchapter;
- (4) Rules .0611(1) and .0612 of this Subchapter; and
- (5) Rule .2007 of this Subchapter.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2205 CUSTODIAL NOTARY SESSION RECORD STORAGE LOCATIONS

(a) A custodial notary shall maintain two copies of each session record and supplemental journal entry session record that shall not be stored on the same device.

(b) A custodial notary shall ensure that at least one of the two session record and supplemental journal entry session record copies is maintained in digital form.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2206 PROVIDING CUSTODIAL SERVICES AFTER ELECTRONIC NOTARY REGISTRATION TERMINATION

An electronic notary public may continue serving as a custodial notary for session records in the notary's possession after the termination of the notary's electronic notary registration so long as the individual continues to comply with the rules applicable to custodial notaries.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2207 EFFECT OF DISCIPLINARY ACTION ON SERVICE AS CUSTODIAL NOTARY

An electronic notary public shall not continue serving as a custodial notary if specifically prohibited by departmental disciplinary action.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2208 LIMITATION ON CUSTODIAL NOTARY AFTER REGISTRATION EXPIRATION

A former electronic notary public who is a custodial notary shall not take custody of additional session records after the electronic notary registration ends.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2209 CUSTODIAL NOTARY ANNUAL VERIFICATION FORM

A custodial notary shall annually:

- (1) verify that the electronic notary has complied with the rules in this Section applicable to custodial notaries; and
- (2) provide information regarding the electronic notary's continuation of service as a custodial notary.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2210 SUBMISSION OF ANNUAL VERIFICATION

A custodial notary shall submit the form described in 18 NCAC 07B .0428 on or before December 31st of each year.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

18 NCAC 07J .2211 FINAL CUSTODIAL NOTARY VERIFICATION FORM

An electronic notary public's obligations as a custodial notary cease when the electronic notary submits the form described in 18 NCAC 07B .0428 confirming that:

- (1) the required retention period for all session records in the custodial notary's possession has expired; or
- (2) the custodial notary has transferred all session records to an approved custodian.

Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23.

SUBCHAPTER 07K – MISCELLANEOUS RULES

SECTION .0100 – GENERAL

18 NCAC 07K .0101 DEFINITIONS

For purposes of Chapter 10B of the General Statutes and the Rules in this Chapter:

- (1) "Approved" means that an applicant has been authorized by the Department to provide services as a technology provider in compliance with Chapter 10B of the General Statutes and the rules in this Chapter. Technology providers licensed by the Department are deemed approved.
- (2) "Armed Forces of the United States" means the persons described in 10 U.S.C. 101(a)(4) and G.S. 143B-1224(2), including their reserve components.
- (3) "Bank or financial institution" means a "depository institution" as defined in G.S. 53-208.42(7).
- (4) "Certificate of appointment" means a document issued by the Department notifying a Register of Deeds that:
 - (a) the named appointee is authorized to take the oath of office; and
 - (b) the Register of Deeds or designee shall provide the commission certificate to the notary public after:
 - (i) administering the oath of office to the appointee; and
 - (ii) signing of the certificate by both the Register of Deeds or designee, and the notary.
- (5) "Commission certificate" means the document confirming that an individual:
 - (a) has complied with all applicable requirements of Chapter 10B of the General Statutes and the rules in this Chapter; and
 - (b) is authorized to act as a notary public.
- (6) "Commit" means ~~the final step in the notarial act after which:~~ act of the electronic notary public to make complete and permanent:
 - (a) ~~the notarial act is complete;~~ affixing of the electronic notarial signature and electronic notary seal to an electronic record;
 - (b) ~~all entries are permanent; and the entry required by 18 NCAC 07D .0507;~~

- (c) ~~no changes can be made to the entries made permanent pursuant to Sub Item (b) of this Item.~~ the electronic journal entry; and
- (d) the communication technology recording.
- (7) "Dishonored payment" or "payment that has been dishonored" means money tendered to the Department by any means that is refused, rejected, or failed to be paid to the Department.
- (8) "Enter information" means to:
 - (a) handwrite, type, or input data;
 - (b) ~~confirm that pre-populated words or numbers are correct. Note: An example would be clicking a checkbox to select the correct date;~~
 - (e)(b) select or confirm applicable options from among offered options. Note: An example would be selecting "oath or affirmation" from a drop-down list of the types of notarial acts; or
 - (d)(c) include in the electronic journal acknowledged signatures of:
 - (i) principals;
 - (ii) a designee of a principal; or
 - (iii) a credible witness.
- (9) "Federal business mileage rate" means the business mileage rate set by the U.S. Internal Revenue Service (IRS).
- (10) "Federally recognized Indian tribe" means a tribe on the list published in the Federal Register by the U.S. Secretary of the Interior pursuant to 25 U.S.C. 5131.
- (11) "File" means the date upon which a filing submitted to the Department is deemed complete by the Department. Note: "File" shall not mean that the Department has determined that the filer is qualified and will be appointed, registered, approved, or licensed.
- (12) "Filer" means a person that submits a filing to the Department.
- (13) "Filing" means a form or other document required or permitted to be filed with the Department pursuant to Chapter 10B of the General Statutes or the rules in this Chapter.
- (14) "Form" means a departmental data collection instrument that requires or requests information, without regard to the format.
- (15) "Form preparer" means an individual who enters information on a form:
 - (a) at the direction of another; and
 - (b) without exercising independent judgment or discretion as to the content entered.
- (16) "Information technology" or "IT" means that term as defined in G.S. 143B-1320(a)(11).
- (17) "Information technology security" or "IT security" means the tools, techniques, and strategies used to protect the confidentiality,

- integrity, and availability of data, information systems, and digital assets from:
- (a) internal and external threats; and
 - (b) unauthorized access, use, disclosure, disruption, modification, or destruction.
- (18) "Initial appointment" means the first issuance by the Department of a commission certificate to a notary public.
- (19) "Instructor," "certified notary public instructor," "certified instructor," "notary instructor," and "certified notary instructor" mean a notary public who has complied with:
- (a) the requirements of G.S. 10B-14; and
 - (b) the rules in Subchapter 07E of this Chapter.
- (20) "Location" means a description establishing that a principal is present in a jurisdiction where the notarial act may take place. Note: A ~~statement~~ self-attestation pursuant to the rules in Subchapter 07H of this Chapter stating that the principal is then located inside the U.S. embassy in Paris, France, would suffice to establish the ~~principal is present in a jurisdiction where the notary act may take place.~~ principal's location.
- (21) "Long-term" means a period of at least one year.
- (22) "Notarial transaction process" includes:
- (a) steps before the notarial act takes place. Note: The interactions establishing the date and location of a notarial act, obtaining advance consent to travel fees, and the steps required by G.S. 10B-134.9(a) are examples of steps before the notarial act;
 - (b) the notarial act; and
 - (c) steps following the notarial act. Note: Affixing the notary's seal and signature are examples of steps following the notarial act.
- (23) "Person" means the term as defined in G.S. 12-3(6).
- (24) "State recognized tribe" means a group listed in G.S. 143B-407(a).
- (25) "Successfully complete" and "successful completion" mean that a notarial applicant has complied with Chapter 10B and the rules in this Chapter and has:
- (a) presented satisfactory evidence of identity as defined in G.S. 10B-3(22) or ~~be is~~ personally known as defined in G.S. 10B-3(17);
 - (b) attended a notarial course taught by a certified notary instructor; and
 - (c) achieved a passing grade on the course examination as described in G.S. 10B-8(a).
- (26) "Technological failure" means a deficiency in:
- (a) any component of the electronic ~~notarization system;~~ notary solution;
 - (b) any component of the computer systems of the notary or principals; or
 - (c) the connections linking the components described in Sub-Items (a) and (b) of this Item.
- For purposes of this Rule, "component of the electronic notary solution" means any combination of hardware, software, a notary public's electronic journal, and communications technology recordings.
- (27) "Technology provider" ~~means:~~ means the person providing a solution for:
- (a) IPEN;
 - ~~(a)(b)~~ a platform;
 - ~~(b)~~ a depository;
 - (c) ~~a custodial service; or~~ credential analysis;
 - (d) ~~an AVEN as defined in 18 NCAC 07F .0102(4).~~ identity proofing; or
 - (e) custodial services.
- (28) "Termination of employment" means the cessation of permanent or temporary work for another, whether compensated or not, for any reason, including voluntary and involuntary cessation of work.
- (29) "Traditional notarization" means a notarial act in which:
- (a) there is personal appearance as defined in G.S. 10B-3(16); and
 - (b) one of the following occurs:
 - (i) a document is executed and notarized with ink signatures signed by hand ~~or facsimile stamp~~ and affixed with the physical notary seal as defined in G.S. 10B-3(23);
 - (ii) an oath or affirmation is administered without the execution of a document; or
 - (iii) a certificate for a safe deposit box inventory is prepared as described in G.S. 53C-6-13(a).
- (30) "Traditional notary public" means an individual commissioned to perform traditional ~~notarizations.~~ notarizations and who has not been registered as an electronic notary public.
- (31) "Type of notarial act" means an acknowledgement, an oath or affirmation, verification or proof, inventory of an abandoned safe deposit box, or notarization of an absentee ballot.
- (32) "Under the exclusive control of the notary" means accessible by and attributable solely to the notary public to the exclusion of all other persons through being:

PROPOSED RULES

- (a) in the case of a physical seal:
 - (i) in the direct physical custody of the notary; or
 - (ii) physically secured; or
 - (b) in the case of an electronic seal or electronic signature, secured with one or more methods of authentication in an approved electronic ~~notarization system.~~ notary solution.
- (33) "United States" or "U.S." means the term as defined in G.S. 12-3(11).
- Authority G.S. 10B-4; 10B-14; 10B-36; 10B-38; 10B-106; 10B-125; 10B-126; 10B-134.15; 10B134.19; 10B-134.21.*

APPROVED RULES

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

Rules approved by the Rules Review Commission at its meeting on November 26, 2024.

**REGISTER CITATION TO THE
NOTICE OF TEXT**

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Public Comments at Hearings</u>	12 NCAC 09A .0208*	38:18 NCR
<u>Responsibilities of the School Director</u>	12 NCAC 09B .0202*	38:24 NCR
<u>Admission of Trainees</u>	12 NCAC 09B .0203*	38:24 NCR
<u>Training Course Enrollment</u>	12 NCAC 09B .0204*	38:24 NCR
<u>Basic Law Enforcement Training</u>	12 NCAC 09B .0205*	38:24 NCR
<u>Specialized Instructor Certification</u>	12 NCAC 09B .0304*	38:18 NCR
<u>Terms and Conditions of Specialized Instructor Certification</u>	12 NCAC 09B .0305*	38:24 NCR
<u>Comprehensive State Examination - Basic Law Enforcement T...</u>	12 NCAC 09B .0406*	38:24 NCR
<u>Comprehensive State Exam - Specialized Instructor Training</u>	12 NCAC 09B .0414	38:24 NCR
<u>Satisfaction of Minimum Training - Specialized Instructor</u>	12 NCAC 09B .0415*	38:24 NCR
<u>Reports of Training Course Presentation and Completion</u>	12 NCAC 09C .0403*	38:24 NCR

WILDLIFE RESOURCES COMMISSION

<u>Wild Turkey</u>	15A NCAC 10B .0209*	39:02 NCR
<u>Definitions</u>	15A NCAC 10B .0301*	39:02 NCR
<u>Attendance and Tagging of Traps</u>	15A NCAC 10B .0306*	39:02 NCR
<u>Fur Dealers</u>	15A NCAC 10B .0405*	39:02 NCR
<u>Public Mountain Trout Waters</u>	15A NCAC 10C .0205	39:02 NCR
<u>Crappie</u>	15A NCAC 10C .0306	39:02 NCR
<u>Striped Mullet and White Mullet</u>	15A NCAC 10C .0422	39:02 & 39:03 NCR
<u>Cold Mountain Game Land in Haywood County</u>	15A NCAC 10D .0219	39:02 NCR
<u>Goose Creek Game Land in Beaufort and Pamlico Counties</u>	15A NCAC 10D .0229*	39:02 NCR
<u>Gull Rock Game Land in Hyde County</u>	15A NCAC 10D .0232*	39:02 NCR
<u>Johns River Game Land in Burke County</u>	15A NCAC 10D .0239	39:02 NCR
<u>Lantern Acres Game Land in Tyrrell and Washington Counties</u>	15A NCAC 10D .0244	39:02 NCR
<u>Little Fork State Forest Game Land in Wilkes County</u>	15A NCAC 10D .0263	39:02 NCR

TITLE 12 - DEPARTMENT OF JUSTICE

12 NCAC 09A .0208 PUBLIC COMMENTS AT HEARINGS

For hearings in which public comments are allowed or required, the following rules apply:

- (1) The Chair may:
 - (a) authorize the designation of any agency employee to act as the hearing officer;
 - (b) set out the type of hearings that the designated employees are authorized to conduct;

- (c) reference the rules of procedure for conducting public rulemaking hearings.
- (2) The Chair may set time limits on oral presentations.
 - (a) Unless the Chair specifies otherwise, oral presentations are limited to five minutes per person or requesting entity;
 - (b) The Chair may require that oral presentations be limited to representative spokespersons for those advocating or opposing agenda items;

- (c) In making the above decisions, the Chair should consider:
 - (i) the length of the agenda and of the meeting;
 - (ii) the number of rules or agenda items subject to comment;
 - (iii) the complexity of the issues;
 - (iv) the public interest in a particular rule, report or agenda item;
 - (v) the number of people desiring to address the agency;
 - (vi) the variations in the speakers' arguments and level of agreement within their positions or relationships;
 - (vii) the nature of the comments in relation to the agency's scope of review; and
 - (viii) the amount of notice given to the agency, commission, or committee.
- (3) The Chair will set the date, time, and place of any public hearing.
 - (a) If no hearing end time is designated prior to the beginning of the meeting, the Chair may end the hearing once the purpose for that public hearing has been concluded, or
 - (b) If a hearing end time has been designated for a hearing in which comments will be accepted, the hearing officer will remain in the meeting until such end time is reached.
- (4) When a hearing officer is designated, the hearing officer will collect written and oral submission presented during the hearing and submit to the agency, commission or committee as appropriate following the close of the record.
- (5) Nothing in this Rule is meant to require the agency, commission, or committee to allow public comment when not required by statute.
- (6) For purposes of this Rule, Chair means the person designated as chairperson for the agency, commission or committee, holding the hearing. In the event the Chair is not present at the hearing, the Vice-Chair will preside, and if the Vice-Chair is also not present, then the hearing officer will preside, and either will act, for purposes of this rule and for the hearing, with the authority of the Chair.

