NORTH CAROLINA REGISTER

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Contact List for Rulemaking Questions or Concerns

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

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

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NORTH CAROLINA REGISTER

Publication Schedule for January 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	270th 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.

State of North Carolina

JOSH STEIN
GOVERNOR

February 18, 2025

EXECUTIVE ORDER NO. 9

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

WHEREAS, current weather projections indicate that a winter storm is anticipated to hit the State of North Carolina on or about February 19, 2025, causing significant impacts; and

WHEREAS, the projected winter storm will likely damage public and private property and seriously disrupt essential utility services and systems; and

WHEREAS, the projected winter storm constitutes a state of emergency as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(19); and

WHEREAS, the projected winter storm is likely to impact, and thereby create a state of emergency throughout, the entire state; and

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

WHEREAS, the need to prepare for and respond to the winter storm as Western North Carolina continues to recover from Hurricane Helene ("Helene") requires increased planning and preparation to protect public health and public safety in North Carolina; and

WHEREAS, N.C. Gen. Stat. § 166A-19.1(3) provides that it is the responsibility of the Governor to "provide for the rapid and orderly rehabilitation of persons and restoration of property"; and

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

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

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

WHEREAS, the uninterrupted supply of electricity, fuel oil, diesel oil, gasoline, kerosene, propane, liquid petroleum gas, food, water, and medical supplies to residential and commercial

establishments is essential before, during, and after the winter storm and any interruption in the delivery of those commodities threatens the public welfare; and

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

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

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

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

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

WHEREAS, 49 C.F.R. § 390.23 allows the Governor of a State to suspend the rules and regulations under 49 C.F.R. Parts 390-399 for up to fourteen (14) days if the Governor determines that an emergency condition exists; and

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

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

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

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

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

Section 1.

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

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

Section 2.

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

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

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

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

Section 3.

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

Section 4.

With the Concurrence of the Council of State, and subject to Section 7 below, DPS, in conjunction with DOT, shall waive enforcement of certain size and weight restrictions and penalties arising under N.C. Gen. Stat. §§ 20-116, 20-118, and 20-119, certain registration requirements and penalties arising under N.C. Gen. Stat. §§ 20-86.1 and 20-382, and certain registration and filing requirements and penalties arising under N.C. Gen. Stat. §§ 105-449.45, 105-449.47, and 105-449.49 for vehicles supporting emergency relief efforts in the Emergency Area.

Section 5.

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

a. When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer ("GVWR") or 90,000 pounds gross weight, whichever is less.

b. When the vehicle weight exceeds a single-axle weight of 22,000 pounds, a tandem-axle weight of 42,000 pounds, or a gross weight of 90,000 pounds.

c. When the vehicle consists of a five or more axle combination vehicle that exceeds a single-axle weight of 26,000 pounds, a tandem-axle weight of 42,000 pounds and a gross weight 90,000 pounds, with a length of at least forty-eight (48) feet between the center of axle one and the center of the last axle of the vehicle and a minimum of eleven (11) feet between the center of axle one and the center of axle two of the vehicle.

d. When the vehicle consists of a two-axle vehicle that exceeds a gross weight of 37,000 pounds and a single-axle weight of no more than 27,000 pounds, with a length of at least fourteen (14) feet between the center of axle one and the center of axle two of the vehicle.

e. When a vehicle and vehicle combination exceed twelve (12) feet in width and the total overall vehicle combination's length exceeds seventy-five (75) feet from bumper to bumper.

f. Vehicles and vehicle combinations subject to exemptions or permits by authority of this Executive Order shall not be exempt from the requirement of having (A) a yellow banner on the front and rear that is seven (7) feet long and eighteen (18) inches wide and bears the legend "Oversized Load" in ten (10) inch black letters, 1.5 inches wide and (B) red flags measuring eighteen (18) inches square on all sides at the widest point of the load. In addition, when operating between sunset and sunrise, a certified escort shall be required for loads exceeding eight (8) feet six (6) inches in width.

g. Commercial vehicles operating outside the normal weight, height, and length restrictions under the authority of this State of Emergency shall be issued permits by DOT. Said vehicles shall be subject to any special conditions DOT and DPS may list on applicable permits. Nothing in this Executive Order shall be construed to allow any vehicle to exceed weight limits posted for bridges and like structures, nor shall anything in this Executive Order be construed to relieve compliance with restrictions other than those specified in this Executive Order or from any statute, rule, order, or other legal requirement not specifically waived herein.

h. Oversize permits may be issued by the DOT, Oversize/Overweight Unit, during normal business hours, Monday through Friday by calling 1-888-221-8166 or contacting them through the online portal at https://connect.ncdot.gov/business/trucking/Pages/overpermits.aspx.

Section 6.

With Council of State Concurrence, vehicles referenced under Sections 4 of this Executive Order shall be exempt from the following registration requirements, except where otherwise noted below:

a. The requirement to obtain a temporary trip permit in N.C. Gen. Stat. § 105-449.49.

b. The requirement of filing a quarterly fuel tax return.

c. The registration requirements under N.C. Gen. Stat. §§ 20-382.1 and 20-382 concerning interstate for-hire authority; however, vehicles shall maintain the required limits of insurance as required.

d. Non-participants in North Carolina's International Registration Plan and International Fuel Tax Agreement will be permitted to enter North Carolina in accordance with the exemptions identified by this Executive Order.

Section 7.

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

Section 8.

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 3 through 7 of this Executive Order in a manner that does not endanger North Carolina motorists.

Section 9.

Pursuant to 49 C.F.R. § 390.23, I hereby waive 49 C.F.R. § 395.3 for vehicles transporting loads that are for use in (1) providing direct assistance supporting emergency relief efforts including transporting essential fuels, food, water, non-alcoholic beverages, medical supplies, feed for livestock and poultry, (2) transporting livestock, poultry, and crops ready to be harvested, or (3) the restoration of utility and transportation services in response to the winter storm in North Carolina and affected states for 14 days.

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

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

Upon termination of direct assistance to emergency relief efforts related to transporting loads that are for use in (1) providing direct assistance supporting emergency relief efforts including transporting essential fuels, food, water, non-alcoholic beverages, medical supplies, feed for livestock and poultry, (2) transporting livestock, poultry, and crops ready to be harvested, or (3) the restoration of utility and transportation services in response to the winter storm in North Carolina or affected states, the motor carrier and driver are subject to the requirements of 49 C.F.R. § 395.3, except that a driver may return

empty to the motor carrier's terminal or the driver's normal work reporting location without complying with 49 C.F.R. § 395.3. When a driver is moving from emergency relief efforts to normal operations a 10- hour break is required if the total time a driver operated, whether conducting emergency relief efforts or a combination of emergency relief efforts and normal operations, equals or exceeds fourteen (14) hours.

Section 10.

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

Section 11.

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

Section 12.

This Executive Order is effective immediately and shall remain in effect for thirty (30) days, unless earlier terminated, provided, however, that the provisions in Section 9 shall remain in effect for fourteen (14) days.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 18th day of February in the year of our Lord two thousand and twenty-five.

Josh Stein
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

North Carolina License and Theft Bureau

PUBLIC NOTICE

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

Applicant's Name: MULLEN AUTOMOTIVE , INC

Applicant's Address: 1405 PIONEER ST

Application Date: 03/07/2025

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

DAVID MICHERY – CEO

JONATHAN NEW - CFO

CHESTER BRAGADO – CAF

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 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice *is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Radiation Protection Commission intends to adopt the rules cited as 10A NCAC 15 .1901-.1911, .2001-.2011, amend the rules cited as 10A NCAC 15 .0501, .0802, .0803, .1001, .1601, readopt with substantive changes the rules cited as 10A NCAC 15 .0901-.0910, and repeal through readoption the rules cited as 10A NCAC 15 .0608 and .0609.*

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

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

Proposed Effective Date: *October 1, 2025*

Public Hearing:
Date: *May 1, 2025*
Time: *10:00 am*
Location: *Edgerton Building, 809 Ruggles Drive, Dorothea Dix Campus, Raleigh, North Carolina 27603*

Reason for Proposed Action: *These rules are necessary to regulate the therapeutic use of accelerators (radiation generating devices) used to treat cancer and disease in people and in animals. Currently, the State regulates accelerators by blending outdated accelerator rules with the practice of applying and interpreting the Federal regulations used to regulate teletherapy machines using radioactive materials found in 10 CFR Part 35.600 for this purpose. The existing accelerator rules, 10A NCAC 15 .0608, .0609, and Section .0900 are inadequate and have not been updated since 1994. A couple have not been updated since 1980 when the rules were first enacted. Many changes in technology and therapy techniques have been developed over the last thirty-plus years. Using outdated accelerator rules to regulate the use of modern accelerators and applying rules developed for regulating the use of radioactive materials in an entirely different type of device is inefficient, confusing, and contrary to NC General Statute 150B-18: the agency is using a policy, interpreting rules from one technology to apply to a different technology, in lieu of rules for the technology being regulated.*

Comments may be submitted to: *Shanah Black, 809 Ruggles Drive, Edgerton Building; 2701 Mail Service Center, Raleigh, NC 27699; phone (919) 855-3481; email DHSR.RulesCoordinator@dhhs.nc.gov*

Comment period ends: *June 2, 2025*

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

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

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

CHAPTER 15 - RADIATION PROTECTION

SECTION .0500 - INDUSTRIAL RADIOGRAPHY X-RAY MACHINES

10A NCAC 15 .0501 INDUSTRIAL RADIOGRAPHIC OPERATIONS OF ELECTRONIC RADIATION MACHINES FOR NON-HUMAN USE

(a) Persons conducting industrial radiographic operations using radiation machines shall comply with the following provisions of 10 CFR 34, which are hereby incorporated by reference including subsequent amendments and editions, except references to and the requirements of 10 CFR 30, 37, 71, 150 and 171 contained therein shall not apply:

(1) 10 CFR 34.1, "Purpose and Scope;"

(2) 10 CFR 34.3, "Definitions;" except that the definition of becquerel, control (drive) cable, control drive mechanism, control tube, exposure head, field station, guide tube (projection sheath), S-tube, source assembly, source changer, and storage container, shall not

apply. Prior to using industrial radiography all persons shall be registered in accordance with rules in Section .0200 of this Chapter. The following terms apply:

(A) "agreement state" shall have the same meaning as "agency" as defined in G.S 104E-5(2);

(B) "license" shall have the same meaning as "registration" as defined in Rule ~~.0104(131)~~ .0103 of this Chapter;

(C) "licensed" shall have the same meaning as "registered" pursuant to the rules in Section .0200 of this Chapter;

(D) "licensee" shall have the same meaning as "registrant" as defined in Rule ~~.0104(130).~~0103 of this Chapter;

(E) "radiation source" shall have the same meaning as "radiation machine" in G.S. 104E-5(13);

(F) "radiographic exposure device" shall have the same meaning as "radiation machine" in G.S 104E-5(13); and

(G) "sealed source" shall have the same meaning as "radiation machine" in G.S 104E-5(13).

(3) 10 CFR 34.25, "Radiation survey instruments." The term "radioactive material" used in 10 CFR 34.25 shall have the same meaning as "radiation machine" in G.S. 104E-5(13);

(4) 10 CFR 34.31(a), (b)(1), and (c), "Inspection and maintenance of radiographic exposure devices, transport and storage containers, associated equipment, source changers, and survey instruments;"

(5) 10 CFR 34.33, "Permanent radiographic installations." The term "radioactive source" used in 10 CFR 34.33 shall have the same meaning as "radiation machine" in G.S. 104E-5(13);

(6) 10 CFR 34.35(c), "Labeling, storage, and transportation;"

(7) 10 CFR 34.41, "Conducting industrial radiographic operations;"

(8) 10 CFR 34.42, "Radiation Safety Officer for industrial radiograph;"

(9) 10 CFR 34.43, "Training;"

(10) 10 CFR 34.45(a)(1) through (a)(3), (a)(5), (a)(7) through (a)(11), (a)(13), and (b), "Operating and emergency procedure;"

(11) 10 CFR 34.46, "Supervision of radiographers' assistants;"

(12) 10 CFR 34.47, "Personnel monitoring;"

(13) 10 CFR 34.49, "Radiation surveys;"

(14) 10 CFR 34.51, "Surveillance;"

(15) 10 CFR 34.53, "Posting;"

(16) 10 CFR 34.61, "Records of the specific license for industrial radiography;"

(17) 10 CFR 34.65, "Records of radiation survey instrument;"

(18) 10 CFR 34.71, "Utilization logs;"

(19) 10 CFR 34.73, "Records of inspection and maintenance of radiographic exposure devices, transport and storage containers, associated equipment, source changers, and survey instruments;"

(20) 10 CFR 34.75, "Record of alarm system and entrance control checks at permanent radiographic installations;"

(21) 10 CFR 34.79, "Records of training and certification;"

(22) 10 CFR 34.81, "Copies of operating and emergency procedures;"

(23) 10 CFR 34.83, "Records of personnel monitoring procedures;"

(24) 10 CFR 34.85, "Records of radiation surveys;"

(25) 10 CFR 34.87, "Form of records;"

(26) 10 CFR 34.89(a), (b)(1 through 10), "Location of documents and records;" and

(27) Appendix A to 10 CFR 34-Radiographer Certification.

(b) Copies of these regulations are available free of charge at https://www.nrc.gov/reading-rm/doc-collections/cfr/part034/index.html.

Authority G.S. 104E-7.

SECTION .0600 - X-RAYS IN THE HEALING ARTS

10A NCAC 15 .0608 THERAPEUTIC X-RAY INSTALLATIONS: LESS THAN ONE MEV

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

10A NCAC 15 .0609 X-RAY ABND ELECTRON THERAPY INSTALLATIONS ONE MEV AND ABOVE

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

SECTION .0800 - RADIATION GENERATING DEVICES

10A NCAC 15 .0802 DEFINITIONS

In addition to terms found in Rule ~~.0104~~ .0103 of this Chapter, the following definitions shall apply to this Section:

(1) "Accredited bomb squad" means a law enforcement agency utilizing certified bomb technicians.

(2) "Accessible surface" means the external or outside surface of the enclosure or housing provided by the manufacturer or designer of the RGD. This includes the high-voltage generator, doors, access panels, latches, control knobs, and other permanently mounted hardware, and including the plane across the exterior edge of any opening.

(3) "Analytical RGD equipment" means equipment that uses electronic means to generate ionizing

radiation for the purpose of examining the microstructure of materials using direct x-ray transmission, x-ray diffraction, x-ray fluorescence, and x-ray spectroscopy.

(4) "Analytical RGD system" means a group of local and remote components utilizing x-rays to determine the elemental composition or to examine the microstructure of materials.

(5) "Certified bomb technician" means a member of an accredited bomb squad who has successfully completed the FBI Hazardous Devices School. Information pertaining to this program can be found at http://www.fbi.gov/about-us/cirg/hazardous-devices.

(6) "Certifiable cabinet x-ray system" means an existing uncertified RGD that has been modified to meet the certification requirements specified in 21 C.F.R. 1020.40, as incorporated by reference in Rule ~~.0117~~ .0104 of this Chapter.

(7) "Certified cabinet x-ray system" means an RGD utilized in an enclosed, interlocked cabinet, such that the radiation machine will not operate unless all openings are securely closed. These systems shall be certified in accordance with 21 CFR 1010.2, as incorporated by reference in Rule ~~.0117~~ .0104 of this Chapter, as being manufactured and assembled pursuant to the provisions of 21 C.F.R. 1020.40, as incorporated by reference in Rule ~~.0117~~ .0104 of this Chapter.

(8) "Collimator" means a device or mechanism by which the x-ray beam is restricted in size.

(9) "Control panel" means the part of the x-ray control where the switches, knobs, pushbuttons, and other hardware are, located for manually setting the technique factors.

(10) "Electron Beam Device" means any device using electrons below 1MeV to heat, join, or otherwise irradiate materials.

(11) "Enclosed beam RGD" means an RGD with all possible x-ray beam paths contained in a chamber, coupled chambers, or other beam-path-confinement devices, to prevent any part of the body from intercepting the beam during normal operations. Normal access to the primary beam path, such as a sample chamber door, shall be interlocked with the high voltage of the x-ray tube or the shutter for the beam to be considered "enclosed." An open-beam device placed in an interlocked enclosure is considered an "enclosed beam" unless there are provisions for routine bypassing of the interlocks.

(12) "Emergency procedure" means the written pre-planned steps to be taken in the event of actual or suspected radiation exposure of an individual exceeding administrative or regulatory limits found in Rule 10A NCAC 15 .1601(a)(8) and .1601(a)(15). This procedure shall include the names and telephone numbers of individuals to be contacted, as well as directives for processing individual monitoring devices.

(13) "Fail-safe characteristics" means a design feature that causes the radiation beam to terminate, port shutters to close, or otherwise prevents emergence of the primary beam upon the failure of a safety or warning device. For example, if an "X-ray On" light indicator, shutter indicator, or interlock fails, the radiation beam shall terminate.

(14) "Gauging device" means a mechanism containing a source of ionizing radiation that is designed and manufactured for the purpose of determining or controlling thickness, density, level, interface location, or qualitative or quantitative composition of materials. It may include components such as radiation shields, useful-beam controls, and other safety features in order to meet the requirements or specifications of the device.

(15) "General-use system" means a security screening system that delivers an effective dose of 25 microrem (0.25 microSv) or less per screening.

(16) "Hand-held x-ray system" means any device or equipment that is portable and used for similar purposes as analytical RGD equipment.

(17) "Individual responsible for radiation protection" means a person who has the knowledge and responsibility to apply appropriate radiation rules, for persons registered with the agency in accordance with Section .0200 of this Chapter, commensurate with the scope of the activities authorized by the registrant.

(18) "Inspection Zone" means the area established for the purpose of controlling access where screening is performed. Areas controlled due to the presence of radiation shall include areas of ingress, egress, gates, portals, and traffic paths. The area outside of the inspection zone shall not exceed the limits of Rule .1601(a)(13) of this Chapter.

(19) "Interlock" means a feature designed to prevent access to an area of radiation hazard by preventing entry or by automatically removing the hazard.

(20) "Ion implantation equipment, low-energy" means any enclosed device operating below 1MeV used to accelerate elemental ions and implant them in other materials.

(21) "Leakage radiation" means radiation emanating from the source assembly housing except for:

(A) the primary beam;

(B) scatter radiation emanating from other components; and

(C) radiation produced when the "beam on" switch or timer is not activated.

(22) "Limited-use system" means a screening system that is capable of delivering an effective dose greater than 25 microrem (0.25 microSv) per screening, but shall not exceed an effective dose of 1 mrem (10 microSv) per screening,

(23) "Local components" means part of an RGD x-ray system and include areas that are struck by x rays, such as radiation source housings, port and shutter assemblies, collimators, sample holders, cameras, goniometers, detectors, and shielding, but do not include power supplies, transformers, amplifiers, readout devices, and control panels.

(24) "Mobile RGD" means RGD equipment mounted on a permanent base with wheels or casters for moving while completely assembled.

(25) "Normal operating procedures" means step-by-step instructions necessary to accomplish a task. These procedures shall include sample insertion and manipulation, equipment alignment, routine maintenance by the registrant, and data recording procedures that are related to radiation safety.

(26) "Open-beam RGD" means a device or system designed in such a way that the primary beam is not completely enclosed during normal operation, when used for analysis, gauging, or imaging, an individual could accidentally place some part of their body in the primary beam or stray radiation path during normal operation.

(27) "Portable RGD" means RGD equipment designed to be carried by hand.

(28) "Primary beam" means radiation that passes through an aperture of the source assembly housing by a direct path from the radiation source.

(29) "Radiation generating device (RGD)" means any system, device, subsystem, or machine component that may generate, by electronic means, x-rays or particle radiation above 5 keV, but below 1 MeV, and not used for healing parts on humans or animals. RGDs may be used as a:

(A) mobile RGD;

(B) portable RGD; or

(C) stationary RGD.

(30) "Remote components" means parts of an RGD x-ray system that are not struck by x-rays, such as power supplies, transformers, amplifiers, readout devices, and control panels.

(31) "Safety Device" means a device, interlock or system that prevents the entry of any portion of an individual's body into the primary x-ray beam or that will cause the beam to shut off upon entry into its path.

(32) "Scattered radiation" means radiation, other than leakage radiation, that during passage through matter, has been deviated in direction or has been modified by a decrease in energy.

(33) "Screening" means the sum of scans necessary for a security screening system to image concealed objects as intended by the system design under normal operating conditions.

(34) "Security screening device" means a non-human use open-beam device designed for the detection of contraband or weapons concealed in baggage, mail, packages, or other structures. These devices include bomb detection devices used for the sole purpose of detecting explosive devices.

(35) "Security screening system" means a system specifically designed to detect contraband and weapons concealed on a person and is used for the sole purpose of public safety and security evaluation by law enforcement.

(36) "Shutter" means an adjustable device, generally made of lead or other high atomic number material, fixed to a source assembly housing to intercept, block, or collimate the primary beam.

(37) "Source" means the point of origin of the radiation, such as the focal spot of an x-ray tube.

(38) "Stationary RGD" means RGD equipment that is installed or placed in a fixed location.

(39) "Stray radiation" means the sum of leakage and scatter radiation emanating from the source assembly or other components, except for the primary beam, and radiation produced when the beam on switch or timer is not activated.

(40) "Warning device" means an audible or visible signal that warns individuals of a potential radiation hazard.

(41) "X-ray generator" means the part of an x-ray system that provides the accelerating (high) voltage and current for the x-ray tube.

(42) "X-ray source housing" means the portion of an RGD system which contains the x-ray tube and emitting target. The housing often contains radiation shielding material or inherently provides shielding.

Authority G.S. 104E-7.

10A NCAC 15 .0803 PERSONNEL REQUIREMENTS

(a) The registrant, as defined in 10A NCAC 15 ~~.0104(130).~~.0103, shall document the scope of training and instruction required for the RGD in use.

(b) No individual shall be permitted to operate or maintain RGDs unless the individual has received instruction in the basic principles of radiation protection, training specific to the manufacturer's recommendations for safe operation and unique features of the RGD in use, and instruction in the operating and emergency procedures. Instruction and training shall include:

(1) Basic principles of radiation protection:

(A) radiation fundamentals;

(B) source and magnitude of common sources of radiation exposure;
(C) units of radiation dose and measurements;
(D) potential hazards, biological effects of ionizing radiation, and recognition of symptoms of an acute localized exposure;
(E) ALARA (As Low As Reasonably Achievable) principles for radiation protection concepts of time, distance, and shielding to minimize radiation exposure;
(F) declared pregnancy policy;
(G) occupational, embryo/fetus, and public dose limits; and
(H) proper use of individual monitoring devices and survey instruments.

(2) Device specific training for each RGD:
(A) hands-on training for proper use;
(B) radiation hazards associated with use;
(C) precautions to take or measures required to minimize radiation exposure;
(D) procedures to prevent unauthorized use; and
(E) agency rules regarding use.

(3) Operating and emergency procedure requirements of Rule .0804 in this Section.

(c) Records of instruction and training for each individual operating RGDs, documenting that the requirements of this Rule have been met, shall be maintained and available for agency review during inspection.

(d) Persons who will be operating the RGD shall be able to demonstrate an understanding in safe operating procedures and use of the RGD according to the manufacturer's specifications and to an authorized representative of the Radiation Protection Section.

(e) Each registrant shall provide ring or wrist individual monitoring devices to individuals:
(1) operating open-beam RGDs; and
(2) performing maintenance on an RDG, if the maintenance procedures require the presence of a primary x-ray beam when any local component in the RGD is disassembled or removed.

Authority G.S. 104E-7.

SECTION .0900 - REQUIREMENTS FOR PARTICLE ACCELERATORS

10A NCAC 15 .0901 PURPOSE AND SCOPE

(a) This Section establishes procedures for the licensing and the use of particle accelerators.

(b) In addition to the requirements of this Section, all licensees are subject to the requirements of Sections .0100, .0200, .1000, and .1600 of this ~~Chapter.~~ Chapter, and: ~~Licensees engaged in industrial radiographic operations are subject to the requirements of Section .0500 of this Chapter, and licensees engaged in the healing arts are subject to Rule .0350 of this Chapter and the applicable requirements of Section .0600 of this Chapter. Licensees engaged in the production of radioactive material or possessing radioactive material incidental to an accelerator are subject to the requirements of Section .0300 of this Chapter.~~

(1) Licensees engaged in the production of radioactive material or possessing radioactive material incidental to operating an accelerator are subject to the requirements of Section .0300 of this Chapter;
(2) Licensees engaged in the treatment of humans are subject to the requirements of Section .1900 of this Chapter, and
(3) Licensees engaged in the veterinary treatment of animals are subject to the requirements of Section .2000 of this Chapter.

(c) Persons engaged in industrial radiographic operations utilizing electronic radiation machines for non-human use are subject to the requirements of Rule .0501 of this Chapter in lieu of the rules in this Section.

~~(c)~~(d) In addition to the requirements of this Section, all particle accelerator licensees are subject to the annual fee provisions contained in Section .1100 of this Chapter.

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

10A NCAC 15 .0902 LICENSING REQUIREMENTS

No person shall receive, possess, use, transfer, own, or acquire a particle accelerator except as authorized in a license issued pursuant to these Rules or as otherwise provided for in these Rules. The general procedures for licensing of particle accelerator facilities are included in ~~Section~~ Rule .0903 of this ~~Chapter.~~ Section.

Authority G.S. 104E-7.

10A NCAC 15 .0903 REQUIREMENTS FOR ISSUANCE OF A LICENSE FOR ACCELERATORS

(a) Application for use of a particle accelerator will be approved only if the agency determines that:
(1) The applicant and the applicant's particle accelerator operators are qualified by reason of training and experience to use the accelerator in such a manner as to minimize danger to public health and safety or property;
(2) The applicant's proposed equipment, facilities, operating and emergency procedures are adequate to protect health and minimize danger to public health and safety or ~~property;~~ property, and
(3) ~~The applicant has appointed a radiation safety officer;~~ The applicant's management has appointed a Radiation Safety Officer who agrees, in writing, to be responsible for implementing the radiation protection program. The applicant, through the Radiation Safety Officer, shall ensure that radiation safety activities are being performed in accordance

with approved procedures and the requirements of this Section.

~~(4) The applicant has established a radiation safety committee to approve that the operation of the particle accelerator is in accordance with applicable radiation protection Sections of this Chapter; and~~

~~(5) The applicant for the use of a particle accelerator in the healing arts shall be a physician licensed to practice medicine in the state of North Carolina. The individuals designated on the application as users shall have substantial training and experience in deep therapy techniques or in the use of particle accelerators to treat humans.~~

(4) The applicant for therapeutic use of a particle accelerator on humans shall:

(A) be a board-certified physician licensed as outlined in Rule .1903(c)(1) of this Chapter and licensed to practice medicine in the state of North Carolina; and

(B) have a board-certified physicist outlined in Rule .1903(d)(1) – (3) of this Chapter.

(b) Applications required by Paragraph (a) of this Rule shall be made on forms provided by the agency. Applications and supporting material shall be submitted to the agency via email to Licensing.ram@dhhs.nc.gov unless directed otherwise by the agency:

(1) Persons applying for new accelerator licenses, or for the renewal of existing accelerator licenses, shall submit an Application for Accelerator License. The instructions for completing the application printed on the application form shall be followed. The following information shall appear on the application:

(A) legal business name and mailing address;

(B) physical address(es) where accelerators shall be used or possessed. The application shall indicate if accelerators shall be used at temporary jobsites;

(C) the name, telephone number, and e-mail address of the Radiation Safety Officer;

(D) the name, telephone number, and e-mail address of the individual to be contacted about the application. If this individual is same as the Radiation Safety Officer, the application may so state;

(E) the application shall indicate if the application is for a new license, or for the renewal of an existing license, by marking the corresponding check box;

(F) if the application is for the renewal of an existing license, the license number shall be provided on the application;

(G) applicants shall indicate the type and category of license as shown on the form by marking the corresponding check box; and

(H) the printed name, title, and signature of the certifying official. The certifying official shall be an individual employed by the business or licensee, who is authorized by the licensee to sign license applications on behalf of the business or licensee.

(2) Persons applying for an amendment to an existing license shall submit an Application for Amendment of Radioactive Materials and Accelerator Licenses. The instructions for completing the application printed on the application form shall be followed. The following information shall appear on the application:

(A) the license number;

(B) amendment number of the current license;

(C) expiration date of the license;

(D) licensee name as it currently appears on the license;

(E) the name, telephone number, and e-mail address of the Radiation Safety Officer;

(F) the name, telephone number, and e-mail address of the individual to be contacted about the application. If this individual is same as the Radiation Safety Officer, item 5b on the application may be left blank;

(G) applicants shall provide a description of the action requested by marking the corresponding checkbox in item 6a. If the check box next to "Other" is marked in item 6a, provide a brief description of the action requested in the space provided in item 6b;

(H) explanation of the action requested; and

(I) the printed name, title, and signature of the certifying official. The certifying official shall be an individual employed by the business or licensee who is authorized by the licensee to sign license applications on behalf of the business or licensee.

(3) Applications specified in this Rule are available at: www.ncradiation.net/rms/rmsforms2.htm(Rev 01).htm

Authority G.S. 104E-7.

10A NCAC 15 .0904 LIMITATIONS

(a) No licensee shall permit any person to act as a particle accelerator operator until such person:

(1) has been instructed in radiation safety and shall have demonstrated an understanding thereof;

(2) has received copies of, and instruction in, this Section and the applicable requirements of this Chapter, pertinent licensing conditions and the licensee's operating and emergency procedures; and

(3) has demonstrated competence to use the particle accelerator, related equipment, and survey instruments which will be employed in ~~his~~ their assignment.

(b) ~~Either the radiation safety committee or the~~ The radiation safety officer shall have the authority to terminate the operations at a particle accelerator facility if this action is deemed necessary to minimize danger to public health and safety or property.

Authority G.S. 104E-7.

10A NCAC 15 .0905 SHIELDING AND SAFETY DESIGN

(a) ~~A~~ For medical use a qualified expert registered to provide Class VII services by the agency pursuant to Rule .0205 of this Chapter, or an Authorized Medical Physicist named on the licensee's license, shall be consulted in the design of a particle accelerator ~~installation. A qualified expert~~ installation and shall perform a radiation survey when the accelerator is first capable of producing radiation to verify that radiation levels and shielding effectiveness meet the applicable requirements in this Chapter. ~~A copy of the survey shall be submitted to the agency by the licensee prior to its use for its licensed purpose.~~

(b) For Veterinary use a qualified expert registered to provide Class VII services pursuant to Rule .0205 of this Chapter by the agency or an Authorized Medical Physicist named on the licensee's license, shall be consulted in the design of a particle accelerator installation and shall perform a radiation survey when the accelerator is first capable of producing radiation to verify that radiation levels and shielding effectiveness meet the applicable requirements in this Chapter.

(c) For non-medical use, a qualified expert registered to provide Class VII or Class IX services by the agency pursuant to Rule .0205 of this Chapter, an individual with a Master's Degree in physics or higher, or the licensee's Radiation Safety Officer shall be consulted in the design of a particle accelerator and shall perform a radiation survey when the accelerator is first capable of producing radiation to verify that radiation levels and shielding effectiveness meet the applicable requirements in this Chapter. The Radiation Safety Officer may delegate performing the radiation survey to another individual provided the Radiation Safety Officer reviews the final survey results.

(d) Persons registered with the Agency to provide Class VII services providing shielding and design, or post-installation survey services to demonstrate compliance with Rule .1601 of this Chapter prior to the effective date of this Rule shall be authorized to conduct activities authorized by Paragraphs (a) – (c) of this Rule.

(e) A copy of the survey performed to document compliance with Rule .1601 of the Chapter shall be submitted to the agency by the licensee prior to use of the particle accelerator for its licensed purpose.

~~(b)~~(f) Plans for construction of accelerator installations shall be submitted to the agency.

~~(c)~~(g) Each particle accelerator installation shall be provided with such primary and secondary barriers as are necessary to assure compliance with ~~Rules .1604 and .1611~~ Rule .1601 of this Chapter.

Authority G.S. 104E-7.

10A NCAC 15 .0906 CONTROLS AND INTERLOCK SYSTEMS

(a) Instrumentation, readouts and controls on the particle accelerator control console shall be clearly identified and easily discernible.

(b) All entrances into a target room or other high radiation area shall conform to the requirements of Rule ~~.1615~~ .1601 of this Chapter.

(c) When an interlock system has been tripped, it shall only be possible to resume operation of the accelerator by manually resetting ~~controls at the position where~~ the interlock that has been ~~tripped~~ tripped. ~~and, subsequently at the main control console.~~

(d) Each safety interlock shall operate independently of all other safety interlocks.

(e) All safety interlocks shall be fail-safe, i.e., designed so that any defect or component failure in the interlock system prevents operation of the accelerator.

(f) A "Scram button" or other emergency power cut-off switch shall be located and easily identifiable in all high radiation areas and at the control console. Such a cut-off switch shall include a manual reset so that the accelerator cannot be restarted from the accelerator control console without first manually resetting the cut-off switch.

Authority G.S. 104E-7.

10A NCAC 15 .0907 WARNING DEVICES

(a) ~~All~~ Except in facilities designed for human exposure, all locations designated as high radiation ~~areas,~~ areas and entrances to such locations shall be equipped with easily observable warning lights that operate when, and only when, radiation is being produced. Facilities designed for human exposure shall be equipped with easily observable warning lights outside the entrances to high radiation areas that operate when, and only when, radiation is being produced.

(b) Except in facilities designed for human exposure, each high radiation area shall have an audible warning device which shall be activated for 15 seconds prior to the possible creation of such high radiation area. This warning device shall be clearly discernible in all high radiation areas and all radiation areas.

(c) Barriers, temporary or otherwise, and pathways leading to high radiation areas shall be identified in accordance with Rule ~~.1624~~ .1601 of this Chapter.

Authority G.S. 104E-7.

10A NCAC 15 .0908 OPERATING PROCEDURES

(a) Particle accelerators, when not in operation, shall be secured to prevent unauthorized use.

(b) Only a switch on the accelerator control console shall be routinely used to turn the accelerator beam "on" and "off". The safety interlock system shall not be used to turn off the accelerator beam except in an emergency.

(c) All safety and warning devices, including interlocks shall be checked for proper operability at least every six months unless more frequent checks are required by the agency. Results of such tests shall be maintained for two years at the accelerator facility for inspection by the agency.

~~(d) Electrical circuit diagrams of the accelerator, and the associated interlock systems, shall be kept current and maintained for inspection by the agency.~~

~~(e)~~(d) If, for any reason, it is necessary to intentionally bypass a safety interlock or interlocks, such action shall be:

(1) authorized by the radiation safety officer;

(2) recorded in a permanent log and a notice posted at the accelerator control console and at the location of the bypassed interlock; and

(3) terminated as soon as possible.

~~(f)~~(e) A copy of the current operating and the emergency procedures shall be maintained at the accelerator control panel.

Authority G.S. 104E-7.

10A NCAC 15 .0909 RADIATION MONITORING REQUIREMENTS

(a) ~~Portable~~ Except for persons licensed for activities authorized by Section .1900 of this Chapter possessing non-portable therapeutic radiation machines, portable monitoring equipment shall be available at each particle accelerator facility. Such equipment shall be tested for proper operation monthly and calibrated at intervals not to exceed one year, and after each servicing and repair.

(b) A radiation protection survey shall be performed and documented by a qualified expert registered by the agency pursuant to Rule .0205 of this ~~Chapter,~~ Chapter for the provision of Class VII, Class IX services or an Authorized Medical Physicist named on the licensee's license when changes have been made in shielding, operation, equipment, or occupancy of adjacent areas. The licensee shall submit the report or a copy of the report ~~of the qualified expert~~ to the agency by email to licensing.ram@dhhs.nc.gov or at one of the ~~address~~ addresses found in Rule ~~.0111~~ .0111(a) of this Chapter.

(c) Except for facilities designed for human exposure, radiation levels in all high radiation areas shall be continuously monitored. The monitoring devices shall be electrically independent of the accelerator control and interlock systems and capable of providing a remote and local readout with visual or audible alarms at the control panel and other appropriate locations.

(d) All area monitors shall be tested for proper operation at least every six months unless more frequent checks are required by the agency.

(e) ~~Whenever applicable, periodic surveys~~ Surveys shall be performed to determine the amount of airborne particulate radioactivity present in areas of airborne ~~hazards.~~ hazards at least annually.

(f) Whenever applicable, periodic smear surveys shall be made to determine the degree of contamination in target and other pertinent areas.

(g) All area surveys shall be made in accordance with ~~the~~ written procedures ~~established by a qualified expert registered by the agency pursuant to Rule .0205 of this Chapter, or~~ approved by the radiation safety officer of the accelerator facility.

(h) Records of all radiation protection surveys, calibration results, instrumentation tests, and smear results shall be kept current and on file at each accelerator facility for two years for inspection by the agency.

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

10A NCAC 15 .0910 VENTILATION SYSTEMS

(a) Adequate ventilation shall be provided in areas where airborne radioactivity may be produced to comply with Rule ~~.1604~~ .1601 of this Chapter.

(b) The licensee shall not vent, release or otherwise discharge airborne radioactive material to an unrestricted area in excess of the limits specified in Rule ~~.1611~~ .1601 of this Chapter.

Authority G.S. 104E-7.

SECTION .1000 - NOTICES: INSTRUCTIONS: REPORTS AND INSPECTIONS

10A NCAC 15 .1001 NOTICES, INSTRUCTIONS, AND REPORTS TO EMPLOYEES

(a) Persons registered with the agency pursuant to the rules in Section .0200 of this Chapter and persons licensed under the rules in Sections .0300, .0900, .1200, and .1300 of this Chapter shall comply with the provisions of 10 CFR 19 as follows, which are hereby incorporated by reference including subsequent amendments and editions, except that references to and requirements for 10 CFR 2, 50, 52, 54, 60, 63, 72, and 76 shall not apply:

(1) 10 CFR 19.1, "Purpose;"

(2) 10 CFR 19.2, "Scope;"

(3) 10 CFR 19.3, "Definitions," except that the definition of "regulated activities" and "regulated entities" shall not apply. For persons registered with the agency pursuant to the rules in Section .0200 of this Chapter, the following terms used in 10 CFR 19 shall have the following substitutions:

(A) "license" shall have the same meaning as "registration" as defined in Rule ~~.0104(131)~~ .0103(b) of this Chapter;

(B) "licensed" means "registered" as defined in Rule ~~.0104(131)~~ .0103(b) of this Chapter;

(C) "licensee" shall have the same meaning as "registrant" as defined in Rule ~~.0104(130)~~ .0103(b) of this Chapter;

(D) "materials" shall have the same meaning as "radiation machine" as

defined in Rule ~~.0104(122)~~ .0103(b) of this Chapter ;

(E) "NRC-licensed" means "registered"; and

(F) "radioactive material" shall have the same meaning as "radiation machine" as defined in Rule ~~.0104(122)~~ .0103(b) of this Chapter .

(4) 10 CFR 19.5, "Communications," except that licensees and registrants shall address communications and reports to the agency as instructed by Rule .0111 of this Chapter in lieu of the NRC;

(5) 10 CFR 19.11, "Posting of notices to workers," except that 19.11(b) and (e) shall not apply;

(A) NRC Form 3 shall not be used in lieu of the Notice to Employees issued by the agency, except as authorized by the agency in writing;

(B) licensees and registrants shall not post other notices, postings, notes, or other materials over the Notice to Employees, nor shall equipment be placed in such a manner that the Notice to Employees is obscured or hidden by that equipment; and

(C) additional copies of the Notice to Employees may be obtained free of charge from the agency by contacting the agency at the addresses shown in Rule .0111(a) of this Chapter in lieu of the NRC, or online at https://radiation.ncdhhs.gov/;

(6) 10 CFR 19.12, "Instructions to workers;"

(7) 10 CFR 19.13, "Notifications and reports to individuals;"

(8) 10 CFR 19.14, "Presence of representatives of licensees and regulated entities, and workers during inspections," except that 19.14(a) shall not apply;

(9) 10 CFR 19.15, "Consultation with workers during inspections;"

(10) 10 CFR 19.16, "Requests by workers for inspections." Requests for inspections shall be mailed or delivered to the agency as instructed by Rule .0111(a) of this Chapter in lieu of the NRC;

(11) 10 CFR 19.17, "Inspections not warranted; informal review." Communications regarding the agency's decisions with respect to a request for inspection submitted to the agency under Subparagraph (a)(10) shall be mailed or delivered to the agency as instructed by Rule .0111(a) of this Chapter in lieu of the NRC;

(12) 10 CFR 19.18, "Sequestration of witnesses and exclusion of counsel in interviews conducted under subpoena;"

(13) 10 CFR 19.20, "Employee protection;"

(14) 10 CFR 19.31, "Application for exemptions," except that the request for exemption shall be made on the licensee's or registrant's business letterhead. Requests for exemptions from the requirements of this Rule shall be made to the agency at the addresses shown in Rule .0111(a) of this Chapter in lieu of the NRC or as otherwise instructed by the agency. To request an exemption, the following information shall be submitted to the agency:

(A) licensee or registrant name;

(B) license or registration number;

(C) name of the individual requesting the exemption;

(D) contact information for the individual requesting the exemption;

(E) a description of the exemption being requested; and

(F) an explanation describing why the exemption is necessary.

(b) Notwithstanding Subparagraph (a)(5) of this Rule, registrants temporarily working in North Carolina and licensees working in North Carolina under reciprocity may post the Notice to Employees, NRC Form 3, or an equivalent form issued under the authority of the regulatory agency issuing the registration or license.

(c) Copies of these regulations are available free of charge at https://www.nrc.gov/reading-rm/doc-collections/cfr/part019/.

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

SECTION .1600 - STANDARDS FOR PROTECTION AGAINST RADIATION

10A NCAC 15 .1601 STANDARDS FOR PROTECTION AGAINST RADIATION

(a) Persons registered with the agency pursuant to the rules in Section .0200 of this Chapter and persons licensed pursuant to the rules in Section .0300, .0900, .1200, or .1300 of this Chapter shall comply with the provisions of 10 CFR 20 as follows, which are hereby incorporated by reference including subsequent amendments and editions, except references to and requirements for 10 CFR 50, 52, 60, 63, 72, 73, and 76 shall not apply:

(1) 20.1001, "Purpose," except that non-ionizing radiation from radiation machines registered in accordance with the rules in Section .0200 of this Chapter shall also be regulated by this Rule;

(2) 20.1002, "Scope;"

(3) 20.1003, "Definitions," except that for persons registered with the agency pursuant to the rules in Section .0200 of this Chapter, the following terms used in 10 CFR 20 shall have the following substitutions:

(A) "license" shall have the same meaning as "registration" as defined in Rule ~~.0104(131)~~ .0103(b) of this Chapter;

(B) "licensed" ~~means registered pursuant to the rules in Section .0200~~ shall have the same meaning as "registered" as

defined in Rule .0103(b) of this Chapter;

(C) "licensed material" shall have the same meaning as "radiation machine" as defined in Rule ~~.0104(122)~~ .0103(b) of this Chapter, and

(D) "licensee" shall have the same meaning as "registrant" as defined in Rule ~~.0104(130)~~ .0103(b) of this Chapter;

(4) 20.1004, "Units of radiation dose;"

(5) 20.1005, "Units of radioactivity;"

(6) 20.1007, "Communications," except that licensees and registrants shall address communications regarding these rules, notifications, and reports to the agency as instructed by Rule .0111 of this Chapter in lieu of the NRC;

(7) 20.1101, "Radiation protection programs;"

(8) 20.1201, "Occupational dose limits for adults;"

(9) 20.1202, "Compliance with requirements for summation of external and internal doses;"

(10) 20.1203, "Determination of external dose from airborne radioactive material;"

(11) 20.1204, "Determination of internal exposure;"

(12) 20.1206, "Planned special exposures;"

(13) 20.1207, "Occupational dose limits for minors;"

(14) 20.1208, "Dose equivalent to an embryo/fetus;"

(15) 20.1301, "Dose limits for individual members of the public;"

(16) 20.1302, "Compliance with dose limits for individual members of the public;"

(17) 20.1401, "General provisions and scope;"

(18) 20.1402, "Radiological criteria for unrestricted use;"

(19) 20.1403, "Criteria for license termination under restricted conditions;"

(20) 20.1404, "Alternate criteria for license termination;"

(21) 20.1405, "Public notification and public participation," except the agency shall not publish a notice in the Federal Register;

(22) 20.1406, "Minimization of contamination," except that 20.1406(b) shall not apply;

(23) 20.1501, "General;"

(24) 20.1502, "Conditions requiring individual monitoring of external and internal occupational dose;"

(25) 20.1601, "Control of access to high radiation areas;"

(26) 20.1602, "Control of access to very high radiation areas;"

(27) 20.1701, "Use of process or other engineering controls;"

(28) 20.1702, "Use of other controls;"

(29) 20.1703, "Use of individual respiratory protection equipment;"

(30) 20.1704, "Further restrictions on the use of respiratory equipment;"

(31) 20.1705, "Application for use of higher assigned protection factors;"

(32) 20.1801, "Security of stored material;"

(33) 20.1802, "Control of material not in storage;"

(34) 20.1901, "Caution signs;"

(35) 20.1902, "Posting requirements;"

(36) 20.1903, "Exceptions to posting requirements;"

(37) 20.1904, "Labeling containers;"

(38) 20.1905, "Exemptions to labeling requirements," except that 20.1905(g) shall not apply;

(39) 20.1906, "Procedures for receiving and opening packages;"

(40) 20.2001, "General requirements;"

(41) 20.2002, "Method for obtaining approval of proposed disposal procedures;"

(42) 20.2003, "Disposal by release to sanitary sewerage;"

(43) 20.2004, "Treatment or disposal by incineration;"

(44) 20.2005, "Disposal of specific wastes;"

(45) 20.2006, "Transfer for disposal and manifests;"

(46) 20.2007, "Compliance with environmental and health protection regulations;"

(47) 20.2008, "Disposal of certain byproduct material;"

(48) 20.2101, "General provisions;"

(49) 20.2102, "Records of radiation protection programs;"

(50) 20.2103, "Records of surveys;"

(51) 20.2104, "Determination of prior occupational dose;"

(52) 20.2105, "Records of planned special exposures;"

(53) 20.2106, "Records of individual monitoring results;"

(54) 20.2107, "Records of dose to individual members of the public;"

(55) 20.2108, "Records of waste disposal;"

(56) 20.2110, "Form of records;"

(57) 20.2201, "Reports of theft or loss of material." Persons registered with the agency pursuant to the rules in Section .0200 of this Chapter shall make telephone reports of the theft or loss of radiation machines in accordance with 20.2201(a)(1)(i);

(58) 20.2202, "Notifications of incidents;"

(59) 20.2203, "Reports of exposures, radiation levels, and concentrations of radioactive material exceeding the constraints or limits," except that 20.2203(c) shall not apply;

(60) 20.2204, "Reports of planned special exposures;"

(61) 20.2205, "Reports to individuals exceeding dose limits;"

(62) 20.2206, "Reports of individual monitoring," except that 20.2206(a)(1), and 20.2206(a)(3)

through (a)(5) shall not apply. The report required by 20.2206(b) shall be submitted upon request by the agency in lieu of the requirements of 20.2206(c);

(63) 20.2207, "Reports of transactions involving nationally tracked sources." Notwithstanding Subparagraph (a)(6) of this Rule, reports required by this Subparagraph shall be made in accordance with 20.2207(f) and (g);

(64) 20.2301, "Application for exemptions," except that the request for exemption shall be made on the licensee's or registrant's business letterhead. Requests for exemptions from the requirements of this Rule shall be made to the agency at the addresses shown in Rule .0111(a) of this Chapter in lieu of the NRC or as otherwise instructed by the agency. To request an exemption, the following information shall be submitted to the agency:

(A) licensee or registrant name;

(B) license or registration number;

(C) name and contact information for the individual requesting the exemption;

(D) a description of the exemption being requested, and

(E) an explanation describing why the exemption is necessary;

(65) 20.2302, "Additional requirements;"

(66) Appendix A to Part 20, "Assigned Protection Factors for Respirators;"

(67) Appendix B to Part 20, "Annual Limits on Intake (ALIs) and Derived Air Concentrations (DACs) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sewerage;"

(68) Appendix C to Part 20, "Quantities of Radioactive Material Requiring Labeling;"

(69) Appendix E to Part 20, "Nationally Tracked Source Thresholds," and

(70) Appendix G to Part 20, "Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests."

