

NORTH CAROLINA REGISTER

VOLUME 39 • ISSUE 21 • Pages 1385 – 1459

May 1, 2025

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

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

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NORTH CAROLINA REGISTER
Publication Schedule for January 2025 – December 2025

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

*Dates not approved by RRC

EXPLANATION OF THE PUBLICATION SCHEDULE

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

GENERAL

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

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

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

FILING DEADLINES

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

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

NOTICE OF TEXT

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

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

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



State of North Carolina

JOSH STEIN
GOVERNOR

March 25, 2025

EXECUTIVE ORDER NO. 11

DIRECTING NORTH CAROLINA'S PROGRESS ON WORKFORCE DEVELOPMENT

WHEREAS, the State of North Carolina recognizes that workforce development is essential to fuel the state's continued economic growth, ensure employers have the local talent necessary to meet their needs, and expand pathways to careers that support thriving families and communities across our state; and

WHEREAS, workforce development is a continuum, requiring collaboration among and across our public school systems, higher education institutions, local workforce development boards, and employer partners, among others; and

WHEREAS, the state must offer opportunities across the lifespan of an individual, including a high school student exploring career options in their local community, an incumbent worker seeking additional training to advance to the next level, and a veteran transitioning from military service into a new pathway; and

WHEREAS workforce development efforts must reflect and be responsive to both immediate and emerging needs of North Carolina employers; and

WHEREAS, the state depends on a skilled workforce to provide safe, effective, and efficient government programs and services to all North Carolinians; and

WHEREAS, the Governor understands that a ready and trained workforce is essential to his goal of being the best state in the nation for business and providing economic opportunity for all North Carolinians; and

WHEREAS, the Governor has committed that no state will outwork North Carolina on the state's efforts to meet its workforce goals; and

WHEREAS, reflecting these efforts and goals, North Carolina's workforce is strong, ready, and able to meet challenges, but the need for continued and strategic development remains; and

WHEREAS, collective and collaborative efforts across the workforce development continuum are required to maximize and grow efforts to make North Carolina a leader in workforce development, advancing our economy, supporting our employers, and most importantly, providing for our employees, their families, and their communities; and

WHEREAS, pursuant to Article III of the North Carolina Constitution and N.C. Gen. Stat. §§ 143A-4 and 143B-4, the Governor is the chief executive officer of the state and is responsible for formulating and administering the policies of the executive branch of state government; and

WHEREAS, pursuant to N.C. Gen. Stat. § 147-12, the Governor has the authority and the duty to supervise the official conduct of all executive and ministerial officers.

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

Section 1. The Governor's Council on Workforce and Apprenticeships.

A. Establishment.

The Governor's Council on Workforce and Apprenticeships ("Council") is hereby established as an advisory council within the NCWorks Commission.

B. Membership.

The Council shall be comprised of members representing the breadth of workforce development partners across the state, including existing members of the NCWorks Commission and additional partners. The Council shall include representatives from the following:

- a. North Carolina Department of Commerce
- b. North Carolina Office of State Human Resources
- c. North Carolina Department of Health and Human Services
- d. North Carolina Department of Administration
- e. North Carolina Department of Adult Correction
- f. North Carolina Department of Military and Veterans Affairs
- g. NCWorks Commission
- h. North Carolina Department of Public Instruction
- i. North Carolina Community College System
- j. UNC System
- k. North Carolina Independent Colleges and Universities
- l. North Carolina General Assembly
- m. myFutureNC
- n. At least four local leaders across North Carolina, including leadership from a school district, a community college, a workforce development board, and organized labor
- o. At least three employers across North Carolina, including a representative from the ApprenticeshipNC Advisory Council

In addition to the employer members, the Council may confer with other employers across the state, as appropriate.

Council members shall serve a term of one (1) year and may be reappointed to successive terms. Council members serve at the pleasure of the Governor. The Governor shall select one or more members to serve as chair or co-chairs of the Council.

C. Duties.

The Council shall have the following responsibilities:

- a. Recommend strategic, quantifiable goals that will most meaningfully and holistically grow and prepare North Carolina's workforce development efforts over the next four years. The Council may amplify existing goals and create new goals. For each goal, the Council shall identify responsible Council members. Recommended goals should address, among other topics, the following:
 1. Credential and degree attainment.
 2. Labor market alignment.
 3. Pre- and registered apprenticeships.
 4. Sector-based strategies in emerging areas.
 5. State government employment.
 6. Work-based learning opportunities.
- b. Identify specific strategies to attain each goal. The Council may amplify existing strategies and identify new strategies. For each strategy, the Council shall identify responsible Council members. In identifying the strategies, the Council will specifically consider, but not be limited to, the following:

1. Opportunities to maximize existing efforts.
2. Areas requiring collaboration across the Council membership and other workforce partners.
3. Enhanced industry engagement.

In identifying strategies, the Council shall consider opportunities to support people in rural communities, formerly incarcerated people, people with disabilities, and veterans and their families.

- c. Advance the identified goals and strategies assigned to each Council member.
- d. Provide the following reports to the Governor:
 1. By June 15, 2025, a report highlighting the goals and current status of each goal.
 2. By December 15, 2025, a report highlighting the goals, current status of each goal, and the corresponding strategies to attain each goal.
 3. As requested by the Governor, but at least by December 15, 2026, a report highlighting progress toward achieving each goal, implementation of the corresponding strategies, and action needed to more effectively meet goals.

Such reports shall be presented to the North Carolina Education Cabinet, the NCWorks Commission, and the North Carolina General Assembly.

- e. Evaluate emerging workforce development opportunities to determine the most compelling options and, where directed by the Governor, to act in concert to efficiently take action.

The Council shall provide advice and guidance on any other matter related to workforce development the Governor refers to the Council.

The Council's goals and strategies shall be integrated into the ongoing work of the NCWorks Commission. This shall include annual reports to the Governor by December 15 on the progress toward achieving each goal, implementation of the corresponding strategies, and action needed to more effectively meet goals.

D. Meetings.

The Council shall meet as a body of the whole at least once a quarter through December 2026 and at other times at the call of the Chair, Co-chairs, or the Governor. The Council may conduct meetings using electronic conferencing or other electronic means. The Council's meetings shall be governed by the North Carolina Open Meetings Act, N.C. Gen. Stat. § 143-318.9, *et seq.*

Consistent with the bylaws of the NCWorks Commission, a simple majority of the Council members shall constitute a quorum for the purpose of transacting the business of the Council.

E. Administration.

The North Carolina Department of Commerce ("Commerce") shall serve as staff for the Council, with support provided by the North Carolina Business Committee for Education.

Members shall serve without compensation but may receive necessary travel and subsistence expenses in accordance with state law and policies and regulations of the Office of State Budget and Management.

Section 2. Focus on Apprenticeships.

The NCWorks Commission shall develop an additional performance accountability factor regarding apprenticeship to be included in the next required Workforce Innovation and Accountability Act (WIOA) State plan as permitted by Section 116(b)(2)(B) of WIOA and reflect such, including additional details such as definitions and enforcement provisions as needed, in a Commission Policy Statement. The goal of such performance factor should be that 6% of Title I Youth and Adult funds be spent on pre-apprenticeships or apprenticeships starting in Program Year 2025. The Division of

Workforce Solutions within Commerce will provide technical assistance to support the implementation of this policy by local workforce development boards.

Section 3. Innovation in State Employment.

The Office of State Human Resources (“OSHR”) shall continue efforts, as directed by Executive Order No. 278, which was issued by Governor Cooper, to make as many state job classifications as possible eligible for qualification by work experience as a substitute for degrees. Where educational degrees are required by occupational licensing boards, OSHR is encouraged to contact occupational licensing boards to determine whether those educational requirements are necessary, or whether experience can substitute for those requirements.