12 NCAC 09B .0202 RESPONSIBILITIES OF THE SCHOOL DIRECTOR

- (a) In planning, developing, coordinating, and delivering each Commission-certified criminal justice training course, the School Director shall:
 - (1) Formalize and schedule the course curriculum in accordance with the curriculum standards established in this Subchapter;
 - (2) Select and schedule instructors who are certified by the Commission, pursuant to 12 NCAC 09B .0301;
 - (3) Ensure each instructor utilizes Commission approved lesson plans and instructional materials, as specified in Rules .0205, .0209, .0210, .0211, .0212, .0213, .0214, .0226, .0227, .0232, .0233, .0235, .0236, .0237, .0238, .0241, .0313, .0314, or .0410 of this Subchapter;
 - (4) Arrange for the availability of audiovisual aids and materials, publications, facilities, and equipment for training in all topic areas;
 - (5) Develop, reproduce, and distribute any requirements determined by the school to be necessary or appropriate for:
 - (A) effective course delivery;
 - (B) establishing responsibilities and obligations of agencies or departments employing or sponsoring course trainees; and
 - (C) regulating trainee participation and demeanor, ensuring trainee attendance, and maintaining performance records;
 - (6) Administer the course delivery in accordance with Commission approved lesson plans, pursuant to Subparagraph (a)(3) of this Rule;
 - (7) Maintain direct supervision, direction, and control over the performance of all persons to whom any portion of the planning, development, presentation, or administration of a course has been delegated.
- (b) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-accredited Basic Law Enforcement Training Course, the School Director shall:
 - (1) Schedule course presentation to include 12 hours of instruction each week during consecutive calendar weeks, except that there may be as many as six one-week breaks until course requirements are completed. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:
 - (A) Whether instruction has begun in the course or whether course initiation may be postponed;

History Note: Authority G.S. 17C-6; Eff. November 1, 2024.

- (B) The risk of harm to students that may be caused by continuation of the course;
 - (C) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
 - (D) The specific need for the waiver; and
 - (E) The degree of benefit to the public in allowing a break in instruction. Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that began during the effective period of the State of Emergency;
- (2) Schedule only specialized instructors certified by the Commission to teach those high-liability areas as specified in Rule .0304(a) of this Subchapter as either the lead instructor or as assistant instructors or role players;
 - (3) With the exception of the First Responder, Officer Health and Wellness, Explosives and Hazardous Materials Emergencies, and topical areas outlined in Rule .0304(a) of this Subchapter, schedule one specialized instructor certified by the Commission for every six trainees while engaged in a practical performance exercise;
 - (4) Schedule one specialized instructor certified by the Commission for every eight trainees while engaged in a practical performance exercise in the topical areas Subject Control Arrest Techniques or Compliance and Control Tactics;
 - (5) Schedule no single individual to instruct more than 35 percent of the total hours of the 640-hour curriculum or 25 percent of the total hours of the 868-hour curriculum during any one delivery of the Basic Law Enforcement Training Course presentation;
 - (6) Not less than 30 days before commencing delivery of the Basic Law Enforcement Training Course, submit to the Commission a Pre-Delivery Report of Training Course Presentation pursuant to 12 NCAC 09C .0211;
 - (7) Submit a copy of any rules and requirements for the school. A copy of those rules shall also be given to each trainee and to the executive officer of each trainee's employing or sponsoring agency or department at the time the trainee enrolls in the course;
 - (8) Monitor, or designate an instructor certified by the Commission to monitor, a presentation of each instructor once during each three year certification period in each topic taught by the instructor and prepare a written evaluation on the instructor's performance and suitability for subsequent instructional assignments. The observations shall be of sufficient duration to ensure that the delivery is objective-based, documented by, and consistent with a Commission-approved lesson plan, pursuant to Subparagraph (a)(3) of this Rule. For each topic area, the School Director's evaluation shall be based upon the course delivery observations, the instructor's use of the approved lesson plan, and the results of the student evaluations of the instructor. For probationary instructors, the evaluations conducted by another instructor shall be prepared on the Criminal Justice Instructor Evaluation (Form F-16) and forwarded to the Commission. Based on this evaluation, the School Director shall recommend approval or denial of requests for General Instructor Certification. For all other instructors, these evaluations shall be prepared on the Criminal Justice Instructor Evaluation (Form F-16), be kept on file by the school for a period of three years, and shall be made available for inspection by a representative of the Commission upon request. In the event the evaluation of an instructor indicates that his or her performance was less than acceptable, the School Director shall forward a copy of the evaluation to the Commission. Any instructor who is evaluating the instructional presentation of another instructor shall hold certification in the same instructional topic area as that for which the instructor is being evaluated. The Criminal Justice Evaluation (Form F-16) shall contain the following information:
 - (A) Instructor's name, date of birth, and Acadis ID number;
 - (B) Evaluator's name, and Acadis ID number;
 - (C) Block of Instruction, date, location, and total hours of instruction;
 - (D) Scores for Instructional Ability and Strategies; and
 - (E) Presentation Evaluation Criteria.
 - (9) Administer or designate a Qualified Assistant to administer course specific tests during course delivery:
 - (A) to determine and record the level of trainee comprehension and retention of instructional subject matter;
 - (B) to provide a basis for a final determination or recommendation regarding the minimum degree of knowledge and skill of each trainee to function as an inexperienced law enforcement officer; and
 - (C) to determine subject or topic areas of deficiency for the application of Rule .0405(a)(3) of this Subchapter; and

- (10) Not more than 10 days after the conclusion of a school's offering of Basic Law Enforcement Training, ensure all student test scores and class documents have been uploaded to the Acadis platform, and submit to the Commission a Post-Delivery Report of Training Course Presentation (Form F-10B).
- (c) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-certified "Criminal Justice Instructor Training Course," the School Director shall:
- (1) Schedule course presentation pursuant to Rule .0209 of this Subchapter;
 - (2) Schedule evaluators as follows:
 - (A) each evaluator, as well as the instructors, shall have completed a Commission-certified instructor training course or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise; and
 - (B) each instructor and evaluator shall have completed an instructor training orientation program presented by the North Carolina Justice Academy for purposes of familiarization and supplementation relevant to delivery of the instructor training course and trainee evaluation. The completion of an instructor training orientation program shall be documented in the Acadis platform.
 - (3) Not fewer than 30 days before commencing delivery of the course, submit to the Commission a Pre-Delivery Report of Training Course Presentation, Form F-10A, with the following attachments:
 - (A) a course schedule showing the arrangement of topical presentations and proposed instructional assignments;
 - (B) the names and Acadis identification numbers of all instructors and evaluators; and
 - (C) a copy of any rules and requirements for the school; and
 - (4) Not more than 10 days after course completion, submit to the Commission a Post-Delivery Report of Training Course Presentation Form F-10B, containing the following:
 - (A) class enrollment roster;
 - (B) a course schedule with the designation of instructors and evaluators utilized in delivery;
 - (C) scores recorded for each trainee on the 70 minute skill presentation; and
 - (D) designation of trainees who completed the course in its entirety.
- (d) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-certified RADAR, RADAR and Time-Distance, Time-Distance, or LIDAR speed measurement operator training course or re-certification course, the School Director shall:
- (1) select and schedule speed measurement instrument instructors who are certified by the Commission as instructors for the specific speed measurement instruments in which the trainees are to receive instruction;
 - (2) not fewer than 30 days before the scheduled starting date, submit to the Director of the Standards Division a Pre-Delivery Report of Training Course Presentation, Form F-10A, that shall contain a period of course delivery including the proposed starting date, course location, requested date and location for the administration of the State exam, and the number of trainees to be trained on each type of approved speed measurement instrument; and
 - (3) upon completing delivery of the Commission-certified course, and not more than 10 days after the conclusion of a school's offering of a certified RADAR, RADAR and Time-Distance, Time-Distance, or LIDAR speed measurement operator training course or re-certification course, the School Director shall notify the Commission regarding the progress and achievements of each trainee by submitting a Post-Delivery Report of Training Course Presentation, Form F-10B. This report shall include the original motor-skill examination form(s) completed and signed by the certified instructor responsible for administering the motor-skill examination to the respective trainee.

History Note: Authority G.S. 17C-6; Eff. January 1, 1981; Amended Eff. November 1, 1981; Readopted w/change Eff. July 1, 1982; Amended Eff. January 1, 2015; June 1, 2013; April 1, 2009; November 1, 2007; January 1, 2006; May 1, 2004; August 1, 2000; January 1, 1996; November 1, 1993; December 1, 1987; January 1, 1985; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019; Amended Eff. January, 1, 2025; April 1, 2022; July 1, 2021; January 1, 2021; July 1, 2020.

12 NCAC 09B .0203 ADMISSION OF TRAINEES

- (a) The school shall not admit any individual as a trainee in a presentation of the Commission-accredited Basic Law Enforcement Training Course who is not a citizen of the United States.
- (b) The school shall not admit any individual younger than 20 years of age as a trainee in any basic criminal justice training

course. Individuals under 20 years of age may be granted authorization for early enrollment as trainees in a presentation of the Commission-accredited Basic Law Enforcement Training Course with prior written approval from the Director of the Standards Division. The Director shall approve early enrollment if the individual will be 20 years of age prior to the date of the State Comprehensive Examination for the course.

(c) The school shall give priority admission in certified criminal justice training courses to individuals holding full-time employment with criminal justice agencies.

(d) The school shall not admit any individual as a trainee in a presentation of the Commission-accredited Criminal Justice Instructor Training Course who does not meet the education and experience requirements for instructor certification under Rule .0302 of this Subchapter.

(e) The school shall not admit an individual, including limited enrollment trainees, pursuant to Rule .0405 of the Subchapter, as a trainee in a presentation of the Commission-accredited Basic Law Enforcement Training Course unless the individual, within one year prior to admission to the Commission-accredited Basic Law Enforcement Training Course, scores at or above mastery level on the NROC Edready™ Skills Inventory for English or places into course DRE 098 or above at a North Carolina Community College as a result of taking the Reading and English component of the North Carolina Diagnostic Assessment and Placement test as approved by the State Board of Community Colleges on October 17, 2014, (<http://www.nccommunitycolleges.edu/state-board-community-colleges/meetings/october-17-2014>), or has taken the reading component of a nationally standardized test and has scored at or above the tenth grade level or the equivalent. For the purposes of this Rule:

- (1) Limited enrollment trainees do not include enrollees who hold or have held within 12 months prior to the date of enrollment, general certification pursuant to 12 NCAC 09C .0304.
- (2) A "nationally standardized test" means a test that:
 - (A) reports scores as national percentiles, stanines, or grade equivalents; and
 - (B) compares student test results to a national norm.

(f) The school shall not admit any individual as a trainee in a presentation of the Commission-accredited Basic Law Enforcement Training Course unless the individual has provided to the School Director a medical examination report, completed by a physician, a physician's assistant, or a nurse practitioner, who holds a current license in the United States to practice medicine, as issued by a state medical board, to determine the individual's fitness to perform the essential job functions of a criminal justice officer. The Director of the Standards Division shall grant an exception to this requirement for a period of time not to exceed the commencement of the physical fitness topical area when failure to receive the medical examination report is not due to neglect on the part of the trainee.

(g) The school shall not admit any individual as a trainee in a presentation of the Commission-accredited Basic Law Enforcement Training Course unless the individual is a high school, college, or university graduate or has received a high

school equivalency credential recognized by the issuing state. High school diplomas earned through correspondence enrollment in an entity that charges a fee and requires the individual to complete little or no education or coursework to obtain a high diploma shall not be recognized toward the educational requirements.

(h) The school shall not admit any individual trainee in a presentation of the Commission-accredited Basic Law Enforcement Training Course unless the individual has provided the School Director one of the following types of record checks in the manner set forth in Paragraph (l) of this Rule:

- (1) a written notification, known as a "Criminal Record Conviction History for B.L.E.T. Enrollment," Form F-25, located at <https://www.ncdoj.gov/About-DOJ/Law-Enforcement-Training-and-Standards/Criminal-Justice-Education-and-Training-Standards/Forms-and-Publications.aspx>, from a department head stating that a criminal record check for local and state records has been conducted and no criminal convictions as listed in Paragraph (m) of this Rule were found that prohibit the individual trainee's enrollment in a presentation of the Commission-accredited Basic Law Enforcement Training Course. The hiring agency or the individual trainee shall also provide certified court documentation for each criminal conviction;
- (2) a certified criminal record check for local and state records, and certified court documentation for each criminal conviction. For the purpose of this Rule "Certified court documentation" and "record check" mean a document with either a raised seal or other visible verification that the document is authentic as a copy of the court's official record as authorized by law;
- (3) if the individual trainee has only resided in North Carolina since obtaining the age of majority, provide a fingerprint-based criminal history background check known as a "Right to Review" performed by the North Carolina State Bureau of Investigation. For the purpose of this Rule "Resided in" means any place the trainee has lived, worked, attended school, or participated in an internship. The individual shall also provide certified court documentation for each criminal conviction;
- (4) a fingerprint-based criminal history background check known as a "Right to Review" performed by a federal agency including all locations where the trainee has lived since obtaining the age of majority. The individual shall also provide certified court documentation for each criminal conviction, including domestic and foreign locations where the individual has resided; or

(i) Trainees who have served in the United States Armed Forces, in addition to one of the types of criminal records checks listed in

Subparagraphs (h)(1) through (4) of this Rule shall provide a copy of their Certificate of Discharge, DD Form 214, that shows their "Character of Service" and "Narrative Reason for Separation." Individuals showing a "Character of Service" as "Bad Conduct" or "Dishonorable" shall provide certified copies of their court-martial proceedings to include the final disposition. Trainees shall also provide documentation to show that they have requested their official military personnel file, which shall be provided upon receipt.