(b) Exposure of a personnel monitoring device to deceptively indicate a dose delivered to an individual is prohibited.

(c) Licensees and registrants shall continue to perform all activities required by the rules of this Chapter, license or registration condition, and shall pay annual fees as instructed on an invoice issued by the agency until the license or registration is terminated. Registrants shall maintain registration of all radiation machines under their control until those units are disposed.

(d) Nothing in the rules of this Chapter shall relieve any person of responsibility for complying with other applicable North Carolina laws and rules.

(e) Copies of these regulations are available free of charge at https://www.nrc.gov/reading-rm/doc-collections/cfr/part020/.

Authority G.S. 104E-7(a)(2).

SECTION .1900 – THERAPEUTIC RADIATION MACHINES

10A NCAC 15 .1901 PURPOSE AND SCOPE

(a) This Section establishes requirements for use of therapeutic radiation machines to treat disease in humans. The requirements of this Section are in addition to the requirements of Sections .0100, .0200, .0900, .1000, and .1600 of this Chapter.

(b) The use of therapeutic radiation machines shall be by, or under the supervision of, a licensed practitioner of the healing arts who meets the training and experience criteria established by Rule .1903(c).

(c) In addition to the requirements of this Section, all therapeutic radiation machine licensees are subject to the annual fee provisions contained in Section .1100 of this Chapter.

Authority G.S. 104E-7.

10A NCAC 15 .1902 DEFINITIONS

(a) As used in this Section, the following definitions apply:

(1) "Acceptance testing" means an evaluation of equipment and systems to confirm they meet the specifications stated by the manufacturer.

(2) "Annually" means at intervals not to exceed 12 consecutive months, plus or minus 30 days.

(3) "Authorized Medical Physicist" means an individual authorized in accordance with Rule .1903(d) of this Section.

(4) "Authorized user" means a physician who meets the training requirements of Rule .1903(c) of this Section and is authorized by license condition to use a therapeutic radiation machine covered by this Section.

(5) "Barrier" see "Protective barrier".

(6) "Biennially" means at intervals not to exceed 24 consecutive months, plus or minus 30 days.

(7) "Commissioning" means an intricate and methodical process designed to:

(A) acquire needed machine-specific beam data;

(B) validate the safe, accurate, and effective operation of a therapeutic radiation machine, treatment planning systems, ancillary systems, and associated procedural protocols; and,

(C) set baseline for future measurements for performance constancy.

(8) "Dosimetry systems" means radiation detecting equipment that may be used to characterize the radiation beam and quantify the energy it may deposit within a medium.

(9) "Electronic brachytherapy" means a method of radiation therapy where an electrically generated source of ionizing radiation is placed in or near the tumor or target tissue to deliver therapeutic radiation dosage.

(10) "Electronic brachytherapy device" means the system used to produce and deliver therapeutic radiation including the x-ray tube, the control

mechanism, the cooling system, and the power source.

(11) "Electronic brachytherapy source" means the x-ray tube component used in an electronic brachytherapy device.

(12) "External beam radiation therapy" means therapeutic irradiation in which the source of radiation is at a distance from the body.

(13) "Human research subject" means an individual defined pursuant to Rule .0307(a)(4) of this Chapter and shall include radiation therapy treatments covered by this Section.

(14) "Interlock" means a device preventing the start or continued operation of equipment unless certain predetermined conditions prevail.

(15) "Interruption of irradiation" means the stopping of irradiation with the possibility of continuing irradiation without resetting of operating conditions at the control panel.

(16) "Irradiation" means the exposure of a living being or matter to ionizing radiation.

(17) "Isocenter" means the center of the sphere through which the useful beam axis passes while the gantry moves through its full range of motions.

(18) "Kilovolt," "kV," "kilo electron volt," and "keV" means the energy equal to that acquired by a particle with one electron charge in passing through a potential difference of one thousand volts in a vacuum. Current convention is to use kV for photons and keV for electrons.

(19) "Leakage radiation" means radiation emanating from the radiation therapy system except for the useful beam.

(20) "Licensee" means any person who is licensed by the agency pursuant to the rules of this Section .0900 of this Chapter.

(21) "Light field" means the area illuminated by light, simulating the radiation field.

(22) "Megavolt," "MV," "mega electron volt," and "MeV" means the energy equal to that acquired by a particle with one electron charge in passing through a potential difference of one million volts in a vacuum. Current convention is to use MV for photons and MeV for electrons.

(23) "Method of Delivery" means mode of radiation to be used during treatment, which may include photons, electrons, or protons.

(24) "Patient" means an individual, for whom a written directive is intended, subjected to machine produced radiation for the purposes of medical therapy.

(25) "Periodic quality assurance check" means a procedure which is performed to ensure that a previous parameter or condition continues to be valid.

(26) "Physician" means a person licensed to practice medicine in North Carolina pursuant to G.S. 90, Article 1.

(27) "Prescribed dose" means the total dose and dose per fraction as documented in the written directive.

(28) "Primary protective barrier" (see "Protective barrier").

(29) "Protective barrier" means a barrier of radiation absorbing material(s) used to reduce radiation exposure. The types of protective barriers are as follows:

(A) "Primary protective barrier" means the material, excluding filters, placed in the useful beam.

(B) "Secondary protective barrier" means the material which attenuates stray radiation.

(30) "Qualified Expert" means a person registered by the agency pursuant to Rule .0205 of this Chapter for the provision of Class VII services and who meets the training and experience requirements listed in Rule .0206(a)(7)(A) or (B) of this Chapter.

(30) "Quarterly" means at intervals not to exceed 13 consecutive weeks, plus or minus 7 consecutive days.

(31) "Radiation oncology safety team" means, minimally, a group of individuals consisting of an authorized user, authorized medical physicist, medical dosimetrist, radiation therapist and oncology nurse whose purpose is to work together to deliver radiation safely and reproducibly.

(32) "Referring physician" means the physician whom referred the patient or human research subject to the licensee for specialized care.

(33) "Semiannually" means at intervals not to exceed 6 consecutive months, plus or minus 15 consecutive days.

(34) "Sievert" and "Sv" mean the SI unit of dose equivalent measured as joule per kilogram.

(35) "Supervision" shall be defined as follows:

(A) "General supervision" means the activity is performed under the overall direction and control of a supervising individual. The supervising individual's physical presence shall not be required during the performance of the procedure but must be available by phone to provide assistance and direction if needed.

(B) "Direct supervision" means an individual exercise General Supervision and be present within the facility and immediately available to furnish assistance and direction throughout the performance of the activity. Direct Supervision does not require that the supervising individual must be present in the room when the procedure is being performed.

(C) "Personal supervision" means an individual exercises General Supervision and be present in the room during the performance of the procedure.

(36) "Therapeutic radiation machine" means equipment that is designed and used for external beam radiation therapy in the healing arts. For these regulations, devices used to administer electronic brachytherapy shall also be considered therapeutic radiation machines.

(37) "Therapeutic radiation machine medical event" means an event that meets the criteria in Rule .1905 (4) of this Section.

(38) "Treatment room shielding" means a location which contains fixed protective barriers to limit radiation exposures to members of the public and occupationally exposed workers to within regulatory limits.

(39) "Weekly" means at least once per calendar week.

(40) "Written directive" means an order in writing for the administration of radiation to a specific patient or human research subject, as specified in Rule .1905 (1) of this Section.

(b) Definitions of certain other words and phrases used in the Rules in this Section are set forth in Rules .0103, .1001 and .1601 of this Chapter.

Authority G.S. 104E-7.

10A NCAC 15 .1903 GENERAL ADMINISTRATIVE REQUIREMENTS FOR FACILITIES USING THERAPEUTIC RADIATION MACHINES

(a) The licensee shall be responsible for directing the operation of the therapeutic radiation machines that have been licensed with the Agency. The licensee or the licensee's agent shall ensure that the requirements of this Section are met in the operation of the therapeutic radiation machines.

(b) A therapeutic radiation machine that does not meet the provisions of these regulations shall not be used for irradiation of patients or human research subjects.

(c) Training for Therapeutic Radiation Machine Authorized Users: The licensee for any therapeutic radiation machine subject to rules within this Section shall require the authorized user to be a physician who:

(1) Holds Certification in General Radiology issued by the American Board of Radiology of a physician who confines their professional practice to radiation oncology or certification in Radiation Oncology or Therapeutic Radiology issued by the American Board of Radiology, the American Osteopathic Board of Radiology, the Royal College of Physicians and Surgeons of Canada, or the Collège des Médecins du Québec; or

(2) Has satisfactory completion of a radiation oncology residency program approved by the American Council of Graduate Medicine Education, the Royal College of Physicians and Surgeons of Canada, the Collège des Médecins du Québec, or the American Osteopathic Association. Radiation oncologists who are eligible for certification by one of the certifying organizations listed in Subparagraph (1) of this Paragraph but not yet certified by the date of initial employment shall be certified by one of the certifying organizations listed in Subparagraph (1) of this Paragraph within six years of initial certification eligibility; and

(3) Be an individual listed on an Agency or an Agreement State medical accelerator license as an authorized user on or before the effective date of this Rule. Individuals listed on an Agency or Agreement State medical accelerator license as Authorized Users need not comply with Subparagraphs (1) through (2) of this Paragraph, except they must meet the training requirements defined in this Rule for any uses for which they were not authorized on or before the effective date of this Rule, and shall document 75 hours of continuing education every 3 years that is acceptable to the certifying organizations identified in Subparagraphs (1) through (2) of this Paragraph.

(d) Training for Authorized Medical Physicist: The licensee for any therapeutic radiation machine subject to rules within this Section shall require the Authorized Medical Physicist to:

(1) Be certified and maintaining certification by the American Board of Radiology in:
(A) Therapeutic radiological physics; or
(B) Therapeutic medical physics; or

(2) Be certified and maintaining certification by the American Board of Medical Physics in Radiation Oncology Physics; or

(3) Be certified and maintaining certification by the Canadian College of Medical Physics in Radiation Oncology Physics; or

(4) Be an individual listed on an Agency or an Agreement State medical accelerator license as an authorized medical physicist on or before the effective date of this Rule. Individuals listed on an Agency or Agreement State medical accelerator license need not comply with Subparagraphs (1) through (3) of this Paragraph, except they must meet the training requirements defined in other Paragraphs of this Rule for any uses for which they were not authorized on or before the effective date of this Rule, and shall document 75 hours of accredited continuing education every 3 years that is acceptable to the certifying organizations identified in Subparagraphs (1) through (3) of this Paragraph.

(e) Training for Therapeutic Radiation Machine Radiation Safety Officer: The licensee for any therapeutic radiation machine subject to rules within this Section shall require the Radiation Safety Officer:

(1) Be listed as an Authorized User or Authorized Medical Physicist on the license; or,
(2) Be certified by the American Board of Health Physics in Health Physics; or,
(3) Be certified by the American Board of Science in Nuclear Medicine in Radiation Protection; or,
(4) Be certified by the American Board of Radiology in:
(A) Diagnostic Radiologic Physics;
(B) Diagnostic Medical Physics;
(C) Medical Nuclear Physics;
(D) Nuclear Medical Physics; or
(5) Be certified by the American Board of Medical Physics in Medical Health Physics; or
(6) Be an individual listed on an Agency or an Agreement State medical accelerator license as a Therapeutic Radiation Machine Radiation Safety Officer on or before the effective date of this Rule. Individuals listed on an Agency or Agreement State medical accelerator on or before the effective date of this Rule need not comply with Subparagraphs (1) through (5) of this Paragraph, except they must meet the training requirements in radiation safety, regulatory issues, and emergency procedures for the types of use for which they were not authorized on or before the effective date of this Rule, and shall document 60 hours of accredited continuing education every 3 years that is acceptable to the certifying organizations identified in Subparagraphs (2) through (5) of this Paragraph.

(f) Qualifications of Operators:
(1) Direct Human Use – Operators: Individuals who will be operating a therapeutic radiation machine on humans or irradiation of products to be used by humans, shall:
(A) Be a registered Radiation Therapy Technologists by the American Registry of Radiologic Technologists; or,
(B) Be American Registry of Radiologic Technologists registry-eligible as Radiation Therapy Technologists provided the individual is under the personal supervision of an individual that meets the requirements of Part (A) of this Subparagraph; and,
(C) Successfully complete a licensee-developed initial and ongoing competency program in the use of the therapeutic radiation machine as well as other ancillary systems used by the operator in medical use applications. This competency program shall be documented, and records shall include the list of topics evaluated, and each individual's completion of the competency program shall be approved, signed, and dated. Records required by this Subparagraph shall be maintained for a minimum of three years.
(2) Non-direct Human Use – Operators: Individuals who will be operating a therapeutic radiation machine for the purposes of quality assurance and/or non-human research, shall:
(A) Comply with Paragraph (d) of this Rule; or
(B) Comply with Part (1)(A) of this Paragraph; or
(C) Comply with the requirements of Section .0900 of this Chapter; and
(D) Successfully complete a licensee-developed initial and ongoing competency program in the use of the therapeutic radiation machine as well as other ancillary systems used by the operator for quality assurance or non-human research. The competency program shall be documented, and records shall include the list of topics evaluated, and each individual's completion of the competency program shall be approved, signed, and dated. Records required by this Subparagraph shall be maintained for a minimum of three years.

(g) Documented safety procedures shall be developed by an Authorized Medical Physicist and shall be readily accessible in the control area of a therapeutic radiation machine, including any restrictions required for the safe operation of the therapeutic radiation machine. The operator shall be able to demonstrate familiarity with these Rules.
(h) Individuals shall not be exposed to the useful beam except for medical therapy purposes and unless such exposure has been ordered in writing by a therapeutic radiation machine authorized user. This provision specifically prohibits deliberate exposure of an individual for training, demonstration, or other non-healing-arts purposes.
(i) Visiting Authorized User: A licensee may permit any physician to act as a visiting authorized user under the term of the licensee's license for a total of 60 days per calendar year under the following conditions:
(1) The visiting authorized user has the prior approval of the licensee's facility management; and
(2) The visiting authorized user meets the requirements established for authorized user(s) in Paragraph (c) of this Rule; and
(3) The licensee shall maintain copies of the documentation of the approval and that the visiting authorized user met the requirements of Subparagraph (2) of this Paragraph for three years from the date of the last visit.
(j) Visiting Authorized Medical Physicist: A licensee may permit any medical physicist to act as a visiting authorized medical

physicist under the term of the licensee's license for a total of 60 days per calendar year under the following conditions:

(1) The visiting qualified medical physicist has the prior approval of the licensee's facility management; and

(2) The visiting authorized medical physicist meets the requirements established for authorized user(s) in Paragraph (d) of this Rule; and

(3) The licensee shall maintain copies of the documentation of the approval and proof that the visiting authorized medical physicist met the requirements of Subparagraph (2) of this Rule for three years from the date of the last visit.

(k) All individuals associated with the operation of a therapeutic radiation machine shall be instructed in and shall comply with the provisions of the licensee's quality management program. In addition to the requirements of this Section, these individuals are also subject to the requirements of Rules .1601(a)(8), (a)(24) and (a)(51) of this Chapter.

(l) Unless otherwise specified by license condition, whenever patients or human research subjects are being treated by a therapeutic radiation machine, a physician shall be accessible. This physician does not need to be an authorized user.

(m) A licensee that permits supervised activities within this subpart is responsible for the acts and omissions of the supervised individual.

(n) Information and Maintenance Record and Associated Information: The licensee shall maintain the following information in a separate file or package for each therapeutic radiation machine for inspection by the Agency:

(1) Report of acceptance testing and commissioning;

(2) Records of all surveys, calibrations, and periodic quality assurance checks of the therapeutic radiation machine required by this Section, as well as the names of persons who performed such activities;

(3) Records of maintenance and/or modifications performed on the therapeutic radiation machine after the effective date of this Rule as well as the names of persons who performed such services;

(4) Assessments performed by an Authorized Medical Physicist, prior to the return of a therapeutic radiation machine to clinical use, after significant service, repair, or upgrade that may result in variances of machine functions more than the thresholds established within the quality management program.

(o) Records Retention: All records required by this Section shall be retained until disposal is authorized by the Agency unless another retention period is specifically authorized in this Section.

Authority G.S. 104E-7.

10A NCAC 15 .1904 GENERAL TECHNICAL REQUIREMENTS FOR FACILITIES USING THERAPEUTIC RADIATION MACHINES

(a) Protection Surveys:

(1) The licensee shall ensure that radiation shielding surveys of all new facilities, and existing facilities not previously surveyed are performed with an operable radiation measurement survey instrument calibrated in accordance with Rule .1908 of this Section. The radiation protection survey shall be performed by, or under the direction of, an Authorized Medical Physicist or a qualified expert and shall verify that, with the therapeutic radiation machine in a "BEAM-ON" condition:

(A) Radiation levels in restricted areas are not likely to cause personnel exposures more than the limits specified in Rule .1601(a)(8) of this Chapter; and

(B) Radiation levels in unrestricted areas do not exceed the limits specified in Rule .1601(a)(15) of this Chapter.

(2) In addition to the requirements of Subparagraph (a)(1) of this Rule, a radiation protection survey shall also be performed:

(A) After making any change in the treatment room shielding;

(B) After making any change in the location of the therapeutic radiation machine within the treatment room;

(C) After relocating the therapeutic radiation machine;

(D) After changes in occupancy of surrounding areas; or

(E) Before using the therapeutic radiation machine in a manner that could result in increased radiation levels in areas outside the external beam radiation therapy treatment room.

(3) The survey record shall include: the date of the measurements; the reason the survey is required; the manufacturer's name; model number and serial number of the therapeutic radiation machine; the instrument(s) used to measure radiation levels; a plan of the areas surrounding the treatment room that were surveyed; the measured dose rate at several points in each area expressed in microsieverts or millirems per hour; the calculated maximum level of radiation over a period of one week for each restricted and unrestricted area; and the signature of the individual responsible for conducting the survey;

(4) If the results of the surveys required by this Paragraph indicate any radiation levels in excess of the limits specified in Parts (a)(1)(A) or (B) of this Rule, the licensee shall disable the

machine from use, label clearly, and not use the unit:

(A) Except as may be necessary to repair, replace, or test the therapeutic radiation machine, the therapeutic radiation machine shielding, or the treatment room shielding; or

(B) Until the licensee has received a specific exemption from the Agency.

(b) Modification of Radiation Therapy Unit or Room Before Beginning a Treatment Program. If the survey required by Paragraph (a) of this Rule indicates that an individual in an unrestricted area may be exposed to levels of radiation greater than those permitted by Rule .1601(a)(15) of this Chapter, before beginning the treatment program the licensee shall:

(1) Either equip the unit with beam direction interlocks or add additional radiation shielding to ensure compliance with Rule .1601(a)(15) of this Chapter;

(2) Perform the survey required by Subparagraph (a)(1) of this Rule again; and

(3) Include in the report required by Paragraph (d) of this Rule the results of the initial survey, a description of the modification made to comply with Subparagraph (1) of this Paragraph, and the results of the second survey; or

(4) Request and receive a license amendment under authorizing radiation levels in unrestricted areas greater than those permitted by Rule .1601(a)(15) of this Chapter.

(c) Radiation Measuring Equipment. The licensee shall have, when required, appropriate and operable radiation measuring equipment available for use and calibrated in accordance with Rule .0927 of this Chapter. Radiation measuring equipment includes, but is not limited to, dosimetry systems, survey instruments, and other radiation measuring devices used in planning, guiding, and administering radiation.

(d) Reports of External Beam Radiation Therapy Surveys and Measurements. The licensee for any therapeutic radiation machine subject to rules within this Section shall furnish a copy of the records required in Paragraphs (a) and (b) of this Rule to the Agency within 30 days following completion of the action that initiated the record requirement.

Authority G.S. 104E-7.

10A NCAC 15 .1905 QUALITY MANAGEMENT PROGRAM

Each licensee or applicant subject to rules within this Section shall develop, implement, and maintain a quality management program to provide high confidence that radiation will be administered as directed by the authorized user. The quality management program shall address, as a minimum, the following specific objectives:

(1) Written Directives:

(a) A written directive must be approved by an authorized user prior to the administration of radiation. If, a delay in the order to provide a written revision to an existing written directive would jeopardize the patient or human research subject's health, an oral revision to an existing written directive will be acceptable, provided that the oral revision is documented as soon as possible in writing in the patient or human research subject's record and a revised written directive is signed by an authorized user within 48 hours of the oral revision.

(b) The written directive must contain the patient or human research subject's name, treatment site, method of delivery, dose per fraction, total number of fractions, and total dose.

(c) A written revision to an existing written directive may be made provided that the revision is dated and approved by an authorized user prior to the administration of the therapeutic radiation machine dose, or the next fractional dose.

(d) The licensee shall retain a copy of the written directive for three years.

(2) Procedures for Administrations. For any administration requiring a written directive, the licensee shall develop, implement, and maintain written procedures to provide that:

(a) Prior to the administration of each course of radiation treatment, the patient or human research subject's identity is verified by more than one method as the individual named in the written directive;

(b) Each administration is in accordance with the written directive;

(c) Develop a table-shift policy describing action to be taken by staff in the event shifts are used for patient or human research subject setup and a table shift exceeds limitations established within the treatment plan.

(d) Therapeutic radiation machine final plans of treatment and related calculations are in accordance with the respective written directives by checking both manual and computer-generated dose calculations to verify they are correct and in accordance with the written directive; and verifying that any computer-generated calculations are correctly transferred into the consoles of authorized therapeutic medical units;

(e) Any unintended deviation from the written directive is identified, evaluated and action is taken; and

(f) The licensee retains a copy of the procedures for administrations for the duration of the license.

(3) New Procedures on Established Equipment: Licensees possessing established and commissioned therapeutic radiation machines shall reevaluate equipment parameters, pursuant to this Section, when new procedures are to be performed that the parameters, including dose rate, field size, imaging accuracy, maximum dose, fall outside of the original commissioned parameters.

(4) Documentation, Reports, and Notifications of Medical Events:

(a) Any unintended treatment deviation from the written directive or approved treatment plan shall be identified, evaluated, and documented. Licensees shall document the corrective action taken by the licensee as a result of any unintended deviation from the written directive or approved treatment plan.

(b) A licensee shall report any medical event resulting from intervention of a patient or human research subject in which the administration of radiation from therapy equipment results, or will result, in unintended permanent functional damage to an organ or a physiological system as determined by a physician.

(c) Except as required by Sub-item (b) of this Item, licensees shall report any treatment deviation as a medical event, except for a treatment deviation that results from intervention by a patient or human research subject, when the treatment deviation is caused by any of the conditions listed in Sub-items (d), (e), or (f) of this Item.

(d) Treatment deviations in which the administration of radiation from therapy equipment involves the administration of radiation to an individual using a treatment plan intended for another patient or human research subject;

(e) Treatment deviations in which the administration of radiation to a patient or human research subject does not conform to the written directive and the approved treatment plan, and the administered dose over the entire treatment course differs from the prescribed dose as stated in the written directive by twenty percent or more; or

(f) Treatment deviations in which the administered dose delivered differs from the prescribed dose, for a single fraction, by an overdose of 50 percent or more.

(g) The licensee shall notify the Agency by telephone no later than the next calendar day after the licensee determines that a medical event occurred.

(5) The licensee shall submit a written report to the Agency within 15 days after the initial report of the medical event. The written report must include:

(a) The licensee name;

(b) The name of the prescribing physician;

(c) A brief description of the event;

(d) Why the event occurred;

(e) The effect, if any, on the individual who received the medical event;

(f) Actions, if any, that have been taken, or are planned, to prevent recurrence;

(g) Certification that the licensee notified the patient, or the patient's responsible relative or guardian, and if not, why not, and

(h) The report shall not contain the patient's name or any other information that could lead to the identification of the patient;

(6) The licensee shall provide notification of the medical event to the referring physician no later than twenty-four hours after its discovery. The licensee shall also notify the individual who is the subject of the medical event no later than 24 hours after the initial notification, unless the authorized user or referring physician determines that, based on their medical judgment, informing the individual would be harmful. The licensee is not required to notify the individual without first consulting the referring physician. If the referring physician or the affected individual cannot be reached within 24 hours, the licensee shall notify the individual as soon as possible thereafter. The licensee may not delay any appropriate medical care for the individual, including any necessary remedial care because of the medical event, because of any delay in notification. To meet the requirements of this Item, the notification of the individual who is the subject of the medical event may be made instead to that individual's responsible relative or guardian. If a verbal notification is made, the licensee shall inform the individual or appropriate responsible relative or guardian that a written description of the event can be obtained from the licensee upon request. The licensee shall provide such a written description if requested.

(7) Aside from the notification requirement, nothing in this Section affects any rights or

duties of licensees and physicians in relation to each other, to individuals affected by the medical event, or to that individual's responsible relatives or guardians.

(8) The licensee shall retain a record of each unintended deviation in accordance with Sub-item (4)(a) of this Rule. If the unintended deviation is a medical event, a copy of the record shall be provided to the referring physician if other than the licensee within 15 days after its discovery.

(9) The licensee shall retain a record of each unintended deviation for three years. The record must contain the following:

(a) The licensee name and the names of the individuals involved;

(b) A unique identification number, if one has been assigned, of the individual who is the subject of the unintended deviation;

(c) A brief description of the event; why it occurred; the effect, if any, on the individual;

(d) The actions, if any, taken or planned to prevent recurrence; and

(e) Whether the licensee notified the individual, or the individual's responsible relative or guardian; and, if not, whether such failure to notify was based on guidance from the referring physician.

Authority G.S. 104E-7.

10A NCAC 15 .1906 THERAPEUTIC RADIATION MACHINES OF LESS THAN 500 KV

(a) The licensee shall provide documentation that equipment authorized by this Section conforms to the relevant International Electrotechnical Commission standard, documentation of US Food and Drug Administration clearance, or documentation of participation in a research study approved by the licensee's Institutional Review Board.

(b) Facility Design Requirements for Therapeutic Radiation Machines Capable of Operating in the Range 50 kV to 500 kV. In addition to shielding adequate to meet requirements of Rule .1909 of this Section, the treatment room shall meet the following design requirements:

(1) Aural Communication. Provision shall be made for continuous two-way aural communication between the patient or human research subject and the operator at the control panel;

(2) Viewing Systems. Provision shall be made to permit continuous observation of the patient or human research subject during irradiation and the viewing system shall be so located that the operator can observe the patient or human research subject from the control panel. The therapeutic radiation machine shall not be used for patient or human research subject irradiation unless at least one viewing system is operational.

(c) Additional Requirements. Treatment rooms that contain a therapeutic radiation machine capable of operating above 150 kV shall meet the following additional requirements:

(1) All protective barriers shall be fixed except for entrance doors or beam interceptors;

(2) The control panel shall be located outside the treatment room or in a totally enclosed booth, which has a ceiling, inside the room;

(3) Interlocks shall be provided such that all entrance doors, including doors to any interior booths, shall be closed before treatment can be initiated or continued. If the radiation beam is interrupted by any door opening, it shall not be possible to restore the machine to operation without closing the door and reinitiating irradiation by manual action at the control panel; and

(4) When any door referred to in Subparagraph (3) of this Paragraph is opened while the x-ray tube is activated, the air kerma rate at a distance of 1 meter from the source shall be reduced to less than 1 mGy (100 mrad) per hour.

(d) Acceptance Testing, Commissioning, and Calibration Measurements. Acceptance testing, commissioning, and full calibration of a therapeutic radiation machine subject to the Rules of this Chapter shall be performed by, or under the direct supervision of, an Authorized Medical Physicist:

(1) Acceptance testing and commissioning shall be performed in accordance with current published recommendations from a recognized national professional association with expertise in the use of therapeutic radiation technologies, that includes the American Association of Physicists in Medicine, the American College of Radiology, and the American Society for Radiation Oncology. In the absence of a protocol published by a national professional association, the manufacturer's protocol or equivalent quality, safety, and security protocols, shall be followed. Acceptance testing and commissioning shall be conducted before the first medical use following installation or reinstallation of the therapeutic radiation machine.

(2) A licensee authorized to use a therapeutic radiation machine for medical use shall perform calibration measurements on each therapeutic radiation machine:

(A) Before the first medical use of the unit; and

(B) Before medical use whenever spot-check measurements indicate that the output, for each specific mode and energy, differs by more than five percent from the output obtained at the last calibration, following reinstallation of the therapeutic

radiation machine in a new location, following any repair of the therapeutic radiation machine that would likely impact the radiation output beyond the normal range of expected fluctuation, and

(C) At intervals not to exceed annually.

(3) To satisfy the requirement of Paragraph (a) of this Rule, an authorized medical physicist shall design and implement a calibration procedure for each radiation therapy machine which is consistent with the specifications recommended by the manufacturer of the equipment and consistent with nationally recognizable standards. The calibration procedure shall be designed to ensure accurate patient or human research subject treatments, in accordance with the written directive and treatment plan. The calibration procedure shall include, but not be limited to, the following:

(A) Accuracy of output measurements to within ± five percent of radiations used medically; and

(B) Evaluation and accuracy of auxiliary systems, such as motion tracking or gating and image guidance, used during patient or human research subject treatments.

(4) A licensee shall use the dosimetry system described in Rule .1908 of this Section to measure the output for one set of exposure conditions. The remaining radiation measurements required in Part (3)(A) of this Paragraph may be made using a dosimetry system that indicates relative dose rates.

(5) The evaluations and measurements for:

(A) Acceptance, commissioning, and calibration measurements in Part (3)(A) of this Paragraph shall be performed under the direct supervision of an authorized medical physicist;

(B) full calibration measurements in Part (3)(B) of this Paragraph shall be performed by an authorized medical physicist or under the general supervision of an authorized medical physicist.

(6) A licensee shall maintain a record of each therapeutic radiation machine calibration for three years. The record must include:

(A) The date of the calibration;

(B) The manufacturer's name, model number, and serial number of the therapeutic radiation machine, auxiliary systems, and the instruments used to calibrate the unit(s);

(C) The results and an assessment of the calibrations; and

(D) The name of the authorized medical physicist who approves the calibration.

(7) A licensee shall maintain a record of each therapeutic radiation machine acceptance testing and commissioning for the lifetime of the machine. The record must include:

(A) The date of the acceptance testing or commissioning;

(B) The manufacturer's name, model number, and serial number of the therapeutic radiation machine, auxiliary systems, and the instruments used to evaluate the unit(s);

(C) The results and an assessment of acceptance testing and/or commissioning; and

(D) The name of the authorized medical physicist who approves the acceptance testing and/or commissioning.

(e) Independent Verification of Therapeutic Radiation Machine Output:

(1) In addition to the full calibration required by Paragraph (a) of this Rule, the licensee shall have the outputs, for all clinically used radiations, independently verified:

(A) Within 90 days of first clinical use of a new installation;

(B) Within 90 days of first clinical use following a reinstallation in a new location; and

(C) Biennially, thereafter.

(2) Verification may be obtained by:

(A) irradiating dosimeters from an AAPM Accredited Dosimetry Calibration Laboratory; or

(B) evaluation by a registered qualified expert using an independent dosimetry system meeting Rule .1908 of this Section.

(3) A licensee shall maintain a record of each independent verification of therapeutic radiation machine output for three years. The record must include:

(A) If obtained by Part (2)(A) of this Paragraph: The date of the irradiation, the date of the analysis by the dosimetry center, the name, address and contact information for the AAPM Accredited Dosimetry Calibration Laboratory, and the results of the independent verification.

(B) If obtained by Part (2)(B) of this Paragraph: The date of the calibration, the manufacturer's name, model number, and serial number of the therapeutic radiation machine, auxiliary systems, and the instruments used to calibrate the unit(s), the results

and an assessment of the independent verification, and the name of the registered qualified expert who provided the independent verification.

(f) Quality Assurance Checks:

(1) Periodic quality assurance checks shall be performed on therapeutic radiation machines subject to this Rule, which are capable of operation at greater than or equal to 50 kV.

(2) To satisfy the requirement of Subparagraph (1) of this Paragraph, quality assurance checks shall meet the following requirements:

(A) The licensee shall perform quality assurance checks, to include ensuring the proper function of requirements outlined in Paragraphs (d) and (e) of this Rule, in accordance with written procedures established by the Authorized Medical Physicist; and

(B) The quality assurance check procedures shall specify the frequency at which tests or measurements are to be performed. The quality assurance check procedures shall specify that the quality assurance check shall be performed during the calibration specified in Paragraph (d) of this Rule. The acceptable tolerance for each parameter measured in the quality assurance check, when compared to the value for that parameter determined in the calibration specified in Paragraph (d) of this Rule, shall be stated.

(3) The cause for a parameter exceeding a tolerance set by the Authorized Medical Physicist shall be investigated and corrected before the system is used for patient or human research subject irradiation;

(4) Whenever a quality assurance check indicates a significant change in the operating characteristics of a system, as specified in the Authorized Medical Physicist's quality assurance check procedures, the system shall be recalibrated as required in Subparagraph (d)(2) of this Rule;

(5) The licensee shall use the dosimetry system described in Rule .1908 of this Chapter to make the quality assurance check required in Subparagraph (2) of this Paragraph;

(6) The licensee shall maintain a record of each quality assurance check required by this Paragraph for three years. The record shall include: the date of the quality assurance check; the manufacturer's name, model number, and serial number of the therapeutic radiation machine; the manufacturer's name; model number and serial number for the instrument(s) used to measure the radiation output of the therapeutic radiation machine; and the signature of the individual who performed the periodic quality assurance check.

(g) Operating Procedures:

(1) The therapeutic radiation machine shall not be used for irradiation of patients or human research subjects unless the requirements of Paragraphs (d) and (e) of this Rule have been met;

(2) Therapeutic radiation machines shall not be left unattended unless secured pursuant to Rules .1601(a)(32) and (33) of this Chapter;

(3) When a patient or human research subject must be held in position for radiation therapy, mechanical supports or immobilization devices shall be used;

(4) The tube housing or any other part of the imaging assembly shall not be held by an individual during operation unless the assembly is designed to require such holding and the peak tube potential of the system does not exceed 50 kV. In such cases, the holder shall wear protective gloves and apron of not less than 0.5 millimeters lead equivalency at 100 kV;

(5) A copy of the current operating and emergency procedures shall be maintained at the therapeutic radiation machine control console; and

(6) No individual other than the patient or human research subject shall be in the treatment room during exposures from therapeutic radiation machines operating above 150 kV. At energies less than or equal to 150 kV, any individual, other than the patient or human research subject, in the treatment room shall be protected by a barrier sufficient to meet the requirements of Rule .1601(a)(8) of this Chapter.

(h) Electronic brachytherapy devices are subject to the requirements of Rule .1911 of this Section and are exempt from the requirements of this Rule.

Authority G.S. 104E-7.

10A NCAC 15 .1907 THERAPEUTIC RADIATION MACHINES OF 500 KEV AND ABOVE

(a) The licensee shall provide documentation that equipment within this section conforms to the relevant International Electrotechnical Commission standard, documentation of US Food and Drug Administration clearance, or documentation of participation in a research study approved by the licensee's Institutional Review Board.

(b) Facility Design Requirements for Therapeutic Radiation Machines Operating above 500 kV. In addition to shielding adequate to meet requirements of Rule .1909 of this Section, the following design requirements are made:

(1) Protective Barriers. All protective barriers shall be fixed and permanent with respect to the radiation source and designed to comply with Rules .1601(a)(8) and .1601(a)(15) of this

Chapter external to the dedicated space, except for access doors to the treatment space or movable beam interceptors;

(2) Control Panel. In addition to other requirements specified within this Section, the control panel shall also:

(A) Be located outside the treatment space and complies with Rules .1601(a)(8) and .1601(a)(15) of this Chapter as required; and

(B) Provide an indication of whether radiation is being produced;

(3) Include access controls that will prevent unauthorized use of the therapeutic radiation machine;

(4) Viewing Systems. Viewing system shall be provided to permit continuous observation of the patient or human research subject following positioning and during irradiation and shall be so located that the operator may observe the patient or human research subject from the treatment control panel. The therapeutic radiation machine shall not be used for patient or human research subject irradiation unless at least one viewing system is operational;

(5) Communication Device or Technique. Provision shall be made for continuous two-way communication between the patient or human research subject and the operator at the control panel. The therapeutic radiation machine shall not be used for irradiation of patients or human research subjects unless continuous two-way communication device or technique is possible;

(6) Entrances. Treatment space entrances shall be provided with warning lights in a viewable location outside of all entrances, which will indicate when the useful beam is "ON" and when it is "OFF";

(7) Entrance Interlocks. Interlocks shall be provided such that all access controls are activated before treatment can be initiated or continued. If the radiation beam is interrupted by any access control, it shall not be possible to restore the machine to operation without activating the access control and reinitiating irradiation by manual action at the control panel;

(8) Movable Beam Interceptor Interlocks. If the shielding material in any protective barrier requires the presence of a movable beam interceptor to ensure compliance with Rule .1601(a)(15) of this Chapter, interlocks shall be provided to prevent the production of radiation, unless the beam interceptor is in place, whenever the useful beam is directed at the designated barriers;

(9) Emergency Cutoff Switches. At least 1 emergency power cutoff switch shall be located in the radiation therapy room and shall terminate all equipment electrical power including radiation and mechanical motion. All emergency power cutoff switches shall include a manual reset so that the therapeutic radiation machine cannot be restarted from the unit's control console without resetting the emergency cutoff switch; and

(10) Safety Interlocks. All safety interlocks shall be designed so that any defect or component failure in the safety interlock system prevents or terminates operation of the therapeutic radiation machine.

(c) Authorized Medical Physicist Support.

(1) The services of an Authorized Medical Physicist shall be required in facilities having therapeutic radiation machines. The Authorized Medical Physicist shall be responsible for:

(A) Calibrations required by Paragraph (d) of this Rule and radiation safety surveys required by Rule .1904(a) of this Section;

(B) Beam data acquisition and configuration for treatment planning, and supervision of its use;

(C) Quality assurance, including quality assurance check review required by Paragraph (f) of this Rule.

(D) Consultation with the authorized user in treatment planning, as needed; and

(E) Perform calculations/assessments regarding medical events.

(2) The operating procedures required by Paragraph (d) of this Rule shall also specifically address how the Authorized Medical Physicist is to be contacted for problems or emergencies, as well as the specific actions, if any, to be taken until the Authorized Medical Physicist can be contacted.

(d) Operating Procedures.

(1) No individual, other than the patient or human research subject, shall be in the treatment space during treatment or during any irradiation for testing or calibration purposes;

(2) Therapeutic radiation machines shall not be made available for medical use unless the requirements of Rule .1904(a) of this Section, and Paragraphs (e), (f) and (g) of this Rule have been met;

(3) Therapeutic radiation machines, when not in operation, shall be secured to prevent unauthorized use pursuant to Rules .1601(a)(32) and (33) of this Chapter;

(4) When a patient or human research subject must be held in position for radiation therapy, mechanical supports or immobilization devices shall be used;

(5) A copy of the current operating and emergency procedures shall be maintained at the therapeutic radiation machine control console.

(e) Acceptance Testing, Commissioning and Calibration Measurements. Acceptance testing, commissioning, and calibration of a therapeutic radiation machine subject to this Rule shall be performed by, or under the direct supervision of, an Authorized Medical Physicist:

(1) Acceptance testing and commissioning shall be performed in accordance with current published recommendations from a recognized national professional association with expertise in the use of therapeutic radiation technologies, that includes the American Association of Physicists in Medicine, the American College of Radiology and the American Society for Radiation Oncology. In the absence of a protocol published by a national professional association, the manufacturer's protocol or equivalent quality, safety, and security protocols, shall be followed.

(2) A licensee authorized to use a therapeutic radiation machine for medical use shall perform calibration measurements on each therapeutic radiation machine:

(A) Before the first medical use of the unit; and

(B) Before medical use under the following conditions: Whenever spot-check measurements indicate that the output, for each specific mode and energy, differs by more than five percent from the output obtained at the last calibration, following reinstallation of the therapeutic radiation machine in a new location, following any repair of the therapeutic radiation machine that would likely impact the radiation output beyond the normal range of expected fluctuation; and

(C) At intervals not to exceed annually.

(3) To satisfy the requirement of Paragraph (d) of this Rule, an authorized medical physicist shall design and implement a calibration procedure for each radiation therapy machine which is consistent with the specifications recommended by the manufacturer of the equipment and consistent with nationally recognizable standards. The calibration procedure shall be designed to ensure accurate patient or human research subject treatments, in accordance with the written directive and treatment plan. The calibration procedure shall include, but not be limited to, the following:

(A) Accuracy of output measurements to within ± five percent of radiations used medically; and,

(B) Evaluation and accuracy of auxiliary systems, such as motion tracking or gating and image guidance, used during patient or human research subject treatments.

(f) Independent Verification of Therapeutic Radiation Machine Output

(1) In addition to the calibration required by Paragraph (e) of this Rule, the licensee shall have the outputs, for all clinically used radiations, independently verified:

(A) Within 90 days of first clinical use of a new installation;

(B) Within 90 days of first clinical use following a reinstallation in a new location; and

(C) Biennially, thereafter.

(2) Verification may be obtained by:

(A) the authorized medical physicist irradiating dosimeters from an AAPM Accredited Dosimetry Calibration Laboratory; or

(B) evaluation by an independent registered qualified expert using an independent dosimetry system meeting Rule .1908 of this Section.

(3) A licensee shall maintain a record of each independent verification of therapeutic radiation machine output for three years. The record must include:

(A) If obtained by Part (e)(2)(A) of this Rule: The date of the irradiation, the date of the analysis by the dosimetry center, the name, address and contact information for the AAPM Accredited Dosimetry Calibration Laboratory, and the results of the independent verification.

(B) If obtained by Part (e)(2)(B) of this Rule: The date of the calibration, The manufacturer's name, model number, and serial number of the therapeutic radiation machine, auxiliary systems, and the instruments used to calibrate the units, the results and an assessment of the independent verification, and the name of the independent registered qualified expert who provided the independent verification.

(g) Quality Assurance Checks.

(1) Periodic quality assurance checks shall be performed on therapeutic radiation machines subject to this Rule, which are capable of operation at greater than or equal to 500 kV.

(2) To satisfy the requirement of Subparagraph (f)(1) of this Rule, quality assurance checks shall meet the following requirements:

(A) The licensee shall perform quality assurance checks, to include ensuring

the proper function of requirements outlined in Paragraphs (d) and (e) of this Rule, in accordance with written procedures established by the Authorized Medical Physicist; and

(B) The quality assurance check procedures shall specify the frequency at which tests or measurements are to be performed. The quality assurance check procedures shall specify that the quality assurance check shall be performed during the calibration specified in Paragraph (d) of this Rule. The acceptable tolerance for each parameter measured in the quality assurance check, when compared to the value for that parameter determined in the calibration specified in Paragraph (d) of this Rule, shall be stated.

(3) The cause for a parameter exceeding a tolerance set by the Authorized Medical Physicist shall be investigated and corrected before the system is used for patient or human research subject irradiation;

(4) Whenever a quality assurance check indicates a significant change in the operating characteristics of a system, as specified in the Authorized Medical Physicist's quality assurance check procedures, the system shall be recalibrated as required by Paragraph (d) of this Rule;

(5) The licensee shall use the dosimetry system described in Rule .1908 of this Section to make the quality assurance check required by Paragraph (f) of this Rule;

(6) The licensee shall maintain a record of each quality assurance check required by Paragraph (f) of this Rule for three years. The record shall include: the date of the quality assurance check; the manufacturer's name, model number, and serial number of the therapeutic radiation machine; the manufacturer's name; model number and serial number for the instrument(s) used to measure the radiation output of the therapeutic radiation machine; and the signature of the individual who performed the periodic quality assurance check.

Authority G.S. 104E-7.

10A NCAC 15 .1908 CALIBRATION OF SURVEY INSTRUMENTS AND DOSIMETRY SYSTEMS

(a) Administrative: Survey Instruments, when employed by the licensee to perform surveys required by this Section:

(1) The licensee shall ensure that the survey instruments used to show compliance with this Section have been calibrated before first use, at intervals not to exceed 12 months and following repair.

(2) To satisfy the requirements of Subparagraph (a)(1) of this Rule, the licensee shall:

(A) Calibrate all scale readings up to 10 mSv (1000 mrem) per hour with an appropriate radiation source that is traceable to the National Institute of Standards and Technology;

(B) Calibrate at least two points on each scale to be calibrated. These points should be at approximately 1/3 and 2/3 of full-scale; and

(3) To satisfy the requirements of Subparagraph (a)(2) of this Rule, the licensee shall:

(A) Consider a point as calibrated if the indicated dose rate differs from the calculated dose rate by not more than 10 percent; and

(B) Consider a point as calibrated if the indicated dose rate differs from the calculated dose rate by not more than 20 percent if a correction factor or graph is conspicuously attached to the instrument.

(4) The licensee shall retain a record of each calibration required in Paragraph (a) of this Rule for three years. The record shall include:

(A) A description of the calibration procedure; and

(B) A description of the source used and the certified dose rates from the source, and the rates indicated by the instrument being calibrated, the correction factors deduced from the calibration data, the signature of the individual who performed the calibration, and the date of calibration.

(5) The licensee may obtain the services of individuals licensed by the Agency, the US Nuclear Regulatory Commission or an Agreement State to perform calibrations of survey instruments. Records of calibrations that contain information required by Paragraph (d) of this Rule shall be maintained by the licensee.

(6) The record must include the model and serial number of the instrument, the date of the calibration, the results of the calibration, and the name of the individual who performed the calibration.

(b) Dosimetry system:

(1) A licensee shall have a calibrated dosimetry system available for use. To satisfy this requirement, one of the following two conditions must be met.

(A) The system must have been calibrated using a system or source traceable to the National Institute of Standards and Technology and published protocols

accepted by nationally recognized bodies; or by a calibration laboratory accredited by the American Association of Physicists in Medicine. The calibration must have been performed within the previous two years and after any servicing that may have affected system calibration; or

(B) The system must have been intercompared with another dosimetry system that was calibrated within the previous two years by the National Institute of Standards and Technology or by a calibration laboratory accredited by the American Association of Physicists in Medicine. The results of the intercomparison must indicate that the calibration factor of the licensee's system had not changed by more than two percent.

(2) A licensee shall retain a record of the calibration, intercomparison, and comparisons of its dosimetry equipment done for three years after the record is made. For each calibration, intercomparison, or comparison, the record must include:

(A) The date;

(B) The manufacturer's name, model numbers and serial numbers of the instruments that were calibrated, intercompared, or compared as required by Parts (1)(A) or (1)(B) of this Paragraph;

(C) The correction factor that was determined from the calibration or comparison or the apparent correction factor that was determined from an intercomparison; and

(D) The names of the individuals who performed the calibration, intercomparison, or comparison.

Authority G.S. 104E-7.

10A NCAC 15 .1909 SHIELDING AND SAFETY DESIGN REQUIREMENTS

(a) Each therapeutic radiation machine subject to Rules within this Section shall be provided with such primary and secondary barriers as are necessary to ensure compliance with Rules .1601(a)(8) and .1601(a)(15) of this Chapter and must consider the types of radiation generated in the use of the equipment.

(b) Facility shielding and safety designs shall be performed in accordance with current published recommendations from a recognized national professional association with expertise in the use of therapeutic radiation technologies, such as the American Association of Physicists in Medicine and the National Council on Radiation Protection and Measurements. In the absence of a protocol published by a national professional association, the manufacturer's protocol or equivalent quality, safety, and security protocols, shall be followed.

(c) Facility design information for all new installations of a therapeutic radiation machine or installations of a therapeutic radiation machine of different model, higher energy or workload into a room not previously approved for that energy, isocenter or planned workload shall be submitted for Agency approval prior to actual installation of the therapeutic radiation machine.

Authority G.S. 104E-7.