In addition, OSHR shall provide, in coordination with other state agencies, programs to recruit displaced workers, including without limitation, workers impacted by Hurricane Helene and federal workers who may be interested in employment opportunities with the state.

Further, OSHR shall, as part of its program to attract and retain public employees, expand state training and development programs for public managers and state employees, and make state employee training and certification programs available generally to the people of the state without cost.

In addition, each Cabinet agency shall explore opportunities to provide apprenticeship or other work-based learning opportunities within its agency and shall provide, as requested, a listing of such opportunities to OSHR.

Section 4. Savings Clause.

If any provision of this Executive Order or its application to any person or circumstances is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Section 5. No Private Right of Action.

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

Section 6. Effect and Duration.

This Executive Order is effective immediately. Section 1 shall remain in effect until December 31, 2026, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded. The remainder of the Executive Order shall remain in effect unless repealed, replaced, or rescinded by another applicable Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 25th day of March in the year of our Lord two thousand and twenty-five.

Josh Stein
Governor

ATTEST:

Elaine F. Marshall
Secretary of State





State of North Carolina

JOSH STEIN
GOVERNOR

March 26, 2025

EXECUTIVE ORDER NO. 12

DECLARATION OF A STATE OF EMERGENCY

WHEREAS, since March 19, 2025, there have been multiple active wildfires in the Black Cove Fire Complex in Polk County, which have now spread to Henderson County; and

WHEREAS, an active wildfire has started in Swain County; and

WHEREAS, the Table Rock Fire Complex wildfire in Greenville and Pickens Counties, South Carolina is threatening to spread into Transylvania County, North Carolina; and

WHEREAS, the North Carolina Drought Management Advisory Council in its March 18, 2025, assessment observed abnormally dry conditions across central and northwestern Mountains, and moderate drought conditions in the southwestern and northwestern Mountains; and

WHEREAS, due to the hazardous wildfire conditions throughout the State, on March 21, 2025, the North Carolina Forest Service issued a statewide open burning ban and canceled all burning permits; and

WHEREAS, many local governments have issued local burning bans or local state of emergencies; and

WHEREAS, on March 24, 2025, the Federal Emergency Management Agency approved North Carolina's request for a Fire Management Assistance Grant designated as FEMA-5574-FM-NC; and

WHEREAS, the wildfires, combined with abnormally dry conditions and moderate drought conditions, could have a significant impact on public health, public safety, and public and private property in the State of North Carolina; and

WHEREAS, the current and anticipated impacts from the multiple wildfires, combined with the moderate drought conditions, constitute a state of emergency as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(20); and

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

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

WHEREAS, N.C. Gen. Stat. § 166A-19.1(4) provides that it is the responsibility of the 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, N.C. Gen. Stat. § 166A-19.10(3) authorizes the Governor to delegate any gubernatorial authority vested in him under the Emergency Management Act, and to provide for the subdelegation of that authority.

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

Section 1.

I hereby declare that a state of emergency, as defined in N.C. Gen. Stat. § 166A-19.3(6), exists in the counties and tribal lands listed below, due to the current and anticipated impacts from multiple wildfires combined with the moderate drought conditions and abnormally dry conditions that have increased the risk of hazardous wildfires.

For purposes of this Executive Order, the emergency area is the following counties in the State of North Carolina: Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Cabarrus, Caldwell, Catawba, Cherokee, Clay, Cleveland, Gaston, Graham, Haywood, Henderson, Iredell, Jackson, Lincoln, Macon, Madison, McDowell, Mecklenburg, Mitchell, Polk, Rowan, Rutherford, Stanly, Swain, Transylvania, Union, Watauga, Wilkes, Yancey, as well as the tribal lands in the State of North Carolina held by the Eastern Band of Cherokee Indians (“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”).

Section 3.

I delegate to the Secretary of the North Carolina Department of Public Safety (“DPS”), or his designee, all power and authority granted to and required of me by Article 1A of Chapter 166A of the North Carolina General Statutes for the purpose of implementing the Plan and deploying 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.

Section 4.

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

Section 5.

I further direct the Secretary, or his designee, to seek assistance from any and all 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 6.

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 7.

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 8.

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

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 26th day of March 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: Klippenstein Trailers, LLC

Applicant's Address: 17177 US Hwy 82 W
Petty, TX 75470

Application Date: April 3, 2025

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

Alwin Klippenstein, Owner

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: Chubbs Steel Sales Inc

Applicant's Address: 1900 W Hively Ave, Elkhart IN 46517

Application Date: 02/28/2025

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

Roy Lee Griffin - owner

Kyle Lawrence Griffin - VP

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 14B – DEPARTMENT OF PUBLIC SAFETY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Private Protective Services Board intends to adopt the rules cited as 14B NCAC 16 .0116, .0117, and amend the rules cited as 14B NCAC 16 .0103, .0105, and .0501-.0503.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.ncdps.gov/about-dps/boards-commissions/private-protective-services-board>

Proposed Effective Date: September 1, 2025

Public Hearing:

Date: May 20, 2025

Time: 2:00 p.m.

Location: 3101 Industrial Drive, Suite 104, Raleigh, NC 27609

Reason for Proposed Action: 14B NCAC 16 .0103, the definitional section of this Chapter, is being amended to gender neutralize the chair position, specify the amount of experience required, and remove definitions for a deleted rule and for a non-existent guard category. 14B NCAC 16 .0105 is amended and new .0116 is adopted, to require a licensee's license number to be included in any advertisement.

It was recently discovered that the Board did not adopt a rule setting forth its procedure for requesting a declaratory ruling when the requirement in G.S 150B-4(a) was enacted. It is now doing so.

The rules for licensure as a polygraph examiner, 14B NCAC 16 .0501, .0502 and .0503, are being amended to bring them up to current standards.

Comments may be submitted to: Paul Sherwin, 3101 Industrial Drive, Suite 104, Raleigh, NC 27609; phone (919) 788-5320; fax (919) 715-0370; email paul.sherwin@ncdps.gov

Comment period ends: June 30, 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 (\geq \$1,000,000)
- Approved by OSBM
- No fiscal note required

CHAPTER 16 - PRIVATE PROTECTIVE SERVICES BOARD

SECTION .0100 - ORGANIZATION AND GENERAL PROVISIONS

14B NCAC 16 .0103 DEFINITIONS

In addition to the definitions set forth in G.S. 74C, the following definitions shall apply throughout this Subchapter:

- (1) "Advertising medium" means any form of written, printed, broadcast or computer-based advertising, or other promotional materials, except a telephone directory listing for which no additional advertising charge is made.
- (1)(2) "Agency Head" means the ~~Chairman~~ Chair of the Board.
- (2)(3) "Applicant" means any person, firm, or corporation applying to the Board for a license, trainee permit, registration, or firearms trainer certificate.
- (3)(4) "Armed Security Guard" means an individual employed, full time or part time, by a contract security company or a proprietary security organization:
 - (a) who at any time wears, carries, or possesses a firearm in the performance of his or her duties; and
 - (b) whose principal duty is that of:
 - (i) an armed security guard, officer, patrol, or watchman;
 - (ii) an armed armored car service guard; or
 - (iii) an armed courier service guard.
- (4)(5) "Board" means the Private Protective Services Board established by G.S. 74C.