(j) A trainee who has been naturalized as a United States Citizen is exempt from providing the criminal record checks for locations where they resided outside of the United States prior to naturalization.

(k) A trainee who has resided outside the United States, other than those described in Paragraph (j) of this Rule, who cannot obtain a criminal record check from any location outside the United States shall document the following, to be forwarded to the Standards Division:

- (1) the name of the agencies contacted,
- (2) the date the agencies were contacted,
- (3) the contact information for the agencies contacted, and
- (4) the reason the information cannot be provided.

(l) Documents obtained in accordance with Paragraph (h) of this Rule shall meet the following requirements:

- (1) any records provided shall fall within the time period beginning when the trainee obtains the age of majority and continuing through the date of application;
- (2) any records provided shall include all locations where the trainee has resided since obtaining the age of majority; and
- (3) any records provided shall include all legal names utilized by the trainee since obtaining the age of majority.

(m) The school shall not admit any individual as a trainee in a presentation of the Commission-accredited Basic Law Enforcement Training Course who has been convicted of the following:

- (1) a felony;
- (2) a crime for which the punishment could have been imprisonment for more than two years;
- (3) a crime or unlawful act defined as a Class B Misdemeanor within the five year period prior to the date of application for employment, unless the individual intends to seek certification through the North Carolina Sheriffs' Education and Training Standards Commission;
- (4) four or more crimes or unlawful acts defined as Class B Misdemeanors, regardless of the date of conviction;
- (5) four or more crimes or unlawful acts defined as Class A Misdemeanors, except the trainee is not barred from enrollment if the last conviction date occurred more than two years prior to the date of enrollment; or
- (6) a combination of four or more Class A Misdemeanors or Class B Misdemeanors

regardless of the date of conviction, unless the individual intends to seek certification through the North Carolina Criminal Justice Education and Training Standards Commission.

(n) Individuals charged with crimes specified in Paragraph (m) of this Rule are not barred from enrollment into the Commission-accredited Basic Law Enforcement Training Course if such offenses were dismissed or the person was found not guilty, but completion of the Commission-accredited Basic Law Enforcement Training Course does not ensure that certification as a law enforcement officer or justice officer through the North Carolina Criminal Justice Education and Training Standards Commission will be issued. Every individual who is admitted as a trainee in a presentation of the Basic Law Enforcement Training Course shall notify the School Director of all criminal offenses the trainee is arrested for or charged with, pleads no contest to, pleads guilty to, or is found guilty of, and of all Domestic Violence Protective Orders (G.S. 50B) that are issued by a judicial official after a hearing that provides an opportunity for both parties to be present. This includes all criminal offenses except minor traffic offenses and includes any offense of Driving Under the Influence (DUI) or Driving While Impaired (DWI). A "minor traffic offense" is defined, for the purposes of this Paragraph, as an offense where the maximum punishment allowable by law is 60 days or fewer. Other offenses under G.S. 20 (Motor Vehicles) or similar laws of other jurisdictions that shall be reported to the School Director are G.S. 20-138.1 (driving while under the influence), G.S. 20-28 (driving while license permanently revoked or permanently suspended), G.S. 20-30(5)(fictitious name or address in application for license or learner's permit), G.S. 20-37.8 (fraudulent use of a fictitious name for a special identification card), G.S. 20-102.1 (false report of theft or conversion of a motor vehicle), G.S. 20-111(5)(fictitious name or address in application for registration), G.S. 20-130.1 (unlawful use of red or blue lights), G.S. 20-137.2 (operation of vehicles resembling law enforcement vehicles), G.S. 20-141.3 (unlawful racing on streets and highways), G.S. 20-141.5 (speeding to elude arrest), and G.S. 20-166 (duty to stop in event of accident). The notifications required under this Paragraph shall be in writing and specify the nature of the offense, the court where the case was handled, the date of the arrest or criminal charge, the date of issuance of the Domestic Violence Protective Order (50B), and the final disposition and the date thereof. The notifications required under this Paragraph shall be received by the School Director within 30 days of the date the case was disposed of in court. The requirements of this Paragraph are applicable at all times during which the trainee is enrolled in a Basic Law Enforcement Training Course. The requirements of this Paragraph are in addition to the notifications required under 12 NCAC 10B .0301 and 12 NCAC 09B .0101 (13).

(o) The school shall not admit any individual as a trainee in the presentation of the Commission-accredited Basic Law Enforcement Training Course unless the individual has provided to the School Director:

- (1) copies of all active Domestic Violence Orders of Protection and Civil Non-Contact Orders issued to the individual; or

- (2) a signed and dated written statement from the individual certifying that no such active Orders exist related to the individual.

(p) The school shall not admit any individual as a trainee in the presentation of the Basic Law Enforcement Training Course unless the individual has provided to the School Director a copy of their valid driver's license.

History Note: Authority G.S. 17C-6; 17C-10; 93B-9; Eff. January 1, 1981; Amended Eff. January 1, 2019; April 1, 2018; January 1, 2017; February 1, 2016; November 1, 2015; March 1, 2015; January 1, 2015; June 1, 2012; February 1, 2011; June 1, 2010; December 1, 2004; July 1, 2004; August 1, 2002; August 1, 2000; January 1, 1995; March 1, 1992; July 1, 1989; January 1, 1985; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019; Amended Eff. January 1, 2025; July 1, 2020.

12 NCAC 09B .0204 TRAINING COURSE ENROLLMENT

- (a) Any school offering a Commission-accredited Basic Law Enforcement Training Course shall have enrolled a minimum of 10 trainees in the offering.
- (b) Any school may make written request to the Director of the Standards Division to deliver the Commission-accredited Basic Law Enforcement Training Course with no fewer than eight enrolled trainees. The Director shall approve the request if it includes a summary of the efforts the school has made to notify its respective community of the availability of the course and the reasons supporting the school's need to enroll fewer than 10 trainees, provided that the summary includes attempts to notify, at a minimum, by social media and the school's website.
- (c) The school may not enroll any trainee later than the initial day of delivery of a certified training course unless the trainee's enrollment is pursuant to an authorization of limited enrollment in a subsequent course pursuant to Rule .0405 of this Subchapter or pursuant to prescribed supplementary or remedial training required pursuant to Rule .0402 of this Subchapter.
- (d) The school shall not enroll more than 18 trainees in a presentation of the "Criminal Justice Instructor Training Course" as constituted under Rule .0209 of this Section.

History Note: Authority G.S. 17C-6; Eff. January 1, 1981; Amended Eff. April 1, 2018; April 1, 2017; August 1, 2005; August 1, 2000; January 1, 1985; November 1, 1981; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019; Amended Eff. January 1, 2025.

12 NCAC 09B .0205 BASIC LAW ENFORCEMENT TRAINING

- (a) The basic training course for law enforcement officers shall consist of instruction designed to provide the trainee with the skills and knowledge to perform those tasks essential to function in law enforcement.
- (b) The course entitled "Basic Law Enforcement Training" shall consist of a minimum of 868 hours of instruction

and shall include the following identified topical areas and minimum instructional hours for each:

- (1) Module 1
- (A) Orientation 8 Hours
 - (B) Ethical Problem Solving 16 Hours
 - (C) Communication and De-escalation Skills 24 Hours
 - (D) Crisis Intervention: Interacting With Special Needs Populations 24 Hours
 - (E) Officer Health and Wellness 54 Hours
 - (F) Field Notes and Report Writing 16 Hours
 - (G) Arrest, Search, Seizure, and Constitutional Law 24 Hours
 - (H) Interviews and Interrogations 24 Hours
 - (I) Compliance and Control Tactics 64 Hours
 - (J) Firearms 96 Hours
 - (K) Law Enforcement Driver Training 48 Hours
 - (L) First Responder 24 Hours
- (2) Module 2
- (A) Criminal Investigations 40 Hours
 - (B) Testifying in Court 16 Hours
 - (C) Responding to Crime Victims 8 Hours
 - (D) Person Crimes 16 Hours
 - (E) Property Crimes 16 Hours
 - (F) Crimes Against the Public 16 Hours
 - (G) Juvenile Laws and Procedures 12 Hours
 - (H) Domestic Violence 16 Hours
 - (I) Sexual Assaults 16 Hours
 - (J) Human Trafficking 4 Hours
 - (K) Hate Crimes 8 Hours
 - (L) Controlled Substances 16 Hours
 - (M) Missing Persons 4 Hours
 - (N) Deceased Persons 4 Hours
- (3) Module 3
- (A) Motor Vehicle Law 20 Hours
 - (B) Traffic Law Enforcement 24 Hours
 - (C) Traffic Crash Investigations 24 Hours
 - (D) Standardized Field Sobriety Testing 28 Hours
- (4) Module 4
- (A) Patrol Techniques 28 Hours
 - (B) Crowd Management 16 Hours
 - (C) Courtroom Security 8 Hours
 - (D) Homeland Security 8 Hours
 - (E) Rapid Deployment to an Active Attacker 16 Hours
 - (F) Civil Process 24 Hours
 - (G) Transporting and Processing 8 Hours
 - (H) Crime Prevention 4 Hours

(I)	Explosives and Hazardous Materials Emergencies	16 Hours
(5)	Testing	30 Hours
	Total Course Hours	868 Hours

(c) This Rule does not apply to Basic Law Enforcement Training courses that were in progress as of January 1, 2025.

History Note: Authority G.S. 17C-6; 17C-10; Eff. January 1, 1981; Temporary Amendment Eff. December 14, 1983 for a period of 120 days to expire on April 12, 1984; Amended Eff. January 1, 2019; July 1, 2018; January 1, 2018; July 1, 2017; July 1, 2016; January 1, 2015; February 1, 2014; July 1, 2011; July 1, 2009; January 1, 2006; August 1, 2002; August 1, 2000; November 1, 1998; July 1, 1997; January 1, 1995; February 1, 1991; July 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019; Amended Eff. January 1, 2025.

12 NCAC 09B .0304 SPECIALIZED INSTRUCTOR CERTIFICATION

(a) The Commission shall issue a Specialized Instructor Certification to an applicant who has developed specific motor skills and abilities by virtue of special training and demonstrated experience in one or more of the following topical areas:

- (1) Compliance and Control Tactics;
- (2) First Responder;
- (3) Firearms;
- (4) Law Enforcement Driver Training;
- (5) Physical Fitness;
- (6) Restraint, Control and Defense Techniques (Department of Public Safety, Division of Juvenile Justice);
- (7) Medical Emergencies (Department of Public Safety, Division of Juvenile Justice);
- (8) Explosive and Hazardous Materials Emergencies; or
- (9) Standardized Field Sobriety Testing.

(b) To qualify for and maintain Specialized Instructor Certification in topical areas in Subparagraph (a)(1) through (a)(8) of this Rule, an applicant shall possess a valid CPR Certification that includes cognitive and skills testing, through the American Red Cross, American Heart Association, American Safety and Health Institute, or National Safety Council.

(c) An applicant shall achieve a minimum score of 75 percent on the comprehensive written exam, as specified in Rule .0414 of this Subchapter, in order to qualify for Specialized Instructor Certification in the following topical areas:

- (1) Compliance and Control Tactics;
- (2) Firearms;
- (3) Law Enforcement Driver Training;
- (4) Physical Fitness; and
- (5) Explosive and Hazardous Materials Emergencies.

(d) To qualify for Specialized Instructor Certification in the Compliance and Control Tactics topical area, an applicant shall meet the following requirements:

- (1) Hold General Instructor Certification, either probationary status or full general instructor status, as specified in Rule .0303 of this Section;
- (2) Complete the Commission-approved specialized instructor course; and
- (3) Obtain the recommendation of a Commission-certified school director or in-service training coordinator.

(e) To qualify for Specialized Instructor Certification in the First Responder topical area, an applicant shall satisfy one of the following two options:

- (1) The first option is:
 - (A) Hold CPR instructor certification through the American Red Cross, American Heart Association, American Safety and Health Institute, or National Safety Council;
 - (B) Hold, or have held, basic Emergency Medical Technician certification;
 - (C) Have completed the Department of Transportation's 40 hour EMT Instructor Course or equivalent within the last three years or hold a North Carolina Professional Educator's License, issued by the Department of Public Instruction; and
 - (D) Obtain the recommendation of a Commission-certified school director or in-service training coordinator.

- (2) The second option is:
 - (A) Hold General Instructor Certification, either probationary status or full general instructor status, as specified in Rule .0303 of this Section;
 - (B) Hold CPR instructor certification through the American Red Cross, American Heart Association, American Safety and Health Institute or National Safety Council;
 - (C) Hold, or have held, basic EMT certification; and
 - (D) Obtain the recommendation of a Commission-certified school director or in-service training coordinator.