10A NCAC 15 .1910 OTHER USE OF ELECTRONICALLY-PRODUCED RADIATION TO DELIVER THERAPEUTIC RADIATION DOSAGE

A person shall not utilize any device which is designed to electrically generate a source of ionizing radiation to deliver therapeutic radiation dosage, and which is not regulated under any existing category of therapeutic radiation machine, until:

(1) The applicant or licensee has, at a minimum, provided the Agency with:

(2) Documentation that equipment to be licensed conforms to the relevant International Electrotechnical Commission standard, documentation of US Food and Drug Administration clearance, or documentation of participation in a research study approved by the licensee's Institutional Review Board;

(3) A detailed description of the device and its intended application(s);

(4) Facility design requirements, including shielding and access control;

(5) Documentation of appropriate training for authorized user physician(s), authorized medical physicist(s), and other personnel who will be involved in performing quality assurance tasks and/or setting up patients or human research subjects for treatment or delivering treatment;

(6) Methodology for measurement of dosages to be administered to patients or human research subjects;

(7) Documentation regarding calibration, maintenance, and repair of the device, as well as instruments and equipment necessary for quality assurance and radiation safety

(8) Radiation safety precautions and instructions; and

(9) Other information requested by the Agency in its review of the application; and

(10) The applicant or licensee has received written approval from the Agency to utilize the device in accordance with the regulations and specific conditions the Agency considers necessary for the medical use of the device.

Authority G.S. 104E-7.

10A NCAC 15 .1911 EMERGING TECHNOLOGIES

(a) Each registrant shall develop, implement, and maintain a dedicated quality management program to control the processes used to administer therapeutic radiation with US Food and Drug Administration cleared emerging technologies or previously unused features of a future or existing technology system.

(b) Implementation and on-going clinical use of the technology dated before the technology arrives at the facility or the new features are used:

(1) Must include an explicit strategy to ensure quality of processes and patient or human research subject safety.

(2) Must include approval from facility management and the radiation oncology safety team before the technology arrives or new features are used.

(c) The quality management program shall be developed by the radiation oncology safety team.

(d) The quality management program shall address, at a minimum:

(1) Education and training about the new technology or features;

(2) A system and timeline for on-going competency assessment;

(3) A system for real-time recording of on-going issues related to the technology and clinical use of the new technology or features;

(4) A strategy for timely investigation and adjudication of accidents and process deviations that may be captured in the system developed in Subparagraph (b)(1) of this Rule;

(5) A strategy for routine review at intervals not to exceed 13 months of the clinical use of the new technology or features which includes an assessment of the current use compared to Paragraph (b) of this Rule and plan to either update the clinical use plan or steps to bring the clinical use back into alignment with Paragraph (b) of this Rule;

(6) A strategy to ensure quality of equipment functions;

(7) A strategy for ensuring quality after hardware and software updates and after equipment repair.

(e) The quality management program shall be developed in accordance with current published recommendations from a recognized national professional association with expertise in the use of therapeutic radiation technologies, that includes the American Association of Physicists in Medicine, the American College of Radiology and the American Society for Radiation Oncology. In the absence of a protocol published by a national professional association, the manufacturer's protocol or equivalent quality, safety, and security protocol shall be followed.

(f) New technology issues should be reported through the vendor or manufacturer, applicable regulatory agency alerts, or customer service bulletins and be reviewed and addressed via a documented reporting system.

Authority G.S. 104E-7.

SECTION .2000 - VETERINARY USES OF THERAPEUTIC RADIATION MACHINES

10A NCAC 15 .2001 PURPOSE AND SCOPE

(a) This Section establishes requirements for licensing and use of veterinary therapeutic radiation machines to treat disease in animals other than humans. In addition to the requirements of this Section, all licensees are subject to the rules in Sections .0100, .0200, .0900, .1000, and .1600 of this Chapter.

(b) The use of veterinary therapeutic radiation machines shall be authorized by a licensed practitioner of veterinary medicine who meets the training and experience criteria established by Rule .2003(b) of this Section.

(c) In addition to the requirements of this Section, all veterinary therapeutic radiation machine licensees are subject to the annual fee provisions contained in Section .1100 of this Chapter.

Authority G.S. 104E-7.

10A NCAC 15 .2002 DEFINITIONS

(a) As used in this Section the following definitions apply:

(1) "Acceptance testing" means an evaluation of equipment and systems to confirm they meet the specifications stated by the manufacturer.

(2) "Animal" means any mammal other than human, and includes birds, fish, and reptiles, wild or domestic, living or dead.

(3) "Annually" means at intervals not to exceed 12 consecutive months, plus or minus 30 days.

(4) "Authorized Medical Physicist" means an individual authorized in accordance with Rule .2003(c) of this Section.

(5) "Authorized user" means a veterinarian who meets the training requirements of Rule .2003(b) of this Section and is authorized by license condition to use a therapeutic radiation machine covered by this Section.

(6) "Barrier" see "Protective barrier".

(7) "Biennially" means at intervals not to exceed 24 consecutive months, plus or minus 30 days.

(8) "Commissioning" means an intricate and methodical process designed to:

(A) acquire needed machine-specific beam data;

(B) validate the safe, accurate, and effective operation of a therapeutic radiation machine, treatment planning systems, ancillary systems, and associated procedural protocols; and,

(C) set baseline for future measurements for performance constancy.

(9) "Dosimetry systems" means radiation detecting equipment that may be used to characterize the radiation beam and quantify the energy it may deposit within a medium.

(10) "Electronic brachytherapy" means a method of radiation therapy where an electrically generated source of ionizing radiation is placed

in or near the tumor or target tissue to deliver therapeutic radiation dosage.

(11) "Electronic brachytherapy device" means the system used to produce and deliver therapeutic radiation including the x-ray tube, the control mechanism, the cooling system, and the power source.

(12) "Electronic brachytherapy source" means the x-ray tube component used in an electronic brachytherapy device.

(13) "External beam radiation therapy" means therapeutic irradiation in which the source of radiation is at a distance from the body.

(14) "Interlock" means a device preventing the start or continued operation of equipment unless certain predetermined conditions prevail.

(15) "Interruption of irradiation" means the stopping of irradiation with the possibility of continuing irradiation without resetting of operating conditions at the control panel.

(16) "Irradiation" means the exposure of a living being or matter to ionizing radiation.

(17) "Isocenter" means the center of the sphere through which the useful beam axis passes while the gantry moves through its full range of motions.

(18) "Kilovolt," "kV," "kilo electron volt," and "keV" means the energy equal to that acquired by a particle with one electron charge in passing through a potential difference of one thousand volts in a vacuum. Current convention is to use kV for photons and keV for electrons

(19) "Leakage radiation" means radiation emanating from the radiation therapy system except for the useful beam.

(20) "Licensee" means any person who is licensed by the agency pursuant to the Rules of Section .0900 of this Chapter.

(21) "Light field" means the area illuminated by light, simulating the radiation field.

(22) "Megavolt," "MV," "mega electron volt," and "MeV" means the energy equal to that acquired by a particle with one electron charge in passing through a potential difference of one million volts in a vacuum. Current convention is to use MV for photons and MeV for electrons.

(23) "Method of Delivery" means mode of radiation to be used during treatment, which may include photons, electrons, or protons.

(24) "Patient" means an animal, for whom a written directive is intended, subjected to machine produced radiation for the purposes of medical therapy.

(25) "Periodic quality assurance check" means a procedure which is performed to ensure that a previous parameter or condition continues to be valid.

(26) "Prescribed dose" means the total dose and dose per fraction as documented in the written directive.

(27) "Primary protective barrier" see "Protective barrier".

(28) "Protective barrier" means a barrier of radiation absorbing materials used to reduce radiation exposure. The types of protective barriers are as follows:

(A) "Primary protective barrier" means the material, excluding filters, placed in the useful beam.

(B) "Secondary protective barrier" means the material which attenuates stray radiation.

(29) "Qualified Expert" means a person registered by the agency pursuant to Rule .0205 of this Chapter for the provision of either Class VII or IX services.

(30) "Quarterly" means at intervals not to exceed 13 consecutive weeks, plus or minus 7 days.

(31) "Radiation oncology safety team" means, minimally, a group of individuals consisting of an authorized user, authorized medical physicist, and veterinary therapeutic radiation machine operator whose purpose is to work together to deliver radiation safely and reproducibly.

(32) "Restricted area" means an area, access to which is controlled by the licensee or registrant for purposes of protecting individuals against undue risks from exposure to radiation and radioactive materials. Restricted area does not include areas used as residential quarters, but separate rooms in a residential building may be set apart as a restricted area.

(33) "Semiannually" means at intervals not to exceed 6 consecutive months, plus or minus 15 days.

(34) "Sievert (Sv)" means the SI unit of dose equivalent. The unit of dose equivalent is the joule per kilogram.

(35) "Supervision" shall be defined as follows:

(A) "General supervision" means the activity is performed under the overall direction and control of a supervising individual. The supervising individual's physical presence shall not be required during the performance of the procedure but must be available by phone to provide assistance and direction if needed.

(B) "Direct supervision" means an individual exercise General Supervision and be present within the facility and immediately available to furnish assistance and direction throughout the performance of the activity. Direct Supervision does not

require that the supervising individual must be present in the room when the procedure is being performed.

(C) "Personal supervision" means an individual exercises General Supervision and be present in the room during the performance of the procedure.

(36) "Treatment room shielding" means a location which contains fixed protective barriers to limit radiation exposures to members of the public and occupationally exposed workers to within regulatory limits.

(37) "Unrestricted area" means an area, access to which is neither limited nor controlled by the licensee or registrant.

(38) "Veterinarian" means a person licensed to practice medicine in North Carolina pursuant to G.S. Chapter 90, Article 11.

(39) "Veterinary therapeutic radiation machine," also known as a "Therapeutic radiation machine," means equipment that is designed and used for external beam radiation therapy in the healing arts. For these regulations, devices used to administer electronic brachytherapy shall also be considered therapeutic radiation machines.

(40) "Weekly" means at least once per calendar week.

(41) "Written directive" means an order in writing for the administration of radiation to a specific patient, as specified in Rule .2005(b)(1) of this Section.

(b) Definitions of certain other words and phrases used in the rules in this Section are set forth in Rules .0103, .1001 and .1601 of this Chapter.

Authority G.S. 104E-7.

10A NCAC 15 .2003 GENERAL ADMINISTRATIVE REQUIREMENTS FOR VETERINARY FACILITIES USING THERAPEUTIC RADIATION MACHINES

(a) Administrative Controls: Licensees shall be responsible for directing the operation of the therapeutic radiation machines that have been licensed with the Agency. The licensee or the licensee's agent shall ensure that the requirements of this Section are met in the operation of the therapeutic radiation machines. A therapeutic radiation machine that does not meet the provisions of these regulations shall not be used for irradiation of patients.

(b) Training for Veterinary Therapeutic Radiation Machine Authorized Users: The licensee for any therapeutic radiation machine subject to Rules within this subpart shall require the authorized user to be a veterinarian who:

(1) Certification in Radiation Oncology by the American College of Veterinary Radiology; or

(2) Satisfactory completion of a radiation oncology residency program approved by the American College of Veterinary Radiology. For radiation oncologists who are eligible for certification by the American College of Veterinary Radiology in accordance with Subparagraph (c)(1) of this Rule but not yet certified by the date of application, certification shall be required within six years of initial certification eligibility; and

(3) Recentness of Training: The training and experience specified within Paragraph (c) of this Rule must have been obtained within the seven years preceding the date of hire or the individual must have had related continuing education and experience since the required training and experience was completed.

(c) Training for Veterinary Authorized Medical Physicist or Authorized Medical Physicist: The licensee for any therapeutic radiation machine subject to rules within this Section shall require the Authorized Medical Physicist to:

(1) Be certified and maintaining certification by the American Board of Radiology in:

(A) Therapeutic radiological physics; or

(B) Therapeutic medical physics; or

(2) Be certified and maintaining certification by the American Board of Medical Physics in Radiation Oncology Physics; or

(3) Be certified and maintaining certification by the Canadian College of Medical Physics in Radiation Oncology Physics; or

(4) Holds a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university; and

(A) Completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of an individual who meets the requirements for an authorized medical physicist for the types of use for which the individual is seeking authorization. This training and work experience must be conducted in clinical radiation facilities that provide external beam therapy with photons and electrons with energies greater than or equal to 1 million electron volts and brachytherapy services and must include: Performing full calibration and periodic spot checks of external beam treatment units, stereotactic radiosurgery units, and remote afterloading units as applicable to the veterinary practice, and conducting radiation surveys around external beam treatment units, stereotactic radiosurgery units, and remote afterloading units as applicable to the veterinary practice; and

(B) Completed training for the types of use for which authorization is sought that

includes hands-on device operation, safety procedures, clinical use, and the operation of a treatment planning system. This training requirement may be satisfied by satisfactorily completing either a training program provided by the vendor or by training supervised by an authorized medical physicist authorized for the types of use for which the individual is seeking authorization; or, be a qualified expert registered by the agency to provide Class VII or Class IX services in accordance with Rule .0205(c) of this Chapter.

(5) An individual identified on an Agency or an Agreement State medical accelerator license as an authorized medical physicist on or before the effective date of this Rule need not comply with Subparagraphs (1) through (4) of this Paragraph, except they must meet the training requirements defined in other sections of this rule for any uses for which they were not authorized on or before this date.

(d) Training for Veterinary Therapeutic Radiation Machine Radiation Safety Officer: The licensee for any therapeutic radiation machine subject to Rules within this subpart shall require the Radiation Safety Officer:

(1) Be listed as an Authorized User or Authorized Medical Physicist on the license; or

(2) Be certified by the American Board of Health Physics in Health Physics; or

(3) Be certified by the American Board of Science in Nuclear Medicine in Radiation Protection; or

(4) Be certified by the American Board of Radiology in:

(A) Diagnostic Radiologic Physics;

(B) Diagnostic Medical Physics;

(C) Medical Nuclear Physics;

(D) Nuclear Medical Physics; or

(5) Be certified by the American Board of Medical Physics in Medical Health Physics; or

(6) Has completed a structured educational program consisting of both:

(A) 200 hours of classroom and laboratory training in the following areas: Radiation physics and instrumentation, radiation protection, radiation biology, and radiation dosimetry, and

(B) One year of full-time radiation safety experience under the supervision of the individual identified as the Radiation Safety Officer on an Agreement State license or permit that authorizes similar type(s) of use(s) of radiation sources;

(7) An individual identified on an Agency or an Agreement State medical accelerator license as an Therapeutic Radiation Machine Radiation Safety Officer on or before the effective date of this Rule need not comply with Subparagraphs (1) through (6) of this Paragraph, except they must meet the training requirements in radiation safety, regulatory issues, and emergency procedures for the types of use which they were not authorized on or before this date; and

(8) Receive training in the requirements of the rules in Sections .1000 and .1600 of this Chapter and the Rules of this Section.

(e) Qualifications of Operators: Individuals who will be operating therapeutic radiation machines on patients or irradiation of products to be used by patients, shall:

(1) Comply with the requirements of Section .0900 of this Chapter; and

(2) Successfully complete a licensee-developed initial and ongoing competency program in the use of the therapeutic radiation machine as well as other ancillary systems used by the operator in veterinary medical use applications. The competency program shall be documented, and documentation of training shall include the list of topics evaluated, and shall be approved by the licensee, signed, and dated. Records required by this subparagraph shall be maintained for three years from the completion date of the approved competency program.

(f) Documented safety procedures shall be developed by an Authorized Medical Physicist and shall be readily accessible in the control area of a therapeutic radiation machine, including any restrictions required for the safe operation of the therapeutic radiation machine. The operator shall be able to demonstrate familiarity with these Rules.

(g) Patients shall not be exposed to the useful beam except for medical therapy purposes and unless such exposure has been ordered in writing by a therapeutic radiation machine authorized user. This provision specifically prohibits deliberate exposure of a patient for training, demonstration, or other non-healing-arts purposes.

(h) Visiting Veterinary Authorized User: A licensee may permit any veterinarian to act as a visiting authorized user under the term of the licensee's license for a total of 60 days per calendar year under the following conditions:

(1) The visiting authorized user has the prior approval of the licensee's management; and

(2) The visiting authorized user meets the requirements established for authorized users in Paragraph (b) of this Rule; and

(3) The licensee shall maintain copies of the documentation of the approval and that the visiting authorized user met the requirements of this rule for three years from the date of the last visit.

(i) Visiting Veterinary Authorized Medical Physicist: A licensee may permit any medical physicist to act as a visiting authorized medical physicist under the term of the licensee's license for a total of 60 days per calendar year under the following conditions:

(1) The visiting authorized medical physicist has the prior approval of the licensee's management; and

(2) The visiting authorized medical physicist meets the requirements established for authorized user(s) in Subparagraphs (c)(1) through (c)(5) of this Rule; and

(3) The licensee shall maintain copies of the documentation of the approval and that the visiting authorized medical physicist met the requirements of this rule for three years from the date of the last visit.

(j) All individuals associated with the operation of a therapeutic radiation machine shall be instructed in and shall comply with the provisions of the licensee's quality management program. In addition to the requirements of this Section, these individuals are also subject to the requirements of Rules .1601(a)(8), (a)(24) and (a)(51) of this Chapter.

(k) Unless otherwise specified by license condition, whenever patients are being treated by a therapeutic radiation machine, a veterinarian shall be accessible. This veterinarian does not need to be an authorized user.

(l) A licensee that permits supervised activities within this subpart is responsible for the acts and omissions of the supervised individual.

(m) Information and Maintenance Record and Associated Information: The licensee shall maintain the following information in a separate file or package for each therapeutic radiation machine, for inspection by the Agency:

(1) Report of acceptance testing and commissioning;

(2) Records of all surveys, calibrations, and periodic quality assurance checks of the therapeutic radiation machine required by this Section, as well as the name(s) of person(s) who performed such activities;

(3) Records of maintenance or modifications performed on the therapeutic radiation machine after the effective date of this Rule, as well as the name(s) of person(s) who performed such services;

(4) Assessments performed by an Authorized Medical Physicist, prior to the return of a therapeutic radiation machine to clinical use, after significant service, repair, or upgrade that may result in variances of machine function(s) more than the threshold(s) established within the quality management program.

(n) Records Retention: All records required by this Section shall be retained until these records have been inspected by the Agency, unless another retention period is specifically authorized in this Section.

Authority G.S. 104E-7.

10A NCAC 15 .2004 GENERAL TECHNICAL REQUIREMENTS FOR FACILITIES USING VETERINARY THERAPEUTIC RADIATION MACHINES

(a) Protection Surveys:

(1) The licensee shall ensure that radiation shielding surveys of all new facilities, and existing facilities not previously surveyed are performed with an operable radiation measurement survey instrument calibrated in accordance with Rule .2008 of this Section. The radiation protection survey shall be performed by, or under the direction of, an Authorized Medical Physicist or a qualified expert, and shall verify that, with the therapeutic radiation machine in a "BEAM-ON" condition:

(A) Radiation levels in restricted areas are not likely to cause personnel exposures more than the limits specified in Rule .1601(a)(8) of this Chapter; and

(B) Radiation levels in unrestricted areas do not exceed the limits specified in Rule .1601(a)(15) of this Chapter.

(2) In addition to the requirements of Subparagraph (a)(1) of this Rule, a radiation protection survey shall also be performed:

(A) After making any change in the treatment room shielding;

(B) After making any change in the location of the therapeutic radiation machine within the treatment room;

(C) After relocating the therapeutic radiation machine;

(D) After changes in occupancy of surrounding areas; or

(E) Before using the therapeutic radiation machine in a manner that could result in increased radiation levels in areas outside the external beam radiation therapy treatment room.

(3) The survey record shall include: the date of the measurements; the reason the survey is required; the manufacturer's name; model number and serial number of the therapeutic radiation machine; the instruments used to measure radiation levels; a plan of the areas surrounding the treatment room that were surveyed; the measured dose rate at several points in each area expressed in microsieverts or millirems per hour; the calculated maximum level of radiation over a period of one week for each restricted and unrestricted area; and the signature of the individual responsible for conducting the survey;

(4) If the results of the surveys required by this Paragraph indicate any radiation levels in excess of the limits specified in Parts (1)(A) and (B) of this Paragraph, the licensee shall disable

the machine from use, label clearly, and not use the unit:

(A) Except as may be necessary to repair, replace, or test the therapeutic radiation machine, the therapeutic radiation machine shielding, or the treatment room shielding; or

(B) Until the licensee has received a specific exemption from the Agency.

(b) Modification of Radiation Therapy Unit or Room Before Beginning a Treatment Program. If the survey required by Paragraph (a) of this Rule indicates that an individual in an unrestricted area may be exposed to levels of radiation greater than those permitted by Rule .1601 of this Chapter, before beginning the treatment program the licensee shall:

(1) Either equip the unit with beam direction interlocks or add additional radiation shielding to ensure compliance with Rule .1601of this Chapter;

(2) Perform the survey required by Paragraph (a) of this rule again; and

(3) Include in the report required by Paragraph (d) of this rule the results of the initial survey, a description of the modification made to comply with Subparagraph (b)(1) of this Rule, and the results of the second survey; or

(4) Receive an amended license issued by the agency that authorizes radiation levels in unrestricted areas greater than those permitted by Rule .1601 of this Chapter.

(c) Radiation Measuring Equipment. The licensee shall have, when required, appropriate and operable radiation measuring equipment available for use and calibrated in accordance with Rule .2008 of this Section. Radiation measuring equipment includes, but is not limited to, dosimetry systems, survey instruments, and other radiation measuring devices used in planning, guiding, and administering radiation.

(d) Reports of External Beam Radiation Therapy Surveys and Measurements. The licensee for any therapeutic radiation machine subject to rules within this Section shall furnish a copy of the records required in Paragraphs (a) and (b) of this Rule to the Agency within 30 days following completion of the action that initiated the record requirement.

Authority G.S. 104E-7.

10A NCAC 15 .2005 QUALITY MANAGEMENT PROGRAM

(a) Each licensee or applicant subject to rules within this Section shall develop, implement, and maintain a quality management program to provide high confidence that radiation will be administered as directed by the authorized user.

(b) Scope and Applicability. The quality management program shall address, as a minimum, the following specific objectives:

(1) Written Directives:

(A) A written directive must be approved by an authorized user prior to the administration of radiation. If because of the patient's condition, a delay in the order to provide a written revision to an existing written directive would jeopardize the patient's health, an oral revision to an existing written directive will be acceptable, provided that the oral revision is documented as soon as possible in writing in the patient's record and a revised written directive is signed by an authorized user within 48 hours of the oral revision.

(B) The written directive must contain the patient's name, treatment site, method of delivery, dose per fraction, total number of fractions, and total dose.

(C) A written revision to an existing written directive may be made provided that the revision is dated and approved by an authorized user prior to the administration of the therapeutic radiation machine dose, or the next fractional dose.

(D) The licensee shall retain a copy of the written directive for three years.

(2) Procedures for Administrations. For any administration requiring a written directive, the licensee shall develop, implement, and maintain written procedures to provide that:

(A) Prior to the administration of each course of radiation treatments, the patient's identity is verified.

(B) Each administration is in accordance with the written directive.

(C) Develop a table-shift policy describing action to be taken by staff in the event shifts are used for patient setup and a table shift exceeds limitations established within the treatment plan.

(D) Therapeutic radiation machine final plans of treatment and related calculations are in accordance with the respective written directives by: Checking both manual and computer-generated dose calculations to verify they are correct and in accordance with the written directive, and verifying that any computer-generated calculations are correctly transferred into the consoles of authorized therapeutic medical units;

(E) Any unintended deviation from the written directive is identified, evaluated, corrective action taken, the unintended deviation documented; and

(F) The licensee retains a copy of the procedures for administrations for the duration of the license.

(c) New Procedures on Established Equipment. Established and commissioned therapeutic radiation machines shall reevaluate equipment parameters, pursuant to this Section, when new procedures are to be performed that the parameters, including dose rate, field size, imaging accuracy, maximum dose, falls outside of the original commissioned parameters.

Authority G.S. 104E-7.

10A NCAC 15 .2006 VETERINARY THERAPEUTIC RADIATION MACHINES OF LESS THAN 500 KV

(a) The licensee shall provide documentation that equipment within this section conforms to the relevant International Electrotechnical Commission standard, documentation of US Food and Drug Administration clearance, or documentation of participation in a clinical research study approved by the licensee's Institutional Animal Care and Use Committee.

(b) Facility Design Requirements for Therapeutic Radiation Machines Capable of Operating in the Range 50 kV to 500 kV shall meet the requirements of Rule .2009 of this Section and shall permit continuous observation of the patient subject during irradiation and the viewing system shall be so located that the operator can observe the patient from the control panel. The therapeutic radiation machine shall not be used for patient irradiation unless at least one viewing system is operational.

(c) Additional Requirements. Treatment rooms that contain a therapeutic radiation machine capable of operating above 150 kV shall meet the following additional requirements:

(1) All protective barriers shall be fixed except for entrance doors or beam interceptors;

(2) The control panel shall be located outside the treatment room or in a totally enclosed booth, which has a ceiling, inside the room;

(3) Interlocks shall be provided such that all entrance doors, including doors to any interior booths, shall be closed before treatment can be initiated or continued. If the radiation beam is interrupted by any door opening, it shall not be possible to restore the machine to operation without closing the door and reinitiating irradiation by manual action at the control panel; and

(4) When any interlocked door is opened while the x-ray tube is activated, the air kerma rate at a distance of 1 meter from the source shall be reduced to less than 1 mGy or 100 mrad per hour.

(d) Acceptance Testing, Commissioning, and Calibration Measurements. Acceptance testing, commissioning, and full calibration of a therapeutic radiation machine subject to this Rule shall be performed by, or under the direct supervision of, an Authorized Medical Physicist:

(1) Acceptance testing and commissioning shall be performed in accordance with current published recommendations from a recognized national professional association with expertise in the use of therapeutic radiation technologies, such as the American Association of Physicists in Medicine, the American College of Radiology and the American Society for Radiation Oncology. In the absence of a protocol published by a national professional association, the manufacturer's protocol or equivalent quality, safety, and security protocols, shall be followed. Acceptance testing and commissioning shall be conducted before the first medical use following installation or reinstallation of the therapeutic radiation machine.

(2) A licensee authorized to use a therapeutic radiation machine for medical use shall perform calibration measurements on each therapeutic radiation machine:

(A) Before the first medical use of the unit;

(B) Whenever spot-check measurements indicate that the output, for each specific mode and energy, differs by more than five percent from the output obtained at the last calibration;

(C) Following reinstallation of the therapeutic radiation machine in a new location;

(D) Following any repair of the therapeutic radiation machine that would likely impact the radiation output beyond the normal range of expected fluctuation; and

(E) at intervals not exceeding annually.

(3) To satisfy the requirement of Paragraph (a) of this Rule, an authorized medical physicist shall design and implement a calibration procedure for each radiation therapy machine which is consistent with the specifications recommended by the manufacturer of the equipment and consistent with nationally recognizable standards. The calibration procedure shall be designed to ensure accurate patient treatments, in accordance with the written directive and treatment plan. The calibration procedure shall include, but not be limited to, the following:

(A) Accuracy of output measurements to within ± five percent of radiations used medically; and,

(B) Evaluation and accuracy of auxiliary systems, such as motion tracking or gating and image guidance, used during patient treatments.

(4) A licensee shall use the dosimetry system described in Rule .2008 of this Section to measure the output for one set of exposure conditions. The remaining radiation measurements required in Part (3)(A) of this Paragraph may be made using a dosimetry system that indicates relative dose rates.

(5) The evaluations and measurements for:

(A) Acceptance, commissioning, and calibration measurements required by

Part (3)(A) of this Paragraph shall be performed under the direct supervision of an authorized medical physicist;

(B) Full calibration measurements required by Part (3)(B) of this Paragraph shall be performed by an authorized medical physicist or under the general supervision of an authorized medical physicist.

(6) A licensee shall maintain a record of each therapeutic radiation machine calibration for three years. The record must include:

(A) The date of the calibration;

(B) The manufacturer's name, model number, and serial number of the therapeutic radiation machine, auxiliary systems, and the instruments used to calibrate the units;

(C) The results and an assessment of the calibrations; and

(D) The name of the authorized medical physicist who approves the calibration.

(7) A licensee shall maintain a record of each therapeutic radiation machine acceptance testing and commissioning for the lifetime of the machine. The record must include:

(A) The date of the acceptance testing or commissioning;

(B) The manufacturer's name, model number, and serial number of the therapeutic radiation machine, auxiliary systems, and the instruments used to evaluate the units;

(C) The results and an assessment of acceptance testing or commissioning; and

(D) The name of the authorized medical physicist who approves the acceptance testing or commissioning.

(e) Independent Verification of Therapeutic Radiation Machine Output

(1) In addition to the full calibration required by Paragraph (a) of this Rule, the licensee shall have the outputs, for all clinically used radiations, independently verified:

(A) Within 90 days of first clinical use of a new installation;

(B) Within 90 days of first clinical use following a reinstallation in a new location; and

(C) Biennially, thereafter.

(2) Verification may be obtained by:

(A) irradiating dosimeters from an American Association of Physicists in Medicine Accredited Dosimetry Calibration Laboratory; or

(B) evaluation by a registered qualified expert using an independent dosimetry system meeting the requirements of Rule .0947 of this Chapter.

(3) A licensee shall maintain a record of each independent verification of therapeutic radiation machine output for three years. The record must include:

(A) If obtained by Part (2)(A) of this Paragraph: The date of the irradiation, the date of the analysis by the dosimetry center, name, address and contact information for the American Association of Physicists in Medicine Accredited Dosimetry Calibration Laboratory, and the results of the independent verification.

(B) If obtained by Part (2)(B) of this Paragraph: the date of the calibration, the manufacturer's name, model number, and serial number of the therapeutic radiation machine, auxiliary systems, and the instruments used to calibrate the units, The results and an assessment of the independent verification, and the name of the registered qualified expert who provided the independent verification.

(f) Quality Assurance Checks.

(1) Periodic quality assurance checks shall be performed on therapeutic radiation machines subject to this Rule, which are capable of operation at greater than or equal to 50 kV.

(2) To satisfy the requirement of Subparagraph (1) of this Paragraph, quality assurance checks shall meet the following requirements:

(A) The licensee shall perform quality assurance checks, to include ensuring the proper function of requirements outlined in Paragraphs (d) and (e) of this Rule, in accordance with written procedures established by the Authorized Medical Physicist; and

(B) The quality assurance check procedures shall specify the frequency at which tests or measurements are to be performed. The quality assurance check procedures shall specify that the quality assurance check shall be performed during the calibration specified in Paragraph (d) of this Rule. The acceptable tolerance for each parameter measured in the quality assurance check, when compared to the value for that parameter determined in the calibration specified in Paragraph (d) of this Rule shall be stated.

(3) The cause for a parameter exceeding a tolerance set by the Authorized Medical Physicist shall be investigated and corrected before the system is used for patient irradiation;

(4) Whenever a quality assurance check indicates a significant change in the operating characteristics of a system, as specified in the Authorized Medical Physicist's quality assurance check procedures, the system shall be recalibrated as required in Subparagraph (d)(2) of this Rule;

(5) The licensee shall use the dosimetry system described in Rule .2008 of this Section to make the quality assurance check required in Subparagraph (2) of this Paragraph;

(6) The licensee shall maintain a record of each quality assurance check required by this Paragraph for three years. The record shall include: the date of the quality assurance check; the manufacturer's name, model number, and serial number of the therapeutic radiation machine; the manufacturer's name; model number and serial number for the instruments used to measure the radiation output of the therapeutic radiation machine; and the signature of the individual who performed the periodic quality assurance check.

(g) Operating Procedures.

(1) The therapeutic radiation machine shall not be used for irradiation of patients unless the requirements of Paragraphs (d) and (e) of this Rule have been met;

(2) Therapeutic radiation machines shall not be left unattended unless secured pursuant to Rules .1601(a)(32) and (33) of this Chapter;

(3) When a patient must be held in position for radiation therapy, mechanical supports or immobilization devices shall be used;

(4) The tube housing or any other part of the imaging assembly shall not be held by an individual during operation unless the assembly is designed to require such holding and the peak tube potential of the system does not exceed 50 kV. In such cases, the holder shall wear protective gloves and apron of not less than 0.5 millimeters lead equivalency at 100 kV;

(5) A copy of the current operating and emergency procedures shall be maintained at the therapeutic radiation machine control console; and

(6) No individual other than the patient shall be in the treatment room during exposures from therapeutic radiation machines operating above 150 kV. At energies less than or equal to 150 kV, any individual, other than the patient, in the treatment room shall be protected by a barrier sufficient to meet the requirements of Rule .1601(a)(8) of this Chapter.

(h) Electronic brachytherapy devices are subject to the requirements of Rule .2011 of this Chapter and are exempt from the requirements of this Rule.

Authority G.S. 104E-7.

10A NCAC 15 .2007 VETERINARY THERAPEUTIC RADIATION MACHINES OF 500 KEV AND ABOVE

(a) The licensee shall provide documentation that equipment within this section conforms to the relevant International Electrotechnical Commission standard, documentation of US Food and Drug Administration clearance, or documentation of participation in a clinical research study approved by the licensee's Institutional Animal Care and Use Committee.

(b) Facility Design Requirements for Therapeutic Radiation Machines Operating above 500 kV. In addition to shielding adequate to meet requirements of Rule .2009 of this Section, the following design requirements are made:

(1) Protective Barriers. All protective barriers shall be fixed and permanent with respect to the radiation source and designed to comply with the dose limits required by Rules .1601(a)(8) and .1601(a)(15) of this Chapter and shall be external to the dedicated space, except for access doors to the treatment space or movable beam interceptors;

(2) Control Panel. In addition to other requirements specified within this Section, the control panel shall also:

(A) Be located outside the treatment space and shall comply with the dose limits required by Rules .1601(a)(8) and .1601(a)(15) of this Chapter; and

(B) Provide a visual indication of when radiation is being produced;

(3) Include access controls that will prevent unauthorized use of the therapeutic radiation machine;

(4) Viewing Systems. Viewing system shall be provided to permit continuous observation of the patient following positioning and during irradiation and shall be so located that the operator may observe the patient from the treatment control panel. The therapeutic radiation machine shall not be used for patient irradiation unless at least one viewing system is operational;

(5) Entrances. Treatment space entrances shall be provided with warning lights in a viewable location outside of all entrances, which will indicate when the useful beam is "ON" and when it is "OFF";

(6) Entrance Interlocks. Interlocks shall be provided such that all access controls are activated before treatment can be initiated or continued. If the radiation beam is interrupted by any access control, it shall not be possible to restore the machine to operation without activating the access control and reinitiating

irradiation by manual action at the control panel;

(7) Movable Beam Interceptor Interlocks. If the shielding material in any protective barrier requires the presence of a movable beam interceptor to ensure compliance with Rule .1601(a)(15) of this Chapter, interlocks shall be provided to prevent the production of radiation, unless the beam interceptor is in place, whenever the useful beam is directed at the designated barriers;

(8) Emergency Cutoff Switches. At least one emergency power cutoff switch shall be located in the radiation therapy room and shall terminate all equipment electrical power including radiation and mechanical motion. All emergency power cutoff switches shall include a manual reset so that the therapeutic radiation machine cannot be restarted from the unit's control console without resetting the emergency cutoff switch; and

(9) Safety Interlocks. All safety interlocks shall be designed so that any defect or component failure in the safety interlock system prevents or terminates operation of the therapeutic radiation machine.

(c) Authorized Medical Physicist Support.

(1) The services of an Authorized Medical Physicist shall be required in facilities having therapeutic radiation machines. The Authorized Medical Physicist shall be responsible for:

(A) Calibrations required by Paragraph (d) of this Rule and the protection surveys required by Rule .2004(a) of this Section;

(B) Beam data acquisition and configuration for treatment planning, and supervision of its use;

(C) Quality assurance, including quality assurance check review required by Paragraph (f) of this Rule.

(D) Consultation with the authorized user in treatment planning, as needed; and

(E) Perform calculations and assessments regarding medical events.

(2) The operating procedures required by Paragraph (c) of this Rule shall also address how the Authorized Medical Physicist is to be contacted for problems or emergencies, as well as the specific actions, if any, to be taken until the Authorized Medical Physicist can be contacted.

(d) Operating Procedures.

(1) No person shall be in the treatment space during treatment or during any irradiation for testing or calibration purposes;

(2) Therapeutic radiation machines shall not be made available for medical use unless the requirements of Rule .2004(a), and Paragraphs (d), (e) and (f) of this rule have been met;

(3) Therapeutic radiation machines, when not in operation, shall be secured to prevent unauthorized use pursuant to Rules .1601(a)(32) and (33) of this Chapter;

(4) When a patient must be held in position for radiation therapy, mechanical supports or immobilization devices shall be used;

(5) A copy of the current operating and emergency procedures shall be maintained at the therapeutic radiation machine control console.

(e) Acceptance Testing, Commissioning and Calibration Measurements. Acceptance testing, commissioning, and calibration of a therapeutic radiation machine subject to this Rule shall be performed by, or under the direct supervision of, an Authorized Medical Physicist:

(1) Acceptance testing and commissioning shall be performed in accordance with current published recommendations from a recognized national professional association with expertise in the use of therapeutic radiation technologies, that includes the American Association of Physicists in Medicine, the American College of Radiology and the American Society for Radiation Oncology. In the absence of a protocol published by a national professional association, the manufacturer's protocol or equivalent quality, safety, and security protocols, shall be followed.

(2) A licensee authorized to use a therapeutic radiation machine for medical use shall perform calibration measurements on each therapeutic radiation machine:

(A) Before the first medical use of the unit; and

(B) Before medical use under the following conditions: Whenever spot-check measurements indicate that the output, for each specific mode and energy, differs by more than five percent from the output obtained at the last calibration, following reinstallation of the therapeutic radiation machine in a new location, or following any repair of the therapeutic radiation machine that would likely impact the radiation output beyond the normal range of expected fluctuation, and at intervals not exceeding annually.

(3) To satisfy the requirement of Paragraph (d) of this Rule, an authorized medical physicist shall design and implement a calibration procedure for each radiation therapy machine which is consistent with the specifications recommended by the manufacturer of the equipment and consistent with nationally recognizable standards. The calibration

procedure shall be designed to ensure accurate patient treatments, in accordance with the written directive and treatment plan. The calibration procedure shall include, but not be limited to, the following:

(A) Accuracy of output measurements to within ± five percent of radiations used medically; and,

(B) Evaluation and accuracy of auxiliary systems, such as motion tracking or gating and image guidance, used during patient treatments.

(f) Independent Verification of Therapeutic Radiation Machine Output

(1) In addition to the calibration required by Paragraph (d) of this Rule, the licensee shall have the outputs, for all clinically used radiations, independently verified:

(A) Within 90 days of first clinical use of a new installation;

(B) Within 90 days of first clinical use following a reinstallation in a new location; and

(C) Biennially, thereafter.

(2) Verification may be obtained by:

(A) the authorized medical physicist irradiating dosimeters from an American Association of Physicists in Medicine Accredited Dosimetry Calibration Laboratory; or

(B) evaluation by an independent registered qualified expert using an independent dosimetry system meeting the requirements of Rule .2008 of this Chapter.

(3) A licensee shall maintain a record of each independent verification of therapeutic radiation machine output for three years. The record must include:

(A) If obtained by Part (e)(2)(A) of this Rule: The date of the irradiation, the date of the analysis by the dosimetry center, name, address and contact information for the American Association of Physicists in Medicine Accredited Dosimetry Calibration Laboratory, and the results of the independent verification.

(B) If obtained by Part (e)(2)(B) of this Rule: The date of the calibration, the manufacturer's name, model number, and serial number of the therapeutic radiation machine, auxiliary systems, and the instruments used to calibrate the unit(s), the results and an assessment of the independent verification, and the name of the independent registered qualified expert who provided the independent verification.

(g) Quality Assurance Checks.

(1) Periodic quality assurance checks shall be performed on therapeutic radiation machines subject to this Rule, which are capable of operation at greater than or equal to 500 kV.

(2) To satisfy the requirement of Subparagraph (f)(1) of this Rule, quality assurance checks shall meet the following requirements:

(A) The licensee shall perform quality assurance checks, to include ensuring the proper function of requirements outlined in Paragraphs (d) and (e) of this Rule, in accordance with written procedures established by the Authorized Medical Physicist; and

(B) The quality assurance check procedures shall specify the frequency at which tests or measurements are to be performed. The quality assurance check procedures shall specify that the quality assurance check shall be performed during the calibration specified in Paragraph (d) of this Rule. The acceptable tolerance for each parameter measured in the quality assurance check, when compared to the value for that parameter determined in the calibration specified in Paragraph (d) of this Rule, shall be stated.

(3) The cause for a parameter exceeding a tolerance set by the Authorized Medical Physicist shall be investigated and corrected before the system is used for patient irradiation;

(4) Whenever a quality assurance check indicates a significant change in the operating characteristics of a system, as specified in the Authorized Medical Physicist's quality assurance check procedures, the system shall be recalibrated as required in Paragraph (d) of this rule;

(5) The licensee shall use the dosimetry system described in Rule .2008 of this Section to make the quality assurance check required in Paragraph (f) of this rule;

(6) The licensee shall maintain a record of each quality assurance check required by Paragraph (f) of this Rule for three years. The record shall include: the date of the quality assurance check; the manufacturer's name, model number, and serial number of the therapeutic radiation machine; the manufacturer's name; model number and serial number for the instruments used to measure the radiation output of the therapeutic radiation machine; and the signature of the individual who performed the periodic quality assurance check.

Authority G.S. 104E-7.

10A NCAC 15 .2008 CALIBRATION OF SURVEY INSTRUMENTS AND DOSIMETRY SYSTEMS

(a) Survey Instruments, when employed by the licensee to perform surveys required by this section:

(1) The licensee shall ensure that the survey instruments used to show compliance with the provisions of this Rule have been calibrated before first use, at intervals not to exceed 12 months and following repair.

(2) To satisfy the requirements of Subparagraph (1) of this Paragraph, the licensee shall:

(A) Calibrate all required scale readings up to 10 mSv or 1000 mrem per hour with an appropriate radiation source that is traceable to the National Institute of Standards and Technology;

(B) Calibrate at least two points on each scale to be calibrated. These points should be at approximately 1/3 and 2/3 of full-scale; and

(3) To satisfy the requirements of Subparagraph (a)(2) of this Rule, the licensee shall:

(A) Consider a point as calibrated if the indicated dose rate differs from the calculated dose rate by not more than 10 percent; and

(B) Consider a point as calibrated if the indicated dose rate differs from the calculated dose rate by not more than 20 percent if a correction factor or graph is conspicuously attached to the instrument.

(4) The licensee shall retain a record of each calibration required in this Paragraph for three years. The record shall include:

(A) A description of the calibration procedure; and

(B) A description of the source used and the certified dose rates from the source, and the rates indicated by the instrument being calibrated, the correction factors deduced from the calibration data, the signature of the individual who performed the calibration, and the date of calibration.

(5) The licensee may obtain the services of individuals licensed by the Agency, the US Nuclear Regulatory Commission or an Agreement State to perform calibrations of survey instruments. Records of calibrations that contain information required by Paragraph (d) of this Rule shall be maintained for three years by the licensee.

(6) The record must include the model and serial number of the instrument, the date of the calibration, the results of the calibration, and the name of the individual who performed the calibration.

(b) Dosimetry system:

(1) A licensee shall have a calibrated dosimetry system available for use. To satisfy this requirement, one of the following two conditions must be met.

(A) The system must have been calibrated using a system or source traceable to the National Institute of Standards and Technology and published protocols accepted by nationally recognized bodies; or by a calibration laboratory accredited by the American Association of Physicists in Medicine. The calibration must have been performed within the previous two years and after any servicing that may have affected system calibration; or

(B) The system must have been intercompared with another dosimetry system that was calibrated within the previous 2 years by National Institute of Standards and Technology or by a calibration laboratory accredited by the American Association of Physicists in Medicine. The results of the intercomparison must indicate that the calibration factor of the licensee's system had not changed by more than 2 percent.

(2) A licensee shall retain a record of the calibration, intercomparison, and comparisons of its dosimetry equipment done for three years after the record is made. For each calibration, intercomparison, or comparison, the record must include:

(A) The date;

(B) The manufacturer's name, model numbers and serial numbers of the instruments that were calibrated, intercompared, or compared as required by Subparagraphs (b)(1) and (b)(2);

(C) The correction factor that was determined from the calibration or comparison or the apparent correction factor that was determined from an intercomparison; and

(D) The names of the individuals who performed the calibration, intercomparison, or comparison.

Authority G.S. 104E-7.

10A NCAC 15 .2009 SHIELDING AND SAFETY DESIGN REQUIREMENTS

(a) Each therapeutic radiation machine subject to Rules within this subpart shall be provided with such primary or secondary

barriers as are necessary to ensure compliance with Rules .1601(a)(8) and .1601(a)(15) of this Chapter and must consider the types of radiations generated in the use of the equipment.
(b) Facility shielding and safety designs shall be performed in accordance with current published recommendations from a recognized national professional association with expertise in the use of therapeutic radiation technologies, such as the American Association of Physicists in Medicine and the National Council on Radiation Protection and Measurements. In the absence of a protocol published by a national professional association, the manufacturer's protocol or equivalent quality, safety, and security protocols, shall be followed.
(c) Facility design information for all new installations of a therapeutic radiation machine or installations of a therapeutic radiation machine of different model, higher energy or workload into a room not previously approved for that energy, isocenter or planned workload shall be submitted for Agency approval prior to actual installation of the therapeutic radiation machine.

Authority G.S. 104E-7.

10A NCAC 15 .2010 OTHER USE OF ELECTRONICALLY-PRODUCED RADIATION TO DELIVER THERAPEUTIC RADIATION DOSAGE

(a) A person shall not utilize any device which is designed to electrically generate a source of ionizing radiation to deliver therapeutic radiation dosage, and which is not regulated under any existing category of therapeutic radiation machine, until the applicant or licensee has, at a minimum, provided the Agency with:

(1) Documentation that equipment to be licensed conforms to the relevant International Electrotechnical Commission standard, documentation of US Food and Drug Administration clearance, or documentation of participation in a clinical research study approved by the licensee's Institutional Animal Care and Use Committee.
(2) A detailed description of the device and its intended applications;
(3) Facility design requirements, including shielding and access control;
(4) Documentation of appropriate training for authorized users, authorized medical physicists, and other personnel who will be involved in performing quality assurance tasks and setting up patients for treatment or delivering treatment;
(5) Methodology for measurement of dosages to be administered to patients;
(6) Documentation regarding calibration, maintenance, and repair of the device, as well as instruments and equipment necessary for quality assurance and radiation safety
(7) Radiation safety precautions and instructions; and
(8) Other information requested by the Agency in its review of the application; and

(b) The applicant or licensee has received written approval from the Agency to utilize the device in accordance with the regulations and specific conditions the Agency considers necessary for the medical use of the device.

Authority G.S. 104E-7.

10A NCAC 15 .2011 EMERGING TECHNOLOGIES

(a) Each registrant shall develop, implement, and maintain a dedicated quality management program to control the processes used to administer therapeutic radiation with US Food and Drug Administration cleared emerging technologies or previously unused features of a future or existing technology system.
(b) Implementation and on-going clinical use of the technology dated before the technology arrives at the facility or the new features are used:

(1) Must include an explicit strategy to ensure quality of processes and patient safety.
(2) Must include approval from facility management and the radiation oncology safety team before the technology arrives or new features are used.

(c) The quality management program shall be developed by the radiation oncology safety team.
(d) The quality management program shall address, at a minimum:

(1) Education and training about new technologies and features;
(2) A system and timeline for on-going competency assessment;
(3) A system for real-time recording of on-going issues related to the technology and clinical use of the new technology or features;
(4) A strategy for timely investigation and adjudication of accidents and process deviations that may be captured in the system developed in Subparagraph (b)(1) of this Rule;
(5) A strategy for routine review at intervals not to exceed 13 months of the clinical use of the new technology or features which includes an assessment of the current use compared to Paragraph (b) of this Rule and a plan to either update the clinical use plan or steps to bring the clinical use back into compliance with Paragraph (b) of this Rule;
(6) A strategy to ensure quality of equipment functions;
(7) An strategy for ensuring quality after hardware and software updates and after equipment repair.