- ~~(5)~~(6) "Branch Manager or Operator" means the individual endowed with the responsibility and liability for a branch office.
- ~~(6)~~(7) "Branch Office" means a separate but dependent part of a central organization engaged in the business of providing private protective services established for the purpose of extending the activities of the central organization. The establishment of a telephone number or mailing address in the company name constitutes prima facie evidence of a branch office. If an out-of-state person, firm, association, or corporation opens an office in North Carolina, the North Carolina office shall be deemed the principal place of business and shall have a resident licensed qualifying agent.
- ~~(7)~~(8) "~~Chairman~~" "Chair" means the ~~Chairman~~ Chair of the Private Protective Services Board.
- ~~(8)~~(9) "Contract Security Company" means any person, firm, association, or corporation engaging in a private protective services business as defined in G.S. 74C-3 that provides the services on a contractual basis for a fee or other valuable consideration to any other person, firm, association, or corporation.
- ~~(9)~~(10) "Direct Supervision" means personal, face-to-face contact and direction of the trainee's activities on a frequent and reasonable basis based upon the trainee's level of experience.
- ~~(10)~~(11) "Investigative Capacity" means any law enforcement agency position for which the majority of the duties include conducting investigations and interviews, completing reports, and testifying in courts, administrative hearings, or military tribunals.
- ~~(11)~~(12) "Law Enforcement Officer" means a sworn peace officer who has the power of arrest, and who is an employee of the United States, any state, or any political subdivision of a state.
- ~~(12)~~(13) "Licensee" means any person licensed to perform private protective services in North Carolina in accordance with G.S. 74C.
- ~~(13)~~(14) "Proprietary Security Organization" means any person, firm, association, corporation, or department that employs watchmen, security guards or "officers," patrol personnel, or couriers in connection with the business affairs of the employer.
- ~~(14)~~(15) "Qualifying Agent" means the individual licensee who is responsible for the private protective services business. If the licensee maintains an office in North Carolina, the Qualifying Agent must be a resident of North Carolina.
- ~~(15)~~(16) "Registered agent" means the individual resident of North Carolina designated by the business entity in lieu of the Qualifying Agent as allowed by G.S. 74C-8(c)(1) who may be,

but is not required to be, the registered agent required by G.S. 55D-30.

- (16) "~~Restored~~" means ~~that an individual is no longer in need of psychiatric care as determined by a physician.~~
- (17) "~~Temporary unarmed security guard~~" means ~~an individual who is hired for a period of 30 days or less within a calendar year and who is designated by his or her employer as a temporary security guard at the start of employment.~~

Authority G.S. 74C-3; 74C-5; 74C-8.

14B NCAC 16 .0105 PROHIBITED ACTS

(a) In addition to the prohibited acts set forth elsewhere in these Rules and in Chapter 74C of the General Statutes, any licensee, trainee, registrant, or firearms trainer who does any of the following may have his or her license, trainee permit, registration, or firearms trainer certificate revoked or suspended:

- (1) Displays or causes or allows to be displayed, or has in his or her possession any cancelled, revoked, suspended, fictitious, or fraudulently altered license, trainee permit, registration identification card, or firearms trainer certificate, or any document simulating, purporting to be, or purporting to have been issued as a license, trainee permit, registration identification card, or firearms trainer certificate;
- (2) Lends his or her license, trainee permit, registration identification card, or firearms trainer certificate to any person or allows the use thereof by another;
- (3) Displays or represents any license, trainee permit, registration identification card, or firearms trainer certificate not issued to him or her as being his or her license, trainee permit, registration identification card, or firearms trainer certificate; or
- (4) Includes in any advertisement a statement that implies official state authorized certification or approval other than this statement: "Licensed by the Private Protective Services Board of the State of North Carolina." ~~Licensees must include their license number.~~ Carolina" and license number required by 14B NCAC 16 .0116.

(b) In addition to the prohibited acts set forth elsewhere in these Rules and in Chapter 74C of the General Statutes, it shall be grounds for application denial or license registration suspension or revocation for an applicant, licensee, trainee, registrant, or trainer to make any false statement or give any false information to a third party in connection with any criminal history record check provided to the Board.

Authority G.S. 74C-5; 74C-8.1; 74C-12; 74C-16.

14B NCAC 16 .0116 ADVERTISING

Any advertisement of private protective services in any advertising media as defined in these Rules shall include the licensee's name and license number, whether or not a trade name is used.

Authority G.S. 74C-5.

14B NCAC 16 .0117 DECLARATORY RULING PROCEDURES

(a) All requests for declaratory rulings shall be in writing and mailed to the Board at the Board's address.

(b) Each request for a declaratory ruling must include the following information:

- (1) the name and address of person requesting the ruling;
- (2) the statute or rule to which the request relates;
- (3) a concise statement of the manner in which the requesting person is aggrieved by the rule or statute or its potential application to him or her;
- (4) names and addresses of additional third persons known to the person aggrieved who may possibly be affected by the requested ruling;
- (5) a statement of all material facts;
- (6) a statement whether or not the person aggrieved is aware of any pending Board action or court action that may bear on the applicability of the statute or rule to the person's particular situation; and
- (7) a statement of the arguments and legal authority supporting the person's position on the applicability of this statute or rule; and

The petitioner shall sign and verify the request before an officer qualified to administer oaths that the information supplied in the request is true and accurate.

(c) Upon receipt of a request for a declaratory ruling, the Board shall determine whether a ruling is appropriate under the facts stated.

(d) The Board shall proceed to issue a declaratory ruling when the person requesting the rule shows that, with regard to the facts presented:

- (1) the rule or statute in question is unclear on its face;
- (2) circumstances are so changed since the adoption of a rule that a declaratory ruling is warranted;
- (3) the factors specified in the request were not given appropriate consideration by the Board at the time the rule was adopted;
- (4) the rule or statute is unclear in its application to the requesting person's facts; or
- (5) a fair question exists regarding the validity of the rule because of an absence of authority for the Board's adoption of the rule or other irregularities in the Board's rule-making proceedings.

(e) The Board shall not issue a declaratory ruling when the petitioner's request is the subject of, or materially related to, an

investigation or audit by the Board or contested case before the Board.

(f) When the Board determines for good cause that the issuance of a declaratory ruling is unnecessary, the Board shall notify, in writing, the person requesting the ruling, stating the reasons for the denial of the request. The Board will ordinarily decline to issue a declaratory ruling when:

- (1) there has been a similar controlling factual determination made by the Board;
- (2) the rule-making record shows that the factual issues raised by the request were specifically considered prior to adoption of the rule;
- (3) the subject matter of the request is involved in pending litigation in any state or federal court in North Carolina;
- (4) the request does not comply with the procedural guidelines within Paragraphs (a) and (b) of this Rule;
- (5) the Board has previously issued a declaratory ruling on substantially similar facts;
- (6) the Board has previously issued a final agency decision in a contested case on substantially similar facts;
- (7) the facts underlying the request for a declaratory ruling were considered at the time of the adoption of the rule in question;
- (8) the subject matter is one concerning which the Board is without authority to make a decision binding the Board or the petitioner;
- (9) the petitioner is not aggrieved by the rule or statute in question or otherwise has no interest in the subject matter of the request;
- (10) there is reason to believe that the petitioner or some other person or entity materially connected to the subject matter of the request is acting in violation of the G.S. Chapter 74C or the rules adopted by the Board; or
- (11) the subject matter of the request is involved in pending litigation, legislation, or rulemaking.

(g) Prior to issuing a declaratory ruling, the Board may give notice of the declaratory proceedings to any persons it deems appropriate and may direct that fact-finding proceedings appropriate to the circumstances of the particular request be conducted by the Board. The proceedings may consist of written submissions, an oral hearing, or other appropriate procedures.

(h) If the Board finds evidence that the factors listed in Subparagraphs (d)(1), (2), or (3) of this Rule exist or potentially exist beyond the specific facts presented in a particular petition for declaratory ruling, the Board shall consider rule-making proceedings on the rule.

(i) A record of each declaratory ruling and the procedures conducted therefor will be maintained by the Board. The record will contain:

- (1) the request for a declaratory ruling;
- (2) all written submissions filed in the request, whether filed by the person requesting the ruling or by any other person;
- (3) a record or summary of oral presentations, if any; and

- (4) a copy of the declaratory ruling.