(f) To qualify for Specialized Instructor Certification in the Firearms topical area, an applicant shall meet the following requirements:

- (1) Hold General Instructor Certification, either probationary status or full general instructor status, as specified in Rule .0303 of this Section;
- (2) Complete the instructor training course for Specialized Firearms Instructor Training Certification as specified in Rule .0209 of this Subchapter; and
- (3) Obtain the recommendation of a Commission-certified school director or in-service training coordinator.

(g) To qualify for Specialized Instructor Certification in the Law Enforcement Driver Training topical area, an applicant shall meet the following requirements:

- (1) Hold General Instructor Certification, either probationary status or full general instructor status, as specified in Rule .0303 of this Section;
- (2) Complete the instructor training course for Specialized Driver Instructor Certification as specified in Rule .0227 of this Subchapter; and
- (3) Obtain the recommendation of a Commission-certified school director or in-service training coordinator.

(h) To qualify for Specialized Instructor Certification in the Physical Fitness topical area, an applicant shall become certified through one of the following two methods:

- (1) The first method is:
 - (A) hold General Instructor Certification, either probationary status or full general instructor status, as specified in Rule .0303 of this Section;
 - (B) complete the instructor training course required for Specialized Physical Fitness Instructor Certification as specified in Rule .0233 of this Subchapter; and
 - (C) obtain the recommendation of a Commission-certified School Director.
- (2) The second method is:
 - (A) Complete the instructor training course required for Specialized Physical Fitness Instructor Certification as specified in Rule .0233 of this Subchapter;
 - (B) obtain the recommendation of a Commission-certified School director or in-service training coordinator; and
 - (C) meet one of the following qualifications:
 - (i) hold a valid North Carolina Professional Educator's License, issued by the Department of Public Instruction, and hold a baccalaureate degree in physical education, or
 - (ii) be presently instructing physical education topics in a community college, college, or university and hold a baccalaureate degree in physical education.

(i) To qualify for Specialized Certification in the Standardized Field Sobriety Testing topical area, an applicant shall:

- (1) Be certified by the North Carolina Department of Health and Human Services, Forensic Test for Alcohol Branch, as a Standardized Field Sobriety Instructor.

(2) Obtain the recommendation of a Commission-certified school director or in-service training coordinator.

(j) To qualify for Specialized Instructor Certification in the Department of Public Safety, Division of Juvenile Justice Restraint, Control and Defense Techniques topical area, an applicant shall meet the following requirements:

- (1) Hold General Instructor Certification, either probationary status or full general instructor status, as specified in Rule .0303 of this Section;
- (2) Complete the instructor training course for the Department of Public Safety, Division of Juvenile Justice Restraints, Controls and Defensive Techniques Specialized Instructor Certification as specified in Rule .0241 of this Subchapter; and
- (3) Obtain the recommendation of a Commission-certified school director.

(k) To qualify for Specialized Instructor Certification in the Department of Public Safety, Division of Juvenile Justice Medical Emergencies topical area, an applicant shall meet the following requirements:

- (1) Have completed a Commission-certified basic instructor training course or an equivalent instructor training course, pursuant to Rule .0302 of this Section, utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise;
- (2) Hold instructor certification in CPR and First Aid by the American Red Cross, American Heart Association, American Safety and Health Institute, or National Safety Council; and
- (3) Obtain the recommendation of a Commission-certified school director.

(l) To qualify for Specialized Instructor Certification in the Explosive and Hazardous Materials Emergencies topical area, an applicant shall satisfy one of the following two options:

- (1) The first option is:
 - (A) hold General Instructor Certification, either probationary status or full general instructor status, as specified in Rule .0303 of this Section;
 - (B) Complete the instructor training course for Specialized Explosives and Hazardous Materials Instructor Certification as specified in Rule .0417 of this Subchapter; and
 - (C) obtain the recommendation of a Commission-certified school director or in-service training coordinator.
- (2) The second option is:
 - (A) have completed the Fire Service Instructor Methodology Course or the equivalent utilizing the Instructional Systems Design model, an international model with applications

- in education, military training, and private enterprise;
- (B) Complete the instructor training course for Specialized Explosives and Hazardous Materials Instructor Certification as specified in Rule .0417 of this Subchapter; and
- (C) obtain the recommendation of a Commission-certified school director or in-service training coordinator.

(2) and written certification from a School Director or In-Service Training Coordinator; proof that the applicant has, within the three-year period preceding application for renewal, attended and completed all instructor updates that have been issued by the Commission. Acceptable documentary evidence shall include official Commission records submitted by School Directors or In-Service Training Coordinators, or copies of certificates of completion issued by the institution which provided the instructor updates; and

- (A) a favorable written recommendation from a School Director or In-Service Training Coordinator completed on an Application for Instructor and Professional Lecturer Certification Form (Form F-12) stating the instructor taught at least 12 hours in each of the topics for which Specialized Instructor Certification was granted. The teaching shall have been provided in a Commission-accredited basic training, Specialized Instructor Training course, pursuant to Rule 12 NCAC 09C .0401, Commission-recognized in-service training course, or training course delivered pursuant to 12 NCAC 09F .0101, 12 NCAC 09H, 12 NCAC 10B .0601, .1302, or .2005. The Application for Instructor and Professional Lecturer Certification (Form F-12) shall include the following: the applicant's name, address, phone, and email address; the type of certification applying for; the applicant's education level; the applicant's signature; the Commission-accredited school or agency where the training was delivered; and the signature of the recommending school director or in-service training coordinator;
- (B) a favorable written evaluation by a School Director, Qualified Assistant, In-Service Training Coordinator, or another Specialized Instructor certified in the same specialized subject, based on an on-site classroom evaluation of a presentation by the instructor in a Commission-accredited basic training, Specialized Instructor Training, Commission-recognized in-service training course, or in-service training course delivered pursuant to 12 NCAC 10B .0601, .1302, or .2005 during the three-year period of Specialized Instructor Certification.

History Note: Authority G.S. 17C-6; Eff. January 1, 1981; Amended Eff. August 1, 2000; July 1, 1991; March 1, 1990; July 1, 1989; December 1, 1987; Temporary Amendment Eff. January 1, 2001; Amended Eff. January 1, 2015; June 1, 2013; April 1, 2009; August 1, 2006; January 1, 2006; December 1, 2004; August 1, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019; Amended Eff. January 1, 2025.

12 NCAC 09B .0305 TERMS AND CONDITIONS OF SPECIALIZED INSTRUCTOR CERTIFICATION

- (a) An applicant meeting the requirements for Specialized Instructor Certification as set forth in Rule .0304 of this Section shall be issued a certification to expire three years from the date of issuance. The applicant shall apply for certification as a Specialized Instructor within 60 days after the date the applicant achieved a passing score on the state comprehensive exam for the respective Specialized Instructor training course.
- (b) The instructor is required to instruct, within three years after Specialized Instructor Certification is issued, a minimum of 12 hours in each of the topics for which Specialized Instructor Certification was granted, and that instruction was provided in a Commission-accredited basic training, Specialized Instructor Training, Commission-recognized in-service training course, or training course delivered pursuant to 12 NCAC 10B .0601, .1302, or .2005.
- (c) An application for renewal shall contain, in addition to the requirements listed in Rule .0304 of this Section, documentary evidence that the applicant has remained active in the instructional process during the previous three-year period. Such documentary evidence shall include the following:
 - (1) proof that the applicant has, within the three-year period preceding application for renewal, instructed at least 12 hours in each of the topics for which Specialized Instructor Certification was granted, and that instruction was provided in a Commission-accredited basic training, Specialized Instructor Training, Commission-recognized in-service training course, or training course delivered pursuant to 12 NCAC 10B .0601, .1302, or .2005. Acceptable documentary evidence shall include official Commission records submitted by School Directors or In-Service Training Coordinators

Such evaluation shall be certified on a Criminal Justice Instructor Evaluation Form F-16, pursuant to Rule .0202 of this Subchapter;

- (C) proof that the individual applying for renewal as a Specialized Firearms Instructor has achieved a minimum score of 92 on the day and night Basic Law Enforcement Training firearms qualification courses, administered by a certified Specialized Firearms Instructor, within the three-year period preceding the application for renewal;
- (D) proof that the individual applying for renewal as a Specialized Physical Fitness Instructor has passed the Basic Law Enforcement Training Police Officer Physical Abilities Test, administered by a certified Specialized Physical Fitness Instructor, within the three-year period preceding the application for renewal.
- (E) proof that the individual applying for renewal as a Specialized Driver Instructor has achieved the following minimum scores in accordance with the procedural and evaluative requirements listed in the "Course Description Packet (CDP) for Driver Instructor Certification Renewal" as published by the North Carolina Justice Academy within the three-year period preceding the application for renewal. The individual applying for renewal must achieve a minimum score of 85 on two out of three attempts for the "Off-Set Lane Maneuver" and "Serpentine" courses during the daytime, a minimum score of 85 on two out of three attempts for the "Precision" course during both day and night evaluation, a score of "Pass" on two out of three attempts for each command for the "Evasive Action/Maneuver" course during the daytime, and a score of Pass on two out of three attempts in each direction for the "Fixed Radius Curve" course during the daytime. Evaluations will be administered by a certified Specialized Driving Instructor.
- (F) proof that the individual applying for renewal as a Specialized Subject Control Arrest Techniques Instructor or Compliance and Control Techniques Instructor (CCT) has satisfactorily completed the technique evaluations skills of the Basic Law Enforcement Training SCAT or CCT

courses, administered by a certified Specialized SCAT or CCT Instructor, within the three-year period preceding the application for renewal.

- (3) Acceptable documentary evidence for proof of completion requirements as specified in Part (c)(2)(A)-(F) of this rule shall include the practical skill assessment submitted by School Directors or In-Service Training Coordinators and written certification from a School Director or In-Service Training Coordinator;
- (d) Certification as a Specialized Instructor in the Standard Field Sobriety Testing, First Responder, Physical Fitness, Explosive and Hazardous Materials, and Juvenile Justice Medical Emergencies topic areas as outlined in Rule .0304(e), (h), (k), and (l) of this Section shall remain in effect for 36 months from the date of issuance. During the 36 month term all non-Commission certificates required in Rule .0304(e), (h), (k), and (l) of this Section for Specialized Instructor certification in the Standard Field Sobriety Testing, First Responder, Physical Fitness, Explosive and Hazardous Materials, and Juvenile Justice Medical Emergencies topical areas shall be maintained.
- (e) Those individuals who have previously held Specialized Instructor Certification and have not exceeded a three year time period from when his or her Specialized Instructor Certification expired are eligible to reapply for re-issuance of the previously held Specialized Instructor Certification. An application for re-issuance shall contain documentation that the applicant:
 - (1) holds a current General Instructor certification;
 - (2) has completed the pre-qualification skills assessment for that specialty;
 - (3) has passed the state examination for that specialty with a minimum score of 75; and
 - (4) has maintained non-Commission certificates required in Rule .0304(e), (h), (k), and (l) of this Section for Specialized Instructor certification in the Standard Field Sobriety Testing, First Responder, Physical Fitness, Explosive and Hazardous Materials, and Juvenile Justice Medical Emergencies topical areas.
- (f) Applicants for re-issuance of the Specialized Instructor Certification shall have one opportunity to pass the prequalification skills assessment and the state examination for that specialty. Should an applicant not achieve a passing score on either the prequalification skills assessment or the state examination for that specialty, the applicant shall complete the specific Specialized Instructor Course in its entirety.
- (g) Applicants whose Specialized Instructor Certification is suspended or revoked shall not qualify for re-issuance. The applicant shall complete the specific Specialized Instructor Course in its entirety.
- (h) After re-issuance of certification, the instructor shall complete eight hours of evaluated instruction in the specialty where re-issuance of certification is sought, as documented on an F-16 located on the agency's website: <https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/>. The eight hours of instruction shall be taught within 60 days of the Specialized Instructor Certification being reissued and evaluated by a Specialized Instructor certified in that specialty.

Failure to complete the required eight hours of evaluated instruction will result in the reissued Specialized Instructor Certification being revoked.

History Note: Authority G.S. 17C-6; Eff. January 1, 1981; Amended Eff. January 1, 2017; February 1, 2016; August 1, 2015; May 1, 2014; June 1, 2012; November 1, 2007; January 1, 2006; December 1, 2004; August 1, 2004; August 1, 2000; July 1, 1991; July 1, 1989; December 1, 1987; February 1, 1987; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019; Amended Eff. January 1, 2025; May 1, 2023; January 1, 2022; January 1, 2020; August 1, 2019.

12 NCAC 09B .0406 COMPREHENSIVE STATE EXAMINATION – BASIC LAW ENFORCEMENT TRAINING

(a) Within 60 days of the conclusion of a school's offering of the Commission-accredited Basic Law Enforcement Training Course, the Commission shall administer a comprehensive state examination online via the Acadis platform to each trainee who has completed all of the required course work pursuant to Rule .0405 of this Section. A trainee shall not be administered the comprehensive state examination until such time as all of the course work is completed or he or she is granted a medical waiver by the Director of the Criminal Justice Standards Division in accordance with Paragraph (e) of this Rule.

(b) A trainee shall achieve a passing score on the comprehensive state examination upon answering a minimum of 70 percent of the questions correctly.

(c) A trainee who has completed a scheduled delivery of the Commission-accredited Basic Law Enforcement Training Course and has achieved a minimum score of 60 percent but below the passing score of 70 percent on the Commission's comprehensive state examination the is eligible for a re-examination of the Commission's comprehensive state examination.