(e) The quality management program shall be developed and maintained in accordance with current published recommendations from a recognized national professional association with expertise in the use of therapeutic radiation technologies, such as the American Association of Physicists in Medicine, the American College of Radiology, and the American Society for Radiation Oncology. In the absence of a protocol published by a national professional association, the

manufacturer's protocol or equivalent quality, safety, and security protocol shall be followed.
(f) New technology issues should be reported through the vendor or manufacturer, applicable regulatory agency alerts, and customer service bulletins and be reviewed and addressed via a documented reporting system.

Authority G.S. 104E-7.

TITLE 12 – DEPARTMENT OF JUSTICE

***Notice** is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education and Training Standards Commission intends to amend the rules cited as 12 NCAC 09B .0232, .0405; 09C .0104; 09H .0102-.0105, and repeal the rules cited as 12 NCAC 09B .0224, .0401, and .0402.*

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

Proposed Effective Date: *October 1, 2025*

Public Hearing:
Date: *June 2, 2025*
Time: *10:00am*
Location: *Microsoft Teams. Meeting information will be published on agency's website. https://ncdoj.gov/law-enforcement-training/criminal-justice*

Reason for Proposed Action: *To update curriculum for Compliance and Control Tactics Instructors, requirements for completion of Basic Law Enforcement Training, and requirements for certification for Retired Law Enforcement Officer Firearms Qualification. To repeal redundant rules.*

Comments may be submitted to: *Michelle S. Schilling, 1700 Tryon Park Drive, Raleigh, NC 27603; phone (919) 779-8205; email MSchilling@ncdoj.gov*

Comment period ends: *June 2, 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 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SUBCHAPTER 09B - STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT: EDUCATION: AND TRAINING

SECTION .0200 – MINIMUM STANDARDS FOR CRIMINAL JUSTICE SCHOOLS AND CRIMINAL JUSTICE TRAINING PROGRAMS OR COURSES OF INSTRUCTION

12 NCAC 09B .0224 BASIC TRAINING -- COUNTY CONFINEMENT FACILITY
~~(a) The basic training course for detention officers as prescribed in 12 NCAC 10B by the North Carolina Sheriffs' Education and Training Standards Commission is hereby incorporated by reference, and shall automatically include any subsequent amendments and editions of the incorporated material as provided by G.S. 150B 21.6, to be the minimum basic training course required for county confinement facility personnel. The "Detention Officer Certification Training Manual" as published by the North Carolina Justice Academy shall apply as the basic curriculum for county confinement facility personnel. Copies of this manual may be obtained by contacting the North Carolina Justice Academy, Post Office Box 99, Salemburg, North Carolina 28385-0099. The cost of this manual is forty dollars ($40.00) per copy.~~
~~(b) Notice of successful course completion issued by the Sheriffs' Standards Division shall be sufficient to satisfy this requirement.~~

Authority G.S. 17C-2; 17C-6; 17C-10.

12 NCAC 09B .0232 SPECIALIZED COMPLIANCE AND CONTROL TACTICS INSTRUCTOR TRAINING
(a) The instructor training course required for Specialized Compliance and Control Tactics Instructor Certification shall consist of a minimum of ~~29~~ 23 hours of classroom instruction plus time required to complete the practical skills ~~tasks~~ associated with Compliance and Control Tactics Instructional Methods and Demonstration, presented during a continuous period of not more than two weeks. 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 breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:
(1) Whether instruction has begun in the course or whether course initiation may be postponed;

(2) The risk of harm to students that may be caused by continuation of the course;
(3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
(4) The specific need for the waiver; and
(5) 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.~~

(b) Each Specialized Compliance and Control Tactics Instructor Training course shall provide the trainee with the skills and knowledge to perform the function of a criminal justice Specialized Compliance and Control Tactics Instructor in the Commission-accredited Basic Law Enforcement Training Course or a Law Enforcement Officers' Annual In-Service Training Program.

(c) Each applicant for Specialized Compliance and Control Tactics Instructor Training shall:

(1) have completed the Instructor Training course, pursuant to 12 NCAC 09B .0209;
(2) present a letter from a physician, physician assistant, or nurse practitioner, who holds a current license in the United States to practice medicine, as issued by a state medical board, stating the applicant's physical fitness to participate in the course;
(3) present a written endorsement by either
  (A) a certified School Director indicating the student is qualified to instruct Compliance and Control Tactics in the Commission-accredited Basic Law Enforcement Training Course; or
  (B) a Department Head, certified School Director, or In-Service Training Coordinator indicating the student may be utilized to instruct Compliance and Control Tactics for the Law Enforcement Officers' Annual In-Service Training program; and
(4) Within 365 days prior to enrollment in the Compliance and Control Tactics Instructor Training course the prospective student shall complete the following assessments administered by the North Carolina Justice Academy:
  (A) a qualification requiring the individual to demonstrate 100 percent proficiency on the Basic Law Enforcement Training Compliance and Control Tactics; and
  (B) achieve at least the 60th percentile on a physical fitness assessment.

(d) Each Specialized Compliance and Control Tactics Instructor Training course shall include the following identified topic areas and minimum instructional hours for each area:

(1)	Orientation	1 Hour
(2)	Response to Injury	~~4 Hours~~ 2 Hours
(3)	Combat Conditioning	~~4 Hours~~ 8 Hours
(4)	Safety Guidelines/Rules	~~2 Hours~~ 1 Hour
(5)	~~Fundamentals of Professional Liability~~ Legal Considerations for Compliance and Control Tactics Instructors	~~4 Hours~~ 2 Hours
(6)	Practical Skills Enhancement	~~4 Hours~~ 6 Hours
(7)	~~Student Instructional Practicum~~ History of Use of Force	~~6 Hours~~ 1 Hour
(8)	BLET Lesson Plan Review	~~4 Hours~~ 2 Hours
(9)	The School Director shall determine the number of hours required to complete the practical skills associated with Compliance and Control Tactics, Instructional Methods, and Demonstrations and be based on the number of enrolled students and number of instructors, pursuant to Rule .0202(b)(5) of this Section.	

Authority G.S. 17C-6.

SECTION .0400 - MINIMUM STANDARDS FOR COMPLETION OF TRAINING

12 NCAC 09B .0401 TIME REQUIREMENT FOR COMPLETION OF TRAINING

~~(a) Each criminal justice officer, with the exception of law enforcement officers, holding probationary certification shall complete, with passing scores, a Commission accredited basic training course as prescribed in Rules .0225, .0235, .0236, .0411 and .0412 of this Subchapter that includes training in the skills and knowledge necessary to perform the duties of his or her office. The officer shall complete the course within one year from the date of his or her original appointment, as determined by the date of the probationary certification.~~

~~(b) Each law enforcement officer shall have completed with passing scores the accredited basic training course as prescribed in Rule .0205 of this Subchapter prior to obtaining probationary certification.~~

~~(c) If a trainee completes the basic training course as prescribed in Rule .0205 of this Subchapter prior to being employed as a law enforcement officer, the trainee shall be duly appointed and sworn as a law enforcement officer within one year of passing the comprehensive written exam as specified in Rule .0406 of this Subchapter for that basic training course to be recognized under these Rules.~~

~~(d) An active duty member of the armed forces who begins the basic training course as prescribed in Rule .0205 of this Section within five years prior to separating from active duty status, and completes the basic training course in its entirety pursuant to Rule .0405 of this Section and achieves a passing score on the comprehensive written examination pursuant to Rule .0406 of this Section shall be eligible for probationary certification pursuant to 12 NCAC 09C .0303 for a period of 12 months from the date the individual separates from active duty status in the armed forces.~~

~~(e) If local confinement supervisory and administrative personnel complete basic training prior to being employed by a facility in a~~

~~supervisory and administrative position that requires certification as prescribed in G.S. 153A-217 and G.S. 153A-218, the personnel shall be duly appointed to a local confinement facility supervisory and administrative position within one year of the completion of training for the basic training course specified in 12 NCAC 09B .0205. This one year period shall begin with the date the applicant achieves a passing score on the comprehensive written exam, as specified in Rule .0411 of this Section.~~

Authority G.S. 17C-2; 17C-6; 17C-10; .

12 NCAC 09B .0402 WAIVER OF COMPLETION OF TRAINING

~~(a) The Commission may waive an officer's completion of the commission accredited training course upon receiving documentary evidence from the employing department that the officer has satisfactorily completed equivalent training. All such officers, however, shall serve a one year period of probation.~~

~~(b) Training received in states with laws governing or regulating criminal justice officer training shall, if subject to such review, have been approved or certified by the appropriate agency of the state in which the training was received.~~

~~(c) The Commission may prescribe as a condition of certification supplementary or remedial training deemed necessary to equate previous training with current standards.~~

~~(d) The Commission shall require satisfactory performance on a commission approved written examination as proof of equivalent training.~~

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

12 NCAC 09B .0405 COMPLETION OF BASIC LAW ENFORCEMENT TRAINING COURSE

(a) Each delivery of a Commission-accredited Basic Law Enforcement Training Course (BLET) includes all modules as specified in Rule .0205 of this Subchapter. Each trainee shall attend and satisfactorily complete the full course as specified in Paragraph (b) of this Rule during a scheduled delivery. The school director may develop supplemental requirements as set forth in Rule .0202(a)(5) of this Subchapter, but may not add substantive courses, or change or expand the substance of the courses as set forth in Rule .0205 of this Subchapter for purposes of Commission credit. This Rule does not prevent the instruction on local agency rules or standards; however, such instruction shall not be considered or endorsed by the Commission for purposes of certification. The Director of the Standards Division shall issue prior written authorization for a specified trainee's limited enrollment in a subsequent delivery of the same course where the trainee provides evidence that:

(1) the trainee attended and satisfactorily completed specified class hours and topics of BLET but through extended absence occasioned by illness, accident, emergency, or other good cause was absent for more than five percent of the total class hours of the course offering;

(2) the trainee was granted excused absences by the school director that did not exceed five percent of the total class hours for the course offering and the school director has obtained approval from the Standards Division pursuant to Rule .0404 of this Section for make up work to be completed in a subsequent enrollment; or

(3) the trainee participated in a BLET course but had an identified deficiency in topical area or skill areas in no more than two of the specific topic areas incorporated in course content as prescribed under Rule .0205 of this Subchapter;

For the purposes of this Rule, "limited enrollment" is defined as the requirement to complete the specific number of courses and course hours in which the trainee is deficient. The trainee who is deficient in more than two academic areas or motor skills shall be dismissed from the course delivery and shall be required to complete a subsequent training delivery in its entirety.

(b) The trainee shall demonstrate proficiency in the academic tests by achieving a minimum score of 70 percent on each academic test. If a trainee scores below 70 percent on each academic test, remediation will focus on re-teaching the specific concepts and skills in the topical area(s) that a trainee fails to achieve a passing score, as follows:

(1) a trainee who fails to achieve a passing score of 70 percent on the first attempt shall have one opportunity for reexamination following remediation;

(2) a trainee shall be allowed failure, remediation, and reexamination in no more than ~~four~~ seven topical area tests;

(3) upon initial failure of ~~a fifth~~ an eighth topical area test, the trainee shall not be allowed remediation or reexamination and shall be immediately dismissed from the course and shall be required to complete a subsequent delivery of BLET in its entirety.

(c) An authorization of limited enrollment in a subsequent delivery of the BLET shall not be issued by the Standards Division unless in addition to the evidence required by Paragraph (a) of this Rule:

(1) The school director of the previous course offering submits to the Standards Division a certification of the particular topics and class hours attended and satisfactorily completed by the trainee during the original enrollment; and

(2) The school director makes written application to the Standards Division for authorization of the trainee's limited enrollment.

(d) An authorization of limited enrollment in a subsequent course delivery permits the trainee to attend an offering of BLET commencing within 120 calendar days from the date of administration of the state comprehensive examination in the trainee's prior course delivery.

(1) The trainee shall attend and complete in its entirety each topical area identified by the school director as an area of trainee deficiency in the prior course participation with the exception of the "Officer Health and Wellness" topical area.

(2) The two options available for satisfying a deficiency in the "Officer Health and Wellness" topical area are:

(A) the student shall be allowed to make up the deficiency at the original training site without enrolling in a subsequent delivery of BLET. Under this option, the student shall be given 120 calendar days from the date that the comprehensive state examination was administered to the original BLET course in order to satisfy this deficiency. Students who select this option shall be allowed two attempts to complete the entire Police Officer Physical Abilities Test (POPAT) Course with a minimum of 24 hours of rest between attempts during the 120-day period to satisfy the deficiency; or

(B) the student shall be allowed to enroll in a subsequent delivery of BLET as a "limited enrollee." This delivery shall begin within 120 calendar days from the date that the comprehensive state examination was administered to the original BLET course in order to satisfy this deficiency. Students who select this option shall be allowed two attempts to complete the entire POPAT Course with a minimum of 24 hours of rest between attempts during the delivery period of the subsequent BLET course.

A certified ~~"Officer Health and Wellness"~~ Specialized Physical Fitness Instructor ~~instructor~~ is the only person qualified to administer and grade the fitness re-test. At the time of the re-test, the school director or the Qualified Assistant shall be present.

(3) Following limited enrollment in the subsequent course offering, scheduled class attendance, and having received passing grades on all required topic and motor-skill tests, and having no deficiencies, the trainee shall be eligible for administration of the State comprehensive examination by the Commission, as set forth in Rule .0406 of this Section.

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

SUBCHAPTER 09C - ADMINISTRATION OF CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SECTION .0100 - RESPONSIBILITIES OF CRIMINAL JUSTICE STANDARDS DIVISION

12 NCAC 09C .0104 AGENCY HEAD RESPONSIBILITIES: CRITICAL INCIDENT REPORTING

(a) For all criminal justice agencies in the State that employ personnel certified by the North Criminal Justice Education and Training Standards Commission, the Agency head shall submit the Critical Incident Report, (F-27), to the Criminal Justice Standards Division no later than 30 days after making the determination that an incident involving any use of force by a law enforcement officer that resulted in death or serious bodily injury to a person has occurred. The Critical Incident Report (F-27) shall contain the following:

(1) date of incident;

(2) location of incident;

(3) ~~person(s) involved and their participation; and~~ name of officer who utilized force; and

(4) whether the incident involved serious bodily injury or death.

(b) In addition to the reporting in Paragraph (a) of this Rule, the Agency head for any criminal justice agency in the State that employs personnel certified by the North Criminal Justice Education and Training Standards Commission, shall submit the Annual Critical Incident Report, (F-27A), to the Criminal Justice Standards Division no later than the following January 15th of each year, listing all incidents involving any use of force by a law enforcement officer that results in death or serious bodily injury to a person. The Annual Critical Incident Report (F-27A) shall contain the following:

(1) the total number of incidents involving the use of force resulting in death or serious bodily injury;

(2) date of ~~incident;~~ incidents;

(3) location of ~~incident;~~ incidents; and

(4) whether the ~~incident~~ incidents had previously been reported on the Critical Incident Report (F-27).

(5) for incidents not previously reported, an accompanying F-27 must be submitted along with the F-27A.

~~(c) Within 30 days of receipt of an F-27, the Division shall give written notice to any law enforcement officer who is reported to the Division as having been involved in a critical incident. The notice will contain language notifying the officer that, if the officer disputes being involved in a critical incident, the officer has a right to request a hearing in superior court for a determination of whether the officer's involvement should be properly placed in the database. The notice will inform the officer that the Division will not place the officer's involvement in the database if it receives notice from the officer within 30 days of receipt of notice that the officer has requested a hearing in superior court. If the officer requests a hearing in superior court, the Division will not place the officer's involvement in the database until a determination is made by superior court that the officer's involvement would be properly placed in the database. If, subsequent to the placement of an officer's involvement in the database, a superior court determines that the officer's involvement is not properly placed, the Division will remove the officer's involvement from the database.~~

(c) The Critical Incident form (F-27) shall provide the following notice to officers:

(1) information is being collected for a database as directed by G.S. 17C-15;

(2) information collected will remain confidential in compliance with State and federal law;

(3) law enforcement officers reported to the Division have a right, prior to being placed in the database, to request a hearing in superior court for a determination of whether the officer's involvement should be properly placed in the database;

The form will then provide check boxes and a location to sign for officers to indicate that they understand their rights and are either waiving their rights and agreeing to have the information entered into the database or that they plan to dispute the entry of their information in the database. If the officer indicates they plan to request a hearing in superior court, the Division will not place the officer's involvement in the database until the superior court makes a determination or until 30 days following the date of the officer's signature has elapsed and the Division has not received proof of filing. Any forms already entered into the database will be removed if a subsequent review by the superior court determines that the officer's involvement is not properly placed.

Authority G.S. 17-6; 17C-15.

SUBCHAPTER 09H - QUALIFIED RETIRED LAW ENFORCEMENT OFFICERS

SECTION .0100 - FIREARMS QUALIFICATION CERTIFICATION PROGRAM

12 NCAC 09H .0102 MINIMUM TRAINING SPECIFICATIONS

(a) Firearms Training and Qualification shall consist of a minimum of four hours and include the requirements of Paragraphs (c), and (d) ~~and (e)~~ of this Rule.

(b) Pursuant to 12 NCAC 09E .0106(a), each ~~Each~~ qualified retired law enforcement officer shall qualify with each handgun he or she carries. ~~carries in accordance with the guidelines in the In-Service Firearms Qualification Manual as published by the North Carolina Justice Academy relating to rounds fired, distances, the ratio of shots fired from each yard line and positions of fire.~~

~~(c) Qualification shall include a day and night qualification course with each handgun he or she carries, and a single day and night combat course with one handgun that he or she carries.~~

~~(d)~~(c) Each qualified retired law enforcement officer shall receive a minimum of two hours of instruction on the North Carolina laws of self-defense, the use of force by private citizens, detention of persons by private persons, and assistance to law enforcement officers by private citizens.

~~(e)~~(d) Instruction shall include a review of firearms safety and basic marksmanship fundamentals.

~~(f)~~(e) The qualification requirements shall be achieved at least once in a single day in no more than three attempts per day for each course of fire and for each weapon for which qualification is required. Officers not qualifying in a single day for each course of fire shall be deemed as a failure and the retired qualified law enforcement officers shall not be allowed to carry that weapon until such time as the qualification requirements have been met.

~~(g)~~(f) Qualified retired law enforcement officers shall be certified for a period of 12 months from the date the application is approved by the Commission. Upon application for renewal, the certification shall be renewed by the Commission for 12-month periods provided the qualified retired law enforcement officer meets the rules specified in this Subchapter.

Authority G.S. 14-415.10; 14-415.25; 14.415.26; 17C-6.

12 NCAC 09H .0103 INSTRUCTORS

(a) Only instructors who hold Specialized Instructor Certification in Law Enforcement Firearms issued by the Criminal Justice Education and Training Standards Commission as outlined in ~~Rules 09B .0302 and 09B .0304~~ 12 NCAC 09B .0304(a) ~~may~~ shall conduct the firearms qualification training as specified in Rule 09H .0102.

(b) Each instructor specified in Paragraph (a) of this Rule shall record and retain the firearms qualification scores for each qualified retired law enforcement officer trained by the instructor for a period of five years. ~~These~~ The scores shall not be transmitted to the Criminal Justice Standards Division unless requested but must be available for inspection by Criminal Justice Standards Division ~~representatives at reasonable times.~~ representatives. If the instructor is conducting training on behalf of a North Carolina governmental law enforcement agency, the North Carolina Justice Academy, or a North Carolina Community College, the institution shall maintain the records in lieu of the instructor in order to comply with this Rule.

(c) Upon successful qualification, the instructor shall sign and date the Retired Law Enforcement Officers Firearms Qualification Certification Application Form (F-9R) attesting to the successful qualification. The Retired Law Enforcement Officer Firearms Qualification Application (F-9R) shall contain the following:

(1) type of application;
(2) applicant's name, address, phone number, email address, and date of birth;
(3) Applicant Attestation regarding qualification for certification;
(4) date and location of the applicant's successful completion of the firearms qualification;
(5) instructor's name and Acadis number;
(6) the make, model, and serial number of the weapon and the day and night score achieved for each weapon qualified with; and
(7) signature of the applicant.

Authority G.S. 14-415.10; 14-415.25; 14-415.26; 17C-6.

12 NCAC 09H .0104 SANCTIONS

(a) The Commission shall deny or revoke ~~the applicant for firearms qualification certification~~ an applicant's or the qualified retired law enforcement officer's firearms qualification certification when the Commission finds the applicant or retired officer has willfully and intentionally falsified any application or documentation required for qualification certification. Any applicant or qualified retired law enforcement officer denied or revoked may request an administrative hearing with the Commission subsequent to the summary denial or revocation in accordance with G.S. Chapter 150B, Article 3A.

(b) The Commission ~~may~~ shall deny or suspend the applicant or retired law enforcement officer's firearms qualification

certification when the Commission finds the applicant or retired officer:

(1) has failed to successfully complete the required training or qualification specified in Rule 09H .0102; or

(2) is ineligible to receive and possess firearms under federal or state law.

(c) Before taking action, the Standards Division shall investigate the alleged violation of Paragraph (b) of this Rule and present a report of its findings to the Probable Cause Committee of the Commission.

(d) The Probable Cause Committee ~~may:~~ shall:

(1) direct the Standards Division to conduct a further investigation of the alleged violation; or

~~(2) direct the Standards Division to conduct an administrative hearing in the matter, pursuant to 12 NCAC 09A .0107 and 26 NCAC 03; or~~

~~(3)~~(2) determine the appropriate sanctions against the violator pursuant to Paragraphs (f) and (g) of this Rule.

(e) Denials or revocations in accordance with Paragraph (a) of this Rule are permanent. The retired officer is ineligible to ever receive firearms qualification certification from the Commission.

(f) Denials or suspensions in accordance with Paragraph (b) of this Rule ~~are:~~ are in effect until the applicant or retired law enforcement officer:

(1) ~~until the applicant or retired officer~~ has successfully completed the required training or qualification specified in Rule 09H .0102; or

(2) ~~until the applicant or retired officer~~ is eligible to receive or possess firearms under federal or state law.

(g) Any applicant or qualified retired law enforcement officer who receives firearms qualification certification under the rules in this Section who becomes ineligible under any of the standards enumerated in this Rule shall notify the Criminal Justice Standards Division of such disqualification within ~~10~~ five calendar days of the occurrence of the event.

Authority G.S. 14-415.10; 14-415.25; 14-415.26; 17C-6.

12 NCAC 09H .0105 FILING AND FEES

Each applicant for firearms qualification certification under the Qualified Retired Law Enforcement Officers Firearms Qualification Certification Program shall submit the following to the Commission:

(1) a Commission application form ~~(Form F-9R)~~(Form F-9R) pursuant to 12 NCAC 09H .0102. ~~containing the applicant's notarized signature which attests that the applicant meets the definition of qualified retired law enforcement officer set forth in G.S. 14-415.10 and is eligible to receive or possess firearms under federal and state law. The Form F-9R, available on the agency's website at http://www.ncdoj.gov/getdoc/23af3614-2aa2-4416-bbae-25ebe9441e06/1F-9R-8-09.aspx, shall include the signature of a Commission certified Specialized Firearms Instructor attesting that the applicant has met the training and qualification standards as specified in Rule 09H .0102 and lists the handguns with which the qualified retired officer qualified;~~

(2) a copy of the qualified retired officer's photographic identification indicating retirement status issued by the law enforcement agency from which the applicant retired; and

(3) a fee of fifty dollars ($50.00) for the initial one-year qualification and a fee of twenty-five dollars ($25.00) for the annual renewal thereafter. Applications and fees shall be submitted via the Acadis portal utilizing the RLEO Initial and RLEO Renewal Webforms. ~~Applications and fees shall be submitted to:~~

~~Criminal Justice Standards Division~~
~~North Carolina Department of Justice~~
~~Post Office Drawer 149~~
~~Raleigh, NC 27602.~~

~~All fees shall be paid by certified check or money order made payable to the North Carolina Department of Justice.~~

Authority G.S. 14-415.10; 14-415.25; 14-415.26; 17C-6.

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

***Notice** is hereby given in accordance with G.S. 150B-21.2 that the Coastal Resources Commission intends to amend the rule cited as 15A NCAC 07H .0508.*

Link to agency website pursuant to G.S. 150B-19.1(c): *https://www.deq.nc.gov/about/divisions/coastal-management/coastal-resources-commission/crc-proposed-rules*

Proposed Effective Date: *August 1, 2025*

Public Hearing:
Date: *April 30, 2025*
Time: *4:00 pm*
Location: *Dare County Government Center, 954 Marshall C. Collins Drive, Manteo 27954*

Reason for Proposed Action: *The Coastal Resources Commission is amending this rule to protect the Area of Environmental Concern from incompatible development and loss of sand.*

Comments may be submitted to: Tancred Miller, 400 Commerce Avenue, Morehead City, NC 28557; email CRCrulemaking@deq.nc.gov

Comment period ends: *June 2, 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 07 - COASTAL MANAGEMENT

SUBCHAPTER 07H - STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

SECTION .0500 - NATURAL AND CULTURAL RESOURCE AREAS

15A NCAC 07H .0508 ~~USE STANDARDS~~ JOCKEY'S RIDGE AREA OF ENVIRONMENTAL CONCERN

~~Permits for development in designated fragile coastal natural or cultural resource areas will be approved upon finding that:~~

~~(1) The proposed design and location will cause no major or irreversible damage to the stated values of a particular resource. One or more of the following values must be considered depending upon the stated significance of the resource:~~

~~(a) Development shall preserve the values of the individual resource as it functions as a critical component of a natural system.~~

~~(b) Development shall not adversely affect the values of the resource as a unique scientific, associative, or educational resource.~~

~~(c) Development shall be consistent with the aesthetic values of a resource as identified by the local government and citizenry.~~

~~(2) No reasonable alternative sites are available outside the designated AEC.~~

~~(3) Reasonable mitigation measures have been considered and incorporated into the project plan. These measures shall include consultation with recognized authorities and with the CRC.~~

~~(4) The project will be of equal or greater public benefit than those benefits lost or damaged through development.~~

~~(5) Use standards will not address farming and forestry activities that are exempted in the definition of development (G.S. 113A-103(5)a.4).~~

(a) Description. Jockey's Ridge is the tallest active sand dune (medano) along the Atlantic Coast of the United States. Located within the Town of Nags Head in Dare County, between US 158 and Roanoke Sound, Jockey's Ridge represents the southern extremity of a back barrier dune system which extends north along Currituck Spit into Virginia. Given the status of Jockey's Ridge as a State Park, State Nature Preserve, complex natural area, and an area containing a unique geological formation as identified by the State Geologist, the Costal Resources Commission hereby designates Jockey's Ridge as an Area of Environmental Concern pursuant to G.S. 113A-113.

(b) The boundaries of the Jockey's Ridge AEC shall be as depicted on a map approved by the Coastal Resources Commission on (adoption date), and can be found at the Division of Coastal Management, 400 Commerce Ave., Morehead City, NC 28557 or at the Division of Coastal Management's website at https://www.deq.nc.gov/about/divisions/division-coastal-management. The AEC includes the entire rights of way of US 158 Bypass, SR 1221 (Sound Side Road), Virginia Dare Trail, and Conch Street where these roads bound this area.

(c) Use Standards. Development within the Jockey's Ridge AEC shall be consistent with the following use standards:

(1) Development that requires the removal of greater than ten cubic yards of sand per year from the area within the AEC boundary shall require a Coastal Area Management Act permit form the Division of Coastal Management or designated local official;

(2) All sand that is removed from the area within the AEC boundary in accordance with Subparagraph (1) of this Paragraph shall be deposited at locations within the Jockey's Ridge State Park designated by the Division of Coastal Management in consultation with the NC Department of Natural and Cultural Resources Division of Parks and Recreation;

(3) Development activities within Jockey's Ridge AEC shall not alter or retard the free movement of sand except when necessary for the purpose of maintaining or constructing a road, residential or commercial structure, accessway, lawn, garden, or parking area unless allowed by Jockey's Ridge State Park's Management Plan. Jockey's Ridge State Park's Management Plan can be found at the Division of Parks and Recreation's website at https://www.ncparks.gov.

Authority G.S. 113A-107(a),(b); 113A-113(a); (b)(4a); (b)(4e); (b4)(g); 113A-124.

Note from the Codifier: *The rules published in this Section of the NC Register are temporary rules reviewed and approved by the Rules Review Commission (RRC) and have been delivered to the Codifier of Rules for entry into the North Carolina Administrative Code. A temporary rule expires on the 270th day from publication in the Register unless the agency submits the permanent rule to the Rules Review Commission by the 270th day.*
This section of the Register may also include, from time to time, a listing of temporary rules that have expired. See G.S. 150B-21.1 and 26 NCAC 02C .0500 for adoption and filing requirements.

TITLE 11 – DEPARTMENT OF INSURANCE

Rule-making Agency: *Office of the State Fire Marshal*

Rule Citation: *11 NCAC 05A .1001*

Effective Date: *March 7, 2025*

Date Approved by the Rules Review Commission: *February 27, 2025*

Reason for Action: *Pursuant to Section 1F.4 of S.L. 2024-57, the North Carolina Office of the State Fire Marshal (OSFM) has adopted 11 NCAC 05A .1001 under temporary procedures to assist the Federal Emergency Management Agency's efforts to install transportable temporary housing units (TTHUs) to house displaced survivors of Hurricane Helene in Western North Carolina. FEMA's TTHUs are installed by contractors in accordance with each unit's manufacturer's installation instructions, the State of North Carolina Regulations for Manufactured Homes, and applicable State building codes. However, FEMA's contractors are faced with a broad range of geographical challenges and other factors that make it difficult for them to set up TTHUs- particularly with respect to utility service connections (i.e., electrical wiring and plumbing) and foundations (i.e., setup, piers, footing, etc.) - in accordance with the North Carolina State Building Code. These challenges in turn make it very difficult for local inspectors to consistently and uniformly inspect these structures for compliance with the North Carolina State Building Code. The adopted rule provides alternative methods for the installation of structures and their foundations, electrical systems, and external plumbing systems that enable FEMA and its contractors to expedite safe installation of FEMA's TTHUs.*
Adherence to notice and hearing requirements is contrary to the public interest because such adherence would take too long to address the immediate need for the expediting of installation of FEMA TTHUs to shelter the victims of Hurricane Helene in Western North Carolina. In the wake of such a destructive hurricane, many North Carolinians are still without shelter as FEMA struggles to ramp up installation of TTHUs. FEMA's contractors are faced with a broad range of geographical challenges and other factors that make it difficult for them to set up TTHUs - particularly with respect to utility service connections (i.e., electrical wiring and plumbing) and foundations (i.e., setup, piers, footing, etc.) - in accordance with the North Carolina State Building Code. These challenges in turn make it very difficult for local inspectors to consistently and uniformly inspect these structures for compliance with the North Carolina State Building Code. Accordingly, the General Assembly directed OSFM to adopt emergency and temporary rules relating to the placement, construction, installation, and connection of temporary manufactured and modular dwellings so that these impediments to moving North Carolinians into safe and warm shelter may be removed as quickly as possible.

CHAPTER 05 - OFFICE OF STATE FIRE MARSHAL

SUBCHAPTER 05A - FIRE AND RESCUE

SECTION .1000 – DISASTER RESPONSE AND RECOVERY

11 NCAC 05A .1001 FEDERAL EMERGENCY MANAGEMENT AGENCY-OWNED TRANSPORTABLE TEMPORARY HOUSING UNITS

(a) Federal Emergency Management Agency ("FEMA")-owned transportable temporary housing units shall be installed in accordance with the manufacturer's installation ~~instructions~~ instructions, the State of North Carolina Regulations for Manufactured Homes, and the North Carolina State Building Code. Such housing units may use the following alternative methods for the installation of the structures and their foundations:

(1) Footings for piers may be placed on the surface grade in lieu of the frostline depth where the grade under the footing is undisturbed or a compaction test is ~~provided,~~ provided by the installer of the transportable temporary housing unit to the authority having jurisdiction, and the underpinning encapsulates the entirety of the open space between the floor of the structure and the grade.

(2) Longitudinal and lateral bracing systems may be used where pier footings are placed on grade surface, the height limitations described in the manufacturer instructions of the bracing system are not exceeded, and the four corners of the structure are provided with tie down strapping.

(3) Positive drainage may be omitted where the grade under the structure contains no low areas or holes where water may accumulate.

(4) Exterior landings for stairs not exceeding 36 square feet may be regulated by the applicable North Carolina Regulations for Manufactured Homes in lieu of the applicable North Carolina Residential Code.

(5) Exterior landings for stairs may be omitted where the stairs are constructed in accordance with either the applicable North Carolina Regulations for Manufactured Homes or the applicable North Carolina Residential Code. If an exterior landing is omitted, the stair system shall have cross members on the structure side

of the system for lateral support and all corners of the stair system shall be supported underneath by solid concrete blocks no less than four inches thick.

(b) External electrical systems used to supply power to FEMA-owned transportable temporary housing units and their equipment shall conform to the North Carolina Electrical Code. Such electrical systems may use the following alternative methods:

(1) Electrical conduits may be installed without burial or further protection in the horizontal area between the electrical pedestal and the structure when such area is three feet or less.

(2) Electrical conduits may be installed on top of the grade without burial where the conduit is boxed in with building materials, the covering is secured with driven stakes and supported to the grade no less than every five feet and at every direction of a bend to prevent movement, the covering is painted orange and orange paint is reapplied to the covering every 60 days, and the lumber used for the building materials is treated.

(3) Ridged metal conduits may be installed on top of the grade without burial, supporting, or covering with building materials if the conduit is painted orange and orange paint is reapplied to the conduit every 60 days.

(4) Recreational Vehicles, as that term is defined in G.S. 20-4.01(32b), may be hardwired directly to electrical equipment using wiring in non-flexible conduits rather than a plug-and-cap.

~~(6)~~(5) Any temporary electrical service or pedestal may utilize a single ground rod without a supplemental ground electrode where the service or pedestal is used exclusively for the connection of a FEMA-owned transportable temporary housing unit or its accessory structure and equipment, all ungrounded circuits do not exceed 150 volts to ground, and the rating of the single disconnecting means, or the summation of the ratings of multiple overcurrent devices that serve together as the disconnecting means, does not exceed 100 amperes.

(c) External plumbing systems for connection to FEMA-owned transportable temporary housing units and their equipment shall conform to the North Carolina Residential Code and the North Carolina Plumbing Code. Such plumbing systems may use the following alternative methods:

(1) Water service and distribution pipes may be installed on top of grade where both sides of the piping are secured with driven stakes and supported to the grade no less than every five feet and at every direction of a bend to prevent movement, electrical self-regulating pipe heating cable is installed with the piping, piping insulation to prevent freezing encapsulates the piping and heating cable, and the piping insulation is painted orange and orange paint is reapplied to the piping insulation every 60 days.

(2) Drain-waste-vent pipes for the building drain and sewer may be installed on top of grade where both sides of the piping are secured with driven stakes and supported to the grade no less than every five feet and at every direction of a bend to prevent movement, and the piping or its insulation where applicable is painted orange and orange paint is reapplied to the piping or its insulation every 60 days.

(3) Drain-waste-vent pipes for the building drain and sewer installed on top of grade must be installed utilizing either a slope in accordance with the applicable North Carolina Plumbing Code or a sewage grinder pump including electrical self-regulating pipe heating cable and piping insulation to prevent freezing.

(4) Where sewage grinder pumps are installed, the pump and tank shall be accessible for service, the pump tank shall be insulated with a box constructed from building materials and foam board of at least one and one-half (1 ½) inches thick, and the lumber used for the building materials shall be treated.

Authority G.S.58-78A-2; S.L. 2024-57, s. 1F.4..

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Rule-making Agency: *Wildlife Resources Commission*

Rule Citation: *15A NCAC 10F .0307*

Effective Date: *March 7, 2025*

Date Approved by the Rules Review Commission: *February 27, 2025*

Reason for Action: *Wildlife Resources Commission staff were recently notified of safety concerns and enforcement challenges surrounding vessel liveries on Lake Norman. Despite the ability of the Lake Norman Marine Commission to establish regulations concerning public recreation and water safety, enforcement of those regulations without joint resolution, as required by S.L. 1969-1089, or regulations codified in Rule, has been difficult, leading to lack of action against liveries and increased safety concerns among lake users. Rule amendments will facilitate and streamline enforcement activities and improve public safety. Requirements need to be in place prior to the start of the 2025 boating season and adequate time is needed for livery companies to comply with the new safety requirements.*

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

15A NCAC 10F .0307 CATAWBA, IREDELL, LINCOLN, AND MECKLENBURG COUNTIES

(a) Regulated Area. This Rule shall apply to Lake Norman in Catawba, Iredell, Lincoln, and Mecklenburg counties:

(1) within 50 yards of the shoreline at Jetton Park in Mecklenburg County, from a point on the west side of the park at 35.47082 N, 80.90427 W, south and around the point at 35.46703 N, 80.90360 W, then northeast to a point at 35.47262 N, 80.89727 W;

(2) Bluff Point Cove in Cornelius shore to shore, east of a line from a point 50 yards west of the south shore of the cove mouth at 35.45327 N, 80.89520 W to a point 50 yards west of the north shore of the cove mouth at 35.45487 N, 80.89440 W; and

(3) the cove immediately north of the inlet of Hager Creek in Iredell County, north of a line from a point on the north shore at 35.55760 N, 80.94730 W southwest to a point on the island at the inlet of Hager Creek at 35.55695 N, 80.94971 W, and east of a line from the same point on the island northwest to a point on the north shore at 35.55754 N, 80.95029 W.

(b) Speed Limit. No person shall operate a vessel at greater than no wake speed within the regulated areas described in Paragraph (a) of this Rule and as set forth in G.S. 75A-14.1.

~~(c) Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked swimming area on the waters of Lake Norman.~~

(c) Placement and Maintenance of Markers. The Lake Norman Marine Commission shall be the designated agency for placement and maintenance of navigational aids and regulatory markers on the waters of Lake Norman.

(d) Vessel Liveries. Vessel liveries operating on Lake Norman shall conduct the following activities with each vessel renter prior to relinquishing control of the vessel:

(1) a pre-rental vessel inspection to ensure that safety equipment required by Rule .0201 of this Subchapter is on board and accessible; and

(2) provide and review instruction on safe operation of the vessel rented including review of navigation rules in G.S. 75A-6.1, operating restrictions in G.S. 75A-10, an electronic or waterproof navigational map of Lake Norman, and the U.S. Coast Guard's U.S. Aids to Navigation System pamphlet.

~~Documentation of adherence to these requirements shall be signed by both parties and be available for inspection by law enforcement officers upon request from the livery company for up to two years and from the vessel renter while that individual is in control of the vessel.~~ Both parties shall sign and date documentation verifying adherence to these requirements on the date the rental begins. The vessel livery shall maintain a copy of this documentation for a period of two years from the date of rental which shall be made available to law enforcement officers upon request. The vessel renter shall have a copy of the documentation on the vessel and available for law enforcement upon demand during the term of the rental.

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

*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 February 27, 2025 Meeting.

		REGISTER CITATION TO THE NOTICE OF TEXT
INNOVATION COUNCIL		
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MEDICAL CARE COMMISSION		
Capacity	10A NCAC 13F .0206*	39:06 NCR
Application of Physical Plant Requirements	10A NCAC 13F .0301*	39:06 NCR
Design and Construction	10A NCAC 13F .0302*	39:06 NCR
Plans and Specifications	10A NCAC 13F .0304*	39:06 NCR
Physical Environment	10A NCAC 13F .0305*	39:06 NCR
Housekeeping and Furnishings	10A NCAC 13F .0306*	39:06 NCR
Fire Alarm System	10A NCAC 13F .0307	39:06 NCR
Fire Safety and Emergency Preparedness Plan	10A NCAC 13F .0309*	39:06 NCR
Electrical Outlets	10A NCAC 13F .0310	39:06 NCR
Other Requirements	10A NCAC 13F .0311*	39:06 NCR
Resident Assessment	10A NCAC 13F .0801*	39:06 NCR
Resident Care Plan	10A NCAC 13F .0802*	39:06 NCR
Special Care Unit Physical Environment Requirements	10A NCAC 13F .1304*	39:06 NCR
Use of Physical Restraints and Alternatives	10A NCAC 13F .1501*	39:06 NCR
Capacity	10A NCAC 13G .0206*	39:06 NCR
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Design and Construction	10A NCAC 13G .0302*	39:06 NCR
Living Room	10A NCAC 13G .0305*	39:06 NCR
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Fire Safety and Emergency Preparedness Plan	10A NCAC 13G	.0316*	39:06 NCR
Building Service Equipment	10A NCAC 13G	.0317*	39:06 NCR
Outside Premises	10A NCAC 13G	.0318*	39:06 NCR
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Processing and Payment of Claims	14B NCAC 09	.0302*	39:06 NCR
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TITLE 04 - DEPARTMENT OF COMMERCE

04 NCAC 25 .0101 DEFINITIONS

For the purposes of the rules in this Chapter, the definitions found in G.S. 169-1, and the following definitions, shall apply to this Section:

(1) "Executive Director" means the Executive Director of the North Carolina Innovation Council or an authorized designee of the Executive Director.

(2) "Expression of Interest" shall mean a method for potential applicants to contact the NC

Innovation Council through its website to document their interest in submitting an application to be a Sandbox participant.

(3) "Monitoring and Evaluation Plan" means a written plan submitted by a Sandbox applicant that requires the applicant to periodically measure the success or risks of the innovative product or service during and at the end of the Sandbox period.

(4) "Nonprofit corporation" as defined in G.S. 55A-1-40(17).

(5) "Control person" means an entity or individual who has the power to influence, direct, or control the activities of a publicly traded company. Control persons can be directors, officers, shareholders, affiliates, or any other person with authority over the public company's management and operations.

(6) "DUNS Number" means a data universal numbering system or DUNS number, a unique, nine-digit series or numerals that identifies a business. Dun & Bradstreet, Inc. (D&B) creates the number, which generates a business profile in its database and provides a company's name, phone number, address, number of workers and line of business, along with other relevant corporate information.

History Note: Authority G.S. 169-1; 169-4;
Eff. March 1, 2025.

04 NCAC 25 .0102 NONPROFIT PARTNERS

(a) Nonprofit organizations wishing to assist applicants or participants as a nonprofit partner shall submit an application to the Council. Applications may be found on the Council's website at www.innovation.nc.gov.

(b) Nonprofit organization applications shall include the following:

(1) The formal legal name of the organization applying to be a nonprofit partner;

(2) If applicable, the nonprofit applicant must provide documentation of registration of associated trade names or Doing Business As (DBA);

(3) The name and address of the registered agent;

(4) Proof that the organization is a nonprofit organization duly authorized by the North Carolina Office of the Secretary of State and provide a North Carolina Certificate of Good Standing;

(5) A single point of contact must be designated for all correspondence, including the individual's name, role, phone number, and email address;

(6) A list of individuals that are directors of the board, partners, managers, and other individuals who are legally responsible for the governance of the entity, including their names, titles, expertise related to the product or service, and whether they have been convicted of, or are currently under investigation for, fraud or State or federal securities law violations;

(7) A summary of how the nonprofit organization's mission is aligned with the Sandbox program, to be used by the Council in a published list of nonprofit partners; and

(8) A description of the nonprofit organization's capabilities, including its data security capabilities and practices as required by law to ensure the confidentiality of information submitted by Sandbox applicants and participants.

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

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

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

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

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

(h) A nonprofit partner whose approval is denied or rescinded by the Council may not reapply to be a nonprofit partner for a period of two years from the date of the Council vote. Any application submitted during the debarment period will be rejected for consideration by the Council.

History Note: Authority G.S. 169-4; 169-5;
Eff. March 1, 2025.

04 NCAC 25 .0103 NONPROFIT PARTNERS APPLICATION DENIAL

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

(1) Perceived or actual conflicts of interest;

(2) Failure to provide proof that the organization is a nonprofit organization duly authorized by the North Carolina Office of the Secretary of State;

(3) Failure to provide a current North Carolina Certificate of Good Standing;

(4) Failure to implement and utilize data security practices, as required by law, that ensure the confidentiality of information submitted by Sandbox applicants and participants;

(5) Failure to illustrate, as determined by the Council, the organization's capabilities or expertise in FinTech, InsurTech, blockchain technologies, or other new or emerging technology products or services; and

(6) Failure to provide any required missing information related to the application, or any additional information upon request of the Executive Director within 14 business days, as set forth in 04 NCAC 25 .0102(c).

History Note: Authority G.S. 169-4; 169-5;
Eff. March 1, 2025.

04 NCAC 25 .0104 EXPRESSION OF INTEREST TO PARTICIPATE

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

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

(c) The Executive Director or a designee will acknowledge receipt of a submission within five business days. The Executive Director will provide the completed Expression of Interest to Participate form to the Council. If the applicant has requested to present, and the Council has approved the request, the proposed applicant will be allotted time to present at the next regularly scheduled Council meeting. If a consultation has been requested, the Executive Director will facilitate a meeting with either the Chair or Co-Chair of the Council within 14 business days after submission.

History Note: Authority G.S. 169-4;
Eff. March 1, 2025.

04 NCAC 25 .0105 REGULATORY SANDBOX APPLICATIONS

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

(b) The applicant information should include the following:

(1) Confirmation that the applicant or its parent company are subject to the jurisdiction of the State; this shall be established by any of the following applicable documentation: Articles of Organization, Certificate of Formation, Certificate of Authority, Certificate of Organization, Articles of Formation, or other applicable company formation documents.

(2) Proof that the applicant has a physical location within the State from where the waiver project will be developed and performed, and where all records, documents, and data will be maintained, shall be established by providing:

(A) The name and address of the registered agent;

(B) The physical address of the applying entity's headquarters;

(C) The physical address of the North Carolina operations, if different from the headquarters;

(D) The legal name of the applicant to participate in the Sandbox and, if the entity applying is a subsidiary of a parent entity, the legal name of the parent entity; and

(E) If applicable, the applicant must provide documentation of registration of associated trade names or doing business as assumed names.

(3) A single point of contact must be designated for all correspondence, including the individual's name, role, phone number, and email address.

(4) A list of individuals that are directors of the board, partners, managers, other individuals who are legally or financially responsible, or liable for the governance of the entity. The list of individuals shall include their names, titles, expertise related to the product or service, and whether they have been convicted of, are currently charged with, or are aware that they are under investigation for, fraud or other violations of State or federal law.

(5) Details of criminal convictions of the applicant and any individuals identified in Subparagraph (b)(4) of this Rule.

(6) If available, the entity's and any parent entity's Dun and Bradstreet Data Universal Numbering System (D-U-N-S) Number.

(7) A list of each government agency, if any, that the applicant knows regulates the applicant's business.

(8) The applicant's number of employees and, if the entity is a subsidiary of a parent company, the parent entity's number of employees.

(9) The number of the applicant's employees that are residents of North Carolina.

(10) The name of any entity, be it nonprofit organization, for profit organization,

professional, or individual assisting with the application process.

(11) The name of any partner organization or individual(s) assisting with the design and implementation of the product or service.

(12) A description of the product or service the applicant seeks to provide through the Sandbox, including statements regarding:
- (A) How the product or service is subject to licensing, legal prohibition, or other authorization requirements outside the Regulatory Sandbox, or whether the product or service is not subject to any regulation;
- (B) Each law or regulation the applicant seeks to have waived while participating in the Regulatory Sandbox;
- (C) How the product or service will benefit consumers or businesses;
- (D) What risks may exist for consumers who use the product or service;
- (E) A description of the methods that will be used to protect consumers or businesses;
- (F) A statement outlining a process to resolve complaints during the Sandbox period;
- (G) A description of the methods and controls to ensure consumers are residents of the State; and
- (H) Applicable only to products and services related to money transmitters, a description of how they will ensure customers are physically present in the State at the time of transaction.

(13) A business plan for the intended product or service, which shall include the following information:
- (A) A description of the proposed implementation plan, including estimated time periods for beginning and ending;
- (B) A description of how the applicant will end the Sandbox offering and protect consumers if the demonstration fails;
- (C) Technical details and requirements for the product or services;
- (D) Proposed sales methods, methods of pricing, and the target market;
- (E) Proposed consumer disclosures required by G.S. 169-8 and applicable State agencies;
- (F) Copy of the proposed consumer contract for the applicant's product or service;
- (G) The expected distribution of consumers across rural, urban, and suburban areas of the State;
- (H) The maximum number of consumers or businesses expected to utilize the product or service;
- (I) The expected revenue; and
- (J) The availability of capital for the product or service.