Authority G.S. 150B-4.

SECTION .0500 - POLYGRAPH

14B NCAC 16 .0501 EXPERIENCE REQUIREMENTS FOR A POLYGRAPH LICENSE

(a) In addition to the requirements of Section .0200 of this Chapter, applicants for a polygraph license shall:

- ~~(1)~~ pass an examination and a performance test administered by a panel of polygraph examiners appointed by an entity designated by the Board;
- ~~(2)~~(1) successfully complete a course of instruction at any polygraph school ~~approved~~ accredited by the American Polygraph Association, the American Association of Police Polygraphists, or the Board; and Association or approved by the Board using standards established by the American Polygraph Association; and
- ~~(3)~~(2) have either: have a minimum of
 - ~~(A)~~ one year of verifiable polygraph experience; or experience with verification or certification of having conducted no less than 25 polygraph examinations; and
 - ~~(B)~~ complete at least six months of training as a holder of a polygraph trainee permit, and have administered no fewer than 50 polygraph examinations; or
- (3) pass a 100 question written examination, provide three sets of polygraph charts from polygraph examinations conducted by the applicant, successfully complete a performance test of independent, blind chart scoring, and successfully complete an oral examination conducted by a panel of polygraph examiners appointed by the Board; or
- (4) have a military occupational specialty and two years of verifiable experience within the past five years in the U.S. Armed Forces performing polygraph examinations.

(b) In addition to the requirements of Section .0200 of this Chapter, an applicant for a polygraph license who is the spouse of an active duty member of the U.S. Armed Forces shall establish:

- (1) the spouse holds a current license, certification, or registration from another jurisdiction and the other jurisdiction's requirements are substantially equivalent to or exceed the Board's requirements; and
- (2) the spouse has two years of verifiable experience within the past five years performing polygraph examinations.

(c) Applicants for a polygraph license may ~~take the examination required~~ attempt to complete the requirements in Subparagraph (a)(1) of this Rule no more than twice within a 12 month period. All portions of the ~~examination~~ licensing process must be completed within that 12 month period. ~~Any applicant who fails~~

~~the polygraph examination four times shall retake the polygraph course of instruction required in Subparagraph (a)(2) of this Rule before taking the polygraph examination again.~~

~~(d) Polygraph operators who are duly licensed in another state may perform up to three examinations in this State without being licensed, provided that those examinations are for the purpose of an evaluation of that examiner and the Director has given authorization for this evaluation in advance.~~

Authority G.S. 74C-5; 93B-15.1.

14B NCAC 16 .0502 POLYGRAPH TRAINEE PERMIT REQUIREMENTS

In addition to the requirements of Section .0200 of this Chapter, the following requirements shall apply to polygraph trainees:

- ~~(1)~~ The applicant shall successfully ~~complete a formal course of instruction at any polygraph school approved by the American Polygraph Association, the American Association of Police Polygraphists, or the Board. Association or approved by the Board using standards established by the American Polygraph Association.~~ Successfully ~~A list of approved schools can be found at: <https://www.ncdps.gov/list-polygraph-schools>; and~~
- ~~(2)~~ The applicant shall be ~~Be~~ directly supervised by a North Carolina licensed polygraph examiner approved by the Board and that examiner shall supervise no more than three trainees at any given time; examiner;
- ~~(3)~~ An individual currently enrolled in a polygraph school may conduct examinations as a part of the course curriculum provided the examinations are on school premises, under the direct one on one supervision of a polygraph licensee, and the school provides written notice to the client that such examinations are being conducted by students and not by licensed polygraph examiners. The school shall maintain a copy of the written notification;
- ~~(4)~~(3) Trainees who wish to apply for a license must submit an application to the Board in accordance with Rule .0201 of this Chapter. Applicants meeting license qualifications within one year of the issuance of a trainee permit shall not be required to pay an additional application fee;
- ~~(5)~~(4) Any request for renewal of a trainee permit or for issuance of a polygraph license shall be accompanied by an evaluation report of the trainee's performance submitted by the trainee's supervisor; and supervisor.
- ~~(6)~~ In addition to the final evaluation report, supervisors shall submit five monthly evaluation reports over the duration of the traineeship on a checklist provided by the Board.

Authority G.S. 74C-5.

14B NCAC 16 .0503 POLYGRAPH EXAMINATION REQUIREMENTS

Polygraph licensees and trainees shall adhere to the following:

- (1) Obtain written consent from the individual to be examined. The consent form shall be signed in the presence of the examiner and shall include a statement advising the examinee that he or she may terminate the examination at any time.
- (2) A printed or reproducible electronic copy of each chart collected, as well as documents associated with the examination such as reports, question sets, and signed consent forms, shall be retained by the examiner for a minimum of three years. The examiner shall record the following information:
 - (a) the name of the examinee;
 - (b) the date of the examination;
 - (c) the type of examination;
 - (d) the time the examination started;
 - (e) the location of the examination; and
 - (f) the name and license number of the examiner.

This requirement may be completed by labeling the beginning of the first printed chart by hand, or by entering the information into the electronic polygraph file.
- (3) The examiner shall give the examinee an opportunity prior to concluding the examination to explain reactions on the charts.
- (4) The examiner shall not issue or permit an employee to issue an examination report that is misleading, biased, or falsified.
- (5) Each examination report shall be a factual, impartial, and objective account of the pertinent information developed during the examination and the examiner's professional conclusion, based upon the analysis of the charts.
- (6) All questions considered for chart analysis shall be documented in writing or an electronic question set and shall be reviewed with the examinee prior to any testing.
- (7) An examiner shall not make a conclusive verbal or written examination report without having administered two or more charts consisting of the same questions.
- (8) An examiner shall not inquire into the sexual conduct or preferences of a person to whom a polygraph examination is being given unless pertinent to an alleged sex-related ~~crime~~, crime or while conducting Post Conviction Sex Offender Testing (POST), nor shall an examiner inquire into the activities, affiliations, or beliefs on religion, politics, or race, except where there is relevancy to an investigation.
- (9) Each chart shall be signed at the end of the chart by the examinee and the examiner before the end of the recording if using an analog

instrument. If an analog instrument is used, the examiner shall retain printed and not electronic copies of the charts for a minimum of three years. Retaining reproducible electronic copies of all charts noting the names of the examiner and examinee as well as the date and time of testing will also meet the requirements of this Item.

- (10) An examiner shall conduct no more than five examinations in a 24 hour period.
- (11) Each examiner shall keep a daily log of examinations. The daily log of examinations shall be maintained by the licensee for a minimum of three years and shall be subject to inspections by the Director or the Director's designee between 8:00 a.m. – 5:00 p.m. Monday through Friday.

Authority G.S. 74C-5.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Alarm Systems Licensing Board intends to adopt the rule cited as 14B NCAC 17 .0109.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.ncdps.gov/dps-services/permits-licenses/alarm-system-licensing-board>

Proposed Effective Date: September 1, 2025

Public Hearing:
Date: May 20, 2025
Time: 2:00 p.m.
Location: Conference Room, ASLB Office 3101 Industrial Drive, Suite 104, Raleigh, NC 27609

Reason for Proposed Action: *It was recently discovered that the Board did not adopt a rule setting forth its procedure for requesting a declaratory ruling when the requirement in G.S. 150B-4(a) was enacted. It is now doing so.*

Comments may be submitted to: Paul Sherwin, 3101 Industrial Drive, Suite 104, Raleigh, NC 27609; phone (919) 788-5320; email paul.sherwin@ncdps.gov

Comment period ends: June 30, 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 17 - ALARM SYSTEMS LICENSING BOARD

SECTION .0100 - ORGANIZATION AND GENERAL PROVISIONS

14B NCAC 17 .0109 DECLARATORY RULING PROCEDURES

(a) All requests for declaratory rulings shall be in writing and mailed to the Board at the Board's address.