- (1) The trainee's request for re-examination shall be made in writing on the Commission's Re-Examination Request form (F-23), and shall be received by the Standards Division within 30 days of the examination. The examination request form shall include the following information:
 - (A) first-time examination training type;
 - (B) trainee information; and
 - (C) school information and appropriate signatures.
- (2) A trainee shall have, within 60 days of the original examination(s), only one opportunity for re-examination and shall achieve a passing score of 70 percent.
- (3) The trainee shall be assigned in writing by the Director of the Standards Division a place, time, and date for re-examination.
- (4) Should the trainee on re-examination not achieve a minimum score of 70 percent on the examination, the trainee shall not be eligible for probationary certification, as prescribed in 12

NCAC 09C .0303(d). The trainee shall enroll and complete a subsequent offering of the Basic Law Enforcement Training Course before further examination is permitted.

(d) A trainee who sustains injury prior to the final Police Officer Physical Abilities Test (POPAT) attempt and who achieved a passing score on the last attempt, who has completed the required coursework with the exception of the final POPAT, may request from the Director of the Criminal Justice Standards Division a medical waiver to take the comprehensive written examination prior to completion of the final POPAT. The medical waiver request shall include the following information:

- (1) a memorandum from the School Director justifying a medical waiver;
- (2) copies of the last POPAT assessment; and
- (3) medical documentation from a physician, physician assistant, or nurse practitioner, holding a current medical license, showing the diagnosis of the injury and the estimated medical release date.

Upon receipt of the information contained in this Paragraph, the Director of the Criminal Justice Standards Division shall approve the medical waiver request. The School Director shall submit the medical waiver approval from the Director of the Criminal Justice Standards Division with the comprehensive state examination admission form. The trainee must complete the final POPAT attempt within 120 calendar days of the original comprehensive state examination date.

(f) A trainee who fails to achieve a minimum score of 60 percent on the comprehensive state examination shall not be given the opportunity for re-examination. and is eligible to enroll in a subsequent offering of the Commission-accredited Basic Law Enforcement Training Course.

History Note: Authority G.S. 17C-6; 17C-10; Eff. January 1, 1981; Amended Eff. July 1, 2018; January 1, 2015; August 1, 2000; July 1, 1989; July 1, 1985; January 1, 1983; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, Amended Eff. January 1, 2025.

12 NCAC 09B .0414 COMPREHENSIVE STATE EXAM – SPECIALIZED INSTRUCTOR TRAINING

(a) The Commission shall administer a comprehensive state examination within 60 days of the completed required course work for the following courses:

- (1) Specialized Firearms Instructor Training;
- (2) Specialized Driver Instructor Training;
- (3) Specialized Compliance and Control Tactics Instructor Training;
- (4) Specialized Physical Fitness Instructor Training;
- (5) Specialized Explosives and Hazardous Materials Emergencies Instructor Training;
- (6) Radar Instructor Training;
- (7) Criminal Justice Time-Distance/Speed Measurement Instrument (TD/SMI) Instructor Training;

- (8) LIDAR Instructor Training;
- (9) Re-Certification Training for Radar Instructors;
- (10) Re-Certification Training for TD/SMI Instructors; and
- (11) Re-Certification Training for LIDAR Instructors.

(b) The examination shall be an objective test covering the topic areas contained in the certified course curriculum.

(c) The Commission's representative shall submit to the school director within five business days of the administration of the examination a report of the results of the test for each trainee examined.

(d) A trainee shall achieve a passing score on the comprehensive state examination if he or she achieves 75 percent correct answers.

(e) A trainee who fails to achieve a minimum score of 75 percent on the Commission's comprehensive state examination shall enroll and complete a subsequent offering of the specialized instructor training course before further examination may be permitted.

History Note: Authority G.S. 17C-6; 17C-10; Eff. February 1, 1987;

Amended Eff. January 1, 2015; June 1, 2013; May 1, 2004; August 1, 2000; April 1, 1999; July 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;

Amended Eff. January 1, 2025.

12 NCAC 09B .0415 SATISFACTION OF MINIMUM TRAINING - SPECIALIZED INSTRUCTOR

(a) To acquire successful completion of the "Specialized Firearms Instructor Training," "Specialized Driver Instructor Training," "Specialized Compliance and Control Tactics Instructor Training," "Specialized Physical Fitness Instructor," and the "Specialized Explosives and Hazardous Materials Emergencies Instructor Training" courses, the trainee shall satisfactorily complete all required coursework and demonstrate proficiency in all required motor-skill and performance subjects as specified in 12 NCAC 09B .0226, .0227, .0232, .0233, or .0417 of this Section.

(b) Should a trainee fail to meet the minimum criteria on a motor skill or performance area, he or she shall be authorized one opportunity for a re-test. Such re-test must be completed during the original course and prior to the trainee's being administered the comprehensive state examination. Failure to meet the required criteria on a re-test requires enrollment in a subsequent course.

History Note: Authority G.S. 17C-6; 17C-10; Eff. February 1, 1987;

Amended Eff. June 1, 2013; August 1, 2000; July 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;

Amended Eff. January 1, 2025.

12 NCAC 09C .0403 REPORTS OF TRAINING COURSE PRESENTATION AND COMPLETION

(a) Each presentation of a Commission-accredited training course shall be reported to the Commission as follows:

(1) After acquiring accreditation for the course and before commencing each delivery of the course, the school director shall notify the Commission of the school's intent to offer the training course by submitting a Form F-10A Pre-delivery Report of Training Course Presentation, pursuant to 12 NCAC 09B .0202; and

(2) Not more than 10 days after completing delivery of the accredited course, the school director shall notify the Commission regarding the progress and achievement of each enrolled trainee by submitting a Form F-10B Post-delivery Report of Training Course Presentation and entering all student scores and class documents in the Acadis platform.

(b) Upon completion of a Commission-accredited training course by Juvenile Justice Officer and Chief/Juvenile Court Counselor trainees, the director of the school conducting such course shall notify the Commission of the achievement of trainees by submitting a Report of Training Course Completion (Form F-11), pursuant to 12 NCAC 09B .0235.

History Note: Authority G.S. 17C-6; 17C-10; Eff. January 1, 1981;

Amended Eff. January 1, 2015; August 1, 2002; August 1, 2000; December 1, 1987;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;

Amended Eff. January 1, 2025.

TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY

15A NCAC 10B .0209 WILD TURKEY

(a) The open season for wild turkey is from the Saturday on or after April 11 through the fourth Saturday thereafter, on bearded or male turkeys only.

(b) The daily bag limit is one, the possession limit is two, and the season limit is two.

(c) The following shall apply to Spring Youth Only Wild Turkey Season:

- (1) the open season is the Saturday and Sunday prior to April 11, on bearded or male wild turkeys only;
- (2) the season limit is one; and
- (3) youth are individuals under 16 years of age.

History Note: Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.2; 113-291.5;

Eff. February 1, 1976;

Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993; July 1, 1992;

Temporary Amendment Eff. July 1, 1999;

Amended Eff. July 1, 2000;

Temporary Amendment Eff. July 1, 2001;

Temporary Amendment Eff. July 1, 2002;

Amended Eff. August 1, 2002 (approved by RRC on 06/21/01 and 04/18/02);

Temporary Amendment Eff. June 1, 2003;
Amended Eff. June 1, 2004 (this amendment replaces the amendment approved by RRC on July 17, 2003);
Amended Eff. February 1, 2018; August 1, 2017; January 1, 2013;
May 1, 2009; May 1, 2007; November 1, 2005;
Readopted Eff. February 1, 2022;
Amended Eff. August 1, 2025.

15A NCAC 10B .0301 DEFINITIONS

As used in this Section, the following definitions apply:

- (1) "Box trap", "corral trap", and "cage trap" are devices designed so that the animal enters the trap through a door that closes and is meant to prevent the animal from exiting.
- (2) "Breakaway device" means a device incorporated into a snare or snare component that allows the loop to break open, and an animal to escape completely free of the snare, when a specified amount of force is applied.
- (3) "Collarum™-type trap" means a power-activated snare that is activated when the trigger is pulled and is designed to capture and restrain the animal by a cable around the neck.
- (4) "Conibear®", "Conibear®-type", and "bodygrip" traps are designed to catch an animal in a body hold resulting in a quick kill.
- (5) "Leghold" and "foothold" mean a trap designed to hold an animal by the foot.
- (6) "Loop stop" means a device that is attached to the snare cable to prevent the loop from closing beyond a specified point.
- (7) "Power-activated" means a snare on which the speed or direction of the loop closure is initiated or augmented by a powering device like a spring.
- (8) "Relaxing lock" means a snare lock that allows the snare loop to release constriction pressure on the captured animal when the cable is not taut.
- (9) "Snare" means a cable restraining device.
- (10) "Steel-jaw" means a leghold or foothold trap in which the jaws are made of metal.
- (11) "Submersion trapping systems" are traps, other than snares and Conibear®-type traps, that are set in a manner that allow or cause the captured animal to become irreversibly submerged in water.

History Note: Authority G.S. 113-134; 113-291.1; 113-291.6;
Eff. January 1, 2011;
Readopted Eff. February 1, 2022;
Amended Eff. March 1, 2025; August 1, 2023.

15A NCAC 10B .0306 ATTENDANCE AND TAGGING OF TRAPS

(a) Traps shall be visited daily and animals caught shall be removed, except for completely submerged Conibear®-type, Conibear®, bodygrip traps, and submersion trapping systems, as

defined in 15A NCAC 10B .0301, which shall be visited once per 72 hours and animals caught shall be removed.

(b) Steel-jaw, leghold, Conibear®, Conibear®-type traps, Collarum™-type traps, snares, box traps, and cage traps must have a weather-resistant permanent tag attached, legibly giving the trapper's name and address, or the trapper's trapper identification number provided by the Wildlife Resources Commission, and the Wildlife Resources Commission's telephone number to report wildlife violations. Box traps for rabbits shall have a weather-resistant permanent tag attached legibly giving the hunter's name and address, or the hunter's Wildlife Resources Commission customer number, and the Wildlife Resources Commission's telephone number to report wildlife violations.

(c) Remote trap checking systems may be used in lieu of visiting the trap, provided the system has the following features:

- (1) a control unit that monitors the trap in real-time and reports trap status and unit status to a centralized application database a minimum of once every two hours;
- (2) a software application that notifies the user of unit status, trap activity, and system health issues within 10 minutes of these events via email, text-based messaging systems, or an in-application notification; and
- (3) an on-demand test procedure that is used at deployment of a unit to confirm that the unit is placed in a location where its wireless communication can be received and processed.

(d) If the remote trap checking system control unit reports a trap closure, the trap shall be physically visited within 24 hours of the time the trap was reported closed.

(e) If a remote trap checking system control unit fails to report its status after a 12-hour period, or reports a system health issue, the trap shall be physically visited within 24 hours of the last time a status report was sent.

(f) Remote trap checking system users shall maintain records of trap status and notification alarms for a minimum of seven days after receipt. Records shall be made available for inspection upon request by a representative of the Commission.

History Note: Authority G.S. 113-134; 113-291.1; 113-291.2;
Eff. August 1, 2023;
Amended Eff. March 1, 2025.

15A NCAC 10B .0405 FUR DEALERS

(a) Any individual wanting to engage in the business of buying or selling fur-bearing animals or other wild animals that may lawfully be sold, as specified in G.S. 113-273(f), shall first obtain a fur dealer license from the Commission.

(b) Application for a fur dealer license shall be made online at www.ncwildlife.org or at the Commission headquarters located at 1751 Varsity Drive, Raleigh, NC 27606. Information required from the applicant shall include:

- (1) the applicant's name, address, telephone number, date of birth; and
- (2) a list of all employees to be covered under the license.

(c) The fur dealer license shall not be transferable.

(d) Any individual working on behalf of the licensed fur dealer shall have a copy of the fur dealer's current license.

(e) It is unlawful for a fur dealer, or person acting on his or her behalf, to import, buy, or accept delivery of a carcass or pelt of a fur-bearing animal, or other wild animal, from a source located in any other state that has not been affixed with a tag in accordance with the tagging requirements of the state from which the animal was taken, unless documentation of the date and hour of the arrival of such carcass or pelt at the fur dealer's place of business is available for inspection.

(f) Imported carcasses and pelts shall not be resold or removed from a fur dealer's place of business without having been tagged as required by Paragraph (e) of this Rule.

(g) Except as provided by Paragraph (e) of this Rule, it is unlawful for any licensed fur dealer to have in his or her possession the carcass or pelt of any bobcat, otter, or fox which has not been affixed with a fur tag provided by the Commission, unless the fox was taken from a county exempt from fox tagging requirements.

(h) Licensed fur dealers shall maintain records of all acquisitions of carcasses and pelts of beaver, bobcat, coyote, groundhog, mink, muskrat, nutria, opossum, otter, raccoon, striped skunk, spotted skunk, weasel, and foxes, on forms supplied by the Commission, for one year following expiration of the license. Records shall contain the following information:

- (1) fur dealer license number;
- (2) date of purchase;
- (3) county of harvest in North Carolina, or state of origin if not in North Carolina;
- (4) seller's name and address;
- (5) manner of harvest and applicable license number; and
- (6) species, quantity, fur grade, unit price and total price for each fur purchased.

(i) Records from all acquisitions of carcasses and pelts, except those which have been acquired from and reported by other fur dealers licensed by the State, shall be submitted to the Commission at 1751 Varsity Drive, Raleigh, NC 27606-2576 within 15 days following the date of license expiration. In the case of nonresident fur dealers licensed to do business in this State, the records and reports required by this Paragraph apply only to carcasses or pelts of animals acquired from within this State, and no reports are required from nonresident fur dealers who acquire pelts only from other fur dealers licensed in the State.

(j) The records required by Paragraph (h) of this Rule and the inventory of carcasses and pelts on hand shall be made available for inspection by representatives of the Commission upon request or during the fur dealer's business hours.