(14) A monitoring and evaluation plan, including a definition of risk metrics to be evaluated and the frequency of measurement, and a description of compensating controls that assist in managing risk and harm to consumers and the Sandbox participant.
- (A) The applicable State agency, upon approval of the Sandbox applicant, will provide input and request modifications to the proposed monitoring and evaluation plan to ensure the proper metrics and risks are monitored related to the waiver.
- (B) The approved monitoring and evaluation plan will be included in the waiver agreement.

(15) The applicant may provide any additional information the applicant determines to be relevant to the review and consideration of the Sandbox application.

(16) All Sandbox applicants are required to pay a $50 application fee that must be received in a format determined by the Council.

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

History Note: Authority G.S. 169-4; 169-6, 169-8; Eff. March 1, 2025.

04 NCAC 25 .0106 SANDBOX APPLICATION REVIEW

(a) The Executive Director or designee shall review the application for completeness according to the criteria set forth in 04 NCAC 25 .0105. If there is missing or incomplete information in the application, the Executive Director shall request the additional information from the applicant. When the Executive Director determines that an application is complete based on the established criteria, they shall notify the applicant and refer the complete application to the applicable State agencies and the Council for review. If the applicant is deemed ineligible due to an incomplete application, the Executive Director shall notify the applicant of their ineligibility, and reasons for ineligibility, and provide notice of such denial to the Council.

(b) Upon receipt from the Executive Director of a Sandbox application, the applicable State agency or agencies shall provide a review of the Sandbox application to the Council in writing, including a recommendation of any reporting requirements or restrictions of the Sandbox applicant. If the agency or agencies do not provide a written review within 45 business days, the Council, in its discretion, may deem the Sandbox application acceptable. If

the applicable State agency or agencies cannot complete the review of the Sandbox application within 45 business days, the agency or agencies may request additional time for review by submitting a written request to the Executive Director. Upon receipt of a written request for additional time from an agency, the Executive Director shall inform the Council of the request, and the Council may, in its discretion, allow additional time for review.

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

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

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

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

(1) There shall be an opportunity for members of the public to comment on the complete application;
(2) There shall be an opportunity for the applicant to present the product or services to the Council;
(3) There shall be an opportunity for any Council member to request clarification or additional information;
(4) Any Council member may make a motion to enter a closed session, pursuant to G.S. 143-318.11 or G.S. 132-1.2, to discuss the application; and
(5) The vote to approve or deny an application shall be made in open session.

(f) If the Council approves an application, the approval, with any conditions, including any consumer caps, bond requirements, reporting requirements, notice requirements or fees, shall be set out in a written document, the waiver agreement. Upon review and acceptance by the applicable State agency, this document will be the Council's waiver and, along with the applicable statutes and rules, shall govern the applicant's participation in the Sandbox.

(g) A waiver granted by the Council is not effective until all fees have been paid and all conditions of the waiver have been met.

(h) If the Council denies a complete application, the Executive Director will disseminate the Council's determinations for denial and must provide the reasons for the denial to the applicant in writing within 10 business days of the Council's vote denying the application.

History Note: Authority G.S. 169-4; 169-6;
Eff. March 1, 2025.

04 NCAC 25 .0107 SANDBOX OPERATIONS

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

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

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

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

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

(d) During the period of Sandbox participation, the Sandbox participant shall submit reports, to the Executive Director, pursuant to the approved monitoring and evaluation plan. The Executive Director, Council or applicable State agency may request interim or additional reports.
(e) The Sandbox participant may request to raise consumer caps set in the waiver agreement. This request shall be submitted in writing to the Executive Director.
(f) A request to raise consumer caps shall include:
(1) An updated business plan demonstrating financial capability;
(2) An updated assessment of risks and potential for consumer harm;
(3) A current monitoring and evaluation plan report;
(4) Additional information supporting raised caps; and
(5) The new maximum consumer caps being sought.
(g) The Council or applicable state agency may request additional information relevant to the request.
(h) A request to raise caps shall be forwarded to the applicable State agency for a recommendation on whether to approve or deny the request. Recommendations shall be made within 20 business days after the receipt of the request. If the applicable State agency cannot review the request within 20 business days, the applicable State agency may submit in writing to the Executive Director the prescribed timeline for completing the review.
(i) Within 20 business days of receiving the recommendation from the applicable State agency, the Council shall make a determination, granting or denying the request to raise caps. If the request is denied, at the direction of the Council, the Executive Director shall provide written reasons for the denial.
(j) A Sandbox participant's request for an extension of the Sandbox waiver for the purpose of obtaining a license or other authorization required by law shall be made to the Executive Director in writing no less than 30 business days prior to expiration of the waiver and shall include: a current monitoring and evaluation report, a statement of the reasons for the extension, and any modifications or changes to the innovative product or service needed for the extension. The Executive Director shall forward the request to the Council and applicable State agency.

History Note: Authority G.S. 169-4; 169-6;
Eff. March 1, 2025.

04 NCAC 25 .0108 SANDBOX PARTICIPANT REQUEST FOR EXTENSION
(a) A Sandbox participant may request an extension, no later than 30 business days before the end of the Sandbox period, of not more than 12 months, for the purpose of obtaining a license or other authorization required by law to offer the Sandbox product or service in the open market.
(b) The written request for an extension shall be made to the Executive Director and shall include:
(1) A current monitoring and evaluation report;
(2) A statement of the reasons for the extension; and
(3) A statement of any modifications or changes required for the innovative product or services during the extension period.
(c) Upon receipt from the Executive Director of a request for an extension, the applicable State agency or agencies shall provide a determination for the request to the Council in writing. If the agency or agencies do not provide a determination within 10 business days, the Council, in its discretion, may deem the request for an extension acceptable. If the applicable State agency or agencies cannot complete the review of the extension request within 10 business days, the agency or agencies may request additional time for review by submitting a written request to the Executive Director. Upon receipt of a written request for additional time from an agency, the Executive Director shall inform the Council of the request, and the Council may, in its discretion, allow additional time for review.
(d) The Executive Director will notify the Sandbox participant of approval or denial within five business days of the end of the Sandbox period.

History Note: Authority G.S. 169-4; 169-6;
Eff. March 1, 2025.

04 NCAC 25 .0109 DISCIPLINARY GUIDELINES
(a) Sandbox participants may be subject to disciplinary actions for any of the following:
(1) Failure to respond to consumer complaints according to the waiver agreement;
(2) Failure to resolve consumer complaints according to the waiver agreement;
(3) Failure to submit required reports;
(4) Security breaches impacting consumer data;
(5) Potential harm for the consumer or public has been identified;
(6) Changes in the product or service delivery not approved by the applicable State agency;
(7) Sandbox participant or designee attempt to conceal a violation or mislead the applicable State agency; or
(8) Other relevant circumstances, including fraud or any violation of criminal or consumer protection laws.
(b) Applicable State agencies shall notify the Executive Director in writing when they have identified cause for exercising their authority to limit or change a Sandbox participant's waiver or the innovative product or service operation, including enforcement activities pursuant to G.S. 169-4(a)(4) c., d. and G.S.169-7(a). The applicable State agencies must provide this notice prior to exercising their authority. The Executive Director or designee shall deliver this finding to the Chair or Co-Chair of the Council within five business days of receipt.
(c) Within 15 business days of notifying the Council to exercise their authority, the applicable State agency shall provide a written statement of disciplinary actions to the Executive Director specifying the reasons for imposing limitations or changes to the waiver or innovative product or service, and what actions are to be imposed, along with the timeline for the Sandbox participant to implement the actions. The Executive Director or designee

shall deliver this finding to the Chair or Co-Chair of the Council within five business days of receipt.
(d) The Chair or Co-Chair may call a meeting with the applicable State agency as needed to review the disciplinary actions.
(e) The Executive Director, at the direction of the Chair or Co-Chair, will deliver the statement of disciplinary actions to the Sandbox applicant.

History Note: Authority G.S. 169-4; 169-7;
Eff. March 1, 2025.

04 NCAC 25 .0110 EARLY TERMINATION NOTICE AND CLOSE OUT PLAN REPORT
(a) When a Sandbox participant's business objectives fail before the end of the Sandbox testing period, a written notice of early termination shall be provided, pursuant to G.S. 169-7(e), to the applicable State agency and the Executive Director, at least 30 business days prior to the planned termination of the Sandbox product or service and shall include:

(1) An updated monitoring and evaluation report;
(2) A description of why the product or service failed;
(3) A description of the proposed steps the Sandbox participant will need to terminate the innovative product or service to ensure that consumers have not been harmed;
(4) A copy of the consumer notice of termination of the product or service; and
(5) The proposed date for termination.

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

History Note: Authority G.S. 169-4; 169-7;
Eff. March 1, 2025.

04 NCAC 25 .0111 CONCLUSION OF SANDBOX PERIOD AND BUSINESS OPERATIONS
(a) If the Sandbox participant cannot obtain regulatory compliance within 90 days following the expiration of the Sandbox period, the participant shall wind down operations with existing consumers within 90 days after the conclusion of the Sandbox period, as directed by the applicable State agency.
(b) Written notification to consumers, by way of electronic notification email or a letter sent via first class mail, regarding the conclusion of the initial or extended Sandbox period, must be provided by the Sandbox participant within 30 business days of conclusion and include:

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

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

(1) A final monitoring and evaluation report;
(2) A final report of consumer complaints and actions taken to remediate the complaints during the Sandbox period;
(3) Financial reports, including a report detailing all money owed by consumers based on agreements made before the conclusion of the Sandbox period;
(4) A statement outlining all additional steps the Sandbox applicant must take to wind down the innovative product or service;
(5) A written statement outlining all additional duties owed to consumers arising from the innovative product or service, including the name, contact information and role of any third party, acceptable to the applicable State agency, the Sandbox participant has arranged to fulfill those duties, and copies of contracts or agreements binding the fulfillment of said duties to consumers; and
(6) A written statement describing any insights into current regulations and their impact on the innovative product or service; and
(7) If the Sandbox participant has ongoing duties after the expiration of the Sandbox period, it shall submit an updated final report once all ongoing duties have been completed. The applicable State agency shall verify that all ongoing duties have been completed. The State agency will confirm and will advise the Council of their satisfaction of all outstanding duties and responsibilities.

(d) The Sandbox participant shall remain liable for any consumer harm resulting from its Sandbox participation or winding down regardless of whether a third party assists in the winding down.
(e) The Executive Director, at the request of the Council, shall issue a closeout letter to the Sandbox participant informing them of the official close out date, that all outstanding duties have been reconciled, and the records retention terms and conditions, as per the waiver agreement.

History Note: Authority G.S. 169-4; 169-7;
Eff. March 1, 2025.

TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 13F .0206 CAPACITY
(a) The licensed capacity of adult care homes licensed pursuant to this Subchapter is seven or more residents.

(b) The total number of residents shall not exceed the number shown on the license.
(c) The Department shall not grant a license to a facility for more beds than permitted by the rules of this Subchapter.
(d) The facility's bed capacity and services provided shall comply with the Certificate of Need issued to the facility in accordance with G.S. 131E, Article 9.

History Note: Authority G.S. 131D-2.4; 131D-2.16; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. April 1, 1984;
Temporary Amendment Eff. July 1, 2003;
Amended Eff. June 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018;
Amended Eff. April 1, 2025.

10A NCAC 13F .0301 APPLICATION OF PHYSICAL PLANT REQUIREMENTS

Adult Care Homes shall apply the following physical plant requirements:

(1) New construction shall comply with the requirements of this Section.
(2) Except where otherwise specified, existing licensed facilities or portions of existing licensed facilities shall meet the licensure and code requirements in effect at the time of licensure, construction, change in service or bed count, addition, modification, renovation, or alteration.
(3) New additions, alterations, modifications, and repairs shall meet the requirements of this Section.
(4) Effective July 1, 1987, resident bedrooms and resident services shall not be permitted on the second floor of a facility licensed for seven or more beds prior to April 1, 1984 and classified as two-story wood frame construction by the North Carolina State Building Code.
(5) Rules contained in this Section are minimum requirements and are not intended to prohibit buildings, systems, or operational conditions that exceed minimum requirements.
(6) The Division may grant an equivalency to allow alternate methods, procedures, design criteria, or functional variation from the requirements of this Rule and the rules contained in this Section. The equivalency may be granted by the Division when a facility submits a written equivalency request to the Division that states the following:
    (a) the rule citation and the rule requirement that will not be met because strict conformance with current requirements would be:
        (i) impractical;
        (ii) unable to be met due to extraordinary circumstances. For the purpose of this Rule, "extraordinary circumstances" means situations that are unexpected and beyond the control of the facility; or
        (iii) unable to be met due to new programs.
    (b) the justification for the equivalency; and
    (c) how the proposed equivalency meets the intent of the corresponding rule requirement.
(7) In determining whether to grant an equivalency request, the Division shall consider whether the request will reduce the safety and operational effectiveness of the facility. The governing body shall maintain a copy of the approved equivalence issued by the Division.
(8) Where rules, codes, or standards have a conflict, the more stringent requirement shall apply.

History Note: Authority G.S. 131D-2.16; 143B-165;
Temporary Adoption Eff. July 1, 2004;
Eff. July 1, 2005;
Readopted Eff. April 1, 2025.

10A NCAC 13F .0302 DESIGN AND CONSTRUCTION

(a) A building licensed for the first time as an adult care home or a licensed adult care home that is closed or vacant and not serving residents for more than one year for reasons other than approved construction or remodeling shall meet the requirements of the North Carolina State Building Codes for new construction. All new construction, additions, alterations, repairs, modifications, and renovations to existing buildings shall meet the requirements of the North Carolina State Building Codes for I-2 Institutional Occupancy if the facility houses 13 or more residents or the North Carolina State Building Code: Building Code, Large Residential Care Facilities Section if the facility houses seven to twelve residents. The North Carolina State Building Codes, which are incorporated by reference, including subsequent amendments and editions, may be purchased from the International Code Council online at https://shop.iccsafe.org/ at a cost of eight hundred fifty-eight dollars ($858.00) or accessed electronically free of charge at https://codes.iccsafe.org/codes/north-carolina. Licensed facilities shall meet the North Carolina State Building Codes in effect at the time of licensure, construction, or remodeling. The facility shall also meet all of the rules of this Section.
(b) A facility shall not offer services for which the facility was not planned, constructed, equipped, or maintained.
(c) An existing building converted from another use to an adult care home shall meet all requirements of Paragraph (a) of this Rule.
(d) The sanitation, water supply, sewage disposal, and dietary facilities for facilities with a licensed capacity of 13 or more residents shall comply with Rules Governing the Sanitation of

Hospitals, Nursing Homes, Adult Care Homes and Other Institutions set forth in 15A NCAC 18A .1300, which are hereby incorporated by reference, including subsequent amendments and editions. The sanitation, water supply, sewage disposal, and dietary facilities for facilities with a licensed capacity of 7 to 12 residents shall comply with Rules Governing the Sanitation of Residential Care Facilities set forth in 15A NCAC 18A .1600, which are hereby incorporated by reference, including subsequent amendments and editions. Copies of these Rules may be accessed online free of charge at https://www.oah.nc.gov/.

(e) The facility shall maintain in the facility and have available for review current sanitation and fire safety inspection reports.

History Note: Authority G.S. 131D-2.16; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. July 1, 1990; September 1, 1986; April 1, 1984;
Temporary Amendment Eff. September 1, 2003;
Amended Eff. June 1, 2004;
Temporary Amendment Eff. July 1, 2004;
Amended Eff. July 1, 2005;
Readopted Eff. April 1, 2025.

10A NCAC 13F .0304 PLANS AND SPECIFICATIONS

(a) When construction or remodeling of an adult care home is planned, the adult care licensee or licensee's appointed representative shall submit one copy of construction drawings and specifications to the Division for review and approval. Schematic design drawings and design development drawings may be submitted for review and approval prior to the required submission of construction drawings.

(b) Approval of construction drawings and specifications shall be obtained from the Division prior to licensure. Approval of construction drawings and specifications shall expire one year after the date of approval unless a building permit for the construction has been obtained prior to the expiration date of the approval of construction drawings and specifications.

(c) If an approval expires, renewed approval shall be issued by the Division, provided revised construction drawings and specifications meeting the rules established in this Section are submitted by the adult care licensee or licensee's appointed representative and reviewed by the Division.

(d) An adult care licensee or licensee's appointed representative shall submit changes made during construction to the Division for review and approval to ensure compliance with the rules established in this Section.

(e) Completed construction or remodeling shall conform to the requirements of this Section including the operation of all building systems and shall be approved in writing by the Division prior to licensure or occupancy.

(f) The adult care licensee or licensee's appointed representative shall notify the Division in writing either by U.S. Mail or e-mail when construction or remodeling is complete.

History Note: Authority G.S. 131D-2.16; 143B-165;
Temporary Adoption Eff. July 1, 2004;
Eff. July 1, 2005;
Readopted Eff. April 1, 2025.

10A NCAC 13F .0305 PHYSICAL ENVIRONMENT

(a) An adult care home shall provide living arrangements for the residents, the live-in staff, and other live-in persons.

(b) The requirements for a living room and recreational area are:

(1) a living room and recreational area shall be located off a lobby or corridor. For the purpose of this Rule, a "living room" is a space enclosed by walls used for social activities, such as reading, talking or watching television. For the purpose of this Rule, a "recreational area" is a space within the facility that may be opened to adjacent spaces and is designated to be used for social activities, such as reading, talking or watching television;

(2) in buildings with a licensed capacity of 15 or less, there shall be a minimum area of 250 square feet;

(3) in buildings with a licensed capacity of 16 or more, there shall be a minimum of 16 square feet per resident; and

(4) a required living room and recreational area shall have windows with views to the outside. The total gross window area shall not be less than eight percent of the gross floor area of the room. The window shall be openable from the inside and shall have insect-proof screens.

(c) The requirements for the dining room are:

(1) the dining room shall be located off a lobby or corridor. For the purposes of this Rule, a "dining room" is a space enclosed by walls used for eating meals;

(2) in buildings with a licensed capacity of 15 or less, there shall be a minimum of 200 square feet;

(3) in building with a licensed capacity of 16 or more, there shall be a minimum of 14 square feet per resident; and

(4) the required dining room shall have windows with views to the outside. The total gross window area shall not be less than eight percent of the gross floor area of the room. The window shall be openable from the inside and shall have insect-proof screens.

(d) The requirements for the bedroom are:

(1) the number of resident beds set up shall not exceed the licensed capacity of the facility;

(2) live-in staff shall be permitted in facilities with a capacity of 7 to 12 residents provided all of the requirements of Section .0600 of these Rules are met;

(3) there shall be separate bedrooms for any live-in staff and other persons living in the facility. Residents shall not share bedrooms with live-in staff and other live-in non-residents;

(4) live-in staff shall not occupy a licensed bed or live in a licensed bed;

(5) residents shall reside in bedrooms with residents of the same sex unless other

arrangements are made with each resident's consent;

(6) only rooms authorized by the Division of Health Service Regulation as bedrooms shall be used for bedrooms;

(7) bedrooms shall be located on an outside wall and off a corridor. A room where access is through a bathroom, kitchen, or another bedroom shall not be approved as a resident's bedroom;

(8) private resident bedrooms shall have not less than 100 square feet of occupiable floor area excluding accessory areas such as vestibules, closets, or wardrobes. For the purpose of this Rule, "private resident bedroom" is a resident bedroom occupied by one resident;

(9) semi-private resident bedrooms shall have not less than 80 square feet of occupiable floor area per bed excluding accessory areas such as vestibules, closets, or wardrobes. For the purpose of this Rule, "semi-private resident bedroom" is a resident bedroom occupied by two residents;

(10) the total number of residents assigned to a bedroom shall not exceed the number authorized by the Division of Health Service Regulation for that particular bedroom;

(11) a bedroom may not be occupied by more than two residents;

(12) resident bedrooms shall be designed to accommodate all required furnishings;

(13) resident bedrooms shall be ventilated with one or more windows which are maintained operable. The window area shall not be less than eight percent of the floor space and be equipped with insect-proof screens. The window opening may be restricted to a six-inch opening to inhibit resident elopement or suicide. The windows shall be low enough to see outdoors from the bed and chair, with a maximum 36 inch sill height; and

(14) Residents' bedrooms shall have one closet or wardrobe per resident. A closet or wardrobe shall have clothing storage space of not less than 48 cubic feet per bed, approximately two feet deep by three feet wide by eight feet high, of which one-half of this space shall be for hanging with an adjustable height hanging bar.

(e) The requirements for bathrooms, toilet rooms, bathtubs, showers, a manufactured walk-in tub, or a similar manufactured bathtub, and central bathing rooms are:

(1) minimum bathroom and toilet rooms shall include a toilet and a hand lavatory for each 5 residents, and a bathtub, shower, a manufactured walk-in tub, or a similar manufactured bathtub for each 10 residents or portion thereof. The hand lavatory shall be trimmed with valves that can be operated without hands. If the hand lavatory is equipped with blade handles, the blade handles shall not be less than four and one half inches in length. If the hand lavatory faucet depends on the building electrical service for operation, the faucet must have an emergency power source or battery backup capability. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets;

(2) entrance to bathrooms and toilet rooms shall not be through a kitchen, another person's bedroom, or another bathroom;

(3) toilet rooms and bathrooms for staff and visitors shall be in accordance with the North Carolina State Building Code: Plumbing Code;

(4) bathrooms and toilet rooms accessible to the physically handicapped shall be provided as required by the North Carolina State Building Codes;

(5) bathrooms and toilet rooms shall be designed to provide privacy. Bathrooms and toilet rooms with two or more toilets shall have privacy partitions or curtains for each toilet. Each bathtub, shower, a manufactured walk-in tub, or a similar manufactured bathtub shall have privacy partitions or curtains. Notwithstanding the requirements of Rule .0301 of this Section, the requirements of this Paragraph shall apply to new and existing facilities;

(6) hand grips shall be installed at all toilets, bathtubs, showers, a manufactured walk-in tub, and similar manufactured bathtubs;

(7) there shall be one central bathing room opening off the corridor in a facility. In multi-level facilities, each resident floor shall contain a minimum of one central bathing room opening off the corridor. Central bathing room(s) shall have the following:

(A) a door of three feet minimum width;

(B) a roll-in shower designed to allow the staff to help a resident in taking a shower without the staff getting wet. The roll-in shower shall be designed and equipped for unobstructed ease of shower chair entry and use. If a bathroom with a roll-in shower designed and equipped for unobstructed ease of shower chair entry adjoins each resident bedroom in the facility, the central bathing area is not required to have a roll-in shower;

(C) a bathtub, a manufactured walk-in tub, or a similar manufactured bathtub designed for easy transfer of residents into the tub. Bathtubs shall be accessible on three sides. Manufactured walk-in tubs or a similar manufactured bathtub shall be

accessible on at least two sides. Staff shall not be required to reach over or through the tub faucets and other fixture fittings to assist the resident in the tub;

(D) a toilet and a lavatory trimmed with valves that can be operated without hands. If the lavatory is equipped with blade handles, the blade handles shall not be less than four and one half inches in length. If the lavatory faucet depends on the building electrical service for operation, the faucet shall have an emergency power source or battery backup capability. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets; and

(E) individual cubicle curtain enclosing each toilet, bathtub, shower, manufactured walk-in tub, or a similar manufactured bathtub and shower. A closed cubicle curtain at one of these plumbing fixtures shall not restrict access to the other plumbing fixtures.

(8) where the tub and shower are in separate rooms, each room shall have a lavatory and a toilet. The lavatory shall be trimmed with valves that can be operated without hands. If the lavatory is equipped with blade handles, the blade handles shall not be less than four and one half inches in length. If the lavatory faucet depends on the building electrical service for operation, the faucet must have an emergency power source or battery backup capability. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets;

(9) in facilities where resident bedrooms do not have direct access to a bathroom or toilet room, bathrooms and toilet rooms shall be evenly distributed throughout the facility for residents' use;

(10) resident toilet rooms and bathrooms shall not be used for storage or other purposes;

(11) toilet rooms and bathrooms shall be well lighted;

(12) toilet rooms and bathrooms shall have an exhaust system per the North Carolina State Building Codes. Exhaust vents shall be vented directly to the outdoors;

(13) nonskid surfacing or strips shall be installed in showers, bath areas, and bathtubs; and

(14) the floors of the bathrooms and toilet rooms shall be water-resistant and slip-resistant.

(f) The requirements for storage rooms and closets are:

(1) a facility shall have a minimum area of five square feet (40 cubic feet) per licensed capacity for general storage for the facility. This storage space shall be either in the facility or within 500 feet of the facility on the same site;

(2) separate storage room or area shall provide for the storage of clean linens. Clean linens shall not be stored in the same room or area as soiled linens;

(3) separate storage room shall provide for the storage of soiled linens. Access to soiled linen storage shall be from a corridor or laundry room. If space for the storage of soiled linen is provided in the soiled utility room, a separate soiled linen room is not required;

(4) there shall be space for the storage of dry, refrigerated, and frozen food items, and shall comply with Rules Governing the Sanitation of Hospitals, Nursing Homes, Adult Care Homes and Other Institutions set forth in 15A NCAC 18A .1300, which is incorporated by reference including subsequent amendments and editions, for facilities with a licensed capacity of 13 or more residents, and Rules Governing the Sanitation of Residential Care Facilities set forth in 15A NCAC 18A .1600, which is incorporated by reference including subsequent amendments and editions, for facilities with a licensed capacity of 7 to 12 residents;

(5) the requirements for housekeeping storage are:

(A) a housekeeping closet, with mop sink or mop floor receptor, shall be provided at the rate of one per 60 residents or portion thereof. In multi-level facilities, each resident floor shall have a housekeeping closet; and

(B) there shall be separate locked areas for storing cleaning agents, bleaches, pesticides, and other substances which may be hazardous if ingested, inhaled, or handled. Cleaning supplies shall be monitored while in use;

(6) there shall be a sink which can be operated without the use of hands located adjacent to the drug storage area. If the sink is equipped with blade handles, the blade handles shall not be less than four and one half inches in length. If the sink faucet depends on the building electrical service for operation, the faucet must have battery backup capability or an emergency power source. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets;

(7) the facility shall have locked storage for residents' personal articles within the facility; and

(8) the facility shall have some means for staff to lock personal articles within the facility.

(g) The requirements for corridors are:

(1) doors to spaces other than reach-in closets shall not swing into the corridor;

(2) handrails shall be provided on both sides of corridors at 36 inches above the floor and be capable of supporting a 250 pound concentrated load;

(3) corridors shall be lighted with night lights providing 1 foot-candle power at the floor; and

(4) corridors shall be free of all equipment and other obstructions.

(h) The requirements for outside entrances and exits are:

(1) service entrances shall not be through resident use areas;

(2) all steps, porches, stoops, and ramps shall have handrails and guards. Handrails shall be on both sides of steps and ramps including sides bordered by the facility wall. Handrails shall extend the full length of steps and ramps. Guards shall be on all open sides of steps, porches, stoops, and ramps. For the purposes of this Rule, "guards" are rails or barriers located at or near the open side of elevated walking surfaces that minimizes the possibility of a fall from a walking surface to any adjacent change in elevation;

(3) all exit door locks shall operate from the inside at all times by a single hand motion without keys, tools or special knowledge; and

(4) in facilities with at least one resident who is determined by a physician or is otherwise observed by staff to be disoriented or exhibits wandering behavior, a continuously sounding device that is activated when the door is opened shall be located on each exit door that opens to the outside. The sound shall be audible in the facility. If a central system of remote sounding devices is provided, the control panel shall be powered by the facility's electrical system, and be in a location accessible by staff to operate the control panel. Notwithstanding the requirements of Rule .0301, the requirements of this Paragraph shall apply to new and existing facilities.

(i) The requirements for floors are:

(1) all floors shall be of smooth, non-skid material and so constructed as to be easily cleanable;

(2) scatter or throw rugs shall not be used; and

(3) all floors shall be kept in good repair.

(j) The requirements for soiled utility rooms are:

(1) for facilities with a licensed capacity of 13 or more residents, a separate soiled utility room shall be provided and equipped for the cleaning and sanitizing of bed pans as required by 15A NCAC 18A .1312, which is incorporated by reference including subsequent amendments and editions. The soiled utility room shall have a sink trimmed with valves that can be operated without hands. If the sink is equipped with blade handles, the blade handles shall not be less than four and one half inches in length. If the sink faucet depends on the building electrical service for operation, the faucet must have battery backup capability or an emergency power source. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets; and

(2) for facilities with a licensed capacity of 7 to 12 residents, a separate soiled utility room shall be provided and equipped for the cleaning and sanitizing of bed pans. The soiled utility room shall have a sink trimmed with valves that can be operated without hands. If the sink is equipped with blade handles, the blade handles shall not be less than four and one half inches in length. If the sink faucet depends on the building electrical service for operation, the faucet must have battery backup capability or an emergency power source. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets.

(k) The facility shall have an area within the facility large enough to accommodate normal administrative functions.

(l) The requirements for laundry facilities are:

(1) laundry facilities shall be large enough to accommodate washers, dryers, and ironing equipment or work tables;

(2) these facilities shall be located where soiled linens will not be carried through the kitchen, dining, clean linen storage, living rooms or recreational areas; and

(3) a minimum of one residential type washer and dryer each shall be provided in a separate room that is accessible by staff, residents, and family, even if all laundry services are contracted. In multi-level facilities, each resident floor shall have a minimum of one residential type washer and dryer each in a separate room which is accessible by staff, residents, and family.

(m) The requirements for outside premises are:

(1) the outside grounds of new and existing facilities shall be maintained in a clean and safe condition. For the purpose of this Rule, "clean and safe condition" means free from debris, trash, uneven surfaces, and similar conditions as not to attract rodents and vermin and provide for safe movement throughout facility grounds. Creeks, ravines, ponds, pools, and other similar areas shall have safety protection. For the purpose of this Rule, "safety protection" means preventive measures, such as barriers, to block access to such areas;

(2) if the facility has a fence around the premises, the fence shall not prevent residents from exiting or entering freely or have sharp edges, rusting posts, or other similar conditions that may cause injury; and

(3) outdoor walkways and drives shall be illuminated by no less than five foot-candles of light at ground level.

History Note: Authority G.S. 131D-2.16; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. July 1, 1990; April 1, 1987; July 1, 1984; April 1, 1984;
Temporary Amendment Eff. December 1, 1999;
Amended Eff. July 1, 2000;
Recodified from 10A NCAC 13F .0303 Eff. July 1, 2004;
Temporary Amendment Eff. July 1, 2004;
Amended Eff. July 1, 2005;
Readopted Eff. April 1, 2025.

10A NCAC 13F .0306 HOUSEKEEPING AND FURNISHINGS

(a) Adult care homes shall:

(1) have walls, ceilings, and floors or floor coverings that are clean, safe, and functional;

(2) have no persistent and recurring odors that are considered by the residents to be unpleasant;

(3) have furniture that is clean, safe, and functional;

(4) have a sanitation report in accordance with one of the following:

(A) a North Carolina Department of Health and Human Services, Division of Public Health, Environmental Health Section approved sanitation classification at all times in facilities with 12 beds or less, pursuant to the "Rules Governing the Sanitation of Residential Care Facilities", 15A NCAC 18A .1600, which are incorporated by reference including all subsequent amendments and can be accessed electronically free of charge at http://ehs.dph.ncdhhs.gov/rules.htm; and

(B) a North Carolina Department of Health and Human Services Division of Public Health, and Environmental Health Section sanitation scores of 85 or above at all times in facilities with 13 beds or more. The "Rules Governing the Sanitation of Hospitals, Nursing Homes, Adult Care Homes, and Other Institutions", 15A NCAC 18A .1300, can be accessed electronically free of charge at http://ehs.dph.ncdhhs.gov/rules.htm.

(5) be maintained in an uncluttered, clean, and orderly manner, free of all obstructions and hazards;

(6) have a supply available in the facility at all times of bath soap, clean towels, washcloths, sheets, pillowcases, blankets, and additional covers such as a bedspread, comforter, or quilt for each resident to use;

(7) make available the following items as needed at no additional charge to the personal funds of recipients of State-County Special Assistance:

(A) protective mattress covers, and clean, absorbent, soft, and smooth mattress pads;

(B) bedpans and urinals; and

(C) bedside commodes, walkers, and wheelchairs.

(8) have one television and one radio, in good working order;

(9) have curtains, draperies, or blinds at windows in resident use areas to provide for resident privacy;

(10) have recreational equipment, supplies for games, books, magazines, and a current newspaper available for residents;

(11) have a clock that has numbers at least 1½ inches tall in the living room, the dining room, or dining area; and

(12) have at least one telephone that does not require electricity or cellular service to operate.

(b) Each bedroom shall have the following furnishings in good repair and clean for each resident:

(1) a bed equipped with a box spring and mattress or a bed frame with solid link springs with a foam mattress or a mattress designed to prevent sagging. A hospital bed equipped with all accessories required for use shall be arranged for as needed. A waterbed is allowed if requested by a resident and permitted by the facility. Each bed shall have the following:

(A) at least one pillow with clean pillowcase;

(B) a clean top and bottom sheet on the bed, with bed changed at least once a week and when soiled; and

(C) clean bedspread and other clean coverings as needed.

(2) a bedside type table;

(3) chest of drawers or bureau when not provided as built-ins, or a double chest of drawers or double dresser for two residents;

(4) a wall or dresser mirror that may be used by each resident in each bedroom;

(5) a minimum of one chair that is comfortable as preferred by the resident, which may include a rocking or straight chair, with or without arms, that is high enough for the resident to easily rise without discomfort;

(6) additional chairs available, as needed, for use by visitors;
(7) individual clean towel, wash cloth, and towel bar in the bedroom or an adjoining bathroom; and
(8) a light overhead of bed with a switch within reach of person lying on bed; or a lamp. The light shall provide a minimum of 30 foot-candle power of illumination for reading.

(c) The living room shall have living room furnishings that are in good working order and provide comfort as preferred by residents with coverings that are easily cleanable.

(d) The dining room shall have the following furnishings:
(1) small tables serving from two to eight persons and chairs to seat all residents eating in the dining room; tables and chairs equal to the resident capacity of the home shall be on the premises; and
(2) chairs that are sturdy, without rollers unless retractable or on front legs only, non-folding and designed to minimize tilting.

(e) Notwithstanding the requirements of Rule .0301 of this Section, this Rule shall apply to new and existing facilities.

History Note: Authority G.S. 131D-2.16; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. April 1, 1987; April 1, 1984;
Temporary Amendment Eff. September 1, 2003.
Amended Eff. June 1, 2004;
Recodified from 10A NCAC 13F .0304 Eff. July 1, 2004;
Temporary Amendment Eff. July 1, 2004;
Amended Eff. July 1, 2005;
Readopted Eff. April 1, 2025.

10A NCAC 13F .0307 FIRE ALARM SYSTEM

(a) The fire alarm system in adult care homes shall be able to transmit the fire alarm signal automatically to the local emergency fire department dispatch center that is legally committed to serving the area in which the facility is located. The alarm shall be transmitted either to a fire department or through a third-party service that shall transmit the alarm to the fire department. The method used to transmit the alarm shall be in accordance with local ordinances.

(b) The facility shall comply with fire safety requirements of the city and county in which the facility is located as required by local building and fire officials.

(c) In a facility licensed before April 1, 1984 and constructed prior to January 1, 1975, the building, in addition to meeting the requirements of the North Carolina State Building Code in effect at the time the building was constructed, shall have the following:
(1) A fire alarm system with pull stations within five feet of an exit and sounding devices which are audible throughout the building;
(2) Products of combustion (smoke) U/L listed detectors in all corridors. The detectors shall be no more than 60 feet from each other and no more than 30 feet from an end wall;
(3) Heat detectors or products of combustion detectors in all storage rooms, kitchens, living rooms, dining rooms and laundries;
(4) All detection systems interconnected with the fire alarm system; and
(5) Emergency power for the fire alarm system, heat detection system, and products of combustion detection with automatic start generator or trickle charge battery system capable of operating the fire alarm systems for 24 hours and able to sound the alarm for five minutes at the end of that time. Emergency egress lights and exit signs shall be powered from an automatic start generator or a U/L approved trickle charge battery system capable of operation for 1-1/2 hours when normal power fails.

(d) When a facility not equipped with a complete automatic fire extinguishment system replaces the fire alarm system, all bedrooms shall have smoke detectors. Other building spaces shall provide fire detection devices as required by the North Carolina State Building Code and requirements of this Subchapter.

History Note: Authority G.S. 131D-2.16; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. April 1, 1984;
Recodified from 10A NCAC 13F .0305 Eff. July 1, 2004;
Temporary Amendment Eff. July 1, 2004;
Amended Eff. July 1, 2005;
Readopted Eff. April 1, 2025.

10A NCAC 13F .0309 FIRE SAFETY AND EMERGENCY PREPAREDNESS PLANS

(a) Each facility shall have a written fire evacuation plan that includes a diagram of the facility floor plan including evacuation routes. The plan shall have the written approval of the local fire code enforcement official. The approved diagram shall be legible and be posted on each floor of the facility in a location visible to staff, residents, and visitors. The fire evacuation plan and diagram shall be reviewed with each resident upon admission and shall be included in the orientation for all new staff.

(b) There shall be unannounced fire drills of the fire plan conducted quarterly on each shift in accordance with the requirement of the local fire prevention code enforcement official and the 2018 North Carolina Building Code: Fire Prevention Code, which is hereby incorporated by reference and includes all subsequent editions, available at https://codes.iccsafe.org/content/NCFC2018.

(c) Documentation of fire drills shall be maintained by the administrator or their designee in the facility and be made available upon request to the Division of Health Service Regulation, county department of social services, and local officials. The records shall include the date and time of the drills, the shift, staff members present, and a short description of the drill.

(d) Each facility shall develop and implement an emergency preparedness plan to ensure resident health and safety and

continuity of care and services during an emergency. The emergency preparedness plan shall include the following:

(1) Procedures to address the following threats and hazards that may create an emergency for the facility:
  (A) weather events including hurricanes, tornadoes, ice storms, and extreme heat or cold;
  (B) fires;
  (C) utility failures, to include power, water, and gas;
  (D) equipment failures, to include fire alarm, automatic sprinkler systems, HVAC systems;
  (E) interruptions in communication including phone service and the internet;
  (F) unforeseen widespread communicable public health and emerging infectious diseases;
  (G) intruders and active assailants; and
  (H) other potential threats to the health and safety of residents as identified by the facility or the local emergency management agency.

(2) The procedures outlined in Subparagraph (d)(1) shall address the following:
  (A) provisions for the care of all residents in the facility before, during, and after an emergency such as required emergency supplies including water, food, resident care items, medical supplies, medical records, medications, medication records, emergency power, and emergency equipment;
  (B) provisions for the care of all residents when evacuated from the facility during an emergency, such as evacuation procedures, procedures for the identification of residents, evacuation transportation arrangements, and sheltering options that are safe and suitable for the resident population served;
  (C) identification of residents with Alzheimer's disease and related dementias, residents with mobility limitations, and any other residents who may have specialized needs such as dialysis, oxygen, tracheostomy, and gastrostomy feeding tubes, special medical equipment, or accommodations either at the facility or in case of evacuation;
  (D) strategies for staffing to meet the needs of the residents during an emergency and for addressing potential staffing issues; and
  (E) procedures for coordinating and communicating with the local emergency management agency and local law enforcement.

(3) The emergency preparedness plan shall include contact information for State and local resources for emergency response, local law enforcement, facility staff, residents and responsible parties, vendors, contractors, utility companies, and local building officials such as the fire marshal and local health department.

(e) The facility shall maintain documentation that the emergency preparedness plan has written approval of or documentation that the plan has been submitted to the local emergency management agency and the local agency designated to coordinate and plan for the provision of access to functional needs support services in shelters during disasters.

(f) The facility's emergency preparedness plan shall be reviewed at least annually and updated as needed by the administrator and shall be submitted to the local emergency management agency and the local agency designated to coordinate and plan for the provision of access to functional needs support services in shelters during disasters. Any changes to the plan shall be submitted to the local emergency management agency and the local agency designated to coordinate and plan for the provision of access to functional needs support services in shelters during disasters within 60 days of the change. For the purpose of this Rule, correction of grammatical or spelling errors do not constitute a change. Documentation of submissions shall be maintained at the facility and made available for review upon request to the Division of Health Service Regulation and county department of social services.

(g) The emergency preparedness plan outlined in Paragraph (d) of this Rule shall be maintained in the facility and be accessible to staff working in the facility.

(h) Newly licensed facilities and facilities that have changed ownership shall submit an emergency preparedness plan to the local emergency management agency and the local agency designated to coordinate and plan for the provision of access to functional needs support services in shelters during disasters within 30 days after obtaining the new license. Documentation of submissions shall be maintained at the facility and made available for review upon request to the Division of Health Service Regulation and county department of social services.

(i) The facility's emergency preparedness plan shall be made available upon request to the Division of Health Service Regulation, county department of social services, and emergency management officials.

(j) The administrator shall ensure staff are trained on their roles and responsibilities related to emergencies in accordance with the facility's emergency preparedness plan as outlined in Paragraph (d) of this Rule. Staff shall be trained upon employment and annually in accordance with Rule .1211 of this Subchapter.

(k) The facility shall conduct at least one drill per year to test the facility's emergency preparedness plan. The drill may be conducted as a tabletop exercise. For the purposes of this Rule "tabletop exercise" means a discussion-based session led by the administrator and includes other facility staff as designated by the administrator, that reviews a potential emergency scenario and the

roles and responsibilities of staff, based on the facility's emergency preparedness plan and procedures. The facility shall maintain documentation of the annual drill which shall be made available upon request to the Division of Health Service Regulation, county department of social services, and emergency management officials.

(l) If the facility evacuates residents for any reason, the administrator or their designee shall report the evacuation to the local emergency management agency, the local county department of social services, and the Division of Health Service Regulation Adult Care Licensure Section within four hours or as soon as practicable of the decision to evacuate and shall notify the agencies within four hours of the return of residents to the facility.

(m) Any damage to the facility or building systems that disrupts the normal care and services provided to residents shall be reported to the Division of Health Service Regulation Construction Section within four hours or as soon as practicable of the incidence occurring.

(n) If a facility is ordered to evacuate residents by the local emergency management or public health official due to an emergency, the facility shall not re-occupy the building until local building or public health officials have given approval to do so.

(o) In accordance with G.S. 131D-7, if a facility intends to shelter residents from an evacuating adult care home or desires to temporarily increase the facility's licensed bed capacity, the facility shall request a waiver from the Division of Health Service Regulation prior to accepting the additional residents into the facility or as soon as practicable but no later than 48 hours after the facility has accepted the residents for sheltering. The waiver request form can be found on the Division of Health Service Regulation Adult Care Licensure Section website at https://info.ncdhhs.gov/dhsr/acls/acforms.html#resident.

(p) If a facility evacuates residents to a public emergency shelter, the facility remains responsible for the care, supervision, and safety of each resident, including providing required staffing and supplies in accordance with the Rules of this Subchapter. Evacuation to a public emergency shelter shall be a last resort, and the decision shall be made in consultation with the local emergency management agency, or the local agency designated to coordinate and plan for the provision of access to functional needs support services in shelters during disasters. If a facility evacuates residents to a public emergency shelter, the facility shall notify the Division of Health Service Regulation Adult Care Licensure Section and the county department of social services within four hours of the decision to evacuate or as soon as practicable.

(q) Where a fire alarm or automatic sprinkler system is out of service, the facility shall immediately notify the fire department, the fire marshal, and the Division of Health Service Regulation Construction Section and, where required by the fire marshal, a fire watch shall be conducted until the impaired system has been returned to service as approved by the fire marshal. The facility will adhere to the instructions provided by the fire marshal related to the duties of staff performing the fire watch. The facility will maintain documentation of fire watch activities which shall be made available upon request to the DHSR Construction Section and fire marshal. The facility shall notify the DHSR Construction Section when the facility is no longer conducting a fire watch as directed by the fire marshal.

(r) Notwithstanding the requirements of Rule .0301 of this Section, this Rule shall apply to new and existing facilities.

History Note: Authority G.S. 131D.2.16; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. April 1, 1987; April 1, 1984;
Recodified from 10A NCAC 13F .0307 Eff. July 1, 2004;
Temporary Amendment Eff. July 1, 2004;
Amended Eff. July 1, 2005;
Readopted Eff. June 1, 2025.

10A NCAC 13F .0310 ELECTRICAL OUTLETS

History Note: Authority G.S. 131D-2.16; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. April 1, 1984;
Recodified from 10A NCAC 13F .0308 Eff. July 1, 2004;
Temporary Amendment July 1, 2004;
Amended Eff. July 1, 2005;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018;
Repealed Eff. April 1, 2025.

10A NCAC 13F .0311 OTHER REQUIREMENTS

(a) The building and all fire safety, electrical, mechanical, and plumbing equipment in an adult care home shall be maintained in a safe and operating condition.

(b) The following shall apply to heaters and cooking appliances:

(1) built-in electric heaters, if used, shall be installed or protected so as to avoid burn hazards to residents and room furnishings;

(2) unvented fuel burning room heaters and portable electric heaters are prohibited;

(3) fireplaces, fireplace inserts, and wood stoves shall be designed and installed so as to avoid a burn hazard to residents. Fireplace inserts and wood stoves shall be U.L. listed;

(4) the power supply for ovens, ranges, microwaves, cook tops, and other domestic cooking appliances located in resident activity or recreational areas shall have a locking feature provided that shall be controlled by staff. These appliances shall not be used except under facility staff supervision;

(5) the power supply for ovens, ranges, microwaves, cook tops, and other domestic cooking appliances located in resident rooms shall have a locking feature provided that shall be controlled by staff. Each resident shall be assessed by the administrator or their designee to determine the resident's capability to operate the appliances in a safe manner, and the degree of staff supervision necessary to ensure safe operation of the appliances.

(c) The facility shall have heating and cooling systems such that environmental temperature controls shall be capable of maintaining temperatures in the facility at 75 degrees F minimum

in the heating season, and not exceed 80 degrees F during the non-heating season.

(d) The hot water system shall supply hot water to the kitchen, bathrooms, laundry, housekeeping closets, and soiled utility room. The hot water temperature at all fixtures used by residents shall be maintained at a minimum of 100 degrees F and shall not exceed 116 degrees F. Notwithstanding the requirements of Rule .0301 of this Section, the requirements of this Paragraph shall apply to new and existing facilities.

(e) Multi-story facilities shall be equipped with elevators.

(f) In addition to the required emergency lighting, minimum lighting shall be as follows:

(1) 30 foot-candle power for reading; and

(2) 10 foot-candle power for general lighting.

(g) The spaces listed in this Paragraph shall have an exhaust system per the North Carolina State Building Code. Exhaust vents shall be vented directly to the outdoors:

(1) soiled linen storage;

(2) soiled utility room;

(3) bathrooms and toilet rooms;

(4) housekeeping closets; and

(5) laundry area.

(h) In facilities licensed for 7 to 12 residents, there shall be an electrically operated call system meeting the following requirements:

(1) the call system shall connect residents' bedrooms and bathrooms to the live-in staff bedroom. Where there are no live-in staff for the facility, the call system shall connect residents' bedrooms and bathrooms to a location accessible to staff;

(2) residents' bedrooms shall have a resident call system activator at the resident's bed;

(3) the resident call system activator shall be within reach of a resident lying on the bed;

(4) the resident call system activator shall be such that it can be activated with a single action and remain on until deactivated by staff at point of origin; and

(5) when activated, the call system shall activate an audible and visual signal in the live-in staff bedroom, in a location accessible to staff, or register with the floor staff.

(i) In licensed facilities without live-in staff, there shall be an electrically operated call system meeting the following requirements:

(1) the call system shall connect residents' bedrooms and bathrooms to a location accessible to staff;

(2) residents' bedrooms shall have a resident call system activator at the resident's bed;

(3) the resident call system activator shall be within reach of a resident lying on the bed;

(4) the resident call system activator shall be such that it can be activated with a single action and remain on until deactivated by staff at point of origin; and

(5) when activated, the call system shall activate an audible and visual signal in a location accessible to staff.

(j) Except where otherwise specified, existing facilities housing persons unable to evacuate without staff assistance shall provide those residents with hand bells or other signaling devices.