(b) Each request for a declaratory ruling must include the following information:

- (1) the name and address of person requesting the ruling;
- (2) the statute or rule to which the request relates;
- (3) a concise statement of the manner in which the requesting person is aggrieved by the rule or statute or its potential application to him or her;
- (4) names and addresses of additional third persons known to the person aggrieved who may possibly be affected by the requested ruling;
- (5) a statement of all material facts;
- (6) a statement whether or not the person aggrieved is aware of any pending Board action or court action that may bear on the applicability of the statute or rule to the person's particular situation; and
- (7) a statement of the arguments and legal authority supporting the person's position on the applicability of this statute or rule; and

The petitioner shall sign and verify the request before an officer qualified to administer oaths that the information supplied in the request is true and accurate.

(c) Upon receipt of a request for a declaratory ruling, the Board shall determine whether a ruling is appropriate under the facts stated.

(d) The Board shall proceed to issue a declaratory ruling when the person requesting the rule shows that, with regard to the facts presented:

- (1) the rule or statute in question is unclear on its face;
- (2) circumstances are so changed since the adoption of a rule that a declaratory ruling is warranted;

- (3) the factors specified in the request were not given appropriate consideration by the Board at the time the rule was adopted;
- (4) the rule or statute is unclear in its application to the requesting person's facts; or
- (5) a fair question exists regarding the validity of the rule because of an absence of authority for the Board's adoption of the rule or other irregularities in the Board's rule-making proceedings.

(e) The Board shall not issue a declaratory ruling when the petitioner or his or her request is the subject of, or materially related to, an investigation by the Board or contested case before the Board.

(f) When the Board determines for good cause that the issuance of a declaratory ruling is unnecessary, the Board shall notify, in writing, the person requesting the ruling, stating the reasons for the denial of the request. The Board will ordinarily decline to issue a declaratory ruling when:

- (1) there has been a similar controlling factual determination made by the Board;
- (2) the rule-making record shows that the factual issues raised by the request were specifically considered prior to adoption of the rule;
- (3) the subject matter of the request is involved in pending litigation in any state or federal court in North Carolina;
- (4) the request does not comply with the procedural guidelines within Paragraphs (a) and (b) of this Rule;
- (5) the Board has previously issued a declaratory ruling on substantially similar facts;
- (6) the Board has previously issued a final agency decision in a contested case on substantially similar facts;
- (7) the facts underlying the request for a declaratory ruling were considered at the time of the adoption of the rule in question;
- (8) the subject matter is one concerning which the Board is without authority to make a decision binding the Board or the petitioner;
- (9) the petitioner is not aggrieved by the rule or statute in question or otherwise has no interest in the subject matter of the request;
- (10) there is reason to believe that the petitioner or some other person or entity materially connected to the subject matter of the request is acting in violation of the G.S. Chapter 74C or the rules adopted by the Board; or
- (11) the subject matter of the request is involved in pending litigation, legislation, or rulemaking.

(g) Prior to issuing a declaratory ruling, the Board may give notice of the declaratory proceedings to any persons it deems appropriate and may direct that fact-finding proceedings appropriate to the circumstances of the particular request be conducted by the Board. The proceedings may consist of written submissions, an oral hearing, or other appropriate procedures.

(h) If the Board finds evidence that the factors listed in Subparagraphs (d)(1), (2), or (3) of this Rule exist or potentially

exist beyond the specific facts presented in a particular petition for declaratory ruling, the Board shall consider rule-making proceedings on the rule.

(i) A record of each declaratory ruling and the procedures conducted therefor will be maintained by the Board. The record will contain:

- (1) the request for a declaratory ruling;
(2) all written submissions filed in the request, whether filed by the person requesting the ruling or by any other person;
(3) a record or summary of oral presentations, if any; and
(4) a copy of the declaratory ruling.

Authority G.S. 150B-4.

Also, if you wish to speak, please login to WebEx using your first and last name so that the host knows who you are when calling on people to offer comments.

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

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

Reason for Proposed Action: Rule amendment required pursuant to Session Law 2023-63.

Comments may be submitted to: Sue Homewood, 1617 Mail Service Center, Raleigh, NC 27699-1617; phone (336) 813-1863; email sue.homewood@deq.nc.gov

Comment period ends: June 30, 2025

Rule(s) is automatically subject to legislative review: Session Law 2023-63

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

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

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

Link to agency website pursuant to G.S. 150B-19.1(c): https://www.deq.nc.gov/about/divisions/water-resources/water-resources-commissions/environmental-mangment-commission/emc-proposed-rules

Proposed Effective Date: Subject to Legislative Review

Public Hearing:

Date: June 26, 2025

Time: 6:00 p.m. Sign in and speaker registration will begin at 5:30 p.m.

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

Online Instructions for Virtual Attendance/Speaking at Public Hearing Regarding Proposed Amendment to 15A NCAC 02B .0202

WebEx Link to Join the Hearing:

https://ncgov.webex.com/ncgov/j.php?MTID=mc924957b9d3395883ef8e61c5eda6d54

Password: NCDEQ

WebEx Access Code: 2425 792 4510 (if the above link doesn't work, go to https://signin.webex.com/join and enter the access code as an alternate way to join the meeting)

Connect via Telephone (if you can't use computer audio): 1-415-655-0003 (US Toll), Access Code: 2425 792 4510

If you wish to speak virtually via WebEx at the public hearing, you must register beforehand. Registration must be completed by noon on June 26, 2025. To register, please click the following link: https://forms.office.com/g/ApH3aQwDQg

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02B - SURFACE WATER AND WETLAND STANDARDS

SECTION .0200 - CLASSIFICATIONS AND WATER QUALITY STANDARDS APPLICABLE TO SURFACE WATERS AND WETLANDS OF NORTH CAROLINA

15A NCAC 02B .0202 DEFINITIONS

The definition of any word or phrase used in this Section shall be the same as given in G.S. 143, Article 21. The following words and phrases shall be defined as follows:

- (1) "Acute toxicity to aquatic life" means lethality or other harmful effects sustained by either resident aquatic populations or indicator species used as test organisms in a controlled toxicity test due to a short-term exposure (relative to the life cycle of the organism) of 96 hours or less to a specific chemical or mixture of chemicals (as in an effluent). Acute toxicity shall be determined using the following procedures:
(a) for specific chemical constituents or compounds, acceptable levels shall be equivalent to a concentration of one-half or less of the Final Acute Value (FAV) as determined according to "Guidelines for Deriving Numerical Water Quality Criteria for the