History Note: Authority G.S. 113-129; 113-134; 113-273; 113-291.2; 113-291.3; 113-291.4; 50 C.F.R. 23; 87 Stat. 884; Eff. November 14, 1978; Amended Eff. August 1, 2010; January 1, 1992; December 1, 1981; August 1, 1981; February 2, 1981; Readopted Eff. October 1, 2022; Amended Eff. March 1, 2025.

15A NCAC 10C .0205 PUBLIC MOUNTAIN TROUT WATERS

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

- (1) "Natural bait" means a living or dead plant or animal, or parts thereof, or prepared substances designed to attract fish by the sense of taste or smell.
- (2) "Single hook" means a fish hook with only one point.
- (3) "Artificial lure" means a fishing lure that neither contains nor has been treated by a substance that attracts fish by the sense of taste or smell.
- (4) "Artificial fly" means one single hook dressed with feathers, hair, thread, tinsel, rubber, or a similar material to which no additional hook, spinner, spoon, or similar device is added.
- (5) "Youth anglers" are individuals under 16 years of age.

(b) For purposes of this Rule, 15A NCAC 10C .0316, and 15A NCAC 10D .0104, the following classifications apply:

- (1) "Public Mountain Trout Waters" are the waters included in this Rule and those designated in 15A NCAC 10D .0104.
- (2) "Catch and Release Artificial Flies and Lures Only Trout Waters" are Public Mountain Trout Waters where only artificial flies and lures having one single hook may be used. No trout may be possessed or harvested while fishing these streams. Waters with this designation include tributaries unless otherwise noted.
- (3) "Delayed Harvest Trout Waters" are Public Mountain Trout Waters where between October 1 and one-half hour after sunset on the Friday before the first Saturday of the following June, it is unlawful to possess natural bait, use more than one single hook on an artificial lure, or harvest or possess trout while fishing. From 6:00 a.m. until noon on the first Saturday in June, only youth anglers may fish and these waters have no bait or lure restrictions. From noon on the first Saturday in June until October 1, anglers may fish these waters with no bait or lure restrictions. Waters with this designation do not include tributaries unless otherwise noted.
- (4) "Hatchery Supported Trout Waters" are Public Mountain Trout Waters that have no bait or lure restrictions. Waters with this designation do not include tributaries unless otherwise noted.
- (5) "Special Regulation Trout Waters" are Public Mountain Trout Waters where watercourse-specific regulations apply. Waters with this designation do not include tributaries unless otherwise noted.
- (6) "Wild Trout Waters" are Public Mountain Trout Waters identified in this Rule or 15A NCAC 10D .0104. Only artificial lures having only one single hook may be used. No person shall

possess natural bait while fishing these waters. Waters with this designation do not include tributaries unless otherwise noted.

- (7) "Undesignated Waters" are the other waters in the State. These waters have no bait or lure restrictions.

(c) Seasons, creel, and size limits. Seasons, creel, and size limits for trout are listed in Rule .0316 of this Subchapter.

(d) Classifications. This Paragraph designates waters in each county that have a specific classification. Waters on game lands are designated in 15A NCAC 10D .0104, unless otherwise indicated in this Paragraph. The other waters are classified as Undesignated Waters.

(1) Alleghany

- (A) Hatchery Supported Trout Waters are as follows:
 Big Pine Creek
 Bledsoe Creek
 Brush Creek from the N.C. 21 bridge to the confluence with the Little River, except where posted against trespassing
 Cranberry Creek
 Glade Creek
 Little River from 400 yards upstream of the S.R. 1128 bridge, marked by a sign on each bank, to McCann Dam
 Meadow Fork
 Pine Swamp Creek
 Piney Fork
 Prathers Creek
- (B) Wild Trout Waters are as follows:
 The waters located on Stone Mountain State Park

(2) Ashe County

- (A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:
 Big Horse Creek from the Virginia state line to Mud Creek at S.R. 1363, excluding tributaries
- (B) Delayed Harvest Trout Waters are as follows:
 Big Horse Creek from the S.R. 1324 bridge to the North Fork New River
 Helton Creek from 900 yards upstream of the S.R. 1372 bridge, marked by a sign on both banks to a point adjacent to intersection of N.C. 16 and S.R. 1536
 South Fork New River from the upstream end of Todd Island to the S.R. 1351 bridge
 Trout Lake
- (C) Hatchery Supported Trout Waters are as follows:
 Beaver Creek from N.C. 221 to the confluence of Beaver Creek and South Beaver Creek

Big Horse Creek from Mud Creek at S.R. 1363 to the S.R. 1324 bridge
 Big Laurel Creek from the S.R. 1315 bridge to the confluence with the North Fork New River
 Buffalo Creek from the S.R. 1133 bridge to the N.C. 194-88 bridge
 Cranberry Creek from the Alleghany Co. line to the South Fork New River
 Nathans Creek
 North Fork New River from the Watauga Co. line to Sharp Dam
 Old Fields Creek from N.C. 221 to the South Fork New River
 Peak Creek from the upper boundary of the NCDA-NCSU Upper Mountain Research Station to Trout Lake
 Roan Creek
 Three Top Creek

(3) Avery County

- (A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:
 Elk River, the portion on Lees-McRae College property, excluding the millpond
 Lost Cove Creek, the game land portion, excluding Gragg Prong and Rockhouse Creek
 Wilson Creek, the game land portion
- (B) Hatchery Supported Trout Waters are as follows:
 Boyde Coffey Lake
 Elk River from the S.R. 1305 crossing immediately upstream of Big Falls to the Tennessee state line
 Linville River from S.R. 1504 to the Blue Ridge Parkway boundary line, except where posted against trespassing
 Milltimber Creek
 North Toe River from Watauga St. to Roby Shoemaker Wetlands and Family Recreational Park, except where posted against trespassing
 North Toe River from S.R. 1164 to Mitchell Co. line, except where posted against trespassing
 Squirrel Creek
 Wildcat Lake
- (C) Wild Trout Waters are as follows:
 Birchfield Creek
 Cow Camp Creek
 Cranberry Creek from the headwaters to the U.S. 19E, N.C. 194, bridge
 Gragg Prong
 Horse Creek
 Kentucky Creek
 North Harper Creek

- Plumtree Creek
 Roaring Creek
 Rockhouse Creek
 Shawneehaw Creek, the portion adjacent to Banner Elk Greenway
 South Harper Creek
 Webb Prong
- (4) Buncombe County
- (A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:
 Carter Creek, the game land portion
- (B) Hatchery Supported Trout Waters are as follows:
 Bent Creek from the headwaters to the N.C. Arboretum boundary line
 Cane Creek from the headwaters to the S.R. 3138 bridge
 Corner Rock Creek from Little Andy Creek to the confluence with Walker Branch
 Dillingham Creek from Corner Rock Creek to Ivy Creek
 Ivy Creek from Dillingham Creek to the U.S. 19-23 bridge
 Lake Powhatan
 Reems Creek from Sugar Camp Fork to the U.S. 19-23 bridge, except where posted against trespassing
 Rich Branch from downstream of the confluence with Rocky Branch
 Stony Creek
 Swannanoa from the S.R. 2702 bridge near Ridgecrest to the Wood Avenue bridge, at the intersection of N.C. 81 and U.S. 74A in Asheville, except where posted against trespassing
- (5) Burke County
- (A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:
 Henry Fork, the portion on South Mountains State Park
- (B) Delayed Harvest Trout Waters are as follows:
 Jacob Fork from Shinny Creek to the lower South Mountains State Park boundary
- (C) Hatchery Supported Trout Waters are as follows:
 Carroll Creek, the game land portion above S.R. 1405
 Linville River, the portion below Lake James powerhouse from the upstream bridge on S.R. 1223 to Muddy Creek
- (D) Special Regulation Trout Waters are as follows:
- Catawba River from Muddy Creek to the City of Morganton water intake dam
- (E) Wild Trout Waters are as follows:
 The waters located on South Mountains State Park, except those waters identified in Parts (A) and (B) of this Subparagraph
- (6) Caldwell County
- (A) Delayed Harvest Trout Waters are as follows:
 Wilson Creek, the game land portion below Lost Cove Creek to Philips Branch
- (B) Hatchery Supported Trout Waters are as follows:
 Boone Fork Pond
 Buffalo Creek from the mouth of Joes Creek to McCloud Branch
 Joes Creek from the first falls upstream of S.R. 1574 to the confluence with Buffalo Creek
 Wilson Creek from Phillips Branch to Brown Mountain Beach Dam, except where posted against trespassing
 Yadkin River from the Happy Valley Ruritan Community Park to S.R. 1515
- (C) Wild Trout Waters are as follows:
 Buffalo Creek from the Watauga Co. line to Long Ridge Branch including game land tributaries
 Joes Creek from the Watauga Co. line to the first falls upstream of the end of S.R. 1574
 Rockhouse Creek
- (7) Cherokee County
- (A) Hatchery Supported Trout Waters are as follows:
 Davis Creek from the confluence of Bald Creek and Dockery Creek to Hanging Dog Creek
 Hyatt Creek from Big Dam Branch to the Valley River
 Junaluska Creek from Ashturn Creek to the Valley River
 Shuler Creek from the Joe Brown Hwy, S.R. 1325 bridge, to the Tennessee state line
 Valley River from S.R. 1359 to the U.S. 19 Business bridge in Murphy
- (B) Special Regulation Trout Waters are as follows:
 Apalachia Reservoir
- (8) Clay County
- (A) Delayed Harvest Trout Waters are as follows:
 Fires Creek from Rockhouse Creek to the foot bridge in the USFS Fires Creek Picnic Area

- (B) Hatchery Supported Trout Waters are as follows:
Buck Creek, the game land portion downstream of the U.S. 64 bridge
Fires Creek from the foot bridge in the USFS Fires Creek Picnic Area to S.R. 1300
Tusquitee Creek from Compass Creek to the lower S.R. 1300 bridge
- (9) Graham County
 - (A) Delayed Harvest Trout Waters are as follows:
Snowbird Creek from the USFS footbridge at the old railroad junction to USFS Rd. 2579
 - (B) Hatchery Supported Trout Waters are as follows:
Calderwood Reservoir from Cheoah Dam to the Tennessee state line
Cheoah Reservoir
Panther Creek from the confluence of Stand Creek and Rock Creek to Lake Fontana
Santeetlah Creek from Johns Branch to Lake Santeetlah
Snowbird Creek from USFS Rd. 2579 to the S.R. 1127 bridge
Stecoah Creek from the upper game land boundary to Lake Fontana
Tulula Creek from S.R. 1201 to the lower bridge on S.R. 1275
West Buffalo Creek
Yellow Creek from Lake Santeetlah hydropower pipeline to the Cheoah River
 - (C) Wild Trout Waters are as follows:
Little Buffalo Creek
South Fork Squally Creek
Squally Creek
- (10) Haywood County
 - (A) Delayed Harvest Trout Waters are as follows:
West Fork Pigeon River from Queen Creek to the first game land boundary upstream of Lake Logan
 - (B) Hatchery Supported Trout Waters are as follows:
Cold Springs Creek from Fall Branch to the Pigeon River
Jonathan Creek from upstream of the S.R. 1302 bridge to the Pigeon River, except where posted against trespassing
Pigeon River from Stamey Cove Branch to the upstream U.S. 19-23 bridge
Richland Creek from the Russ Avenue, U.S. 276, bridge to the U.S. 19 bridge
- (11) Henderson County
 - (A) Delayed Harvest Trout Waters are as follows:
North Fork Mills River, the game land portion below the Hendersonville watershed dam
 - (B) Hatchery Supported Trout Waters are as follows:
Broad River from the end of S.R. 1611 to the Rutherford Co. line
Cane Creek from the railroad bridge upstream of the S.R. 1551 bridge to the U.S. 25 bridge
Clear Creek from Laurel Fork to S.R. 1582
Green River from the Lake Summit powerhouse to the game land boundary
Hungry River from Little Hungry River to the Green River
- (12) Jackson County
 - (A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:
Flat Creek
Tuckasegee River, the game land portion upstream of Tanasee Creek Lake, including the Duke Energy powerline corridor
Tuckasegee River the portion upstream from the Clark property
 - (B) Delayed Harvest Trout Waters are as follows:
Tuckasegee River from downstream of the N.C. 107 bridge to the falls located 275 yards upstream of the U.S. 23-441 bridge, marked by a sign on both banks
 - (C) Hatchery Supported Trout Waters are as follows:
Balsam Lake
Bear Creek Lake
Cedar Cliff Lake
Cullowhee Creek from Tilley Creek to the Tuckasegee River
Dark Ridge Creek from Jones Creek to Scott Creek
Greens Creek from Greens Creek Baptist Church on S.R. 1370 to Savannah Creek
Savannah Creek from Shell Branch to Cagle Branch
Scott Creek from Dark Ridge Creek to the Tuckasegee River, except where posted against trespassing
Tanasee Creek Lake