History Note: Authority G.S. 131D-2.16; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. July 1, 1990; April 1, 1987; April 1, 1984;
Temporary Amendment Eff. December 1, 1999;
Amended Eff. July 1, 2000;
Recodified from 10A NCAC 13F .0309 Eff. July 1, 2004;
Temporary Amendment Eff. July 1, 2004;
Amended Eff. July 1, 2005;
Readopted Eff. April 1, 2025.

10A NCAC 13F .0801 RESIDENT ASSESSMENT

(a) The facility shall complete an assessment of each resident within 30 days following admission and annually thereafter.

(b) The facility shall use the assessment instrument and instructional manual established by the Department or an instrument developed by the facility that contains at least the same information as required on the instrument established by the Department. The assessment shall be completed by an individual who has met the requirements of Rule .0508 of this Subchapter. If the facility develops its own assessment instrument, the facility shall ensure that the individual responsible for completing the resident assessment has completed training on how to conduct the assessment using the facility's assessment instrument. The assessment shall be a functional assessment to determine the resident's level of functioning to include psychosocial well-being, cognitive status, and physical functioning in activities of daily living. The assessment instrument established by the Department shall include the following:

(1) resident identification and demographic information;

(2) current diagnoses;

(3) current medications;

(4) the resident's ability to self-administer medications;

(5) the resident's ability to perform activities of daily living, including bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating;

(6) mental health history;

(7) social history, to include family structure, previous employment and education, lifestyle habits and activities, interests related to community involvement, hobbies, religious practices, and cultural background;

(8) mood and behaviors;

(9) nutritional status, including specialized diet or dietary needs;

(10) skin integrity;

(11) memory, orientation and cognition;

(12) vision and hearing;

(13) speech and communication;

(14) assistive devices needed; and
(15) a list of and contact information for health care providers or services used by the resident.

The assessment instrument established by the Department is available on the Division of Health Service Regulation website at https://policies.ncdhhs.gov/divisional/health-benefits-nc-medicaid/forms/dma-3050r-adult-care-home-personal-care-physician/@@display-file/form_file/dma-3050R.pdf at no cost.

(c) When a facility identifies a change in a resident's baseline condition based upon the factors listed in Parts (1)(A) through (M) of this Paragraph, the facility shall monitor the resident's condition for no more than 10 days to determine if a significant change in the resident's condition has occurred. The facility shall conduct an assessment of a resident within three days after the facility identifies that a significant change in the resident's baseline condition has occurred. The facility shall use the assessment instrument required in Paragraph (b) of this Rule. For the purposes of this Subchapter, significant change in the resident's condition is determined as follows:

(1) Significant change is one or more of the following:
(A) deterioration in two or more activities of daily living including bathing, dressing, personal hygiene, toileting, or eating;
(B) change in ability to walk or transfer, including falls if the resident experiences repeated falls, meaning more than one, on the same day, or multiple falls that occur over several days to weeks, new onset of falls not attributed to an identifiable cause, a fall with consequent change in neurological status, or physical injury;
(C) pain worsening in severity, intensity, or duration, occurring in a new location, or new onset of pain associated with trauma;
(D) change in the pattern of usual behavior, new onset of resistance to care, abrupt onset or progression of agitation or combative behavior, deterioration in affect or mood, or violent or destructive behaviors directed at self or others;
(E) no response by the resident to the intervention for an identified problem;
(F) initial onset of unplanned weight loss or gain of five percent of body weight within a 30-day period or 10 percent weight loss or gain within a six-month period;
(G) when a resident has been enrolled in hospice;
(H) emergence of a pressure ulcer at Stage II, which is a superficial ulcer presenting an abrasion, blister or shallow crater, or any pressure ulcer determined to be greater than Stage II;
(I) a new diagnosis of a condition which affects the resident's physical, mental, or psychosocial well-being;
(J) improved behavior, mood or functional health status to the extent that the established plan of care no longer meets the resident's needs;
(K) new onset of impaired decision-making;
(L) continence to incontinence or indwelling catheter; or
(M) the resident's condition indicates there may be a need to use a restraint in accordance with Rule .1501 of this Subchapter and there is no current restraint order for the resident.

(2) Significant change does not include the following:
(A) changes that resolve with or without intervention;
(B) an acute illness or episodic event. For the purposes of this Rule "acute illness" means symptoms or a condition that develops quickly and is not a part of the resident's baseline physical health or mental health status;
(C) an established, predictable cyclical pattern; or
(D) steady improvement under the current course of care.

(d) If a resident experiences a significant change as defined in Paragraph (c) of this Rule, the facility shall refer the resident to the resident's physician or other licensed health professional no longer than three days from the date of the significant change assessment, and document the referral in the resident's record. Referral shall be made immediately when facility staff determines that a significant change as defined in Parts (c)(1)(A)-(M) poses an immediate risk to the health and safety of the resident, other residents, or staff of the facility.

(e) The assessments required in Paragraphs (a) and (c) of this Rule shall be completed and signed by the person designated by the administrator to perform resident assessments.

History Note: Authority G.S. 131D-2.15; 131D-2.16; 131D-4.4; 131D-4.5; 143B-165;
Temporary Adoption Eff. January 1, 1996;
Eff. May 1, 1997;
Temporary Amendment Eff. September 1, 2003; July 1, 2003;
Amended Eff. July 1, 2005; June 1, 2004;
Readopted Eff. June 1, 2025.

10A NCAC 13F .0802 RESIDENT CARE PLAN

(a) The facility shall develop and implement a care plan for each resident based on the resident's assessment completed in accordance with Rule .0801 of this Section. The care plan shall be resident-centered and include the resident's preferences related to the provision of care and services. A copy of each resident's current care plan shall be maintained in a location in the facility

where it can be accessed by facility staff who are responsible for the implementation of the care plan.

(b) The resident shall be offered the opportunity to participate in the development of his or her care plan. If the resident is unable to participate in the development of the care plan due to cognitive impairment, the responsible person as defined in Rule .0102 of this Subchapter shall be offered the opportunity to participate in the development of the care plan.

(c) The care plan shall include the following:

(1) a description of services, supervision, tasks, and level of assistance to be provided to address the resident's needs identified in the resident's assessment in Rule .0801 of this Section;

(2) frequency of the services or tasks to be performed;

(3) revisions of tasks and frequency based on reassessments in accordance with Rule .0801 of this Section;

(4) licensed health professional tasks required according to Rule .0903 of this Subchapter;

(5) a dated signature of the assessor upon completion; and

(6) a dated signature of the resident's physician or physician extender as defined in Rule .0102 of this Subchapter within 15 days of completion of the care plan certifying the resident is under this physician's care and has a medical diagnosis with associated physical or mental limitations warranting the provision of the personal care services in the above care plan in accordance with G.S. 131D-2.15. This shall not apply to residents assessed through the Medicaid State Plan Personal Care Services Assessment for the portion of the assessment covering tasks needed for each activity of daily living of this Rule for which care planning and signing are directed by Medicaid.

(d) If the resident received home health or hospice services, the facility shall communicate with the home health or hospice agency to coordinate care and services to ensure the resident's needs are met.

(e) The facility shall assure that the care plan for each resident who is under the care of a provider of mental health, developmental disabilities or substance use services includes instructions regarding how to contact that provider, including emergency and after-hours contacts. Whenever significant behavioral changes described in Rule .0801(c)(1)(D) of this Section are identified, the facility shall refer the resident to a provider of mental health, developmental disabilities or substance use services in accordance with Rule .0801(d) of this Section.

(f) The care plan shall be revised as needed based on the results of a significant change assessment completed in accordance with Rule .0801 of this Section.

History Note: Authority G.S. 131D-2.15; 131D-2.16; 131D-4.3; 131D-4.4; 131D-4.5; 143B-165;
Temporary Adoption Eff. January 1, 1996;
Eff. May 1, 1997;
Temporary Amendment Eff. September 1, 2003; July 1, 2003;
Amended Eff. July 1, 2005; June 1, 2004;
Readopted Eff. June 1, 2025.

10A NCAC 13F .1304 SPECIAL CARE UNIT PHYSICAL ENVIRONMENT REQUIREMENTS

In addition to meeting all applicable building codes and licensure regulations for adult care homes, the special care unit shall meet the following building requirements:

(1) For facilities licensed prior to April 1, 2025, the following shall apply:

(a) Plans for new or renovated construction or conversion of existing building areas shall be submitted to the Construction Section of the Division of Health Service Regulation for review and approval.

(b) If the special care unit is a portion of a facility, it shall be separated from the rest of the building by closed doors.

(c) Unit exit doors may be locked only if the locking devices meet the requirements outlined in the N.C. State Building Code for special locking devices.

(d) Where exit doors are not locked, a system of security monitoring shall be provided.

(e) The unit shall be located so that other residents, staff and visitors do not have to routinely pass through the unit to reach other areas of the building.

(f) At a minimum the following service and storage areas shall be provided within the special care unit: staff work area, nourishment station for the preparation and provision of snacks, lockable space for medication storage, and storage area for the residents' records.

(g) Living and dining space shall be provided within the unit at a total rate of 30 square feet per resident and may be used as an activity area.

(h) Direct access from the facility to a secured outside area shall be provided.

(i) A toilet and hand lavatory shall be provided within the unit for every five residents.

(j) A tub and shower for bathing of residents shall be provided within the unit.

(k) Use of potentially distracting mechanical noises such as loud ice machines, window air conditioners, intercoms and alarm systems shall be minimized or avoided.

(2) For facilities licensed on or after April 1, 2025, the following shall apply:

(a) A special care unit that is part of an adult care home shall meet licensure rules for adult care homes contained in Rules .0301-.0311 of this Subchapter with the following exceptions: .0305(e)(3), .0305(f)(1), .0305(f)(4), .0305(h)(3), .0305(k), and .0305(l).

(b) The unit, if part of an adult care home, shall be separated from the rest of the facility by walls and closed doors.

(c) The unit, if part of an adult care home, shall be located so that other residents, staff, and visitors will not have to pass through the unit to reach other areas of the facility.

(d) Unit exit doors shall be locked with locking devices meeting the requirements outlined in the North Carolina State Building Code for special locking arrangements.

(e) Unit exit doors shall have a sounding device that is activated when the door is opened per Rule .0305(h)(4) of this Subchapter.

(f) Operable exterior windows shall be equipped with mechanisms to limit window openings to no less than four inches and no greater than six inches to minimize the chance of elopement.

(g) There shall be direct access from the unit to a secured outside area located on the same level as the unit.

(h) Fences used to enclose the secured outside area shall be at least six feet high and shall be constructed to prevent residents' ability to climb over the fence.

(i) The following service and storage areas shall be provided within the special care unit:
    (i) a staff work area;
    (ii) a staff bathroom;
    (iii) a nourishment station for the preparation and provision of snacks. The nourishment station shall be provided with a sink trimmed with valves that can be operated without hands. If the sink is equipped with blade handles, the blade handles shall not be less than four and one half inches in length. If the sink faucet depends on the building electrical service for operation, the faucet must have an emergency power source or battery backup capability. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets;
    (iv) lockable space for medication storage;
    (v) storage area for the residents' records;
    (vi) separate storage room or area shall be provided for the storage of soiled linens; and
    (vii) a housekeeping closet, with mop sink or mop floor receptor.

(j) The living room and dining room/dining area may be sized per Rules .0305(b) and .0305(c) of this Subchapter or may be combined for a minimum of 30 square feet per resident. The combined space may be used as an activity area.

(k) The unit shall have a central bathing area meeting the following:
    (i) a door of three feet minimum width;
    (ii) a roll-in shower designed to allow the staff to assist a resident in taking a shower without the staff getting wet. The roll-in shower shall be designed and equipped for unobstructed ease of shower chair entry and use. If a bathroom with a roll-in shower designed and equipped for unobstructed ease of shower chair entry adjoins each resident bedroom in the facility, the central bathing area is not required to have a roll-in shower;
    (iii) a bathtub, a manufactured walk-in tub or a similar manufactured bathtub designed for easy transfer of residents into the tub. Bathtubs shall be accessible on three sides. Manufactured walk-in tubs or a similar manufactured bathtub shall be accessible on at least two sides. Staff shall not be required to reach over or through the tub faucets and other fixture fittings to assist the resident in the tub;

(iv) a toilet and a lavatory trimmed with valves that can be operated without hands. If the lavatory is equipped with blade handles, the blade handles shall not be less than four and one half inches in length. If the lavatory faucet depends on the building electrical service for operation, the faucet must have an emergency power source or battery backup capability. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets; and

(v) individual cubicle curtains shall enclose each toilet, bathtub, manufactured walk-in tub or similar manufactured bathtub, and shower.

(l) If each resident bedroom has direct access to a bathroom equipped with a shower meeting the requirements of Rule .0305(e)(7)(B) of this Subchapter, the shower required by this rule is not required to be provided in the unit.

(m) Fire extinguishers required by Rule .0308(a) of this Subchapter shall be secured in a manner acceptable to the local Fire Marshal to prevent access by residents.

History Note: Authority G.S. 131D-2.16; 131D-4.5; 131D-4.6; 131D-8; 143B-165;
Temporary Adoption Eff. December 1, 1999;
Eff. July 1, 2000;
Readopted Eff. April 1, 2025.

10A NCAC 13F .1501 USE OF PHYSICAL RESTRAINTS AND ALTERNATIVES

(a) An adult care home shall assure that a physical restraint, any physical or mechanical device attached to or adjacent to the resident's body that the resident cannot remove easily and that restricts freedom of movement or normal access to one's body, shall be:

(1) used only in those circumstances in which the resident has medical symptoms for which the resident's physician or physician extender has determined warrant the use of restraints and not for discipline or convenience purposes;

(2) used only with a written order from a physician or physician extender except in emergencies where the health or safety of the resident is threatened, according to Paragraph (d) of this Rule;

(3) the least restrictive restraint that would provide a safe environment for the resident and prevent physical injury;

(4) used only after alternatives that would provide a safe environment for the resident to prevent physical injury and prevent a potential decline in the resident's functioning have been tried and documented by the administrator or their designee in the resident's record as being unsuccessful;

(5) used only after an assessment and care planning process has been completed, except in emergencies where the health or safety of the resident is threatened, according to Paragraph (d) of this Rule;

(6) applied correctly according to the manufacturer's instructions and the physician's or the physician extenders' order; and

(7) used in conjunction with alternatives in an effort to reduce restraint use. For the purposes of this Rule, "physician extender" means a licensed physician assistant or licensed nurse practitioner.

Note: Bed rails are restraints when used to keep a resident from voluntarily getting out of bed as opposed to enhancing mobility of the resident while in bed. Examples of restraint alternatives are: providing restorative care to enhance abilities to stand safely and walk, providing a device that monitors attempts to rise from chair or bed, placing the bed lower to the floor, providing frequent staff monitoring with periodic assistance in toileting and ambulation and offering fluids, providing activities, controlling pain, providing an environment with minimal noise and confusion, and providing supportive devices such as wedge cushions.

(b) The facility shall obtain written consent from the resident, the resident's responsible person as defined in Rule .0102 of this Subchapter, or legal representative for the resident to be restrained based on an order from the resident's physician or physician extender. The facility shall inform the resident, the resident's responsible person, or legal representative of the reason for the request, the benefits of restraint use, and the negative outcomes and alternatives to restraint use. The resident or the resident's legal representative or the responsible person if the resident is unable to consent to the use of restraints and there is no legal representative may accept or refuse restraints based on the information provided. Documentation shall consist of a statement signed by the resident or the resident's legal representative or the responsible person if the resident is unable to consent to the use of restraints and there is no legal representative indicating the signer has been informed, the signer's acceptance or refusal of restraint use and, if accepted, the type of restraint to be used and the medical indicators for restraint use.

Note: Potential negative outcomes of restraint use include incontinence, decreased range of motion, decreased ability to ambulate, increased risk of pressure ulcers, symptoms of withdrawal or depression, and reduced social contact.

(c) In addition to the requirements in Rules 13F .0801, .0802 and .0903 of this Subchapter regarding assessments and care planning, the resident assessment and care planning prior to application of restraints as required in Subparagraph (a)(5) of this Rule shall meet the following requirements:

(1) The assessment and care planning shall be implemented through a team process with the team consisting of at least a supervisor or personal care aide, a registered nurse, the resident and the resident's responsible person or legal representative. If the resident or resident's responsible person or legal representative is unable to participate, there shall be documentation in the resident's record that they were notified and declined the invitation or were unable to attend.

(2) The assessment shall include consideration of the following:
- (A) medical symptoms that warrant the use of a restraint;
- (B) how the medical symptoms affect the resident;
- (C) when the medical symptoms were first observed;
- (D) how often the symptoms occur;
- (E) alternatives that have been provided and the resident's response; and
- (F) the least restrictive type of physical restraint that would provide safety.

(3) The care plan shall include the following:
- (A) alternatives and how the alternatives will be used prior to restraint use and in an effort to reduce restraint time once the resident is restrained;
- (B) the type of restraint to be used; and
- (C) care to be provided to the resident during the time the resident is restrained.

(d) The following applies to the restraint order as required in Subparagraph (a)(2) of this Rule:

(1) The order shall indicate:
- (A) the medical need for the restraint based on the assessment and care plan;
- (B) the type of restraint to be used;
- (C) the period of time the restraint is to be used; and
- (D) the time intervals the restraint is to be checked and released, but no longer than every 30 minutes for checks and no longer than two hours for releases.

(2) If the order is obtained from a physician other than the resident's physician, the facility shall notify the resident's physician or physician extender of the order within seven days.

(3) The restraint order shall be updated by the resident's physician or physician extender at least every three months following the initial order.

(4) If the resident's physician changes, the physician or physician extender who is to attend the resident shall update and sign the existing order.

(5) In an emergency, where the health or safety of the resident is threatened, the administrator or their designee, shall make the determination relative to the need for a restraint and its type and duration of use until a physician or physician extender is contacted. Contact with a physician shall be made within 24 hours and documented in the resident's record. For the purpose of this Rule, an "emergency" means a situation where there is a certain risk of physical injury or death to a resident.

(6) The restraint order shall be kept in the resident's record.

(e) All instances of the use of physical restraints and alternatives shall be documented by the facility in the resident's record and include the following:

(1) restraint alternatives that were provided and the resident's response;

(2) type of restraint that was used;

(3) medical symptoms warranting restraint use;

(4) the time the restraint was applied and the duration of restraint use;

(5) care that was provided to the resident during restraint use; and

(6) behavior of the resident during restraint use.

(f) Physical restraints shall be applied only by staff who have received training on the use of alternatives to physical restraint use and on the care of residents who are physically restrained according to Rule .0506 of this Subchapter and have been validated on the care of residents who are physically restrained and the use of care practices as alternative to restraints according to Rule .0504 of this Subchapter.

History Note: Authority G.S. 131D-2.16; 143B-165;
Temporary Adoption Eff. July 1, 2004;
Temporary Adoption Expired March 12, 2005;
Eff. June 1, 2005;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018;
Amended Eff. April 1, 2025.

10A NCAC 13G .0206 CAPACITY

(a) Pursuant to G.S. 131D-2.1(9), family care homes shall have a capacity of two to six residents. For the purposes of this Rule, "capacity" means the maximum number of residents permitted to live in a licensed family care home in accordance with the North Carolina Building Code and the evacuation capability of each resident.

(b) The total number of residents shall not exceed the number shown on the license. The license shall indicate the facility's capacity for ambulatory and non-ambulatory individuals permitted to live in the facility. For the purposes of this Rule, "ambulatory" means the individual is able to respond and evacuate from the facility without verbal or physical assistance from others in the event of an emergency. "Non-ambulatory"

means the individual is not able to respond and evacuate from the facility without verbal or physical assistance from others in the event of an emergency.

(c) A request for an increase in capacity by adding rooms, remodeling, or without building modifications shall be made to the county department of social services and submitted to the Division of Health Service Regulation Construction Section and shall include two copies of blueprints or floor plans. One plan shall show the existing building with the current use of rooms, and the second plan showing the addition, remodeling, or change in use of spaces, and showing the use of every room. If new construction, the second plan shall show how the addition will be tied into the existing building and all proposed changes in the structure.

(d) When licensed facilities increase their designed capacity by the addition to or remodeling of the existing physical plant, the entire facility shall meet all current fire safety regulations required by city ordinances or county building inspectors.

(e) The licensee or the licensee's designee shall notify the Division of Health Service Regulation Adult Care Licensure Section if the evacuation capabilities of the residents changes and the facility no longer complies with the facility's licensed capacity as listed on the facility's license, or of the addition of any non-resident who will be living within the facility.

(f) If there is a temporary change in the capacity of the facility due to a resident's short term illness or condition that renders the resident temporarily non-ambulatory, such as end of life condition, the licensee or the licensee's designee shall immediately notify the Division of Health Service Regulation Construction Section upon the knowledge of the change in the resident's ambulatory status.

History Note: Authority G.S. 131D-2.4; 131D-2.16; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. July 1, 2005; July 1, 1990; April 1, 1984; January 1, 1983;
Readopted Eff. April 1, 2025.

10A NCAC 13G .0301 APPLICATION OF PHYSICAL PLANT REQUIREMENTS

A family care home shall meet the following physical plant requirements:

(1) New construction and existing buildings proposed for use as a Family Care Home shall comply with the requirements of this Section.

(2) Except where otherwise specified, existing licensed facilities or portions of existing licensed facilities shall meet the licensure and code requirements in effect at the time of licensure, construction, change in service, change in bed capacity, addition, modification, renovation, or alteration.

(3) New additions, alterations, modifications, and repairs shall meet the requirements of this Section.

(4) The Division may grant an equivalency to allow alternate methods, procedures, design criteria, or functional variation from the requirements of this Rule and the rules contained in this Section. The equivalency may be granted by the Division when the owner or his appointed representative submits a written equivalency request to the Division that states the following:

(a) the rule citation and the rule requirement that will not be met because strict conformance with current requirements would be:

(i) impractical;

(ii) unable to be met due to extraordinary circumstances. For the purpose of this Rule, "extraordinary circumstances" means situations that are unexpected and beyond the control of the facility; or

(iii) unable to be met due to new programs.

(b) the justification for the equivalency; and

(c) how the proposed equivalency meets the intent of the corresponding rule requirement.

(5) In determining whether to grant an equivalency request, the Division shall consider whether the request will reduce the safety and operational effectiveness of the facility. The facility shall maintain a copy of the approved equivalency issued by the Division.

(6) Where rules, codes or standards have any conflict, the more stringent requirement shall apply.

History Note: Authority G.S. 131D-2.16; 143B-165;
Eff. July 1, 2005;
Readopted Eff. April 1, 2025.

10A NCAC 13G .0302 DESIGN AND CONSTRUCTION

(a) A building licensed for the first time as a family care home, or a licensed family care home relicensed after the license is terminated for more than 60 days, shall meet the requirements of the North Carolina State Building Code: Residential Code in effect at the time of licensure or relicensure. Additionally, facilities requesting licensure or relicensure for four to six residents shall meet the North Carolina State Building Code: Building Code, Licensed Residential Care Facilities Section in effect at the time of licensure or relicensure. The North Carolina State Building Codes, which are hereby incorporated by reference, including all subsequent amendments and editions, may be purchased from the International Code Council online at https://shop.iccsafe.org/ at a cost of eight hundred fifty-eight dollars ($858.00) or accessed electronically free of charge at https://codes.iccsafe.org/codes/north-carolina.

(b) New construction, additions, alterations, modifications, and renovations to buildings shall meet the requirements of the North Carolina State Building Code: Residential Code, and the North

Carolina State Building Code: Building Code, Licensed Residential Care Facilities Section at the time of construction, alteration, modifications, and renovations.

(c) A family care home shall not offer services for which the facility was not planned, constructed, equipped, or maintained.

(d) An existing building converted from another use to a family care home shall meet all the requirements of Paragraph (a) of this Rule.

(e) An existing licensed facility that plans to have new construction, remodeling or physical changes done to the facility shall have drawings submitted by the owner or his appointed representative to the Division of Health Service Regulation for review and approval prior to commencement of the work to ensure compliance with the rules established in this Section.

(f) If the building is two stories in height, it shall meet the following requirements:

(1) each floor shall be less than 2500 square feet in area if existing construction or, if new construction, shall not exceed the allowable area for Group R-4 occupancy in the North Carolina State Building Codes;

(2) elderly or disabled persons are not to be housed on any floor above or below grade level. For the purpose of this rule, "elderly" persons mean any person who meets the term as defined in G.S. 131D-2.1. For the purpose of this rule, "disabled" persons mean any person who meets the term "person with a disability" as defined in G.S. 168A-3;

(3) required resident facilities are not to be located on any floor above or below grade level; and

(4) a complete fire alarm system meeting the requirements of the National Fire Protection Association 72, NFPA 72: National Fire Alarm and Signaling Code, which is hereby incorporated by reference, including all subsequent amendments and editions. Copies of this code may be obtained from the National Fire Protection Association online at http://www.nfpa.org/catalog/ or accessed electronically free of charge at https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=72. For the purpose of this Rule, a "complete fire alarm system" is a system that consists of components and circuits arranged to monitor and annunciate the status of fire alarm and supervisory signal-initiating devices and to initiate the appropriate response to those signals. Pull stations shall be installed on each floor at each exit. Sounding devices that are audible throughout the building shall be provided on each floor. The fire alarm system shall be able to transmit an automatic signal to the local emergency fire department dispatch center that is legally committed to serving the area in which the facility is located. The alarm shall be transmitted either directly to a fire department or through a third-party service that shall transmit the alarm to the fire department. The method used to transmit the alarm shall be in accordance with local ordinances.

(g) The basement and the attic shall not be used for storage or sleeping.

(h) The ceiling height throughout the family care home shall be at least seven and one-half feet from the floor.

(i) In facilities licensed on or after April 1, 1984, all required resident areas shall be on the same floor level. Steps and ramps between levels are not permitted.

(j) The following shall have door widths a minimum of two feet and six inches:

(1) the kitchen;
(2) dining rooms;
(3) living rooms;
(4) bedrooms; and
(5) bathrooms.

(k) All windows that are designed to be operable shall be maintained operable.

(l) The local code enforcement official shall be consulted before starting any construction or renovations for information on required permits and construction requirements.

(m) The building shall meet sanitation requirements set forth in 15A NCAC 18A .1600, Rules Governing the Sanitation of Residential Care Facilities, which are hereby incorporated by reference, including subsequent amendments and editions. Copies of these Rules may be accessed online free of charge at https://www.oah.nc.gov/.

(n) The facility shall maintain and have available for review current sanitation and fire safety inspection reports.

History Note: Authority G.S. 131D-2.16; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. July 1, 1990; April 1, 1984; January 1, 1983;
Temporary Amendment Eff. September 1, 2003;
Amended Eff. July 1, 2005; June 1, 2004;
Readopted Eff. April 1, 2025.

10A NCAC 13G .0305 LIVING ROOM

(a) Family care homes licensed on or after April 1, 1984 shall have a living room or area a minimum of 200 square feet. For the purposes of this Rule, a "living room" is a space enclosed by walls used for social activities, such as reading, talking or watching television. For the purpose of this Rule, a "living area" is a space within the facility that may be opened to adjacent spaces and is designated to be used for social activities, such as reading, talking or watching television.

(b) All living rooms or areas shall have at least one operable window meeting the North Carolina State Building Code: Residential Code to view outdoors, and be lighted to provide 30 foot-candles of light at floor level.

History Note: Authority G.S. 131D-2.16; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. July 1, 2005; July 1, 1990; April 1, 1984;
Recodified from 10A NCAC 13G .0304 Eff. July 1, 2005;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019;
Amended Eff. April 1, 2025.

10A NCAC 13G .0306 DINING ROOM OR DINING AREA

(a) Family care homes licensed on or after April 1, 1984 shall have a dining room or dining area a minimum of 120 square feet. For the purpose of this Rule, a "dining room" is a space enclosed by walls used for eating meals. For the purpose of this Rule, a "dining area" is a space within the facility that may be opened to adjacent spaces and is designated to be used for eating meals. The dining room or dining area may be used for other activities during the day.
(b) When the dining area is combined with a kitchen to form an eat-in kitchen, an area five feet wide in front of sinks, kitchen appliances, and any kitchen islands used for food preparation, shall be work space for the kitchen. The work space shall not be included as part of the square footage for the dining area.
(c) The dining room or dining area shall have at least one operable window meeting the North Carolina State Building Code: Residential Code to view the outdoors, or a door unit with a vision panel directly to the outside. The dining room or dining area shall be lighted to provide 30 foot-candles of light at floor level.

History Note: Authority G.S. 131D-2.16; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. July 1, 2005; July 1, 1990; April 1, 1984;
Recodified from 10A NCAC 13G .0305 Eff. July 1, 2005;
Readopted Eff. April 1, 2025.

10A NCAC 13G .0307 KITCHEN

(a) The kitchen in a family care home shall have space for the preparation and preservation of food and the washing of dishes.
(b) The cooking unit shall be mechanically ventilated to the outside. If the cooking unit is unvented, a recirculating fan shall be provided with a filter required by manufacturers' instructions for ventless use.
(c) The kitchen shall have floors that are water-resistant and slip-resistant.

History Note: Authority G.S. 131D-2.16; 143B-165;
Eff. January 1, 1977;
Amended Eff. April 22, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. July 1, 2005; April 1, 1984;
Recodified from 10A NCAC 13G .0306 Eff. July 1, 2005;
Readopted Eff. April 1, 2025.

10A NCAC 13G .0308 BEDROOMS

(a) There shall be bedrooms in number and size to meet the individual needs according to age and sex of the residents, the administrator or supervisor-in-charge, other live-in staff, and other persons living in a family care home. Residents shall not share bedrooms with staff or other live-in non-residents.
(b) Only rooms authorized by the Division of Health Service Regulation as bedrooms shall be used for bedrooms.
(c) A room where access is through a bathroom, kitchen, or another bedroom shall not be approved for a resident's bedroom.
(d) Private resident bedrooms shall provide not less than 100 square feet of occupiable floor area, excluding accessory areas such as vestibules, closets, wardrobes, or bathrooms. For the purpose of this Rule, a "private resident bedroom" is a resident bedroom occupied by one resident.
(e) Semi-private resident bedrooms shall provide not less than 80 square feet of occupiable floor area per bed, excluding accessory areas such as vestibules, closets, wardrobes, or bathrooms. For the purpose of this Rule, a "semi-private resident bedroom" is a resident bedroom occupied by two residents.
(f) The total number of residents assigned to a bedroom shall not exceed the number authorized by the Division of Health Service Regulation for that particular bedroom.
(g) A bedroom shall not be occupied by more than two residents.
(h) A resident bedroom shall have one or more operable windows meeting the requirements of the North Carolina State Building Code: Residential Code for emergency egress, and be lighted to provide 30 foot-candles of light at floor level. The window area shall not be less than eight percent of the floor space, and be equipped with insect-proof screens. Windows in resident bedrooms shall have a maximum of 44 inch sill height.
(i) A resident bedroom shall provide one closet or wardrobe per resident. Closets or wardrobes shall have clothing storage space of not less than 48 cubic feet per bed, approximately two feet deep by three feet wide by eight feet high, of which one-half of this space shall be for hanging with an adjustable height hanging bar.

History Note: Authority G.S. 131D-2.16; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. July 1, 2005; July 1, 1990; April 1, 1984;
Recodified from 10A NCAC 13G .0307 Eff. July 1, 2005;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019;
Amended Eff. April 1, 2025.

10A NCAC 13G .0309 BATHROOM

(a) Family care homes licensed on or after April 1, 1984, shall have one full bathroom for five or fewer persons, including live-in staff. For the purpose of this Rule, a "full bathroom" is a room containing a sink, toilet, and a bathtub, shower, spa tub, or similar bathing fixture.
(b) Bathrooms with two or more toilets shall have privacy partitions or curtains for each toilet. Bathtubs, showers, spas, or similar bathing fixtures shall have privacy partitions or curtains. Notwithstanding the requirements of Rule .0301 of this Section, the requirements of this Paragraph shall apply to new and existing facilities.
(c) Entrances to bathrooms shall not be through a kitchen, another person's bedroom, or another bathroom.
(d) Residents' bathrooms shall be located so that there is no more than 40 feet from a resident's bedroom door to a resident use bathroom door.
(e) Toilets, bathtubs, showers, spas, and similar bathing fixtures shall have hand grips meeting the following requirements:

(1) be mechanically fastened or anchored to the walls;

(2) be located to help residents in entering and exiting bathtubs, showers, spas, or similar bathing fixtures; and
(3) be on the wall adjacent to toilets.

(f) Nonskid surfacing or strips must be installed in bathtubs, showers, spas, and similar bathing fixtures.

(g) Bathrooms shall meet the following requirements:
(1) be lighted to provide 30 foot-candles of light at floor level;
(2) have an exhaust system per the North Carolina State Building Code: Residential Code. Exhaust vents shall vent directly to the outdoors; and
(3) have floors that are water-resistant and slip-resistant.

History Note: Authority G.S. 131D-2.16; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. July 1, 2005; July 1, 1990; April 1, 1984;
Recodified from 10A NCAC 13G .0308 Eff. July 1, 2005;
Readopted Eff. April 1, 2025.

10A NCAC 13G .0312 OUTSIDE ENTRANCE AND EXITS

(a) In family care homes, floor levels shall have at least two outside entrances/exits that are so located and constructed to minimize the possibility that both outside entrances/exits from the facility may be blocked by a fire or other emergency condition. Exiting through another resident's bedroom is not permitted.

(b) At least one outside entrance/exit door shall be a minimum width of three feet and another shall be a minimum width of two feet and eight inches.

(c) At least one principal outside entrance/exit for the residents' use shall be at grade level or accessible by ramp with a one inch rise for each 12 inches of length of the ramp. For the purposes of this Rule, a principal outside entrance/exit is one that is most often used by residents for vehicular access. If the facility has a resident that must have physical assistance with evacuation, the facility shall have two outside entrances/exits at grade level or accessible by a ramp.

(d) All outside entrance/exit door locks shall be operable by a single hand motion from the inside at all times without keys, tools, or special knowledge. Existing deadbolts and turn buttons on the inside of outside entrances/exit doors, including screen and storm doors, shall be removed or disabled.

(e) All outside entrances/exits shall be free of all obstructions or impediments to allow for full instant use in case of fire or other emergency.

(f) All steps, porches, stoops, and ramps shall have handrails and guards. Handrails shall be on both sides of steps and ramps, including sides bordered by the facility wall. Handrails shall extend the full length of steps and ramps. Guards shall be on open sides of steps, porches, stoops, and ramps. For the purposes of this Rule, "guards" are rails or barriers located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from a walking surface to an adjacent change in elevation.

(g) In facilities with at least one resident who is determined by a physician or is otherwise observed by staff to be disoriented or exhibiting wandering behavior, all outside entrance/exit doors shall have a continuously sounding device that is activated when the door is opened. The sound shall be audible throughout the facility. If a central system of remote sounding devices is provided, the control panel for the system shall be powered by the facility's electrical system, and be located in an area accessible to staff. Notwithstanding the requirements of Rule .0301 of this Section, the requirements of this Paragraph shall apply to new and existing facilities.

History Note: Authority G.S. 131D-2.16; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. July 1, 2005; April 1, 1987; July 1, 1984; April 1, 1984;
Recodified from 10A NCAC 13G .0311 Eff. July 1, 2005;
Readopted Eff. April 1, 2025.

10A NCAC 13G .0313 LAUNDRY ROOM

(a) Laundry equipment shall be inside family care homes. For the purpose of this Rule, "laundry equipment" means at least one residential washing machine and at least one residential dryer.

(b) Laundry equipment shall be in a dedicated room or enclosure, and shall be located out of living rooms, dining rooms, dining areas, bathrooms, and bedrooms.

(c) Laundry equipment shall be on the same floor level as required residents' facilities.

(d) Laundry equipment shall be accessible to all residents, and shall be maintained operable.

History Note: Authority G.S. 131D-2.16; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. July 1, 2005; April 1, 1984;
Recodified from 10A NCAC 13G .0312 Eff. July 1, 2005;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019;
Amended Eff. April 1, 2025.

10A NCAC 13G .0315 HOUSEKEEPING AND FURNISHINGS

(a) A family care home shall:
(1) have walls, ceilings, and floors or floor coverings that are clean, safe, and functional;
(2) have no persistent and recurring odors that are considered by the residents to be unpleasant;
(3) have furniture that is clean, safe, and functional;
(4) have a North Carolina Department of Health and Human Services, Division of Public Health, Environmental Health Section approved sanitation classification at all times, pursuant to the "Rules Governing the Sanitation of Residential Care Facilities", 15A NCAC 18A .1600, which is incorporated by reference including all subsequent amendments and can be accessed electronically free of charge at http://ehs.dph.ncddhs.gov/rules.htm;

(5) be maintained in an uncluttered, clean, and orderly manner, free of all obstructions and hazards;
(6) have a supply available in the facility at all times of bath soap, clean towels, washcloths, sheets, pillowcases, blankets, and additional covers such as a bedspread, comforter, or quilt for each resident to use;
(7) make available the following items as needed at no additional charge to the personal funds of recipients of State-County Special Assistance:
(A) protective mattress covers, and clean, absorbent, soft, and smooth mattress pads;
(B) bedpans and urinals; and
(C) bedside commodes, walkers, and wheelchairs.
(8) have one television and one radio in good working order;
(9) have curtains, draperies, or blinds at windows in resident use areas to provide for resident privacy;
(10) have recreational equipment, supplies for games, books, magazines, and a weekly newspaper available for residents;
(11) have a clock that has numbers at least 1½ inches tall in the living room, the dining room, or dining area; and
(12) have at least one telephone that does not require electricity or cellular service to operate.

(b) Each bedroom shall have the following furnishings in good repair and clean for each resident:
(1) A bed equipped with a box spring and mattress or a bed frame with solid link springs with a foam mattress or a mattress designed to prevent sagging. A hospital bed equipped with all accessories required for use shall be arranged for as needed. A water bed is allowed if requested by a resident and permitted by the facility. Each bed is to have the following:
(A) at least one pillow with a clean pillow case;
(B) a clean top and bottom sheet on the bed, with bed changed at least once a week and when soiled; and
(C) a clean bedspread and other clean coverings as needed.
(2) a bedside type table;
(3) chest of drawers or bureau when not provided as built-ins, or a double chest of drawers or double dresser for two residents;
(4) a wall or dresser mirror that may be used by each resident in each bedroom;
(5) a minimum of one chair that is comfortable as preferred by the resident, which may include a rocking or straight chair, with or without arms, that is high enough for the resident to easily rise without discomfort;
(6) additional chairs available, as needed, for use by visitors;
(7) individual clean towel, wash cloth, and towel bar within bedroom or adjoining bathroom; and
(8) a light overhead of bed with a switch that may be reached by a person lying on the bed; or a lamp. The light shall provide a minimum of 30 foot-candle power of illumination for reading.

(c) The living room shall have living room furnishings that are in good working order and provide comfort as preferred by residents with coverings that are easily cleanable.
(d) The dining room shall have the following furnishings:
(1) tables and chairs to seat all residents eating in the dining room; and
(2) chairs that are sturdy, non-folding, without rollers unless retractable or on front legs only, and designed to minimize tilting.

(e) Notwithstanding the requirements of Rule .0301 of this Section, this Rule shall apply to new and existing facilities.

History Note: Authority G.S. 131D-2.16; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. July 1, 2005; September 1, 1987; April 1, 1987; April 1, 1984;
Recodified from 10A NCAC 13G .0314 Eff. July 1, 2005;
Readopted Eff. April 1, 2025.

10A NCAC 13G .0316 FIRE SAFETY AND EMERGENCY PREPAREDNESS PLAN

(a) Fire extinguishers shall be provided which meet these minimum requirements in a family care home:
(1) one five pound or larger (net charge) "A-B-C" type located in an area that can be accessed by staff and not stored in rooms with lockable doors or the kitchen;
(2) one five pound or larger "A-B-C" or CO/2 type located in the kitchen; and
(3) any other location as determined by the local fire code enforcement official.

(b) The facility shall be provided with smoke detectors in locations as required by the North Carolina State Building Code: Residential Code. Additionally, facilities governed by the North Carolina State Building Code: Building Code, Licensed Residential Care Facilities Section shall be provided with smoke detectors in locations as required by that Section. All smoke detectors in the facility shall be hard-wired, interconnected, and provided with battery backup.
(c) Underwriters Laboratories, Incorporated (U.L.) listed heat detectors shall be installed in all attic spaces and in the basement of the facility. Heat detectors shall be hard-wired, interconnected, and connected to a dedicated sounding device located inside the living area of the facility. Heat detectors shall be of the rate of rise type and be provided with battery backup.
(d) The facility shall meet all fire safety requirements required by city ordinances or county building inspectors.
(e) The facility shall have a written fire evacuation plan. For the purpose of this Rule, a written fire evacuation plan is a written document that details the procedures and steps that facility

occupants shall follow in a fire or other emergency to ensure safe evacuation while minimizing the risk of injury or loss of life. The written fire evacuation plan shall include a diagram of the facility floor plan which clearly marks all emergency egress and escape routes from the facility. The plan shall have the approval of the local fire code enforcement official. The approved diagram shall be legible and be posted on every floor of the facility in a location visible to staff, residents, and visitors. The fire evacuation plan and diagram shall be reviewed with each resident upon admission and shall be included in the orientation for all new staff.

(f) There shall be at least four unannounced fire drills of the fire evacuation plan every year on each shift. For the purpose of this Rule, a fire drill is the method of practicing how occupants of the facility shall evacuate in the event of a fire or other emergency. Documentation of the fire drills shall be maintained by the administrator or their designee in the facility and be made available upon request to the Division of Health Service Regulation, county department of social services, and the local fire code enforcement official. The documentation shall include the date and time of the fire drill, the shift, the names of staff members present, and a short description of drill.

(g) Each facility shall develop and implement an emergency preparedness plan to ensure resident health and safety and continuity of care and services during an emergency. The emergency preparedness plan shall include the following:

(1) Procedures to address the following threats and hazards that may create an emergency for the facility:
  (A) weather events including hurricanes, tornadoes, ice storms, and extreme heat or cold;
  (B) fires;
  (C) utility failures, to include power, water, and gas;
  (D) equipment failures, to include fire alarm, automatic sprinkler systems, HVAC systems;
  (E) interruptions in communication including phone service and the internet;
  (F) unforeseen widespread communicable public health and emerging infectious diseases;
  (G) intruders and active assailants; and
  (H) other potential threats to the health and safety of residents as identified by the facility or the local emergency management agency.

(2) The procedures outlined in Subparagraph (g)(1) of this Rule shall address the following:
  (A) provisions for the care of all residents in the facility before, during, and after an emergency such as required emergency supplies including water, food, resident care items, medical supplies, medical records, medications, medication records, emergency power, and emergency equipment;
  (B) provisions for the care of all residents when evacuated from the facility during an emergency, such as evacuation procedures, procedures for the identification of residents, evacuation transportation arrangements, and sheltering options that are safe and suitable for the resident population served;
  (C) identification of residents with Alzheimer's disease and related dementias, residents with mobility limitations, and any other residents who may have specialized needs such as dialysis, oxygen, tracheostomy, and gastrostomy feeding tubes, special medical equipment, or accommodations either at the facility or in case of evacuation;
  (D) strategies for staffing to meet the needs of the residents during an emergency and for addressing potential staffing issues;
  (E) Procedures for coordinating and communicating with the local emergency management agency and local law enforcement;

(3) The emergency preparedness plan shall include contact information for State and local resources for emergency response, local law enforcement, facility staff, residents and responsible parties, vendors, contractors, utility companies, and local building officials such as the fire marshal and local health department.

(h) The facility shall maintain documentation that the emergency preparedness plan has written approval of or documentation that the plan has been submitted to the local emergency management agency and the local agency designated to coordinate and plan for the provision of access to functional needs support services in shelters during disasters.

(i) The facility's emergency preparedness plan shall be reviewed at least annually and updated as needed by the administrator and shall be submitted to the local emergency management agency and the local agency designated to coordinate and plan for the provision of access to functional needs support services in shelters during disasters. Any changes to the plan shall be submitted to the local emergency management agency and the local agency designated to coordinate and plan for the provision of access to functional needs support services in shelters during disasters within 60 days of the change. For the purpose of this Rule, correction of grammatical or spelling errors do not constitute a change. Documentation of submissions shall be maintained at the facility and made available for review upon request to the Division of Health Service Regulation and county department of social services.

(j) The emergency preparedness plan outlined in Paragraph (g) of this Rule shall be maintained in the facility and be accessible to staff working in the facility.

(k) Newly licensed facilities and facilities that have changed ownership shall submit an emergency preparedness plan to the local emergency management agency and the local agency designated to coordinate and plan for the provision of access to functional needs support services in shelters during disasters within 30 days after obtaining the new license. Documentation of submissions shall be maintained at the facility and made available for review upon request to the Division of Health Service Regulation and county department of social services.
(l) The facility's emergency preparedness plan shall be made available upon request to the Division of Health Service Regulation, county department of social services, and emergency management officials.
(m) The administrator shall ensure staff are trained on their roles and responsibilities related to emergencies in accordance with the facility's emergency preparedness plan as outlined in Paragraph (g) of this Rule. Staff shall be trained upon employment and annually in accordance with Rule .1211 of this Subchapter.
(n) The facility shall conduct at least one drill per year to test the facility's emergency preparedness plan. The drill may be conducted as a tabletop exercise. For the purposes of this Rule, "tabletop exercise" means a discussion-based session led by the administrator and includes other facility staff as designated by the administrator, that reviews a potential emergency scenario and the roles and responsibilities of staff, based on the facility's emergency preparedness plan and procedures. The facility shall maintain documentation of the annual drill which shall be made available upon request to the Division of Health Service Regulation, county department of social services, and emergency management officials.
(o) If the facility evacuates residents for any reason, the administrator or their designee shall report the evacuation to the local emergency management agency, the local county department of social services, and the Division of Health Service Regulation Adult Care Licensure Section within four hours or as soon as practicable of the decision to evacuate, and shall notify the agencies within four hours of the return of residents to the facility.
(p) Any damage to the facility or building systems that disrupts the normal care and services provided to residents shall be reported to the Division of Health Service Regulation Construction Section within four hours or as soon as practicable of the incidence occurring.
(q) If a facility is ordered to evacuate residents by the local emergency management or public health official due to an emergency, the facility shall not re-occupy the building until local building or public health officials have given approval to do so.
(r) In accordance with G.S. 131D-7, if a facility intends to shelter residents from an evacuating adult care home or desires to temporarily increase the facility's licensed bed capacity, the facility shall request a waiver from the Division of Health Service Regulation prior to accepting the additional residents into the facility or as soon as practicable but no later than 48 hours after the facility has accepted the residents for sheltering. The waiver request form can be found on the Division of Health Service Regulation Adult Care Licensure Section website at https://info.ncdhhs.gov/dhsr/acls/acforms.html#resident.
(s) If a facility evacuates residents to a public emergency shelter, the facility remains responsible for the care, supervision, and safety of each resident, including providing required staffing and supplies in accordance with the Rules of this Subchapter. Evacuation to a public emergency shelter shall be a last resort, and the decision shall be made in consultation with the local emergency management agency, or the local agency designated to coordinate and plan for the provision of access to functional needs support services in shelters during disasters. If a facility evacuates residents to a public emergency shelter, the facility shall notify the Division of Health Service Regulation Adult Care Licensure Section and the county department of social services within four hours of the decision to evacuate or as soon as practicable.
(t) Where a fire alarm or automatic sprinkler system is out of service, the facility shall immediately notify the fire department, the fire marshal, and the Division of Health Service Regulation Construction Section and, where required by the fire marshal, a fire watch shall be conducted until the impaired system has been returned to service as approved by the fire marshal. The facility will adhere to the instructions provided by the fire marshal related to the duties of staff performing the fire watch. The facility will maintain documentation of fire watch activities which shall be made available upon request to the DHSR Construction Section and fire marshal. The facility shall notify the DHSR Construction Section when the facility is no longer conducting a fire watch as directed by the fire marshal.
(u) Notwithstanding the requirements of Rule .0301 of this Section, this Rule shall apply to new and existing facilities.