- Protection of Aquatic Life and its Uses" published by the Environmental Protection Agency and referenced in the Federal Register (50 FR 30784, July 29, 1985) which is incorporated by reference including subsequent amendments and editions.
- (b) for specific chemical constituents or compounds for which values described under Sub-Item (a) of this Item cannot be determined, acceptable levels shall be equivalent to a concentration of one-third or less of the lowest available LC50 value.
- (c) for effluents, acceptable levels shall be defined as no statistically measurable lethality (99 percent confidence level using Student's t-test) during a specified exposure period. Concentrations of exposure shall be based on permit requirements and procedures in accordance with 15A NCAC 02H .1110.
- (d) in instances where detailed dose response data indicate that levels of acute toxicity are different from those defined in this Rule, the Director may determine on a case-by-case basis an alternate acceptable level through statistical analyses of the dose response in accordance with 15A NCAC 02H .1110.
- (2) "Acute to Chronic Ratio" or "ACR" means the ratio of acute toxicity expressed as an LC50 for a specific toxicant or an effluent to the chronic value for the same toxicant or effluent.
- (3) "Agricultural uses" means the use of waters for stock watering, irrigation, and other farm purposes.
- (4) "Applicator" means any person, firm, corporation, wholesaler, retailer, or distributor; any local, State, or federal governmental agency; or any other person who applies fertilizer to the land of a consumer or client or to land that they own, lease, or otherwise hold rights.
- (5) "Approved treatment," as applied to water supplies, means treatment approved by the Division in accordance with 15A NCAC 18C .0301 through .0309, as authorized by G.S. 130A-315 and G.S. 130A-317.
- (6) "Attainable water uses" means uses that can be achieved by the imposition of effluent limits and cost effective and reasonable best management practices (BMP) for nonpoint source control.
- (7) "Available cyanide" means inorganic cyanides that are free (HCN and CN⁻) and metal-cyanide complexes that are dissociated into free cyanide ions under mildly acidic conditions (pH 3 to 6).
- (8) "Average" means the arithmetical average of the analytical results of all representative samples taken under prevailing environmental conditions during a specified period (for example: daily, weekly, or monthly).
- (9) "Best Management Practice" or "BMP" means a structural or nonstructural management-based practice used singularly or in combination to reduce point source or nonpoint source inputs to receiving waters in order to achieve water quality protection goals.
- (10) "Best usage" or "Best use" of waters, as specified for each class, means those uses as determined by the Environmental Management Commission in accordance with the provisions of G.S. 143-214.1.
- (11) "Bioaccumulation factor" or "BAF" means a unitless value that describes the degree to which substances are taken up or accumulated into tissues of aquatic organisms from water directly and from food or other ingested materials containing the accumulated substances, and is measured as a ratio of a substance's concentration in tissue versus its concentration in water in situations where exposure to the substance occurs from both water and the food chain.
- (12) "Bioconcentration factor" or "BCF" means a unitless value that describes the degree to which substances are absorbed or concentrated into tissues of aquatic organisms from water directly and is measured as a ratio of substance's concentration in tissue versus its concentration in water in situations where exposure to the substance occurs from water only.
- (13) "Biological integrity" means the ability of an aquatic ecosystem to support and maintain a balanced and indigenous community of organisms having species composition, diversity, population densities, and functional organization similar to that of reference conditions.
- (14) "Buffer" means a natural or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants.
- (15) "Chronic toxicity to aquatic life" means any harmful effect sustained by either resident aquatic populations or indicator species used as test organisms in a controlled toxicity test due to long-term exposure (relative to the life cycle of the organism) or exposure during a substantial portion of the duration of a sensitive period of the life cycle to a specific chemical substance or mixture of chemicals (as in an

effluent). In absence of extended periods of exposure, early life stage or reproductive toxicity tests may be used to define chronic impacts.

- (16) "Chronic value for aquatic life" means the geometric mean of two concentrations identified in a controlled toxicity test as the No Observable Effect Concentration (NOEC) and the Lowest Observable Effect Concentration (LOEC).
- (17) "Commercial applicator" means any person, firm, corporation, wholesaler, retailer, distributor, or any other person who for hire or compensation applies fertilizer to the land of a consumer or client.
- (18) "Concentration" means the mass of a substance per volume of water and, for the purposes of this Section, shall be expressed as milligrams per liter (mg/l), micrograms per liter (ug/l), or nanograms per liter (ng/l).
- (19) "Contiguous" means those wetlands landward of the mean high water line or normal water level and within 575 feet of classified surface waters that appear as solid blue lines on the most recently published versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps, which are available at no cost at <http://www.usgs.gov/pubprod/>.
- (20) "Critical area" means the area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than risk associated with pollution from the remaining portions of the watershed. The boundary of a critical area is defined as:
 - (a) extending either 1/2 mile in a straight line fashion upstream from and draining to the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed, whichever is nearest the normal pool elevation of the reservoir;
 - (b) extending either 1/2 mile in a straight line fashion upstream from and draining to the intake (or other appropriate downstream location associated with the water supply) located directly in the stream or river (run-of-the-river) or to the ridge line of the watershed, whichever is nearest the intake; or
 - (c) extending a different distance from the reservoir or intake as adopted by the Commission during the reclassification process pursuant to Rule .0104 of this Subchapter.

Since WS-I watersheds are essentially undeveloped, establishment of a critical area is not required.

- (21) "Cropland" means agricultural land that is not covered by a certified animal waste

management plan and is used for growing corn, grains, oilseed crops, cotton, forages, tobacco, beans, or other vegetables or fruits.

- (22) "Designated Nonpoint Source Agency" means an agency specified by the Governor in the North Carolina Nonpoint Source Management Program, as approved by the Environmental Protection Agency pursuant to the 1987 amendments to the federal Clean Water Act 33 U.S.C. 1329 that established Section 319 Nonpoint source management programs.
- (23) "Director" means the Director of the Division.
- (24) "Discharge" means the addition of any man-induced waste effluent either directly or indirectly to State surface waters.
- (25) "Division" means the Division of Water Resources or its successors.
- (26) "Domestic wastewater discharge" means the discharge of sewage, non-process industrial wastewater, other domestic wastewater, or any combination of these items. Domestic wastewater includes, but is not limited to, liquid waste generated by domestic water using fixtures and appliances from any residence, place of business, or place of public assembly, even if it contains no sewage. Examples of domestic wastewater include once-through non-contact cooling water, seafood packing facility discharges, and wastewater from restaurants.
- (27) "Effluent channel" means a discernable confined and discrete conveyance that is used for transporting treated wastewater to a receiving stream or other body of water, as provided in Rule .0228 of this Section.
- (28) "Existing uses" mean uses actually attained in the water body on or after November 28, 1975, whether or not they are included in the water quality standards.
- (29) "Fertilizer" means any substance containing nitrogen or phosphorus that is used primarily as plant food.
- (30) "Fishing" means the taking of fish by recreational or commercial methods, the consumption of fish or shellfish, the propagation of fish, or the propagation of other aquatic life as is necessary to protect the biological integrity of the environment for fish.
- (31) "Forest vegetation" means the plants of an area that grow in disturbed or undisturbed conditions in wooded plant communities in any combination of trees, saplings, shrubs, vines, and herbaceous plants, including mature and successional forests and cutover stands.
- (32) "Freshwater" means all waters that under natural conditions have a chloride ion content of 500 mg/l or less.
- (33) "Industrial discharge" means the discharge of industrial process treated wastewater or

wastewater other than sewage. Stormwater shall not be considered to be an industrial wastewater unless it is contaminated with industrial wastewater. Industrial discharge includes:

- (a) wastewater resulting from any process of industry or manufacture or from the development of any natural resource;
 - (b) wastewater resulting from processes of trade or business, including wastewater from laundromats and car washes, but not wastewater from restaurants; and
 - (c) for the purpose of prohibiting discharges to waters classified as Water Supply (WS) in accordance with Rules .0212, .0214, .0215, .0216, and .0218 of this Section, wastewater discharged from a municipal wastewater treatment plant required to administer a pretreatment program pursuant to 15A NCAC 02H .0904.
- (34) "Land-disturbing activity" means any use of the land that results in a change in the natural cover or topography that may cause or contribute to sedimentation.
 - (35) "LC50" means that concentration of a toxic substance that is lethal or immobilizing to 50 percent of the sensitive aquatic toxicity testing species tested during a specified exposure period, as required by NPDES permit, under aquatic conditions characteristic of the receiving waters. Sensitive species for aquatic toxicity testing is defined by Subparagraph (50) of this Rule.
 - (36) "Lentic" means an aquatic ecosystem with standing or slow flowing water such as a lake, pond, or reservoir.
 - (37) "Local government" means a city or county in singular or plural as defined in G.S. 160A-1(2) and G.S. 158A-10.
 - (38) "Lotic" means an aquatic ecosystem with rapidly flowing water such as a stream or river.
 - (39) "Lower piedmont and coastal plain waters" means those waters of the Catawba River Basin below Lookout Shoals Dam; the Yadkin River Basin below the junction of the Forsyth, Yadkin, and Davie County lines; and all of the waters of Cape Fear, Lumber, Roanoke, Neuse, Tar-Pamlico, Chowan, Pasquotank, and White Oak River Basins; except tidal salt waters which are assigned S classifications.
 - (40) "MF" means the membrane filter procedure for bacteriological analysis.
 - (41) "Mixing zone" means a region of the receiving water in the vicinity of a discharge within which dispersion and dilution of constituents in the discharge occurs. Zones shall be subject to