- Tuckasegee River from John Brown Branch to the downstream N.C. 107 bridge
 Tuckasegee River from the falls located 275 yards upstream of the U.S. 23-441 bridge, marked by a sign on both banks, to the S.R. 1534 bridge at Wilmont
 Wolf Creek Lake
- (D) Wild Trout Waters are as follows:
 Gage Creek
 North Fork Scott Creek
 Tanasee Creek
 Whitewater River from Silver Run Creek to the South Carolina state line
 Wolf Creek except Balsam Lake and Wolf Creek Lake
- (13) Macon County
 (A) Delayed Harvest Trout Waters are as follows:
 Nantahala River from Whiteoak Creek to the Nantahala hydropower discharge canal
 (B) Hatchery Supported Trout Waters are as follows:
 Burningtown Creek from Left Prong to the Little Tennessee River
 Cartoogechaye Creek from downstream of the U.S. 64 bridge to the Little Tennessee River
 Cliffside Lake
 Cullasaja River from Sequoyah Dam to the U.S. 64 bridge near the junction of S.R. 1672
 Nantahala River from Dicks Creek to Whiteoak Creek
 Nantahala River from the Nantahala hydropower discharge canal to the Swain Co. line
 Queens Creek Lake
- (14) Madison County
 (A) Delayed Harvest Trout Waters are as follows:
 Big Laurel Creek from the N.C. 208 bridge to the U.S. 25-70 bridge
 Shelton Laurel Creek from the N.C. 208 bridge at Belva to the confluence with Big Laurel Creek
 Spring Creek from the N.C. 209 bridge at the Hot Springs city limits to the iron bridge at end of Andrews Ave.
 (B) Hatchery Supported Trout Waters are as follows:
 Big Laurel Creek from Puncheon Fork to the S.R. 1318, Big Laurel Rd., bridge downstream of Bearpen Branch
 Big Pine Creek from the S.R. 1151 bridge to the French Broad River
- Little Ivy Creek from the confluence of Middle Fork and Paint Fork at Beech Glen to the confluence with Ivy Creek at Forks of Ivy
 Max Patch Pond
 Meadow Fork Creek from Meadow Fork Campground to Spring Creek
 Puncheon Fork from Wolf Laurel Branch to Big Laurel Creek
 Roaring Fork from Fall Branch to Meadow Fork
 Shelton Laurel Creek from the confluence of Big Creek and Mill Creek to the N.C. 208 bridge at Belva Shut-in Creek
 Spillcorn Creek
 Spring Creek from the junction of N.C. 209 and N.C. 63 to the confluence with Meadow Fork
 West Fork Shut-in Creek from the lower game land boundary to the confluence with East Fork Shut-in Creek
- (15) McDowell County
 (A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:
 Newberry Creek, the game land portion
 (B) Delayed Harvest Trout Waters are as follows:
 Catawba River, the portion adjacent to the Marion Greenway
 Curtis Creek, the game land portion downstream of the USFS boundary at Deep Branch
 Mill Creek from the U.S. 70 bridge to the I-40 bridge
 (C) Hatchery Supported Trout Waters are as follows:
 Armstrong Creek from the Cato Holler line downstream to the upper Greenlee line
 Catawba River from the Catawba Falls Campground to the Old Fort Recreation Park
 Little Buck Creek, the game land portion
 North Fork Catawba River from the headwaters to North Cove School at the S.R. 1569 bridge
- (16) Mitchell County
 (A) Delayed Harvest Trout Waters are as follows:
 Cane Creek from the N.C. 226 bridge to the S.R. 1189 bridge
 North Toe River from the U.S. 19E bridge to the N.C. 226 bridge

- (B) Hatchery Supported Trout Waters are as follows:
 Big Rock Creek from the headwaters to the S.R. 1325 bridge
 Cane Creek from S.R. 1219 to the N.C. 226 bridge
 East Fork Grassy Creek
 Grassy Creek from East Fork Grassy Creek to the mouth
 North Toe River from the Avery Co. line to the S.R. 1121 bridge
- (C) Wild Trout Waters are as follows:
 Green Creek from the headwaters to the Green Creek bridge, except where posted against trespassing
 Little Rock Creek the portion upstream of the Green Creek bridge, including the tributaries, except where posted against trespassing
 Wiles Creek from the game land boundary to the mouth
- (17) Polk County
 - (A) Delayed Harvest Trout Waters are as follows:
 Green River from the Fishtop Falls Access Area to the confluence with Cove Creek
 - (B) Hatchery Supported Trout Waters are as follows:
 Green River from the mouth of Cove Creek to the natural gas pipeline crossing
 North Pacolet River from Joels Creek to the N.C. 108 bridge
- (18) Rutherford County
 - (A) Hatchery Supported Trout Waters are as follows:
 Broad River from the Henderson Co. line to the U.S. 64/74 bridge, except where posted against trespassing
- (19) Stokes County
 - (A) Hatchery Supported Trout Waters are as follows:
 Dan River from the Virginia state line downstream to a point 200 yards below the end of S.R. 1421
- (20) Surry County
 - (A) Delayed Harvest Trout Waters are as follows:
 Ararat River, the portion adjacent to the Ararat River Greenway downstream of the N.C. 103 bridge
 Mitchell River from 0.6 miles upstream of the end of S.R. 1333 to the lowermost bridge on S.R. 1330
 - (B) Hatchery Supported Trout Waters are as follows:
- (21) Swain County
 - (A) Delayed Harvest Waters Trout Waters are as follows:
 Tuckasegee River from the U.S. 19 bridge to the Slope Street bridge
 - (B) Hatchery Supported Trout Waters are as follows:
 Alarka Creek from the game land boundary to Fontana Reservoir
 Calderwood Reservoir from Cheoah Dam to the Tennessee state line
 Cheoah Reservoir
 Connelly Creek from Camp Branch to the Tuckasegee River
 Deep Creek from the Great Smoky Mountains National Park Boundary line to the Tuckasegee River
 Nantahala River from the Macon Co. line to the existing Fontana Lake water level
- (22) Transylvania County
 - (A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:
 Davidson River from the headwaters to Avery Creek, excluding Avery Creek, Looking Glass Creek, Grogan Creek, Cedar Rock Creek and John Rock Branch
 - (B) Delayed Harvest Trout Waters are as follows:
 East Fork French Broad River from East Fork Baptist Church to 350 yards downstream of Whitmire Falls, marked by a sign on both banks bridge
 Little River from the confluence of Lake Dense to 100 yards downstream of Hooker Falls
 - (C) Hatchery Supported Trout Waters are as follows:
 Davidson River from Avery Creek to the lower USFS boundary

- French Broad River from the confluence of the North Fork French Broad River and West Fork French Broad River to the Island Ford Rd., S.R. 1110, Access Area
 Middle Fork French Broad River from upstream of the U.S. 178 bridge to the French Broad River
 West Fork French Broad River from S.R. 1312 to confluence with North Fork French Broad River
- (D) Wild Trout Waters are as follows:
 The waters located on Gorges State Park
 Whitewater River from Silver Run Creek to the South Carolina state line
- (23) Watauga County
 (A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:
 Laurel Creek from the confluence of North Fork Laurel Creek and South Fork Laurel Creek to Elk Creek, excluding tributaries
 Pond Creek from the headwaters to the Locust Ridge Rd. bridge, excluding the pond adjacent to Coffee Lake
 (B) Delayed Harvest Trout Waters are as follows:
 Lake Coffey
 Watauga River from the S.R. 1114 bridge to the Valle Crucis Community Park lower boundary
 Watauga River from the S.R. 1103 bridge to the confluence with Laurel Creek
 (C) Hatchery Supported Trout Waters are as follows:
 Beaverdam Creek from the confluence of Beaverdam Creek and Little Beaverdam Creek to an unnamed tributary adjacent to the intersection of S.R. 1201 and S.R. 1203
 Beech Creek
 Buckeye Creek from Buckeye Creek Reservoir dam to Grassy Gap Creek
 Buckeye Creek Reservoir
 Cove Creek from the S.R. 1233 bridge at Zionville to the S.R. 1214 bridge at Sherwood
 Dutch Creek from the second S.R. 1136 bridge to the mouth
 Elk Creek from the S.R. 1510 bridge at Triplett to the Wilkes Co. line, except where posted against trespassing
 Laurel Creek from the S.R. 1123 bridge at the S.R. 1157 intersection to the Watauga River
- Meat Camp Creek from the S.R. 1340 bridge at the S.R. 1384 intersection to N.C. 194
 Middle Fork New River from adjacent to the intersection of S.R. 1539 and U.S. 321 to the South Fork New River Norris Fork Creek
 South Fork New River from the canoe launch 70 yards upstream of U.S. 421 bridge to the lower boundary of Brookshire Park
 Stony Fork from the S.R. 1500 bridge at the S.R. 1505 intersection to the Wilkes Co. line
- (D) Wild Trout Waters are as follows:
 Dutch Creek from the headwaters to the second S.R. 1136 bridge
 Howard Creek
 Maine Branch from the headwaters to the North Fork New River
 North Fork New River from the confluence with Maine Branch and Mine Branch to the Ashe Co. line
 Winkler Creek from the lower bridge on S.R. 1549 to the confluence with the South Fork New River
- (24) Wilkes County
 (A) Delayed Harvest Trout Waters are as follows:
 East Prong Roaring River from Bullhead Creek to the Stone Mountain State Park lower boundary
 Elk Creek from the Watauga Co. line to the lower boundary of the Blue Ridge Mountain Club
 Elk Creek, the portion on Leatherwood Mountains development
 Reddies River from the Town of North Wilkesboro water intake dam to the confluence with the Yadkin River
 Stone Mountain Creek from the falls at the Alleghany Co. line to the confluence with the East Prong Roaring River and Bullhead Creek
 (B) Hatchery Supported Trout Waters are as follows:
 Basin Creek from the S.R. 1730 bridge to the confluence with Lovelace Creek
 Bell Branch Pond
 Boundary Line Pond
 Cub Creek from 0.5 miles upstream of the S.R. 2460 bridge to the S.R. 1001 bridge
 Darnell Creek from the downstream ford on S.R. 1569 to the confluence with the North Fork Reddies River
 East Prong Roaring River from the Stone Mountain State Park lower

boundary to the Low Meadows Lane bridge
 Fall Creek from the S.R. 1300 bridge to the confluence with South Prong Lewis Fork, except where posted against trespassing
 Middle Fork Reddies River from the headwaters to the bridge on S.R. 1580
 Middle Prong Roaring River from the headwaters to the second bridge on S.R. 1736

North Fork Reddies River from the headwaters to the Union School bridge on S.R. 1559
 Pike Creek
 Pike Creek Pond
 South Fork Reddies River from the S.R. 1355 bridge to the confluence with the Middle Fork Reddies River
 South Prong Lewis Fork from Fall Creek to the U.S. 421 bridge adjacent to the S.R. 1155 intersection

(C) Wild Trout Waters are as follows:
 The waters located on Stone Mountain State Park, except East Prong Roaring River from Bullhead Creek to the Stone Mountain State Park lower boundary where Delayed Harvest Trout Waters regulations apply, and Stone Mountain Creek from the falls at the Alleghany Co. line to the confluence with the East Prong Roaring River and Bullhead Creek in Stone Mountain State Park where Delayed Harvest Trout Waters regulations apply

(25) Yancey County

(A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:
 South Toe River from the headwaters to Upper Creek
 Upper Creek

(B) Delayed Harvest Trout Waters are as follows:
 Cane River from Blackberry Ridge Rd. to the downstream boundary of Cane River County Park

(C) Hatchery Supported Trout Waters are as follows:
 Bald Mountain Creek, except where posted against trespassing
 Cane River from Bee Branch, S.R. 1110, to Bowlens Creek
 Price Creek from the junction of S.R. 1120 and S.R. 1121 to Indian Creek
 South Toe River from Clear Creek to the lower boundary line of Yancey Co.

Recreation Park, except where posted against trespassing
 (D) Wild Trout Waters are as follows:
 Cattail Creek from the bridge at Mountain Farm Community Rd. to the N.C. 197 bridge
 Licksillet Creek
 Middle Creek from the game land boundary to the mouth

History Note: Authority G.S. 113-272; 113-292; Eff. February 1, 1976;d Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993; October 1, 1992; Temporary Amendment Eff. July 1, 1999; Amended Eff. July 1, 2000; Temporary Amendment Eff. July 1, 2001; Temporary Amendment Eff. July 1, 2002; Amended Eff. August 1, 2002 (approved by RRC on 6/21/01 and 04/18/02); Temporary Amendment Eff. June 1, 2003; Amended Eff. June 1, 2004 (this amendment replaces the amendment approved by RRC on July 17, 2003); Amended Eff. August 1, 2018; August 1, 2017; August 1, 2016; August 1, 2015; August 1, 2014; August 1, 2013; August 1, 2012; August 1, 2011; August 1, 2010; May 1, 2009; May 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005; Readopted Eff. August 1, 2019; Amended Eff. August 1, 2025; August 1, 2024; August 1, 2023; August 1, 2022; August 1, 2021; August 1, 2020.

15A NCAC 10C .0306 CRAPPIE

- (a) There is no daily creel limit for Crappie, except in waters identified in Paragraphs (d) through (h) of this Rule.
- (b) There is no minimum size limit except in waters identified in Paragraphs (f) through (h) of this Rule.
- (c) There is no closed season.
- (d) In Buckhorn Reservoir in Wilson and Nash counties, the daily creel limit is 20 fish.
- (e) In Lake Chatuge in Clay County, the daily creel limit is 30 fish.
- (f) In the following waters, the daily creel limit is 20 fish and the minimum size limit is 10 inches:
 - (1) Roanoke River and its tributaries downstream of Roanoke Rapids dam;
 - (2) Cashie River and its tributaries;
 - (3) Middle River and its tributaries;
 - (4) Eastmost River and its tributaries; and
 - (5) Lake Mattamuskeet in Hyde County.
- (g) In the following waters, the daily creel limit is 20 fish and the minimum size limit is eight inches:
 - (1) Lake Norman;
 - (2) Lake Hycos;
 - (3) Cane Creek Lake in Union County;
 - (4) Lake Hampton in Yadkin County;
 - (5) B. Everett Jordan Reservoir;
 - (6) Shearon Harris Reservoir;
 - (7) Tar River downstream of Tar River Reservoir Dam including tributaries;

- (8) Neuse River downstream of Falls Lake Dam including tributaries;
- (9) Haw River downstream of B. Everett Jordan Reservoir Dam including tributaries;
- (10) Deep River downstream of Lockville Dam including tributaries;
- (11) Cape Fear River including tributaries;
- (12) Waccamaw River downstream of Lake Waccamaw Dam including tributaries;
- (13) Lumber River including Drowning Creek including tributaries;
- (14) public fishing waters east of Interstate 95, except Tar River Reservoir in Nash County, Sutton Lake in New Hanover County, and waters listed in Paragraph (f) of this Rule; and
- (15) public waters west of Interstate 77, except Lake Chatuga.