History Note: Authority G.S. 131D-2.16; 131D-7; 143B-165; Eff. January 1, 1977;
Amended Eff. April 22, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. July 1, 2005; July 1, 1990; April 1, 1987; April 1, 1984;
Recodified from 10A NCAC 13G .0315 Eff. July 1, 2005;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019;
Amended Eff. June 1, 2025.

10A NCAC 13G .0317 BUILDING SERVICE EQUIPMENT

(a) The building and all fire safety, electrical, mechanical, and plumbing equipment in a family care home shall be maintained in a safe and operating condition.
(b) Built-in electric heaters, if used, shall be installed or protected so as to avoid burn hazards to residents and room furnishings. Unvented fuel burning room heaters and portable electric heaters are prohibited.
(c) The facility shall have heating and cooling systems such that environmental temperature controls are capable of maintaining temperatures in the home at 75 degrees F minimum in the heating season, and not exceed 80 degrees F during the non-heating season.
(d) Hot water shall be supplied to the kitchen, bathrooms, and laundry. The hot water temperature shall be maintained at a minimum of 100 degrees F and shall not exceed 116 degrees F at all fixtures used by or accessible to residents. Notwithstanding the requirements of Rule .0301 of this Section, the requirements of this Paragraph shall apply to new and existing facilities.

(e) All resident areas shall be well lighted for the safety and comfort of the residents. The minimum lighting required is:

(1) 30 foot-candles for reading; and
(2) 10 foot-candles for general lighting.

(f) Where there is live-in staff in a family care home, a hard-wired, electrically operated call system meeting the following requirements shall be provided:

(1) the call system shall connect residents' bedrooms to the live-in staff bedroom;
(2) when activated, the resident call shall activate a visual and audible signal in the live-in staff bedroom;
(3) a resident call system activator shall be in residents' bedrooms at the resident's bed;
(4) the resident call system activator shall be within reach of a resident lying on the bed; and
(5) the resident call system activator shall be such that it can be activated with a single action and remain on until deactivated by staff at point of origin.

(g) Fireplaces, fireplace inserts, and wood stoves shall be designed and installed so as to avoid a burn hazard to residents. Fireplace inserts and wood stoves must be U.L. listed.

(h) Gas logs may be installed if they are of the vented type, installed according to the manufacturers' installation instructions, approved through the local building department, and protected by a guard or screen to prevent residents and furnishings from burns.

History Note: Authority G.S. 131D-2.16; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. April 1, 1987; April 1, 1984; July 1, 1982;
Temporary Amendment Eff. December 1, 1999;
Amended Eff. July 1, 2005; July 1, 2000;
Recodified from 10A NCAC 13G .0316 Eff. July 1, 2005;
Readopted Eff. April 1, 2025.

10A NCAC 13G .0318 OUTSIDE PREMISES

(a) The outside grounds of new and existing family care homes shall be maintained in a clean and safe condition. For the purpose of this Rule, "clean and safe condition" means free from debris, trash, uneven surfaces, and similar conditions as not to attract rodents and vermin, and provide for safe movement throughout facility grounds. Creeks, ditches, ponds, pools, and other similar areas shall have safety protection. For the purpose of this Rule, "safety protection" means preventive measures, such as barriers, to block access to such areas.

(b) If the facility has a fence around the premises, the fence shall not prevent residents from exiting or entering freely, or have sharp edges, rusting posts, or other similar conditions that may cause injury.

(c) Outdoor stairways and ramps shall be illuminated by no less than five foot-candles of light at grade level.

(d) Notwithstanding the requirements of Rule .0301 of this Section, the requirements of Paragraphs (a) and (b) of this Rule shall apply to new and existing facilities.

History Note: Authority G.S. 131D-2.16; 143B-165;
Eff. April 1, 1984;
Amended Eff. July 1, 2005; July 1, 1990;
Recodified from 10A NCAC 13G .0317 Eff. July 1, 2005;
Readopted Eff. April 1, 2025.

10A NCAC 13G .0801 RESIDENT ASSESSMENT

(a) The facility shall complete an assessment of each resident within 30 days following admission and annually thereafter.

(b) The facility shall use the assessment instrument and instructional manual established by the Department or an instrument developed by the facility that contains at least the same information as required on the instrument established by the Department. The assessment shall be completed by an individual who has met the requirements of Rule .0508 of this Subchapter. If the facility develops its own assessment instrument, the facility shall ensure that the individual responsible for completing the resident assessment has completed training on how to conduct the assessment using the facility's assessment instrument. The assessment shall be a functional assessment to determine the resident's level of functioning to include psychosocial well-being, cognitive status, and physical functioning in activities of daily living. The assessment instrument established by the Department shall include the following:

(1) resident identification and demographic information;
(2) current diagnoses;
(3) current medications;
(4) the resident's ability to self-administer medications;
(5) the resident's ability to perform activities of daily living, including bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating;
(6) mental health history;
(7) social history, to include family structure, previous employment and education, lifestyle habits and activities, interests related to community involvement, hobbies, religious practices, and cultural background;
(8) mood and behaviors;
(9) nutritional status, including specialized diet or dietary needs;
(10) skin integrity;
(11) memory, orientation and cognition;
(12) vision and hearing;
(13) speech and communication;
(14) assistive devices needed; and
(15) a list of and contact information for health care providers or services used by the resident.

The assessment instrument established by the Department is available on the Division of Health Service Regulation website at https://policies.ncdhhs.gov/divisional/health-benefits-nc-medicaid/forms/dma-3050r-adult-care-home-personal-care-physician/@@display-file/form_file/dma-3050R.pdf. at no cost.

(c) When a facility identifies a change in a resident's baseline condition based upon the factors listed in Parts (1)(A) through (M) of this Paragraph, the facility shall monitor the resident's condition for no more than 10 days to determine if a significant change in the resident's condition has occurred. The facility shall conduct an assessment of a resident within three days after the

facility identifies that a significant change in the resident's baseline condition has occurred. The facility shall use the assessment instrument required in Paragraph (b) of this Rule. For the purposes of this Subchapter, significant change in the resident's condition is determined as follows:

(1) Significant change is one or more of the following:
- (A) deterioration in two or more activities of daily living including bathing, dressing, personal hygiene, toileting, or eating;
- (B) change in ability to walk or transfer, including falls if the resident experiences repeated falls, meaning more than one, on the same day, or multiple falls that occur over several days to weeks, new onset of falls not attributed to an identifiable cause, a fall with consequent change in neurological status, or physical injury;
- (C) Pain worsening in severity, intensity, or duration, occurring in a new location, or new onset of pain associated with trauma;
- (D) change in the pattern of usual behavior, new onset of resistance to care, abrupt onset or progression of agitation or combative behavior, deterioration in affect or mood, or violent or destructive behaviors directed at self or others.
- (E) no response by the resident to the intervention for an identified problem;
- (F) initial onset of unplanned weight loss or gain of five percent of body weight within a 30-day period or 10 percent weight loss or gain within a six-month period;
- (G) when a resident has been enrolled in hospice;
- (H) emergence of a pressure ulcer at Stage II, which is a superficial ulcer presenting an abrasion, blister or shallow crater, or any pressure ulcer determined to be greater than Stage II;
- (I) a new diagnosis of a condition which affects the resident's physical, mental, or psychosocial well-being;
- (J) improved behavior, mood or functional health status to the extent that the established plan of care no longer meets the resident's needs;
- (K) new onset of impaired decision-making;
- (L) continence to incontinence or indwelling catheter; or
- (M) the resident's condition indicates there may be a need to use a restraint in accordance with Rule .1301 of this Subchapter and there is no current restraint order for the resident.

(2) Significant change does not include the following:
- (A) changes that resolve with or without intervention;
- (B) an acute illness or episodic event. For the purposes of this Rule "acute illness" means symptoms or a condition that develops quickly and is not a part of the resident's baseline physical health or mental health status;
- (C) an established, predictable, cyclical pattern; or
- (D) steady improvement under the current course of care.

(d) If a resident experiences a significant change as defined in Paragraph (c) of this Rule, the facility shall refer the resident to the resident's physician or other licensed health professional no longer than three days from the date of the significant change assessment, and document the referral in the resident's record. Referral shall be made immediately when facility staff determines that a significant change as defined in Parts (c)(1)(A)-(M) of this Rule poses an immediate risk to the health and safety of the resident, other residents, or staff of the facility.

(e) The assessments required in Paragraphs (a) and (c) of this Rule shall be completed and signed by the person designated by the administrator to perform resident assessments.

History Note: Authority G.S. 131D-2.15; 131D-2.16; 131D-4.4; 131D-4.5; 143B-165;
Temporary Adoption Eff. January 1, 1996;
Eff. May 1, 1997;
Temporary Amendment Eff. December 1, 1999;
Amended Eff. July 1, 2000;
Temporary Amendment Eff. September 1, 2003;
Amended Eff. July 1, 2005; June 1, 2004;
Readopted Eff. June 1, 2025.

10A NCAC 13G .0802 RESIDENT CARE PLAN

(a) The facility shall develop and implement a care plan for each resident based on the resident's assessment completed in accordance with Rule .0801 of this Section. The care plan shall be resident-centered and include the resident's preferences related to the provision of care and services. A copy of each resident's current care plan shall be maintained in a location in the facility where it can be accessed by facility staff who are responsible for the implementation of the care plan.

(b) The resident shall be offered the opportunity to participate in the development of his or her care plan. If the resident is unable to participate in the development of the care plan due to cognitive impairment, the responsible person as defined in Rule .0102 of this Subchapter shall be offered the opportunity to participate in the development of the care plan.

(c) The care plan shall include the following:

(1) a description of services, supervision, tasks, and level of assistance to be provided to address the resident's needs identified in the resident's assessment in Rule .0801 of this Section;

(2) frequency of the services or tasks to be performed;
(3) revisions of tasks and frequency based on reassessments in accordance with Rule .0801 of this Section;
(4) licensed health professional tasks required according to Rule .0903 of this Section;
(5) a dated signature of the assessor upon completion; and
(6) a dated signature of the resident's physician or physician extender as defined in Rule .0102 of this Subchapter within 15 days of completion of the care plan certifying the resident is under this physician's care and has a medical diagnosis with associated physical or mental limitations warranting the provision of the personal care services in the above care plan in accordance with G.S. 131D-2.15. This shall not apply to residents assessed through the Medicaid State Plan Personal Care Services Assessment for the portion of the assessment covering tasks needed for each activity of daily living of this Rule for which care planning and signing are directed by Medicaid.

(d) If the resident received home health or hospice services, the facility shall communicate with the home health or hospice agency to coordinate care and services to ensure the resident's needs are met.
(e) The facility shall assure that the care plan for each resident who is under the care of a provider of mental health, developmental disabilities or substance use services includes instructions regarding how to contact that provider, including emergency and after-hours contacts. Whenever significant behavioral changes described in Rule .0801(c)(1)(D) of this Subchapter are identified, the facility shall refer the resident to a provider of mental health, developmental disabilities or substance use services in accordance with Rule .0801(d) of this Subchapter.
(f) The care plan shall be revised as needed based on the results of a significant change assessment completed in accordance with Rule .0801 of this Section.

History Note: Authority G.S. 131D-2.15; 131D-2.16; 131D-4.3; 131D-4.4; 131D-4.5; 143B-165;
Temporary Adoption Eff. January 1, 1996;
Eff. May 1, 1997;
Temporary Amendment Eff. January 1, 2001;
Temporary Amendment Expired October 13, 2001;
Temporary Amendment Eff. September 1, 2003;
Amended Eff. July 1, 2005; June 1, 2004;
Readopted Eff. June 1, 2025.

TITLE 14B - DEPARTMENT OF PUBLIC SAFETY

14B NCAC 09 .0302 PROCESSING AND PAYMENT OF CLAIMS

(a) An application for a claim shall only be submitted on an approved claim application form located on the Crime Victim Compensation website, https://www.ncdps.gov/4victims, and shall include information set forth in G.S. 15B-7. An application for a claim shall be submitted on an approved claim application through the Crime Victim Compensation application portal, or by fax, or by email. The portal will be accessed through the NCDPS Victim Compensation Services website where there will be access to the portal using a weblink or a QR code. The public will gain access using electronic devices such as smart phones, computers, tablets and i-Pads. The Director shall determine if the application is complete with the required information in accordance with G.S. 15B-7. An application for a claim shall be accepted only if all the preceding conditions are met. The date stamped on the claim shall control the order of processing any competing claims.
(b) The Director shall mail a written statement of the award decision to the claimant, along with the check for the award, if any, within 15 business days of the Director's or the Commission's decision according to G.S. 15B-10 or verification of current collateral source information, whichever occurs last according to G.S. 15B-16. This written statement shall notify the claimant whether this check is a partial or complete payment of the award, of any payments made directly to a service provider, and of appeal rights.
(c) Claims shall be docketed on a list to be reviewed by the Commission or the Director for determination of payment in accordance with G.S. 15B-8 and 15B-10.
(d) All payments of compensation shall be made in accordance with the award issued by the Director or the Commission according to G.S. 15B-2(1), 15B-10, and 15B-11.
(e) The claimant shall inform the Director at any time before any action brought to recover damages for the criminally injurious conduct that is the basis of any claim or award and the availability of any collateral source. Each claim filed is investigated to determine eligibility in accordance with G.S. 15B-7(b). The failure to provide such information may be considered as fraud in accordance with G.S. 15B-7(b), allowing the Director or the Commission to reduce or deny an award or to recover monies previously paid.
(f) All notifications and payments or other documents transmitted by U.S. Mail will be sent to the address submitted by the claimant. The claimant shall notify the Director in writing of any change of address.

History Note: Authority G.S. 15B-2; 15B-3; 15B-4; 15B-6; 15B-7; 15B-8; 15B-10; 15B-11; 15B-16;
Temporary Rule Eff. November 24, 1987 For a Period of 171 Days to Expire on May 13, 1988;
Eff. April 1, 1988;
Transferred from 14A NCAC 11 .0501 Eff. June 1, 2013;
Readopted Eff. September 1, 2020;
Amended Eff. March 1, 2025.

TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY

15A NCAC 02B .0309 YADKIN-PEE DEE RIVER BASIN

(a) Classifications assigned to the waters within the Yadkin-Pee Dee River Basin pursuant to Rule .0101 of this Subchapter are set

forth in the Yadkin River Basin Classification Schedule, which may be inspected at the following places:

(1) the Internet at https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification; and

(2) the following offices of the North Carolina Department of Environmental Quality:

(A) Mooresville Regional Office
610 East Center Avenue, Suite 301
Mooresville, North Carolina;

(B) Winston-Salem Regional Office
450 West Hanes Mill Road
Winston-Salem, North Carolina;

(C) Fayetteville Regional Office
225 Green Street
Systel Building Suite 714
Fayetteville, North Carolina;

(D) Asheville Regional Office
2090 US Highway 70
Swannanoa, North Carolina; and

(E) Division of Water Resources
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed streams entering Virginia or South Carolina are classified as "C".

(c) The Yadkin-Pee Dee River Basin Classification Schedule is amended for best usage of waters as follows:

(1) Mitchell River [Index No. 12-62-(1)] from source to mouth of Christian Creek (North Fork Mitchell River) including all tributaries has been reclassified from Class B Tr to Class B Tr ORW.

(2) Mitchell River [Index No. 12-62-(7)] from mouth of Christian Creek (North Fork Mitchell River) to Surry County SR 1315 including all tributaries has been classified from Class C Tr to C Tr ORW, except Christian Creek and Robertson Creek which will be reclassified from Class B Tr to Class B Tr ORW.

(3) Mitchell River [Index No. 12-62-(12)] from Surry County SR 1315 to mouth of South Fork Mitchell River including all tributaries from Class C to Class C ORW.

This amendment was entered into the NC Administrative Code on October 1, 1988, with an equivalent effective date.

(d) The Yadkin-Pee Dee River Basin Classification Schedule is amended for best usage of waters as follows: Elk Creek [Index Nos. 12-24-(1) and 12-24-(10)] and all tributary waters were reclassified from Class B-trout, Class C-trout and Class B to Class B-trout ORW, Class C-trout ORW and Class B ORW. This amendment was entered into the NC Administrative Code on March 1, 1989, with an equivalent effective date.

(e) The Yadkin-Pee Dee River Basin Classification Schedule is amended for best usage of waters as follows: Barnes Creek (Index No. 13-2-18) was reclassified from Class C to Class C ORW. This amendment was entered into the NC Administrative Code on January 1, 1990, with an equivalent effective date.

(f) The Yadkin-Pee Dee River Basin Classification Schedule is amended for best usage of waters as follows:

(1) Little River [Index Nos. 13-25-(10) and 13-25-(19)] from Suggs Creek to Densons Creek has been reclassified from Classes WS-III and C to Classes WS-III HQW and C HQW.

(2) Densons Creek [Index No. 13-25-20-(1)] from its source to Troy's Water Supply Intake including all tributaries has been reclassified from Class WS-III to Class WS-III HQW.

(3) Bridgers Creek (Index No. 13-25-24) from its source to the Little River has been reclassified from Class C to Class C HQW.

This amendment was entered into the NC Administrative Code on January 1, 1992, with an equivalent effective date.

(g) The Yadkin-Pee Dee River Basin Classification Schedule is amended for best usage of waters with the reclassification of the North Prong South Fork Mitchell River from Class C to Class C Trout. This amendment was entered into the NC Administrative Code on April 1, 1992, with an equivalent effective date.

(h) The Yadkin-Pee Dee River Basin Classification Schedule is amended for best usage of waters with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules (15A NCAC 02B .0100, .0200 and .0300), which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes. This amendment was entered into the NC Administrative Code on August 3, 1992, with an equivalent effective date.

(i) The Yadkin-Pee Dee River Basin Classification Schedule is amended for best usage of waters as follows:

(1) Pike Creek (Index No. 12-46-1-2) was reclassified from Class C Tr to Class C Tr HQW;

(2) Basin Creek (Index No. 12-46-2-2) was reclassified from Class C Tr to Class C Tr ORW;

(3) Bullhead Creek (Index No. 12-46-4-2) was reclassified from Class C Tr to Class C Tr ORW;

(4) Rich Mountain Creek (Index No. 12-46-4-2-2) was reclassified from Class Tr to Class C Tr ORW; and

(5) Widows Creek (Index No. 12-46-4-4) was reclassified from Class C Tr HQW to Class C Tr ORW.

This amendment was entered into the NC Administrative Code on December 1, 1992, with an equivalent effective date.

(j) The Yadkin-Pee Dee River Basin Classification Schedule is amended for best usage of waters as follows:

(1) Lanes Creek [Index Nos. 13-17-40-(1) and 13-17-40-(10.5)] from its source to the Marshville

water supply dam including tributaries was reclassified from Classes WS-II and WS-II CA to Class WS-V.

(2) The South Yadkin River [Index Nos. 12-108-(9.7) and 12-108-(15.5)] from Iredell County SR 1892 to a point 0.7 mile upstream of the mouth of Hunting Creek including associated tributaries was reclassified from Classes WS-V, C and WS-IV to Classes WS-V, WS-IV, C and WS-IV CA.

(3) The Yadkin River [Index Nos. 12-(53) and 12-(71)] from a point 0.3 mile upstream of the mouth of Elkin Creek (River) to the Town of King water supply intake including associated tributaries was reclassified from Classes C and WS-IV to Classes WS-IV and WS-IV CA.

(4) The Yadkin River [Index Nos. 12-(80.5), 12-(81.5) and 12-(84.5)] from the Town of King water supply intake to the Davie County water supply intake reclassified from Classes C, B, WS-IV and WS-V to Classes WS-IV, WS-IV B and WS-IV CA.

This amendment was entered into the NC Administrative Code on September 1, 1994, with an equivalent effective date.

(k) The Yadkin-Pee Dee River Basin Classification Schedule is amended for best usage of waters as follows: Bear Creek [Index Nos. 12-108-18-(3), 12-108-18-(3.3)], Little Bear Creek (Index No. 12-108-18-2), and Blue Branch (Index No. 12-108-18-2-1) were reclassified from WS-II and WS-II CA (Critical Area) to C and WS-IV. This amendment was entered into the NC Administrative Code on August 1, 1995, with an equivalent effective date.

(l) The Yadkin-Pee Dee River Basin Classification Schedule is amended for best usage of waters with the revision to the primary classification for portions of the Yadkin River [Index No. 12-(45)] from Class WS-IV to WS-V, Yadkin River [Index No. 12-(67.5)] from Class WS-IV to Class C, Yadkin River [Index Nos. 12-(93.5) and 12-(98.5)] from Class WS-IV to Class WS-V, South Yadkin River [Index No. 12-108-(12.5)] from Class WS-IV to Class WS-V, and South Yadkin River [Index Nos. 12-108-(19.5) and 12-108-(22)] from Class WS-IV to Class C. This amendment was entered into the NC Administrative Code on August 1, 1998, with an equivalent effective date.

(m) The Yadkin-Pee Dee River Basin Classification Schedule is amended for best usage of waters with the reclassification of a portion of the Yadkin River [Index No. 12-(80.5)] from WS-IV CA to WS-IV. A portion of the Yadkin River 0.5 mile upstream of Bashavia Creek was reclassified from WS-IV to WS-IV CA. Bashavia Creek [Index Nos. 12-81-(0.5) and 12-81-(2)] was reclassified from WS-IV and WS-IV CA to Class C. Tributaries to Bashavia Creek were also reclassified to Class C. Portions of the Yadkin River [Index Nos. 12-(25.5) and 12-(27)] were reclassified from WS-IV to Class C and from WS-IV & B to Class B. Tributaries were reclassed from Class WS-IV to Class C. Supplemental classifications were not changed. This amendment was entered into the NC Administrative Code on April 1, 1999, with an equivalent effective date.

(n) The Yadkin-Pee Dee River Basin Classification Schedule is amended for best usage of waters with the reclassification of a portion of the Uwharrie River. More specifically, Index No. 13-2-(25), Index No. 13-2-(17.5), and a portion of Index No. 13-2-(1.5) was reclassified from Class WS-IV CA, WS-IV, and C, to Class WS-IV B CA, WS-IV B, and B, respectively. This amendment was entered into the NC Administrative Code on July 1, 2006, with an equivalent effective date.

(o) The Yadkin-Pee Dee River Basin Classification Schedule is amended for best usage of waters with the reclassification of a segment of the Yadkin River [portion of Index No. 12-(53)] from a point 0.3 mile upstream of the Town of Elkin proposed water supply intake to the Town of Elkin proposed water supply intake from C to WS-IV CA. The Town of Elkin proposed water supply intake is to be placed on the Yadkin River at a point directly above the mouth of Elkin Creek. This amendment was entered into the NC Administrative Code on September 1, 2006, with an equivalent effective date.

(p) The Yadkin-Pee Dee River Basin Classification Schedule is amended for best usage of waters with the reclassifications as listed below, and the North Carolina Division of Water Resources maintains a Geographic Information Systems data layer of these UWLs.

(1) Black Ankle Bog near Suggs Creek [Index No. 13-25-12] was reclassified to Class WL UWL.

(2) Pilot Mountain Floodplain Pool near Horne Creek [Index No. 12-75] was reclassified to Class WL UWL.

This amendment was entered into the NC Administrative Code on November 1, 2007, with an equivalent effective date.

(q) The Yadkin-Pee Dee River Basin Classification Schedule is amended for best usage of waters as follows:

(1) a portion of the Yadkin River Index No. 12-(108.5) from the mouth of the South Yadkin River to a point 125 feet downstream of its confluence with Deals Creek, a portion of Deals Creek Index No. 12-109 from a point 0.7 miles upstream of the mouth of the Yadkin River to the Yadkin River, and a portion of the South Yadkin River Index No. 12-108-(19.5) from a point 0.2 miles upstream of the mouth of the Yadkin River to the Yadkin River, and the watersheds associated with these waterbody portions, are reclassified from Class C to Class WS-IV CA;

(2) a portion of the Yadkin River Index No. 12-(107.5) from a point 0.7 miles upstream of the mouth of the South Yadkin River to a point 0.2 miles upstream of the mouth of the South Yadkin River, a portion of Deals Creek Index No. 12-109 from its source to a point 0.7 miles upstream of the mouth of the Yadkin River, a portion of Second Creek Index No. 12-108-21 from Highway 70 to the mouth of the South Yadkin River, a portion of Fourth Creek Index No. 12-108-20 from NC 801 to the mouth of the South Yadkin River, a portion of South Yadkin River Index No. 12-108-(19.5) from NC 801 to a point 0.2 miles upstream of its confluence with the Yadkin River, and watersheds

associated with these waterbody portions, are reclassified from Class C to Class WS-IV; and

(3) a portion of the Yadkin River Index No. 12-101.5 from a point 1.0 mile upstream of the mouth of Dutchman Creek to Dutchman Creek and its watershed are reclassified from Class WS-IV to Class WS-V.

This amendment was entered into the NC Administrative Code on March 1, 2025, with an equivalent effective date.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);
Eff. February 1, 1976;
Amended Eff. November 1, 2007; September 1, 2006; July 1, 2006; April 1, 1999; August 1, 1998; August 1, 1995; September 1, 1994; April 1, 1993; December 1, 1992;
Readopted Eff. November 1, 2019;
Amended Eff. March 1, 2025.

15A NCAC 02D .0410 PM2.5 PARTICULATE MATTER

(a) The primary ambient air quality standards for PM2.5 shall be 9.0 micrograms per cubic meter ($\mu g/m^3$) annual arithmetic mean concentration and 35 $\mu g/m^3$ 24-hour average concentration measured in the ambient air as PM2.5 (particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers) by either:

(1) A reference method based on appendix L to 40 CFR Part 50 and designated in accordance with 40 CFR Part 53; or

(2) An equivalent method designated in accordance with 40 CFR Part 53.

(b) The primary annual PM2.5 standard shall be deemed met when the annual arithmetic mean concentration, as determined in accordance with Appendix N of 40 CFR Part 50, is less than or equal to 9.0 $\mu g/m^3$.

(c) The primary 24-hour PM2.5 standard shall be deemed met when the 98th percentile 24-hour concentration, as determined in accordance with Appendix N of 40 CFR Part 50, is less than or equal to 35 $\mu g/m^3$.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);
Eff. April 1, 1999;
Amended Eff. September 1, 2015; January 1, 2010;
Readopted Eff. January 1, 2018;
Amended Eff. March 1, 2025.

TITLE 16 – STATE BOARD OF EDUCATION

16 NCAC 06C .0372 DENYING A LICENSE APPLICATION OR SUSPENSION OR REVOCATION OF A LICENSE ISSUED BY THE NORTH CAROLINA DEPARTMENT OF PUBLIC INSTRUCTION

16 NCAC 06C. 0373 REPORTING REQUIREMENTS FOR SUSPECTED CHILD ABUSE BY A LOCAL EDUCATION AGENCY ADMINISTRATOR TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION

16 NCAC 06C .0374 INVESTIGATION REQUIREMENTS TO DETERMINE REASONABLE CAUSE TO SUSPEND OR REVOKE AN EDUCATOR LICENSE

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

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

History Note: Authority G.S. 115C-12; 115C-268.1; 116C-268.5; 115C-270.5; 115C-270.20; 115C-270.35; 115C-325; 115C-325.9; 115C-400;
Eff. October 1, 2020;
Temporary Repeal Eff. April 5, 2024;
Repealed Eff. July 1, 2025.

16 NCAC 06C .0601 DEFINITIONS

As used in this Section, the following definitions apply:

(1) "Child" means a person under the age of 16.

(2) "Convicted" or "conviction" means any of the following:

(a) A plea of guilty.

(b) A plea of no contest, nolo contendere, or the equivalent.

(c) A verdict or finding of guilty by a jury, judge, magistrate, or other duly constituted adjudicatory body, tribunal, or official, either civilian or military.

(3) "License" means a professional educator license issued by the Department of Public Instruction in accordance with this Subchapter and Chapter 115C, Article 17E of the General Statutes.

(4) "Local superintendent" means the superintendent of a local school administrative unit, as provided in Chapter 115C, Article 18 of the General Statutes, or the staff member with the highest decision-making authority for a PSU, if there is no superintendent.

(5) "Respondent" means a person who currently holds a license or who has applied for a license.

(6) "Student" means a person enrolled in pre-kindergarten, kindergarten, or in Grade 1 through Grade 12 in any public school unit, or who has been enrolled in a public school unit within six months of an alleged violation of these Standards.

History Note: Authority G.S. 115C-12(9); 115C-270.1; 115C-270.5; 115C-307;
Eff. April 1, 1998;
Temporary Amendment Eff. April 5, 2024;

Readopted Eff. July 1, 2025.

16 NCAC 06C .0602 STANDARDS OF PROFESSIONAL CONDUCT

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

(1) Generally Recognized Professional Standards. The educator shall adhere to and practice the professional standards of all federal, state, and local governing bodies with public education oversight.

(2) Conduct with Students. The educator shall treat all students with respect and maintain appropriate professional boundaries with all students, regardless of whether that student is directly under the care or supervision of the educator. Specifically, the educator shall not engage in any of the following conduct toward or in the presence of a student:

(a) Use of profane, vulgar, or demeaning language.

(b) Intentional or reckless exposure of students to profane, vulgar, or sexually explicit material except as part of age-appropriate classroom instruction or other pedagogical practice.

(c) Solicitation, encouragement, or consummation of a romantic, physical, or sexual relationship with a student in any form, whether written, verbal, or physical. As used in this context, "solicitation" or "encouragement" shall include engaging in a pattern of flirtatious behavior; efforts to gain access to, or time alone with, a student with no clear educational or school-related objective; provision of individualized or specialized treatment, including tangible or monetary gifts, to a student that does not comply with generally recognized professional standards for educators; or any other behavior that could be perceived by a rational observer as excessively personal or intimate in the context of the educator-student relationship.

(d) Solicitation, encouragement, or consummation of sexual contact with a student.

(e) Sexual harassment, as defined in 34 C.F.R. 106.30(a).

(f) Child abuse, as defined in G.S. 14-318.2 or G.S. 14-318.4.

(3) Alcohol and Controlled Substances. The educator shall not be under the influence of, possess, use, or consume an alcoholic beverage or a controlled substance, as defined in G.S. 90-95, on school premises, at a school-sponsored activity, or when otherwise discharging the educator's professional duties, unless the educator has a prescription from a licensed medical professional authorizing such use. The educator shall not furnish alcoholic beverages or controlled substances to a student, except for the administration of medication prescribed by a licensed medical professional in accordance with the educator's professional duties.

(4) Honesty. The educator shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation in the performance of the educator's professional duties, including the following:

(a) statements or representations of professional qualifications;

(b) application or recommendation for professional employment, promotion, or licensure;

(c) applications or recommendations for college or university admission, scholarship, grant, academic award, or similar benefit;

(d) statements or representations of completion of college or staff development credit;

(e) evaluation or grading of students or school personnel;

(f) submission of financial or program compliance reports submitted to state, federal, or other governmental agencies;

(g) submission of information in the course of an official inquiry by the SBE or the educator's employing PSU into allegations of professional misconduct, provided that an educator shall be given adequate notice of the allegations and may be represented by legal counsel; and

(h) submission of information in the course of an investigation into school related criminal activity by a law enforcement agency, child protective services, or any other agency with the authority to investigate, provided that an educator may decline to provide information to law enforcement if such evidence could incriminate the educator in violation of the educator's rights under the United States

Constitution or North Carolina Constitution.

(5) Compliance with Criminal Laws. The educator shall not violate the criminal laws of this State, the United States, or any other state or territory under the jurisdiction of the United States.

(6) Proper Remunerative Conduct. The educator shall not solicit current students or parents of students to purchase equipment, supplies, or services from the educator in a private remunerative capacity. An educator shall not tutor for remuneration students currently assigned to the educator's classes, unless approved by the local superintendent. An educator shall not accept any compensation, benefit, or thing of value other than the educator's regular compensation for the performance of any service that the educator is required to render in the course and scope of the educator's employment. This Rule shall not restrict performance of any overtime or supplemental services at the request of the PSU, nor shall it restrict the acceptance of gifts from students, parents, or other persons in recognition or appreciation of the educator's professional service, provided the gift is given and received freely, openly, and without expectation of favor or advantage to the donor in return.

(7) Confidential Information. The educator shall keep confidential all personally identifiable information regarding students or their family members that the educator has obtained in the course of professional service, unless disclosure is required or permitted by law or is necessary for the personal safety of the student or others.

(8) Rights of Others. The educator shall not willfully or maliciously violate the constitutional or civil rights of a student, parent or legal guardian, or colleague.

(9) Required Reports. The educator shall make all reports required by Chapter 115C of the General Statutes.

(10) Public Funds and Property. The educator shall not misuse public funds or property or any funds belonging to an organization affiliated with the school or PSU. The educator shall account for funds collected from students, colleagues, parents, or legal guardians of students. The educator shall not submit fraudulent requests for reimbursement, expenses, or pay.

(11) Scope of Professional Practice. The educator shall not perform any professional duty or function for which licensure is required by this Chapter or by Chapter 115C of the General Statutes during any period in which the educator's license is suspended or revoked.

(12) Abuse of Authority. The educator shall not directly or indirectly use or threaten to use any official authority or influence in any manner that discourages, restrains, coerces, interferes with, or discriminates against any subordinate or any licensee who in good faith reports or otherwise brings to the attention of a PSU, the SBE, or any other public agency authorized to take remedial action, any facts or information relative to the actual or suspected violation of any law or rule regulating the duties of persons serving in the public school system, including those established by this Section.

History Note: Authority G.S. 115C-12(9); 115C-270.5; 115C-307;
Eff. May 1, 1998;
Temporary Amendment Eff. June 6, 2024;
Readopted Eff. July 1, 2025.

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

(a) Upon receipt of allegations and substantiating information regarding a respondent that would provide cause for imposing disciplinary sanctions on a licensee or denying an application for a license under Rule .0604 of this Section, the Superintendent of Public Instruction shall investigate the allegations to determine if such action is warranted. The Superintendent shall investigate allegations or information from any source in a position to provide such information, including a PSU, State agency, court or other tribunal, or other credible person or institution. The Superintendent shall also consider information disclosed by a license applicant in the application.

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

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

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

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

proposed order shall become final, and the Superintendent shall take all necessary actions to enforce the order.

History Note: Authority G.S. 115C-12(9); 115C-270.5; 115C-270.30; 115C-270.35; 150B-22; 150B-23;
Temporary Adoption Eff. April 5, 2024;
Eff. July 1, 2025.

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

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

(1) Engaged in fraud, material misrepresentation, or concealment in an application for the license.
(2) Become ineligible for the license due to changes or corrections in the license documentation.
(3) Been convicted of a crime in any state, federal, or territorial court of the United States, including military tribunals.
(4) Been dismissed by a local board of education, pursuant to G.S. 115C-325(e)(1) or 115C-325.4, or by the governing body of any other PSU.
(5) Resigned from employment with a PSU without thirty calendar days' notice, except with the prior consent of the local superintendent.
(6) Had a professional educator license or other occupational license revoked or suspended in North Carolina or another state due to a finding of misconduct by the relevant occupational licensing board or agency.
(7) Failed to report suspected child abuse in accordance with G.S. 115C-400 or other suspicion of professional misconduct by a licensed employee in accordance with Rule .0608 of this Section.
(8) Violated the Testing Code of Ethics, codified at 16 NCAC 06D .0311.
(9) Engaged in any other illegal, unethical, or lascivious conduct, or otherwise violated the Standards of Professional Conduct as described in Rule .0602 of this Section.

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

(1) The existence of a reasonable and adverse relationship between the underlying misconduct and the ability of the respondent to perform the respondent's professional duties as an educator.
(2) The severity of the misconduct.
(3) The impact of the misconduct on students, other educators, and the school community.
(4) The respondent's degree of culpability in the misconduct.
(5) The degree of remorse exhibited by the respondent for the misconduct.
(6) Any evidence of reformed behavior on the part of the respondent.
(7) Subsequent incidents of misconduct by the respondent or the probability of future misconduct.

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

History Note: Authority G.S. 115C-12(9); 115C-174.11; 115C-174.12; 115C-270.5; 115C-270.30; 115C-270.35; 150B-22; 150B-23;
Temporary Adoption Eff. April 5, 2024;
Eff. July 1, 2025.

16 NCAC 06C .0605 DISCIPLINARY SANCTIONS

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

(1) Written Warning;
(2) Written Reprimand;
(3) Suspension for a Defined Term; or
(4) Revocation.

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

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

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

History Note: Authority G.S. 115C-12(9); 115C-270.5; 115C-270.30; 115C-270.35; 150B-3; 150B-22; 150B-23; Temporary Adoption Eff. April 5, 2024; Eff. July 1, 2025.

16 NCAC 06C .0606 VOLUNTARY SURRENDER OF A LICENSE

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

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

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

History Note: Authority G.S. 115C-12(9); 115C-270.5; 115C-270.30; 115C-270.35; 150B-22; 150B-23; Temporary Adoption Eff. April 5, 2024; Eff. July 1, 2025.

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

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

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

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

History Note: Authority G.S. 115C-12(9); 115C-270.5; 115C-270.30; 115C-270.35; 150B-22; 150B-23; Temporary Adoption Eff. April 5, 2024; Eff. July 1, 2025.

16 NCAC 06C .0608 REPORTING REQUIREMENTS FOR PSU ADMINISTRATORS

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

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

(2) "Misconduct" means either:

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

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

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

(b) In addition to any duty to report suspected child abuse under G.S. 115C-400 or other provision of law, any administrator who knows, has reason to believe, or has actual notice of a complaint that a professional educator licensed under Chapter 115C, Article 17E of the General Statutes has engaged in misconduct, as defined in Subparagraph (a)(2) of this Rule, that results in the suspension without pay, termination of employment, non-renewal of the employment contract, or resignation of the educator shall report the misconduct in writing to the State Board of Education within five calendar days of the dismissal, suspension, nonrenewal, or acceptance of the educator's resignation by the governing body of the PSU or its authorized designee. If an educator resigns within 30 days of a complaint for misconduct or during an ongoing investigation of a complaint, the alleged misconduct is presumed to have resulted in the resignation.

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

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

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

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

History Note: Authority G.S. 115C-12(9); 115C-270.5; 115C-270.30; 115C-270.35; 115C-326.20; 150B-22; 150B-23;
Temporary Adoption Eff. April 5, 2024;
Eff. July 1, 2025.

16 NCAC 06E .0201 DEFINITIONS

As used in this Section, the following definitions apply:

(1) "Administering organization" is defined in G.S. 115C-407.50(1).

(2) "Aggrieved party" means a student, coach, participating school, PSU, or other party that is directly and adversely affected by a final decision of a rule administrator, including a determination of ineligibility under Rule .0207 of this Section, a penalty imposed under Rule .0209 of this Section, or a finding of undue influence or a recruiting violation under Rule .0210 of this Section. If a student is affected, the student's parent or legal guardian may appeal the final decision pursuant to Rule .0215 of this Section.

(3) "Bona fide purpose" means a purpose not primarily related to participation in interscholastic athletics.

(4) "Final decision" means a written decision of a rule administrator regarding the application or enforcement of rules under this Section to a set of facts or circumstances. A ruling by a referee or official enforcing gameplay rules during an athletic competition, as recorded by the referee or official in the game record maintained by the rule administrator, that results in the ejection or suspension of a player or coach shall be deemed a final decision upon exhaustion of any available mechanisms for review under the rule administrator's internal policies and procedures.

(5) "Immediate family member" means a spouse, parent, legal guardian or custodian, grandparent, child, grandchild, brother, sister, half-sibling, or step-sibling. The term applies to any such relationship whether by blood, adoption, or marriage.

(6) "Initial entry" means:

(a) a student's first day of attendance at a participating school in which the student is enrolled as recorded by that school; or

(b) the first day on which a student practices or otherwise participates as a member of an interscholastic athletics team at a participating school.

(7) "Interscholastic athletics" or "interscholastic athletic activity" means any extracurricular athletic activity that:

(a) involves students in any Grades 6 through 12;

(b) is sponsored by an individual school, PSU, or administering organization; and

(c) includes students from more than one school or PSU.

(8) "Local superintendent" means the superintendent of a local school administrative unit, as provided in Chapter 115C, Article 18 of the General Statutes, or the staff member with the highest decision-making authority for a PSU, if there is no superintendent.

(9) "NFHS" means the National Federation of State High School Associations.

(10) "Parent" is defined in G.S. 115C-407.50(6).

(11) "Participating school" means a middle school, junior high school, or high school that elects to participate in interscholastic athletic activities.

(12) "Principal" means a school administrator employed as the principal of a school, as provided in Chapter 115C, Article 19 of the General Statutes, or the staff member with the highest decision-making authority at a school, if there is no principal.

(13) "Rule administrator" means any of the following:

(a) An administering organization, when administering and enforcing the rules provided by this Section at the high school level.

(b) A local superintendent or his or her authorized designee, when administering and enforcing the rules provided by this Section at the middle and junior high school level.

(c) The Superintendent of Public Instruction, if necessary pursuant to 16 NCAC 06E .0204(e).

History Note: Authority G.S. 115C-12(12);115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60; 115C-407.65; 116-235(b);
Eff. July 1, 1986;
Exp. Eff. June 1, 2022 pursuant to G.S. 150B-21.3A.
Temporary Adoption Eff. July 1, 2024;
Temporary Adoption Eff. January 2, 2025;
Eff. July 1, 2025.

16 NCAC 06E .0204 ADMINISTRATION OF INTERSCHOLASTIC ATHLETICS

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

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

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

(1) Apply and enforce student participation rules, as established in Rule .0207 of this Section.

(2) Waive any student participation rule as applied to a specific student, in accordance with 16 NCAC 06E .0207(k).

(3) Apply and enforce student health and safety requirements, as established in Rule .0205 of this Section.

(4) Adopt, apply, and enforce penalty rules, as defined in G.S. 115C-407.55(3), that establish a system of demerits that includes reprimands, probations, suspensions, forfeitures of contests, forfeitures of titles, and disqualifications, consistent with Rule .0209 of this Section.

(5) Adopt, apply, and enforce administrative rules, as defined in G.S. 115C-407.55(5).

(6) Adopt, apply, and enforce gameplay rules, as defined in G.S. 115C-407.55(6).

(7) Collect from all its members a uniform membership fee of either:

(A) one thousand dollars ($1,000) for each participating school, or

(B) one dollar ($1.00) for each student enrolled in a participating school.

(d) An administering organization shall:

(1) Enter into a memorandum of understanding, consistent with the requirements of G.S. 115C-407.55(8) and 115C-407.61, with the Superintendent no later than March 15 prior to the start of the school year in which it is to begin administering interscholastic athletics and no later than March 15 before the expiration of an existing memorandum of understanding;

(2) Submit an audit report signed by an independent certified public accountant or accounting firm, which is in good standing with the North Carolina State Board of Certified Public Accountant Examiners and performs no other tasks or functions for the administering organization besides the annual audit, to the State Board of Education no later than March 15 each year;

(3) Broadcast the meetings of its membership and board of directors in a manner that is announced on its website and which may be viewed electronically by any member of the public;

(4) Provide to the State Board of Education within 30 days any requested organizational records, such as financial information, annual audit reports, and any matters related to or impacting participating schools;

(5) Enter into written agreements with PSUs that allow their eligible schools to participate in interscholastic athletics, which agreements shall include an explanation of the fees to be charged, the obligations of the PSU and participating schools, penalties for the violation of this Section that may be imposed, and an explanation of the process to file an appeal pursuant to Rule .0215 of this Section; and

(6) Publish the organization's rules through a link on the home page of its website.

(e) In the event that the Superintendent is unable to enter a memorandum of understanding with one or more administering organizations in accordance with this Rule, the SBE shall delegate all authority and responsibility provided to an administering organization by this Section to the Superintendent.

(f) A PSU, participating school, PSU employee, or student seeking to report allegations of intimidation or harassment by an administering organization shall file a report with the Superintendent. The report shall be in writing and include a detailed description of the factual basis for the allegations.

(g) The Superintendent shall be responsible for general oversight of interscholastic athletic activities at participating middle and junior high schools. The local superintendent or his or her authorized designees shall apply and enforce the requirements of this Section for participating middle and junior high schools under the jurisdiction of a PSU. The local superintendent or his or her authorized designee may also waive any student participation rule as applied to a specific student enrolled at a middle or junior high school under the jurisdiction of the PSU, in accordance with Rule .0207 of this Section.

(h) Any person or PSU seeking to inquire about or report a violation of any rule enforced by a rule administrator shall direct the initial inquiry or report to the appropriate rule administrator in accordance with the policies and procedures adopted by the rule administrator.

(i) For any question or dispute involving the enforcement of any interscholastic athletics rule provided by this Section, other than a ruling by a referee or official enforcing gameplay rules during an athletic competition, the relevant rule administrator shall render a final decision within 10 business days. The rule administrator's final decision shall contain:

(1) Findings of fact.

(2) Conclusions of law, including a citation to and copy of any rules related to the decision.

(3) A description of any penalties imposed.

(4) Instructions on how the aggrieved party may file a notice of appeal with the Superintendent

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

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

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

History Note: Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50, 115C-407.55; 115C-407.60; 115C-407.65; 116-235(b);
Emergency Adoption Eff. August 20, 2019;
Eff. March 1, 2021;
Temporary Amendment Eff. July 1, 2022;
Amended Eff. July 1, 2023;
Temporary Amendment Eff. July 1, 2024;
Amended Eff. July 1, 2025.

16 NCAC 06E .0205 STUDENT HEALTH AND SAFETY

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

(b) An administering organization shall, on an annual basis, provide a concussion and head injury information sheet to all coaches, school nurses, athletic directors, first responders (as defined in Rule .0206 of this Section), volunteers, and students who participate in interscholastic athletic activities, and the parents or legal guardians of those students. The information shall include:

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

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

(d) If an coach, athletic director, school nurse, athletic trainer, or first responder (as defined in Rule .0206 of this Section) determines that a student participating in an interscholastic athletic activity is exhibiting signs or symptoms consistent with concussion, the student shall be removed from the activity at the time and shall not be allowed to return to play or practice that day. A student removed from play for exhibiting signs or symptoms consistent with concussion shall not return to play or practice on a subsequent day until the student is evaluated by and receives written clearance for such participation from one of the following:

(1) A physician licensed under Chapter 90, Article 1 of the General Statutes with training in concussion management;
(2) A neuropsychologist licensed under Chapter 90, Article 18A of the General Statutes with training in concussion management and working in consultation with a physician licensed under Chapter 90, Article 34 of the General Statutes;
(3) An athletic trainer licensed under Chapter 90, Article 34 of the General Statutes;
(4) A physician assistant, consistent with the limitations of G.S. 90-18.1; or
(5) A nurse practitioner, consistent with the limitations of G.S. 90-18.2.

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

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

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

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

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

History Note: Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.57; 115C-407.58; 115C-407.60;
Interim Rule status conferred Eff. June 27, 2018, pursuant to S.L. 2018-114, sec. 27.(b);
Emergency Rule Eff. August 20, 2019;
Emergency Rule Exp. Eff. August 20, 2020;
Temporary Adoption Eff. July 1, 2024;
Eff. July 1, 2025.

16 NCAC 06E .0206 ATHLETIC TRAINERS

(a) Each PSU shall designate for each participating high school within its jurisdiction either a licensed athletic trainer who is qualified pursuant to Chapter 90, Article 34 of the General

Statutes or a first responder. These persons may be employed on a full-time or part-time basis or may serve as a volunteer.

(b) If not a licensed athletic trainer, a first responder shall:

(1) Complete and maintain certification in cardiopulmonary resuscitation as certified by an organization such as the American Red Cross or the American Heart Association;

(2) Complete and maintain certification in first aid as certified by an organization such as the American Red Cross or the American Heart Association;

(3) Complete and maintain training in concussion management as offered by an organization such as the NFHS;

(4) Complete and maintain continuing education in injury prevention and management as offered by an organization such as the NFHS; and

(5) Complete 10 hours total of staff development each school year specific to first aid and injury recognition and prevention. The 10 hours may include hours necessary for recertifications or renewals.

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

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

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

History Note: Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60; 115C-407.65; 116-235(b);
Emergency Adoption Eff. August 20, 2019;
Eff. March 1, 2021;
Temporary Amendment Eff. July 1, 2024;
Amended Eff. July 1, 2025.