- conditions established in accordance with Rule .0204(b) of this Section.
- (42) "Mountain and upper piedmont waters" means all of the waters of the Hiwassee; Little Tennessee, including the Savannah River drainage area; French Broad; Broad; New; and Watauga River Basins; and those portions of the Catawba River Basin above Lookout Shoals Dam and the Yadkin River Basin above the junction of the Forsyth, Yadkin, and Davie County lines.
- (43) "Nonpoint source pollution" means pollution that enters waters mainly as a result of precipitation and subsequent runoff from lands that have been disturbed by man's activities and includes all sources of water pollution that are not required to have a permit in accordance with G.S. 143-215.1(c).
- (44) "Non-process discharge" means industrial effluent not directly resulting from the manufacturing process. An example is non-contact cooling water from a compressor.
- (45) "Offensive condition" means any condition or conditions resulting from the presence of sewage, industrial wastes, or other wastes within the waters of the State or along the shorelines thereof that shall either directly or indirectly cause foul or noxious odors, unsightly conditions, or breeding of abnormally large quantities of mosquitoes or other insect pests; damage private or public water supplies or other structures; result in the development of gases which destroy or damage surrounding property, herbage, or grasses; cause the impairment of taste such as from fish flesh tainting; or affect the health of any person residing or working in the area.
- (46) "Primary contact recreation" means swimming, diving, skiing, and similar uses involving human body contact with water where such activities take place in an organized or on a frequent basis.
- (47) "Primary nursery area" or "PNA" means tidal saltwaters that provide essential habitat for the early development of commercially important fish and shellfish and are so designated by the Marine Fisheries Commission.
- (48) "Protected area" means the area adjoining and upstream of the critical area in a WS-IV water supply in which protection measures are required. The boundary of a protected area is defined as:
 - (a) extending either five miles in an as-the-river-runs manner upstream from and draining to the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed, whichever is nearest

- the normal pool elevation of the reservoir;
- (b) extending either 10 miles in an as-the-river-runs manner upstream from and draining to the intake located directly in the stream or river run-of-the-river or to the ridge line of the watershed, whichever is nearest the intake. In some cases the protected area shall encompass the entire watershed; or
- (c) extending a different distance from the reservoir or intake as adopted by the Commission during the reclassification process pursuant to Rule .0104 of this Subchapter.
- (49) "Residential development" means buildings for residence such as attached and detached single family dwellings, apartment complexes, condominiums, townhouses, cottages, and their associated outbuildings such as garages, storage buildings, and gazebos.
- (50) "Residuals" has the same meaning as in 15A NCAC 02T .0103.
- (51) "Riparian area" means an area that is adjacent to a body of water.
- (52) "Secondary contact recreation" means wading, boating, other uses not involving human body contact with water, and activities involving human body contact with water where such activities take place on an infrequent, unorganized, or incidental basis.
- (53) "Sensitive species for aquatic toxicity testing" means any species utilized in procedures accepted by the Commission or its designee in accordance with Rule .0103 of this Subchapter, and the following genera:
- (a) Arbacia;
 - (b) Ceriodaphnia;
 - (c) Champia;
 - (d) Chironomus;
 - (e) Cyprinodon;
 - (f) Daphnia;
 - (g) Hyalella;
 - (h) Lumbriculus;
 - (i) Menidia;
 - (j) Mysidopsis;
 - (k) Notropis;
 - (l) Oncorhynchus;
 - (m) Penaeus;
 - (n) Pimephales;
 - (o) Salmo;
 - (p) Salvelinus;
 - (q) Selenastrum.
- (54) "Shellfish culture" means the use of waters for the propagation, storage, and gathering of oysters, clams, and other shellfish for market purposes.
- (55) "Swamp waters" means those waters that are classified as such by the Environmental Management Commission, pursuant to Rule .0101 of this Subchapter, and that have natural characteristics due to topography, such as low velocity, dissolved oxygen, or pH, that are different from streams draining steeper topography.
- (56) "Tidal salt waters" means all waters that have a natural chloride ion content in excess of 500 parts per million.
- (57) "Toxic substance" or "Toxicant" means any substance or combination of substances (including disease-causing agents) that, after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth), or physical deformities in such organisms or their offspring.
- (58) "Trout waters" means those waters that are classified as such by the Environmental Management Commission, pursuant to Rule .0101 of this Subchapter, and have conditions that sustain and allow for natural trout propagation and survival and for year-round maintenance of stocked trout.
- (59) "Water dependent structures" means those structures that require access or proximity to or siting within surface waters to fulfill its purpose, such as boat ramps, boat houses, docks, and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.
- (60) "Water quality based effluent limits (or limitations) and management practices" mean limits and practices developed by the Division to protect water quality standards and best uses of surface waters, consistent with the requirements of G.S. 143-214.1 and the federal Water Pollution Control Act, as amended.
- (61) "Waters with quality higher than the standards" means waters that the Director determines (pursuant to Rule .0206 of this Section) have the capacity to receive additional pollutant loading and continue to meet applicable water quality standards.
- (62) "Watershed" means a natural area of drainage, including all tributaries contributing to the supply of at least one major waterway within the State, the specific limits of each separate watershed to be designated by the Commission as defined by G.S. 143-213(21).
- (63) "WER" or "Water effect ratio" expresses the difference between the measures of the toxicity

- (64) of a substance in laboratory waters and the toxicity in site water.
- "Wetlands" are "waters" as defined by G.S. 143-212(6) that are inundated or saturated by an accumulation of surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands classified as waters of the State are restricted to waters of the United States as defined by 33 C.F.R. 328.3 and 40 C.F.R. 230.3. Wetlands do not include prior converted cropland as defined in the National Food Security Act Manual, Fifth Edition, which is hereby incorporated by reference, not including subsequent amendments and editions, and is available free of charge at <https://directives.sc.egov.usda.gov/RollupViewer.aspx?hid=29340>.

Authority G.S. 143-213; 143-214.1; 143-215.3(a)(1); S.L. 2023-63.

TITLE 16 – DEPARTMENT OF PUBLIC INSTRUCTION

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the State Board of Education intends to readopt with substantive changes the rules cited as 16 NCAC 06B .0103, and .0107.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.dpi.nc.gov/about-dpi/state-board-education/rulemaking-information>

Proposed Effective Date: September 1, 2025

Public Hearing:

Date: May 23, 2025

Time: 9:00 a.m.

Location: <https://dpi-nc.zoomgov.com/j/1610856964?pwd=8og9UAMWtkaTqUJDdTwWXXUnENTbGC.1>

Reason for Proposed Action: To comply with statutory requirements that the State Board of Education (“SBE”) periodically review and re-adopt rules issued under its authority, the SBE proposes to re-adopt two rules governing public school transportation systems operated by local school administrative units. Rule 16 NCAC 06B .0103 requires each local board of education to adopt and implement certain policies, rules, and regulations governing its public school transportation system. Rule 16 NCAC 06B .0107 requires local school administrative units to cooperate with efforts by the Department of Public Instruction to evaluate those systems. The SBE has proposed technical revisions to each rule but no substantive changes.