(h) In John H. Kerr Reservoir, the daily creel limit is 25 fish and the minimum size limit is nine inches.

History Note: Authority G.S. 113-134; 113-292; Eff. November 1, 2013; Amended Eff. August 1, 2017; August 1, 2016; August 1, 2015; Readopted Eff. August 1, 2019; Amended Eff. August 1, 2025; August 1, 2024; August 1, 2023; March 15, 2023; August 1, 2020.

15A NCAC 10C .0422 STRIPED MULLET AND WHITE MULLET

- (a) The daily creel limit for striped mullet and white mullet is 100 fish per person in aggregate and no more than 400 fish per boat.
- (b) There is no minimum size limit.
- (c) There is no closed season.

History Note: Authority G.S. 113-134; 113-292; 113-304; 113-305; Temporary Adoption Eff. September 1, 2022; Eff. March 15, 2023; Temporary Amendment Eff. July 5, 2024; Amended Eff. December 1, 2024.

15A NCAC 10D .0219 COLD MOUNTAIN GAME LAND IN HAYWOOD COUNTY

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

- (1) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15.
- (2) Deer of either sex may be taken the first open Saturday of the applicable Deer With Visible Antlers Season.
- (3) Target shooting is prohibited.

History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305; Eff. October 1, 2022; Amended Eff. August 1, 2025.

15A NCAC 10D .0229 GOOSE CREEK GAME LAND IN BEAUFORT AND PAMLICO COUNTIES

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

- (1) Deer of either sex may be taken on all the open days of the applicable Deer With Visible Antlers Season.
- (2) Except as provided in 15A NCAC 10D .0103(e), waterfowl in posted waterfowl impoundments shall be taken only on the following days:
 - (a) the opening and closing days of the applicable waterfowl seasons;
 - (b) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and
 - (c) Tuesdays and Saturdays of the applicable waterfowl seasons.
- (3) Beginning on the first open waterfowl season day in October, through the end of all waterfowl seasons, waterfowl hunting is by permit only on the following waterfowl impoundments: Pamlico Point, Campbell Creek, Hunting Creek, Spring Creek, Smith Creek, and Hobucken.
- (4) On Spring Lake, Pamlico Point, and Campbell Creek Waterfowl Impoundments, all activities, except waterfowl hunting on designated waterfowl hunting days and trapping during the trapping season, are restricted to the posted Scouting-only Zone during the period November 1 through March 15.
- (5) Camping is restricted to September 1 through the last day of February, and March 31 through May 14, in areas both designated and posted as camping areas.
- (6) Hunting and vehicular access on the Parker Farm Tract is restricted from September 1 through January 1 and April 1 through May 15 to individuals that possess a valid hunting opportunity permit.
- (7) Pursuing or chasing deer or bear with dogs for the purposes of training or hunting is prohibited on the Beaufort County portion north of N.C. 33, except for that portion east of Smith Creek and south of Campbell Creek.
- (8) Bear shall not be harvested on Sunday.
- (9) Hunting for deer, bear, and turkey on the Bates-Bay Tract is by permit only.

History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305; Temporary Adoption Eff. December 1, 2022; Eff. March 15, 2023; Amended Eff. August 1, 2025.

15A NCAC 10D .0232 GULL ROCK GAME LAND IN HYDE COUNTY

Gull Rock is a Seven Days per Week Area, in which the following applies:

- (1) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (2) Waterfowl on the E. Merle Edwards/Loop Road Impoundment shall be taken only on the following days:
 - (a) the opening and closing days of the applicable waterfowl seasons;
 - (b) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and
 - (c) Tuesdays and Saturdays of the applicable waterfowl season.
- (3) Camping is restricted to September 1 through the last day of February, and March 31 through May 14, in areas designated and posted as camping areas.
- (4) Bear may only be taken the first Saturday, Monday, and Tuesday of the November Bear Season, and the second Saturday, Monday, and Tuesday of the December Bear Season.
- (5) Waterfowl hunting on posted waterfowl impoundments on the Willow Point tract is by permit only.

- (5) During the open days of the seasons for game birds and game animals, the use of bicycles is restricted to hunters engaged in the act of hunting.

History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305; Eff. October 1, 2022; Amended Eff. August 1, 2025; August 1, 2023.

15A NCAC 10D .0244 LANTERN ACRES GAME LAND IN TYRRELL AND WASHINGTON COUNTIES

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

- (1) Deer of either sex may be taken on all the open days of the applicable Deer With Visible Antlers Season.
- (2) Wild turkey hunting is by permit only.
- (3) The use of dogs for hunting deer on the Godley Tract is prohibited.
- (4) Hunting on posted waterfowl impoundments from October 1 through February 14 is by permit only.

History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305; Eff. November 1, 2022; Amended Eff. August 1, 2025.

15A NCAC 10D .0263 LITTLE FORK STATE FOREST GAME LAND IN WILKES COUNTY

Little Fork State Forest game land is a Six Days per Week Area, in which the following applies:

- (1) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the first Friday thereafter.
- (2) Bear hunting is prohibited.

History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305; Eff. November 1, 2022; Amended Eff. August 1, 2025; August 1, 2023.

History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305; Eff. October 1, 2022; Temporary Amendment Eff. December 1, 2022; Amended Eff. August 1, 2025; June 1, 2023.

15A NCAC 10D .0239 JOHNS RIVER GAME LAND IN BURKE COUNTY

Johns River game land is hunting by permit only. The following shall apply:

- (1) During permitted deer hunts, antlered or antlerless deer may be taken by permit holders.
- (2) The construction of permanent hunting blinds is prohibited.
- (3) Camping is restricted to August 31 through the last day of February and March 31 through May 14.
- (4) Target shooting is prohibited.

RULES REVIEW COMMISSION

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 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

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

Appointed by House

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

January 30, 2025	March 27, 2025
February 27, 2025	April 24, 2025

**RULES REVIEW COMMISSION MEETING
MINUTES**

November 26, 2024

The Rules Review Commission met on Wednesday, November 26, 2024, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via Webex.

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

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

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

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

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the minutes from the October 30, 2024 meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the minutes were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

FOLLOW UP MATTERS

Criminal Justice Education and Training Standards Commission

Upon the call of the Chair, the Commission voted to approve 12 NCAC 09A.0208; 09B .0202 .0203, .0204, .0205, .0304, .0305, .0406, .0414, .0415; 09C .0403, and continue the extension for 12 NCAC 09B .0405 to the December meeting by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

Upon the call of the Chair, the Commission voted to object to 12 NCAC 09B .0232 and .0404 finding that the rules did not satisfy G.S. 150B-21.9(a). Specifically, the Commission adopted the written opinions of staff of November 20 & 21, 2024 by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

12 NCAC 09A .0204 and .0205 were withdrawn at the request of the agency. No action was required by the Commission.

LOG OF FILINGS (PERMANENT RULES)

Wildlife Resources Commission

Upon the call of the Chair, the Commission voted to approve 15A NCAC 10B .0209, .0301, .0306, .0405; 10C .0205, .0306, .0422; 10D .0219, .0229, .0232, .0239, 10D .0244 and .0263 by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

Medical Board

21 NCAC 32M .0110; 32N .0107 and 32S .0213 were withdrawn at the request of the agency. No action was required by the Commission.

Board of Nursing

21 NCAC 36 .0229 and .0810 were withdrawn at the request of the agency. No action was required by the Commission.

LOG OF FILINGS (TEMPORARY RULES)

State Human Resources Commission

25 NCAC 011 .2103 was withdrawn at the request of the agency. No action was required by the Commission.

EXISTING RULES REVIEW

Office of the Commissioner of Banks

Upon the call of the Chair, the report for 04 NCAC 16 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

Department of Insurance

Upon the call of the Chair, the reports for 11 NCAC 18, 20, and 21 were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

Department of Labor

Upon the call of the Chair, the reports for 13 NCAC 01, 04, 06, 13, 16, 17, and 19 were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

Board of Registration for Foresters

Upon the call of the Chair, the report for 21 NCAC 20 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

Board for Licensing of Geologists

Upon the call of the Chair, the report for 21 NCAC 21 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

Landscape Contractors Licensing Board

Upon the call of the Chair, the report for 21 NCAC 28 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

State Board of Opticians

Upon the call of the Chair, the report for 21 NCAC 40 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

Board of Recreational Therapy Licensure

Upon the call of the Chair, the report for 21 NCAC 65 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

Board for Licensing of Soil Scientists

Upon the call of the Chair, the report for 21 NCAC 69 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

Occupational Safety and Health Review Commission

Upon the call of the Chair, the report for 24 NCAC 03 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

Irrigation Contractor’s Licensing Board

21 NCAC 23 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than December 1, 2026, pursuant to G.S. 150B-21.3A(d)(2) by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

COMMISSION BUSINESS

The meeting was adjourned at 10:17 a.m.

The next regularly scheduled meeting of the Commission is Thursday, December 19, 2024, at 10:00 a.m.

Alexander Burgos, Paralegal

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



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

November 26, 2024

Margaret Geiger, Irrigation Contractor's Licensing Board

Sent via email to: nciclbadmin@nciclb.org

Re: Readoption deadline for 21 NCAC 23

Dear Ms. Geiger:

Attached to this letter is a list of rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A. After consultation with your agency, the Rules Review Commission established a readoption date for these rules at the November 26, 2024, Rules Review Commission meeting.

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

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

Sincerely,

/s/ Travis Wiggs
Travis Wiggs
Commission Counsel

Donald Robert van der Vaart, Director
Chief Administrative Law Judge

John C. Evans
Senior Administrative Law Judge

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

**RRC DETERMINATION
PERIODIC RULE REVIEW**

July 31, 2024

APO Review: October 01, 2024

Irrigation Contractors Licensing Board

Total: 35

RRC Determination: Necessary

Rule

21 NCAC 23 .0101
21 NCAC 23 .0102
21 NCAC 23 .0103
21 NCAC 23 .0104
21 NCAC 23 .0201
21 NCAC 23 .0202
21 NCAC 23 .0203
21 NCAC 23 .0204
21 NCAC 23 .0205
21 NCAC 23 .0206
21 NCAC 23 .0207
21 NCAC 23 .0208
21 NCAC 23 .0301
21 NCAC 23 .0401
21 NCAC 23 .0402
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21 NCAC 23 .0503
21 NCAC 23 .0504
21 NCAC 23 .0505
21 NCAC 23 .0506
21 NCAC 23 .0507
21 NCAC 23 .0508
21 NCAC 23 .0509
21 NCAC 23 .0510
21 NCAC 23 .0511
21 NCAC 23 .0601
21 NCAC 23 .0602
21 NCAC 23 .0603
21 NCAC 23 .0701

Rules Review Commission Meeting November 26, 2024

Via WebEx

Name	Agency
Karissa Sluss	Labor
Sophie Plott	Labor
Julie Ventaloro	OSBM
Jennifer Everett	DEQ
Neal McHenry	Auditor
Sharon Martin	Commerce
Dennis Seavers	Barber and Electrolysis
Dana McGhee	OAH
Ashley Snyder	OAH
Catherine Blum	DEQ
Alex Ward	DOJ
Helen Landi	hlandi@HNTB.com
Misty Piekaar	DHHS
Carrie Ruhlman	WRC
Joy Strickland	DOJ
Anna Choi	BON
Laura Rowe	Treasurer
Angela Ellis	BON
Calvin M Kirven	NCLCLB
Laura Lansford	DOR
Melissa Bowman	DOJ
Chandra Graves	BON
Jill Cramer	Labor
Joan Sutton	NCBRTL

**LIST OF APPROVED PERMANENT RULES
November 26, 2024 Meeting**

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Public Comments at Hearings</u>	12 NCAC 09A .0208
<u>Responsibilities of the School Director</u>	12 NCAC 09B .0202
<u>Admission of Trainees</u>	12 NCAC 09B .0203
<u>Training Course Enrollment</u>	12 NCAC 09B .0204
<u>Basic Law Enforcement Training</u>	12 NCAC 09B .0205
<u>Specialized Instructor Certification</u>	12 NCAC 09B .0304
<u>Terms and Conditions of Specialized Instructor Certification</u>	12 NCAC 09B .0305
<u>Comprehensive State Examination - Basic Law Enforcement T...</u>	12 NCAC 09B .0406
<u>Comprehensive State Exam - Specialized Instructor Training</u>	12 NCAC 09B .0414
<u>Satisfaction of Minimum Training - Specialized Instructor</u>	12 NCAC 09B .0415

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

WILDLIFE RESOURCES COMMISSION

Wild Turkey 15A NCAC 10B .0209

Definitions 15A NCAC 10B .0301

Attendance and Tagging of Traps 15A NCAC 10B .0306

Fur Dealers 15A NCAC 10B .0405

Public Mountain Trout Waters 15A NCAC 10C .0205

Crappie 15A NCAC 10C .0306

Striped Mullet and White Mullet 15A NCAC 10C .0422

Cold Mountain Game Land in Haywood County 15A NCAC 10D .0219

Goose Creek Game Land in Beaufort and Pamlico Counties 15A NCAC 10D .0229

Gull Rock Game Land in Hyde County 15A NCAC 10D .0232

Johns River Game Land in Burke County 15A NCAC 10D .0239

Lantern Acres Game Land in Tyrrell and Washington Counties 15A NCAC 10D .0244

Little Fork State Forest Game Land in Wilkes County 15A NCAC 10D .0263