16 NCAC 06E .0207 STUDENT PARTICIPATION RULES

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

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

(c) Residency Requirements

(1) For purposes of this Rule, a student's primary residence shall be determined as follows:

(A) If both of the student's parents live together, the residence of both parents.

(B) If the student's parents are separated or divorced, the residence of the parent to whom a court of competent jurisdiction has awarded primary custody of the student. If no custody order has been entered, the student and the student's parents shall designate one parent's residence as the primary residence and communicate that designation to the participating school prior to participation in interscholastic athletic activities. The designated primary residence shall be one that would otherwise render the student eligible to attend that school in accordance with state law and the policies of the governing body of the PSU.

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

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

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

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

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

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

(d) Enrollment Requirements

(1) A student enrolled in a school supervised by a local board of education shall only participate in interscholastic athletics on behalf of the

school to which the student is assigned under G.S. 115C-366.

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

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

(B) twenty-five miles of the school as determined by the relevant rule administrator.

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

(e) Transfer Requirements

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

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

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

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

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

(3) A student who receives priority enrollment as the child of a full-time employee of a charter school pursuant to G.S. 115C-218.45(f)(3) shall not be eligible to participate in interscholastic athletics for that charter school if the Department of Public Instruction determines that the parent's employment was a fraudulent basis for the student's priority enrollment. A student determined to be ineligible under this Subparagraph shall be ineligible to participate in interscholastic athletics for 365 calendar days following discovery of the violation.

(4) For purposes of this Paragraph, if a student transfers from a public school to a nonpublic school, including a home school as defined in G.S. 115C-563(a), and within 365 calendar days transfers to a different public school, the transfer from the nonpublic school shall be treated as a transfer from a public school.

(5) A student who transfers to the North Carolina School of Science and Mathematics is exempt from the requirements of this Paragraph upon initial entry into that school.

(6) No student shall participate in more than one season of interscholastic athletics per year in the same sport, regardless of the school on behalf of which the student participated.

(f) Scholastic Requirements

(1) To be eligible to participate in interscholastic athletics, a student must be in good academic standing. For purposes of this Rule, a student shall be deemed to be in good academic standing under the following circumstances:

(A) The student attended at least 85 percent of the total number of instructional days in the PSU during the previous semester;

(B) The student passed at least 70 percent of the courses taken in the preceding semester; and

(C) The student is making sufficient progress toward meeting the academic

and curricular requirements of the PSU and the State Board of Education to be promoted to the next grade level or to graduate within the next calendar year.

(2) For the purpose of determining good academic standing during the fall semester, a student may count any course that the student passed in a summer school session toward the total number of courses passed in the preceding spring semester. The summer school course shall not affect the total number of courses attempted in the preceding spring semester.

(3) A student who is promoted from Grade 5 to Grade 6 shall be deemed to have satisfied the requirements set forth in this Paragraph to participate in the first semester of Grade 6.

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

(g) Age Requirements

(1) Each PSU shall determine the age of a student participating in interscholastic athletics based on a preponderance of the evidence known to the PSU.

(2) A student who is ineligible to participate at one grade level due to age shall be eligible to participate at the next higher grade level only, provided that a student:

(A) Shall be eligible to participate at the middle school level for no more than six consecutive semesters, beginning with the student's initial entry into Grade 6.

(B) Shall be eligible to participate at the high school level for no more than eight consecutive semesters, beginning with the student's initial entry into Grade 9.

(C) Shall not participate on a middle school team if the student becomes 15 years of age before August 31 of that school year.

(D) Shall not participate on a junior high school team if the student becomes 16 years of age on or before August 31 of that school year.

(E) Shall not participate on a high school team if the student becomes 19 years of age on or before August 31 of that school year.

(3) A student in Grade 6 shall not participate in tackle football.

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

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

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

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

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

(2) works an undue hardship on a student who has lost eligibility due to circumstances that made participation impossible, such as prolonged illness or injury; or

(3) prevents the reasonable accommodation of a student's disability, as required by the Americans with Disabilities Act, 42 U.S.C. 12101 et seq.

History Note: Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60; 115C-407.65; 116-235(b);
Temporary Adoption Eff. July 1, 2024;
Eff. July 1, 2025.

16 NCAC 06E .0208 AMATEUR RULES

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

(1) Graduation, except that the student may continue to participate in playoff and state championship contests in spring sports after graduation.

(2) Signing a professional athletic contract, except that the student may continue to participate in any sport for which the student has not signed a professional contract.

(3) Receiving remuneration as a participant in an athletic contest, except that the student may accept a gift, merchandise, or other thing of value, provided that:

(A) The value does not exceed two hundred-fifty dollars ($250.00) per student per season;

(B) The item is totally consumable and nontransferable, or labeled in a permanent manner (e.g., an engraved or monogrammed item); and

(C) The item is approved by the principal of the student's school and the local superintendent.

(4) Participating on an all-star team or in all-star game or bowl game that is not sanctioned by the administering organization of which the

student's school is a member, provided that the student shall be ineligible only for that sport.

(5) Entering into an NIL agreement, unless the student has complied with the requirements of Rule .0211 of this Section.

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

(1) Payment by an administering organization, PSU, or athletic booster club affiliated with the student's school or PSU for essential expenses arising from a specific interscholastic athletic contest in which the student participates. Essential expenses shall include the reasonable cost of meals, lodging, and transportation.

(2) Receipt of a nominal, standard fee or salary for instructing, supervising, or officiating an organized youth sports program, recreational activities, playground, or camp, whether or not affiliated with a PSU.

(3) Receipt of an Operation Gold Grant from the United States Olympic Committee.

History Note: Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60; 115C-407.65; 116-235(b);
Temporary Adoption Eff. July 1, 2024;
Temporary Adoption Eff. January 2, 2025;
Eff. July 1, 2025.

16 NCAC 06E .0209 PENALTY RULES

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

(1) for the first offense, the person shall be reprimanded and suspended from participating in the next game in that sport;

(2) for a second offense, the person shall be placed on probation and suspended from participating in the next two game in that sport;

(3) for a third offense, the person shall be suspended from participation in interscholastic athletics for one calendar year;

(4) a coach who is suspended shall not coach any team for any grade level during the period of suspension.

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

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

History Note: Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60; 115C-407.65; 116-235(b);
Temporary Adoption Eff. July 1, 2024;
Eff. July 1, 2025.

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

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

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

(1) Initiating or arranging communication or contact in any form, including letters, email, or phone calls, with the student or an immediate family member of the student.

(2) Visiting or entertaining the student or an immediate family member of the student.

(3) Providing or arranging for transportation for the student or an immediate family member of the student to visit a participating school or meet with anyone associated with the participating school.

(4) Communicating to a student or an immediate family member of the student, either implicitly or explicitly, that a participating school's athletic program or sports team is superior to that of another participating school, or that it would be advantageous for the student to participate in athletics at a specific participating school. Such communication may be oral, written, or audiovisual in format.

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

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

History Note: Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60; 115C-407.65; 116-235(b);
Temporary Adoption Eff. July 1, 2024;
Eff. July 1, 2025.

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

(a) As used in this Section:

(1) "Compensation" means anything of value to the student or an immediate family member of the student, including cash, in-kind gifts, discounts, and other tangible benefits.

(2) "Name, image, or likeness" or "NIL" means the use of a student's name, image, or likeness for commercial purposes and in exchange for compensation to the student or an immediate family member of the student.

(3) "NIL agreement" means any formal agreement or contract to use a student's name, image, or likeness for commercial purposes and in exchange for compensation to the student or an immediate family member of the student.

(4) "School administrators" includes the principal and athletic director of the student's school, the local superintendent, the chairperson of the PSU governing body, and the head coach of any sport in which the student participates during the terms of an NIL agreement.

(b) A student participating in interscholastic athletics may enter an NIL agreement subject to the following restrictions:

(1) The NIL agreement shall not condition the receipt, type, or extent of any compensation on the extent or quality of the student's athletic performance.

(2) If the student is under 18 years of age, the student's parent or legal guardian shall be a party to the NIL agreement.

(3) The NIL agreement shall hold the following parties harmless from any liability related to, or arising from the NIL agreement:

(A) The governing body of the PSU in which the student is enrolled, as well as its officers and employees.

(B) Any administering organization with which the PSU is affiliated, as well as its officers and employees.

(C) The State Board of Education and the Department of Public Instruction, as well as their officers and employees.

(4) The NIL agreement shall otherwise comply with state and federal law.

(c) The student shall disclose the NIL agreement to school administrators in accordance with the following procedures:

(1) No later than 10 business days prior to the execution of a proposed NIL agreement or an amendment to an existing NIL agreement, the student shall provide a complete and unredacted copy of the proposed NIL agreement or amendment to school administrators.

(2) No later than five business days after the execution or amendment of the NIL agreement, the student shall provide a complete and unredacted copy of the executed NIL agreement or amendment to school administrators.

(d) No later than 10 business days prior to a student's entry into an NIL agreement, the student shall complete the NIL education course offered by the NFHS. If the student is under 18 years of age, the student's parent or legal guardian shall also complete the course. Those persons required to complete the course shall provide school administrators with a certificate of completion from the NFHS.

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

(1) Public appearances or commercials.

(2) Autograph signings.

(3) Athletic camps and clinics.

(4) Sale of non-fungible tokens ("NFTs").

(5) Product or service endorsements.

(6) Promotional activities, including in-person events and social media advertisements.

(7) Any other commercial activities that are intended to promote a product or service offered by, increase the profits of, or otherwise generate financial benefits for a party to the NIL agreement from the use of the student's name, image, or likeness.

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

(1) Make any reference to a school, PSU, conference, or administering organization.

(2) Receive compensation for the use of intellectual property of any school, PSU, conference, administering organization, or the NFHS. Intellectual property includes the name, uniform, mascot, mark, or logo of the entity that owns the intellectual property.

(3) Appear in the uniform of the student's school or the school's sports team, or otherwise display the intellectual property of any school, PSU, conference, administering organization, or the NFHS.

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

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

(1) An adult establishment, as defined in G.S. 14-202.10(2), or adult entertainment services.

(2) Alcohol or alcoholic products.

(3) Tobacco, vaping or other electronic smoking devices, or other nicotine products.

(4) Cannabis or cannabis products.

(5) Controlled substances, as defined in G.S. 90-87(5).

(6) Opioids or prescription pharmaceuticals.

(7) Weapons, firearms, or ammunition.

(8) Casinos or gambling, including sports betting.

(9) Activities that would disrupt the operations of a school or PSU.

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

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

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

History Note: Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60; 115C-407.65; 116-235(b);
Eff. July 1, 2025.

16 NCAC 06E .0215 APPEALS

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

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

(1) The name of the aggrieved party's participating school and PSU.
(2) The name, address, and phone number of the aggrieved party. If the aggrieved party is a school or PSU, the aggrieved party shall also provide the name, address, phone number, and title of an employee who will serve as the official representative of the school or PSU during the appeal.
(3) The names, email addresses, and phone numbers of the principal and local superintendent.
(4) The names of any students affected by the final decision and the sports in which the student participates.
(5) A description of the facts underlying the final decision.
(6) A description of the final decision, the date it was issued, and the name, email, and phone number of the rule administrator or staff member thereof who issued the final decision.
(7) An argument explaining why the aggrieved party believes the rule administrator's final decision was erroneous for one or both of the reasons provided in Paragraph (g) of this Rule.
(8) If applicable, the date of any imminent interscholastic athletic activity that the final decision may affect.
(9) Any relevant documents or other evidence that the aggrieved party deems relevant to the appeal and that the aggrieved party provided to the rule administrator for consideration prior to the final decision.

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

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

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

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

(g) The panel shall affirm the rule administrator's final decision unless a majority of the panel determines that the final decision either:

(1) erroneously applies SBE rules or other applicable laws; or
(2) is not supported by the evidence, based on the following standards of review:
(A) For a ruling by a referee or official enforcing gameplay rules during an athletic competition, the panel shall affirm the referee or official's ruling and uphold the resulting penalty unless the aggrieved party presents clear and convincing evidence to contradict the ruling.
(B) For a final decision of a rule administrator regarding the application of any other SBE rule, the panel shall affirm the final decision unless the aggrieved party demonstrates that the final decision was not supported by substantial evidence, as defined in G.S. 150B-2(8c).

(h) The panel may also remand the final decision to the rule administrator for reconsideration in light of new information or evidence that was not provided to the rule administrator prior to its final decision, if there is an intervening change in any relevant law, or if the panel determines that additional information is

necessary to inform its judgment. The panel shall not consider information or evidence presented that was not presented to the rule administrator in the first instance.
(i) The Superintendent, or the Superintendent's authorized designee, may stay a determination of ineligibility or a penalty imposed by the rule administrator pending the judgment of the appeals board.
(j) The panel's judgment shall be deemed a final agency decision and not subject to further appeal to the Superintendent or State Board of Education.

History Note: Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60; 115C-407.65; 116-235(b);
Temporary Adoption Eff. July 1, 2024;
Eff. July 1, 2025.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 36 – BOARD OF NURSING

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

(a) An applicant seeking nurse licensure shall meet the educational requirements of a prelicensure nursing program that is equivalent or greater to the requirements for NC nursing prelicensure programs as required in Section .0300 of this Chapter and apply to take the NCLEX™. The Board shall review the application and applicant's educational requirements. Once the applicant has passed the NCLEX™, the Board shall consider the applicant's qualifications for licensure as outlined in Paragraph (e) of this Rule.
(b) Applications for licensure by examination shall be posted on the Board's website at www.ncbon.com and shall contain the following information:
(1) The applicant's name, telephone number, and email address;
(2) The applicant's primary address of residence;
(3) The educational degrees obtained by the applicant with the program name and completion date; and
(4) Other professional or occupational licenses held by the applicant with the licensure number and jurisdiction in which the license was issued, if applicable.
(c) An applicant shall meet one of the following educational requirements:
(1) Complete a Board-approved nursing prelicensure program as outlined in Rule .0302 and .0303 of this Chapter. Evidence of completion of the program shall be an electronic verification submitted from the program director that the applicant has satisfied the educational requirements of the program pursuant to Section .0300 of this Chapter.
(2) Complete a National Council State Board of Nursing (NCSBN) member board approved nursing program that is equivalent or greater to the requirements for NC nursing prelicensure programs as required in Section .0300 of this Chapter. Evidence of completion shall be a transcript. Educational transcripts shall be submitted directly to the Board from the program, National Student Clearinghouse, or Parchment.
(3) Complete a nursing program outside the United States that provides graduates with comparable education that is equivalent or greater to the requirements for NC nursing prelicensure programs as required in Section .0300 of this Chapter. Foreign-educated applicants shall:
(A) provide electronic verification from the Commission on Graduates of Foreign Nursing Schools (CGFNS) or International Education Evaluation (IEE) demonstrating the applicant's education is equivalent or greater to the requirements for NC nursing prelicensure programs as required in Section .0300 of this Chapter;
(B) Demonstrate proficiency in the English Language. Proof of English proficiency is either an overall score of 6.5 and minimum of 6.0 on all modules on the exam administered by the International English Language Testing System (IELTS) or an overall score of 83 or higher on the exam administered by Test of English as a Foreign Language (TOEFL); and
(C) Be eligible for licensure as an RN or LPN in the country where the nursing educational program was completed.
(4) Complete one of the following military courses of study for practical nursing equivalent or greater to the requirements for NC prelicensure nursing programs as evidenced by a transcript: Army Practical Nursing; Army MOS 68C Practical Nursing; Air Force Practical Nursing Technology Associate Degree; or Medical Corpsman to Practical Nurse.
(d) To be eligible for approval to take the NCLEX™ examination, an applicant shall:
(1) Submit an Application for Licensure by Examination as outlined in Subparagraphs (b)(1)-(4) of this Rule to the Board, attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
(2) Meet the educational requirements of a nursing prelicensure program as required in Paragraph (c) of this Rule;
(3) Provide electronic confirmation from Pearson VUE, the testing agency which administers the

NCLEX™, as proof applicant is registered to take the NCLEX™.

(4) Pay the application fee as established in G.S. 90-171.27(b).

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

(1) Submit an application for licensure as outlined in Subparagraphs (b)(1)-(4) of this Rule to the Board;

(2) Possess a valid social security number issued by the U.S. Social Security Administration;

(3) Pass the NCLEX™ – examination results submitted electronically from Pearson VUE;

(4) Hold an unencumbered license in all jurisdictions in which a license is or has been held. If applicant has any disciplinary history on a license or has participated in a drug monitoring program, the applicant shall submit written explanation and all related documents to the Board;

(5) Complete a criminal background check in accordance with G.S. 90-171.48;

(6) Not be subject to probationary conditions or monitoring by the court as a result of any misdemeanor or felony convictions;

(7) Submit a written explanation and court documents regarding all criminal convictions, if applicable; and

(8) Submit a written explanation and all related documentation if the applicant has been listed as a nurse aide and there have been substantiated findings pursuant to G.S. 131E-255 and 10A NCAC 13O .0101(4). An applicant shall not be licensed while an investigation is pending.

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

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

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

History Note: Authority G.S. 90-171.23(15); 90-171.29; 90-171.30; 90-171.37(1); 90-171.48;
Eff. February 1, 1976;
Amended Eff. December 1, 2004; April 1, 2003; January 1, 1996; July 1, 1994; February 1, 1994; August 3, 1992;
Readopted Eff. January 1, 2019;
Amended Eff. March 1, 2025.

21 NCAC 36 .0218 LICENSURE BY ENDORSEMENT

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

(1) The applicant's name, telephone number, and email address;

(2) The applicant's primary address of residence;

(3) The educational degrees obtained by the applicant with the program name and completion date;

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

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

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

(7) Dates of employment and position(s) held for the last two nursing employers.

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

(1) submit a completed Application for Endorsement, attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;

(2) a valid social security number issued by the U.S. Social Security Administration;

(3) submit the licensure application fee as established in G.S. 90-171.27(b);

(4) have an unencumbered license in all jurisdictions in which a license is or has ever been held. If applicant has any disciplinary history on a license or has participated in a drug monitoring program, the applicant shall submit written explanation and all related documents to the Board;

(5) request verification of nurse licensure from the jurisdiction of original nurse licensure. If the license has been inactive for five or more years, the applicant shall be required to complete a refresher course pursuant to G.S. 90-171.35 and G.S. 90-171.36;

(6) request verification of nurse licensure from the jurisdictions where applicant holds or last held an active license;

(7) complete a prelicensure nursing program which is approved by the jurisdiction of original licensure at the time of program completion and is equivalent or greater to the requirements for NC prelicensure nursing programs as required in Section .0300 of this Chapter. Applicant shall provide an educational transcript submitted directly to the Board from the program, National Student Clearinghouse, or Parchment upon request of the Board;

(8) Upon request of the Board, if applicant completed a nursing program outside of the

United States, applicant shall provide electronic verification from the Commission on Graduates of Foreign Nursing Schools (CGFNS) or International Education Evaluation (IEE) demonstrating the applicant's education is equivalent or greater to the requirements for NC nursing prelicensure programs as required in Section .0300 of this Chapter;

(9) Complete a criminal background check in accordance with G.S. 171.48. The applicant shall provide a written explanation and all investigative reports or court documents evidencing the circumstances of the crime(s) upon request of the Board. The Board shall use these documents when determining if a license should be denied pursuant to G.S. 90-171.48 and G.S. 90-171.37; and

(10) Not be subject to probationary conditions or monitoring by the court as a result of any misdemeanor or felony convictions.

(c) In addition to the requirements in Paragraph (b) of this Rule, should a practical nurse seeking licensure by endorsement who obtained licensure in a jurisdiction that does not require program completion, the applicant shall:

(1) have been licensed for five years and provide verification from their employers of full-time nursing employment for the previous two calendar years immediately preceding filing of the application; or

(2) complete one of the following military courses of study for practical nursing equivalent or greater to the requirements for NC prelicensure nursing programs as evidenced by a transcript: Army Practical Nursing; Army MOS 68C Practical Nursing; Air Force Practical Nursing Technology Associate Degree; or Medical Corpsman to Practical Nurse.

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

(e) An application is valid for:

(1) One year from the date the application is filed with the Board; or

(2) A license is issued.

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

History Note: Authority G.S. 90-171.23(b); 90-171.32; 90-171.33; 90-171.37; 90-171.48;
Eff. May 1, 1982;
Amended Eff. December 1, 2005; April 1, 2003; January 1, 1996; July 1, 1994;
February 1, 1994; August 3, 1992;
Readopted Eff. January 1, 2019;
Amended Eff. March 1, 2025.

This Section contains information for the meeting of the Rules Review Commission ????, 2025 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	**Appointed by House**
Jeanette Doran (Chair)	Jake Parker (1st Vice-Chair)
John Hahn	Paul Powell (2nd Vice-Chair)
Jeff Hyde	Wayne R. Boyles, III
Brandon Leebrick	Christopher Loutit
Bill Nelson	Randy Overton

COMMISSION COUNSEL

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

RULES REVIEW COMMISSION MEETING DATES

April 24, 2025	June 26, 2025
May 29, 2025	July 30, 2025

RULES REVIEW COMMISSION MEETING
MINUTES
February 27, 2025

The Rules Review Commission met on Thursday, February 27, 2025, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via Webex.

Commissioners Wayne R. Boyles III, Jeanette Doran, Jeff Hyde, Brandon Leebrick, Chris Loutit, Randy Overton, Bill Nelson, and Jake Parker were present in the Commission Room. Commissioner John S. Hahn was 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 January 30, 2025 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, Chris Loutit, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None

FOLLOW UP MATTERS
Medical Care Commission
Upon the call of the Chair, the Commission voted to approve 10A NCAC 13F .0206, .0301, .0302, .0304, .0305, .0306, .0307, .0309, .0310, .0311, .0801, .0802, .1304, .1501; 13G .0206, .0301, .0302, .0305, .0306, .0307, .0308, .0309, .0312, .0313, .0315, .0316, .0317, .0318, .0801, .0801, and .0802 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, Chris Loutit, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None

Crime Victims Compensation Commission
Upon the call of the Chair, the Commission voted to approve 14B NCAC 09 .0302 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, Chris Loutit, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None

Coastal Resources Commission
15A NCAC 07H .0508; 15A NCAC 07J .1401, .1402, .1403, .1405; 15A NCAC 07J .1501, .1502, and .1503 – The agency is addressing the objections from the December meeting. No action was required of the Commission.

LOG OF FILINGS (PERMANENT RULES)
Innovation Council
Upon the call of the Chair, the Commission voted to approve 04 NCAC 25 .0101, .0102, .0103, .0104, .0105, .0106, .0107, .0108, .0109, .0110, and .0111 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, Chris Loutit, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None

Environmental Management Commission
Upon the call of the Chair, the Commission voted to approve 15A NCAC 02B .0309 and 02D .0410 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, Chris Loutit, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None

State Board of Education
Upon the call of the Chair, the Commission voted to approve 16 NCAC 06C .0372, .0373, .0374, .0375, .0376, .0601, .0602, .0603, .0604, .0605, .0606, .0607, .0608; 06E .0201, .0204, .0205, .0206, .0207, .0208, .0209, .0210, .0211, and .0215 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, Chris Loutit, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None

Board of Nursing
Upon the call of the Chair, the Commission voted to approve 21 NCAC 36 .0211 and .0218 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, Chris Loutit, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None

LOG OF FILINGS (TEMPORARY RULES)
Office of the State Fire Marshal
Upon the call of the Chair, the Commission voted to approve 11 NCAC 05A .1001 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, Chris Loutit, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None

Wildlife Resources Commission
Upon the call of the Chair, the Commission voted to approve 15A NCAC 10F .0307 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, Chris Loutit, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None

Carrie Ruhlman, the rulemaking coordinator for the agency, addressed the Commission.

Existing Rules Review
Board of Agriculture
Upon the call of the Chair, the reports for 02 NCAC 31, 39, 43A, 43B, 43C, 43D, 43E, 43G, 43L, and 53 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, Chris Loutit, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None

Office of State Budget and Management
Upon the call of the Chair, the report for 09 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, Chris Loutit, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None

Office of Information Technology Services
Upon the call of the Chair, the report for 09 NCAC 06C 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, Chris Loutit, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None

DIT Government Analytics Center
Upon the call of the Chair, the report for 09 NCAC 06D 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, Chris Loutit, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None

DHHS – Division of Mental Health/DD/SAS
Upon the call of the Chair, the reports for 10A NCAC 26C .0100, Rule .0402, and .0500 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, Chris Loutit, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None

DHHS - Commission for Mental Health/DD/SAS
Upon the call of the Chair, the reports for 10A NCAC 26C .0200, .0300, Rule .0401, and .0600, 27C, 28B, 28C, 28D, and 28E 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, Chris Loutit, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None

Social Services Commission
Upon the call of the Chair, the report for 10A NCAC 97 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, Chris Loutit, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None

Environmental Management Commission
Upon the call of the Chair, the report for 15A NCAC 02S 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, Chris Loutit, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None

Board of Barber and Electrolysis Examiners
Upon the call of the Chair, the report for 21 NCAC 06 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, Chris Loutit, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None

Agricultural Finance Authority
Upon the call of the Chair, the report for 24 NCAC 02 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, Chris Loutit, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None

Credit Union Division
04 NCAC 06 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than May 1, 2027, 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, Chris Loutit, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None

Department of Insurance
11 NCAC 10 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than April 1, 2027, 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, Chris Loutit, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None

Department of Environmental Quality
15A NCAC 01A and 01S - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than August 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, Chris Loutit, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None

Board of Architecture and Registered Interior Designers
21 NCAC 02 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than May 1, 2027, 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, Chris Loutit, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None

Board of Massage and Bodywork Therapy
21 NCAC 30 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than April 1, 2027, 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, Chris Loutit, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None

Board of Examiners for Engineers and Surveyors
21 NCAC 56 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than June 1, 2027, 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, Chris Loutit, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None

COMMISSION BUSINESS
The Department of the Secretary of State submitted a request for the Commission to consider the agency's request for an extension of 18 NCAC 07J from June 2025 to July 2025 in the 2024-2027 Periodic Review of Existing Rules schedule. The Commission voted to approve the agency's request by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Chris Loutit, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

At 10:21 a.m., upon a motion by Chair Doran and a second by Commissioner Parker, the Commission voted to call the public meeting of the Rules Review Commission into recess and enter into closed session pursuant to G.S. 143-318.11(a)(1) to consult with council and in order to preserve the attorney client privilege in the matter of CRC v. RRC and CJETS v. RRC by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Chris Loutit, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None

At 10:50 a.m., the Chair announced that the Commission has concluded the closed session and reconvened the open session. Additionally, the Chair announced in the public meeting that the RRC has directed their counsel, John Branch, to file a notice of appeal and a motion to stay in the CRC v. RRC litigation.

The meeting adjourned at 10:52 a.m.

The next regularly scheduled meeting of the Commission is Thursday, March 27, 2025, at 10:00 a.m.

_____
Alexander Burgos, Paralegal

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

February 27, 2025

Rules Review Commission
Meeting
Please **Print** Legibly

Name	Agency
Naa Adu-Antoh	NCDPS
Liddie Shropshire	NCDPS-VCS
Emily Wiley	NCDOT
Jennifer Everett	DEQ
Shanah Black	DHSR
Chan Will	SOS
Megan Lamphere	DHHS/DHSR
Eric Hunt	NCDOJ
Elly Young	NCDOJ
ANN ELMORE	NC SOS
Kyle Heuser	OSFM
JESSICA MAJOR	NC DOJ
Paris Penny	NC DHHS
Anna Haywarth	NCDA
Ryan Mitiguy	HGKG
ANN-CABELL BAUM	FRIENDS OF JOCKEY'S RIDGE
John Brand	Counsel for NCRRC

Rules Review Commission Meeting February 27, 2025

Via WebEx

Name	Agency
Mcghee, Dana	OAH
Tameka Riggsbee	DHHS
Angela Ellis	BON
Quinlan, Katherine L	DEQ
Carrie Ruhlman	WRC
Deborah Greene	DIT
Blum, Catherine	DEQ
Nadine Pfeiffer	
Mazza, Denise H	OSHR
Jessica Montie	DEQ
Marilyn Smalls	ABC
Liddie Shropshire	NCDPS
Higgins, Karen	DEQ
Brian Liebman	OAH
Seavers, Dennis	Barber Board
Liebig, Elizabeth	DEQ
Jim Behmer	salisburync.gov
Tamika Jenkins	DHHS
Sharon Martin	Commerce
Josh Fleming	ipaper.com
Lamont Williams	mayerbrown.com
Ventaloro, Christopher	DEQ
Joseph Lewis	mayerbrown.com
Harvey L. Batton III	mayerbrown.com
Elizabeth Pope	NCSWBOARD
Higgins, Karen	DEQ
Tammy	DHHS
Van Easton	mayerbrown.com
Chandra Graves	NCBON
Benjamin, Alisha	DOI
Loretta Peace-Bunch	OSBM
Jessica Montie	DEQ
Stephanie Klupinski	
Laura Lansford	DOR
Victoria Avramovic	Innovation Council
Marionna C. Poke-Stewart	DHHS
Shalisa Jones	DHHS
admin	Massage and Bodywork
Heather Freeman	DIT
Lewis Lamar	DOJ

Dilcy Burton	DOJ
Virginia Niehaus	DHHS
Tracy Turner	DHHS
Helen Landi	HNTB.com
Meredith Parris	BON
Ventaloro, Julie W	OSBM
Ryan Shy	bv.com
Grace Hearn	wbd-us.com
Kountis, Elizabeth	DEQ
Tony Graham	BON
Everett Leebrick	
Renee Metz	ABC
Denise Baker	DHHS
Wiley, Emily J	DOT
Liz Rasheed	SELCNC

STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVEHEARINGS

February 27, 2025

Caroline Warren, North Carolina Credit Union Commission
Sent via email to: caroline.warren@nccud.nc.gov

Re: Readoption deadline for 04 NCAC 06

Dear Ms. Warren:

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 Rules Review Commission meeting on January 30, 2025.

Pursuant to G.S. 150B-21.3A(d)(2), the rules listed in the attachment shall be readopted by the agency no later than **May 1, 2027**.

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: NECESSARY
PERIODIC RULE REVIEW
October 30, 2024
APO Review: December 31, 2024
Credit Union Division
Total: 65

04 NCAC 06A .0101
04 NCAC 06B .0301
04 NCAC 06B .0302
04 NCAC 06B .0303
04 NCAC 06B .0401
04 NCAC 06B .0402
04 NCAC 06B .0501
04 NCAC 06B .0502
04 NCAC 06B .0503
04 NCAC 06B .0504
04 NCAC 06B .0505
04 NCAC 06B .0506
04 NCAC 06B .0507
04 NCAC 06B .0508
04 NCAC 06B .0509
04 NCAC 06C .0101
04 NCAC 06C .0201
04 NCAC 06C .0202
04 NCAC 06C .0203
04 NCAC 06C .0204
04 NCAC 06C .0205
04 NCAC 06C .0206
04 NCAC 06C .0207
04 NCAC 06C .0208
04 NCAC 06C .0209
04 NCAC 06C .0301
04 NCAC 06C .0302
04 NCAC 06C .0304
04 NCAC 06C .0305
04 NCAC 06C .0306
04 NCAC 06C .0307
04 NCAC 06C .0308
04 NCAC 06C .0309
04 NCAC 06C .0310
04 NCAC 06C .0311
04 NCAC 06C .0312
04 NCAC 06C .0313
04 NCAC 06C .0401
04 NCAC 06C .0402
04 NCAC 06C .0403
04 NCAC 06C .0407
04 NCAC 06C .0408
04 NCAC 06C .0409
04 NCAC 06C .0410
04 NCAC 06C .0501
04 NCAC 06C .0502
04 NCAC 06C .0601
04 NCAC 06C .0603
04 NCAC 06C .0706
04 NCAC 06C .0708
04 NCAC 06C .0801
04 NCAC 06C .0802
04 NCAC 06C .0901
04 NCAC 06C .0902
04 NCAC 06C .1001
04 NCAC 06C .1002
04 NCAC 06C .1201
04 NCAC 06C .1202
04 NCAC 06C .1203
04 NCAC 06C .1204
04 NCAC 06C .1205
04 NCAC 06C .1301
04 NCAC 06C .1302
04 NCAC 06C .1303
04 NCAC 06C .1401

STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVEHEARINGS

February 27, 2025

Alisha Benjamin, NC Department of Insurance
Sent via email to: alisha.benjamin@ncdoi.gov

Re: Readoption deadline for 11 NCAC 10

Dear Ms. Benjamin:

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 Rules Review Commission meeting on January 30, 2025.

Pursuant to G.S. 150B-21.3A(d)(2), the rules listed in the attachment shall be readopted by the agency no later than **April 1, 2027**.

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: NECESSARY
PERIODIC RULE REVIEW
September 25, 2024
APO Review: November 26, 2024
Insurance, Department of
Total: 48

11 NCAC 10 .0104
11 NCAC 10 .0105
11 NCAC 10 .0305
11 NCAC 10 .0306
11 NCAC 10 .0307
11 NCAC 10 .0313
11 NCAC 10 .0602
11 NCAC 10 .0603
11 NCAC 10 .0605
11 NCAC 10 .0701
11 NCAC 10 .0717
11 NCAC 10 .1002
11 NCAC 10 .1003
11 NCAC 10 .1004
11 NCAC 10 .1007
11 NCAC 10 .1101
11 NCAC 10 .1102
11 NCAC 10 .1104
11 NCAC 10 .1105
11 NCAC 10 .1106
11 NCAC 10 .1107
11 NCAC 10 .1108
11 NCAC 10 .1109
11 NCAC 10 .1110
11 NCAC 10 .1111
11 NCAC 10 .1112
11 NCAC 10 .1113
11 NCAC 10 .1114
11 NCAC 10 .1201
11 NCAC 10 .1202
11 NCAC 10 .1204
11 NCAC 10 .1205
11 NCAC 10 .1206
11 NCAC 10 .1207
11 NCAC 10 .1208
11 NCAC 10 .1209
11 NCAC 10 .1301
11 NCAC 10 .1302
11 NCAC 10 .1303
11 NCAC 10 .1401
11 NCAC 10 .1402
11 NCAC 10 .1403
11 NCAC 10 .1601
11 NCAC 10 .1602
11 NCAC 10 .1603
11 NCAC 10 .1604
11 NCAC 10 .1701
11 NCAC 10 .1702

STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

February 27, 2025

Jennifer Everett, Department of Environmental Quality
Sent via email only to: jennifer.everett@deq.nc.gov

Re: Readoption deadline for 15A NCAC 01A and 01S: Department of Environmental Quality

Dear Ms. Everett:

Attached to this letter is a list of rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A. After consultation with your agency, the Rules Review Commission established a readoption date for these rules at the February 27, 2025, Rules Review Commission meeting.

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

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

Sincerely,

/s/ Seth Ascher
Seth Ascher
Commission Counsel

Donald Robert van der Vaart, Director
Chief Administrative Law Judge

John C. Evans
Senior Administrative Law Judge

An Equal Employment Opportunity Employer

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

RRC DETERMINATION: Necessary
PERIODIC RULE REVIEW
September 25, 2024
APO Review: November 26, 2024
Environmental Quality, Department of
Total: 2

15A NCAC 01A .0102
15A NCAC 01S .0101

STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVEHEARINGS

February 27, 2025

Cathe Evans, NC Board of Architecture & Registered Interior Designers
Sent via email to: cathe@ncbarch.org

Re: Readoption deadline for 21 NCAC 02 Arch & RID

Dear Ms. Evans:

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 Rules Review Commission meeting on January 30, 2025.

Pursuant to G.S. 150B-21.3A(d)(2), the rules listed in the attachment shall be readopted by the agency no later than **May 1, 2027**.

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: Necessary
PERIODIC RULE REVIEW
December 19, 2024
APO Review: February 19, 2025
Architecture and Registered Interior Designers, Board of
Total: 48

21 NCAC 02 .0101
21 NCAC 02 .0106
21 NCAC 02 .0107
21 NCAC 02 .0108
21 NCAC 02 .0109
21 NCAC 02 .0201
21 NCAC 02 .0203
21 NCAC 02 .0204
21 NCAC 02 .0205
21 NCAC 02 .0206
21 NCAC 02 .0210
21 NCAC 02 .0213
21 NCAC 02 .0214
21 NCAC 02 .0215
21 NCAC 02 .0217
21 NCAC 02 .0302
21 NCAC 02 .0303
21 NCAC 02 .0306
21 NCAC 02 .0401
21 NCAC 02 .0402
21 NCAC 02 .0403
21 NCAC 02 .0404
21 NCAC 02 .0405
21 NCAC 02 .0406
21 NCAC 02 .0501
21 NCAC 02 .0601
21 NCAC 02 .0603
21 NCAC 02 .0604
21 NCAC 02 .0605
21 NCAC 02 .0606
21 NCAC 02 .0607
21 NCAC 02 .0608
21 NCAC 02 .0609
21 NCAC 02 .0610
21 NCAC 02 .0701
21 NCAC 02 .0702
21 NCAC 02 .0703
21 NCAC 02 .0704
21 NCAC 02 .0705
21 NCAC 02 .0901
21 NCAC 02 .0903
21 NCAC 02 .0904
21 NCAC 02 .0905
21 NCAC 02 .0906
21 NCAC 02 .0907
21 NCAC 02 .0908
21 NCAC 02 .0909
21 NCAC 02 .0910

STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVEHEARINGS

February 27, 2025

Charles Wilkins, NC Board of Massage & Body Therapy
Sent via email to: cwilkins@bws-law.com

Re: Readoption deadline for 21 NCAC 30

Dear Mr. Wilkins:

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 Rules Review Commission meeting on January 30, 2025.

Pursuant to G.S. 150B-21.3A(d)(2), the rules listed in the attachment shall be readopted by the agency no later than **April 1, 2027**.

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
September 25, 2024
APO Review: November 26, 2024
Board of Massage and Bodywork Therapy
Total: 92

21 NCAC 30 .0101
21 NCAC 30 .0102
21 NCAC 30 .0201
21 NCAC 30 .0202
21 NCAC 30 .0203
21 NCAC 30 .0204
21 NCAC 30 .0205
21 NCAC 30 .0206
21 NCAC 30 .0301
21 NCAC 30 .0302
21 NCAC 30 .0303
21 NCAC 30 .0306
21 NCAC 30 .0401
21 NCAC 30 .0402
21 NCAC 30 .0403
21 NCAC 30 .0404
21 NCAC 30 .0405
21 NCAC 30 .0501
21 NCAC 30 .0502
21 NCAC 30 .0503
21 NCAC 30 .0504
21 NCAC 30 .0505
21 NCAC 30 .0506
21 NCAC 30 .0507
21 NCAC 30 .0508
21 NCAC 30 .0509
21 NCAC 30 .0510
21 NCAC 30 .0511
21 NCAC 30 .0512
21 NCAC 30 .0513
21 NCAC 30 .0514
21 NCAC 30 .0515
21 NCAC 30 .0516
21 NCAC 30 .0601
21 NCAC 30 .0602
21 NCAC 30 .0603
21 NCAC 30 .0604
21 NCAC 30 .0607
21 NCAC 30 .0608
21 NCAC 30 .0609
21 NCAC 30 .0610
21 NCAC 30 .0611
21 NCAC 30 .0612
21 NCAC 30 .0613
21 NCAC 30 .0614
21 NCAC 30 .0615
21 NCAC 30 .0616
21 NCAC 30 .0617
21 NCAC 30 .0618
21 NCAC 30 .0619
21 NCAC 30 .0620
21 NCAC 30 .0621
21 NCAC 30 .0622
21 NCAC 30 .0623
21 NCAC 30 .0624
21 NCAC 30 .0625
21 NCAC 30 .0626
21 NCAC 30 .0627
21 NCAC 30 .0628
21 NCAC 30 .0629
21 NCAC 30 .0630
21 NCAC 30 .0631
21 NCAC 30 .0632
21 NCAC 30 .0633
21 NCAC 30 .0634
21 NCAC 30 .0635
21 NCAC 30 .0636
21 NCAC 30 .0701
21 NCAC 30 .0702
21 NCAC 30 .0703
21 NCAC 30 .0704
21 NCAC 30 .0801
21 NCAC 30 .0802
21 NCAC 30 .0803
21 NCAC 30 .0901
21 NCAC 30 .0902
21 NCAC 30 .0903
21 NCAC 30 .0904
21 NCAC 30 .0905
21 NCAC 30 .1001
21 NCAC 30 .1002
21 NCAC 30 .1003
21 NCAC 30 .1004
21 NCAC 30 .1006
21 NCAC 30 .1007
21 NCAC 30 .1008
21 NCAC 30 .1009
21 NCAC 30 .1010
21 NCAC 30 .1011
21 NCAC 30 .1012
21 NCAC 30 .1013
21 NCAC 30 .1014

STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVEHEARINGS

February 27, 2025

Wes Tripp, NC Board of Examiners for Engineers & Surveyors
Sent via email to: wtripp@ncbels.org

Re: Readoption deadline for 21 NCAC 56

Dear Mr. Tripp:

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 Rules Review Commission meeting on January 30, 2025.

Pursuant to G.S. 150B-21.3A(d)(2), the rules listed in the attachment shall be readopted by the agency no later than **June 1, 2027**.

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: Necessary
PERIODIC RULE REVIEW
October 30, 2024
APO Review: December 31, 2024
Engineers and Surveyors, Board of Examiners for
Total: 62

21 NCAC 56 .0101
21 NCAC 56 .0103
21 NCAC 56 .0104
21 NCAC 56 .0303
21 NCAC 56 .0304
21 NCAC 56 .0401
21 NCAC 56 .0402
21 NCAC 56 .0501
21 NCAC 56 .0502
21 NCAC 56 .0503
21 NCAC 56 .0505
21 NCAC 56 .0506
21 NCAC 56 .0601
21 NCAC 56 .0602
21 NCAC 56 .0603
21 NCAC 56 .0606
21 NCAC 56 .0607
21 NCAC 56 .0608
21 NCAC 56 .0701
21 NCAC 56 .0702
21 NCAC 56 .0802
21 NCAC 56 .0804
21 NCAC 56 .0901
21 NCAC 56 .0902
21 NCAC 56 .1101
21 NCAC 56 .1102
21 NCAC 56 .1103
21 NCAC 56 .1105
21 NCAC 56 .1106
21 NCAC 56 .1201
21 NCAC 56 .1203
21 NCAC 56 .1205
21 NCAC 56 .1301
21 NCAC 56 .1302
21 NCAC 56 .1401
21 NCAC 56 .1402
21 NCAC 56 .1403
21 NCAC 56 .1409
21 NCAC 56 .1411
21 NCAC 56 .1413
21 NCAC 56 .1501
21 NCAC 56 .1601
21 NCAC 56 .1602
21 NCAC 56 .1603
21 NCAC 56 .1604
21 NCAC 56 .1605
21 NCAC 56 .1606
21 NCAC 56 .1607
21 NCAC 56 .1608
21 NCAC 56 .1701
21 NCAC 56 .1702
21 NCAC 56 .1703
21 NCAC 56 .1704
21 NCAC 56 .1705
21 NCAC 56 .1706
21 NCAC 56 .1707
21 NCAC 56 .1708
21 NCAC 56 .1709
21 NCAC 56 .1710
21 NCAC 56 .1711
21 NCAC 56 .1712
21 NCAC 56 .1713

LIST OF APPROVED PERMANENT RULES
February 27, 2025 Meeting

INNOVATION COUNCIL

Definitions	04 NCAC	25	.0101
Nonprofit Partners	04 NCAC	25	.0102
Nonprofit Partners Application Denial	04 NCAC	25	.0103
Expression of Interest to Participate	04 NCAC	25	.0104
Regulatory Sandbox Applications	04 NCAC	25	.0105
Sandbox Application Review	04 NCAC	25	.0106
Sandbox Operations	04 NCAC	25	.0107
Sandbox Participant Request for Extension	04 NCAC	25	.0108
Disciplinary Guidelines	04 NCAC	25	.0109
Early Termination Notice and Close Out Plan Report	04 NCAC	25	.0110
Conclusion of Sandbox Period and Business Operations	04 NCAC	25	.0111

MEDICAL CARE COMMISSION

Capacity	10A NCAC	13F	.0206
Application of Physical Plant Requirements	10A NCAC	13F	.0301
Design and Construction	10A NCAC	13F	.0302
Plans and Specifications	10A NCAC	13F	.0304
Physical Environment	10A NCAC	13F	.0305
Housekeeping and Furnishings	10A NCAC	13F	.0306
Fire Alarm System	10A NCAC	13F	.0307
Fire Safety and Emergency Preparedness Plan	10A NCAC	13F	.0309
Electrical Outlets	10A NCAC	13F	.0310
Other Requirements	10A NCAC	13F	.0311
Resident Assessment	10A NCAC	13F	.0801
Resident Care Plan	10A NCAC	13F	.0802
Special Care Unit Physical Environment Requirements	10A NCAC	13F	.1304
Use of Physical Restraints and Alternatives	10A NCAC	13F	.1501
Capacity	10A NCAC	13G	.0206
Application of Physical Plant Requirements	10A NCAC	13G	.0301
Design and Construction	10A NCAC	13G	.0302
Living Room	10A NCAC	13G	.0305
Dining Room or Dining Area	10A NCAC	13G	.0306
Kitchen	10A NCAC	13G	.0307
Bedrooms	10A NCAC	13G	.0308
Bathroom	10A NCAC	13G	.0309
Outside Entrance and Exits	10A NCAC	13G	.0312
Laundry Room	10A NCAC	13G	.0313
Housekeeping and Furnishings	10A NCAC	13G	.0315
Fire Safety and Emergency Preparedness Plan	10A NCAC	13G	.0316
Building Service Equipment	10A NCAC	13G	.0317
Outside Premises	10A NCAC	13G	.0318
Resident Assessment	10A NCAC	13G	.0801
Resident Care Plan	10A NCAC	13G	.0802

CRIME VICTIMS COMPENSATION COMMISSION			
Processing and Payment of Claims	14B NCAC	09	.0302
ENVIRONMENTAL MANAGEMENT COMMISSION			
Yadkin-Pee Dee River Basin	15A NCAC	02B	.0309
PM2.5 Particulate Matter	15A NCAC	02D	.0410
EDUCATION, STATE BOARD OF			
Denying a License Application or Suspension or Revocation...	16 NCAC	06C	.0372
Reporting Requirements for Suspected Child Abuse by a Loc...	16 NCAC	06C	.0373
Investigation Requirements to Determine Reasonable Cause ...	16 NCAC	06C	.0374
Voluntary Surrender of an Educator License	16 NCAC	06C	.0375
Reinstatement or Issuance of a Suspended, Revoked, or Den...	16 NCAC	06C	.0376
Definitions	16 NCAC	06C	.0601
Standards of Professional Conduct	16 NCAC	06C	.0602
Investigation of Alleged Misconduct by a Licensed Profess...	16 NCAC	06C	.0603
Denying or Sanctioning a License	16 NCAC	06C	.0604
Disciplinary Sanctions	16 NCAC	06C	.0605
Voluntary Surrender of a License	16 NCAC	06C	.0606
Reinstatement of or Reconsideration for a License	16 NCAC	06C	.0607
Reporting Requirements for PSU Administrators	16 NCAC	06C	.0608
Definitions	16 NCAC	06E	.0201
Administration of Interscholastic Athletes	16 NCAC	06E	.0204
Student Health and Safety	16 NCAC	06E	.0205
Athletic Trainers	16 NCAC	06E	.0206
Student Participation Rules	16 NCAC	06E	.0207
Amateur Rules	16 NCAC	06E	.0208
Penalty Rules	16 NCAC	06E	.0209
Limitations on Recruiting and Undue Influence	16 NCAC	06E	.0210
Name, Image, and Likeness	16 NCAC	06E	.0211
Appeals	16 NCAC	06E	.0215
NURSING, BOARD OF			
Eligibility and Application for Licensure by Examination	21 NCAC	36	.0211
Licensure by Endorsement	21 NCAC	36	.0218

LIST OF APPROVED TEMPORARY RULES
February 27, 2025 Meeting

FIRE MARSHAL, OFFICE OF THE			
Federal Emergency Management Agency-owned Transportable ..	11 NCAC	05A	.1001
WILDLIFE RESOURCES COMMISSION			
Catawba, Iredell, Lincoln, and Mecklenburg Counties	15A NCAC	10F	.0307