Comments may be submitted to: Kevin Harrison, 6301 Mail Service Center, Raleigh, NC 27699-6301; email kevin.harrison@dpi.nc.gov

Comment period ends: June 30, 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 (\geq \$1,000,000)
- Approved by OSBM
- No fiscal note required

CHAPTER 06 - ELEMENTARY AND SECONDARY EDUCATION

SUBCHAPTER 06B - STUDENT TRANSPORTATION SYSTEM

SECTION .0100 - STUDENT TRANSPORTATION SYSTEM

16 NCAC 06B .0103 LOCAL RULES AND REGULATIONS POLICIES FOR PUBLIC SCHOOL TRANSPORTATION PROGRAMS

(a) ~~LEAs~~ Local boards of education shall adopt ~~and keep on file in the office of the superintendent rules, regulations and policies~~ and implement policies, rules, and regulations to assure the safe, ~~orderly~~ orderly, and efficient operation of school buses, their public school transportation system, including:

- (1) the use of school buses under G.S. 115C-242(5);
- (2) a uniform system of discipline on school buses;
- (3) a uniform procedure for the recruitment and selection of school bus drivers;
- (4) procedures for relieving a bus driver of driving duties;
- (5) passenger safety rules;
- (6) responsibilities of school bus monitors; and

- (7) duties of school local school administrative unit personnel in for the administration of the school transportation program.

(b) Local boards shall post a copy of all such policies, rules, and regulations to their websites.

Authority G.S. 115C-240(a); 115C-12(17); 115C-240.

16 NCAC 06B .0107 SUPERVISORY AND SAFETY PRACTICES EVALUATION OF PUBLIC SCHOOL TRANSPORTATION PROGRAMS

The Local school administrative units shall permit the Department of Public Instruction may to evaluate the their public school transportation programs of any LEA, including the LSAU's supervisory and safety practices. practices, and shall comply with DPI requests for access to vehicles, equipment, workspace, and information regarding those programs. It may also make recommendations to the LEA as it considers necessary.

Authority G.S. 115C-127(17); 115C-240.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 16 – BOARD OF DENTAL EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Dental Examiners intends to adopt the rules cited as 21 NCAC 16F .0111; 16V .0103, and amend the rule cited as 21 NCAC 16A .0101.

Link to agency website pursuant to G.S. 150B-19.1(c): www.ncdentalboard.org

Proposed Effective Date: September 1, 2025

Public Hearing:

Date: June 19, 2025

Time: 6:30 pm

Location: 2000 Perimeter Park Drive, Suite 160, Morrisville, NC 27560

Reason for Proposed Action: 21 NCAC 16A .0101 is proposed for amendment to add the definitions of "responsible dentist manager" and "good standing." 21 NCAC 16F .0111 is proposed for adoption to address the administrative aspect of designating the responsible dentist manager. 21 NCAC 16V .0103 is proposed for adoption to make clear the circumstances in which a dentist commits unprofessional conduct in his or her role as supervisor, practice owner or responsible dentist manager.

Comments may be submitted to: Bobby White, 2000 Perimeter Park Drive, Suite 160, Morrisville, NC 27560

Comment period ends: June 30, 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

SUBCHAPTER 16A – ORGANIZATION

21 NCAC 16A .0101 DEFINITIONS

As used in this Chapter:

- (1) "Applicant" means a person applying for any license or permit issued by the Board.
- (2) "Board" means the North Carolina State Board of Dental Examiners.
- (3) "Current license" means a license that is renewed by the licensing board.
- (4) "CPR certification" means the licensee has completed a CPR course that meets American Red Cross or American Heart Association standards for certification and that provides manikin testing of cardiopulmonary resuscitation. The course shall also cover the use of an automatic external defibrillator, unconscious and conscious choking, and rescue breathing. The manikin testing shall be provided by an instructor who is present in the training room with the students.
- (5) "Internship" means practice in an educational training program. Internship does not mean practice under an intern permit while holding an unrestricted general dental or dental specialty license issued by a state, U.S. territory, or the District of Columbia.
- (6) "Secure electronic transmission" means an electronic method of communication that ensures that completeness, integrity, and confidentiality of information are maintained during transmission.

- (7) "Unrestricted license" means a license that is not under suspension or inactivation, or subject to the terms of a consent order or other disciplinary action imposed by the jurisdiction that issued the license, or limited by supervision or location requirements.
- (8) Except where otherwise defined by these Rules or by statute, "supervision," "direct supervision," and "supervision and direction" means that the dentist overseeing treatment is present in the same facility or location and available during the performance of the acts that are being performed pursuant to that dentist's order, control, and approval and that the dentist shall examine and evaluate the results of such acts.
- (9) Except where otherwise defined by these Rules or by statute, "direction" or "under direction" means that the dentist ordering treatment does not have to be present in the same facility or location during the performance of the acts that are being performed pursuant to that dentist's order, control, and approval, but that dentist shall be responsible for all consequences or results arising from such acts.
- (10) "Responsible dentist manager" means a North Carolina licensed dentist designated by a professional corporation pursuant to 21 NCAC 16F .0111 to oversee the provision of dental services at a specific dental facility and compliance with the Dental Practice Act, Dental Hygiene Act, and the Board's rules at the facility.
- (11) "Good standing" means that the licensee's license is not suspended, revoked, or subject to a disciplinary order with probationary terms.

Authority G.S. 90-28; 90-29(a); 90-29.3; 90-29.4; 90-29.5; 90-30; 90-41; 90-48; 90-224; 90-224.1; 90-226.

21 NCAC 16F .0111 DESIGNATION OF RESPONSIBLE DENTIST MANAGER

With the application made pursuant to Rule .0104 or .0105 of this Section, the professional entity may elect to designate a responsible dentist manager, as defined in 21 NCAC 16A .0101, for each of the professional entity's facilities. The responsible dentist manager for a facility shall sign or electronically submit the designation to be effective. If a professional entity does not designate a responsible dentist manager or does not update its designation if a responsible dentist manager leaves the practice, each owner of the professional entity operating the facility shall be responsible for overseeing the provision of dental services at the facility and compliance with the Dental Practice Act, Dental Hygiene Act, and the Board's rules at the facility, including implementation of policies, procedures, and corrective measures to prevent violations.

Authority G.S. 55B-10; 57D-2-01; 57D-2-02; 90-48.

21 NCAC 16V .0103 UNPROFESSIONAL CONDUCT BY A DENTIST, PRACTICE OWNER, OR RESPONSIBLE DENTIST MANAGER

Unprofessional conduct as set out in G.S. 90-41(a)(26) by a dentist, practice owner, or responsible dentist manager shall include the following:

- (1) A dentist commits unprofessional conduct if:
 - (a) another dentist, dental hygienist, dental assistant, or other personnel providing services within the same practice commits a violation of the Dental Practice Act, Dental Hygiene Act, or the Board's Rules; and
 - (b) the dentist:
 - (i) directed the conduct resulting in the violation;
 - (ii) ratified the violation by express or implied consent or approval; or
 - (iii) knew or should have known of the violation committed by someone required to be under the dentist's supervision or direction and permitted it to occur on a reoccurring basis or following a previous similar violation.
- (2) An owner of a dental practice or professional entity commits unprofessional conduct if reoccurring violations under Sub-Item (1)(a) of this Rule occur at a facility, unless there had been a designation of a responsible dentist manager for the facility prior to the violations. An owner does not commit unprofessional conduct if written policies designed to prevent the reoccurrence of violations had been implemented at the facility, but the policies were violated.
- (3) A responsible dentist manager commits unprofessional conduct if reoccurring violations under Sub-Item (1)(a) of this Rule occur at the facility. A responsible dentist manager does not commit unprofessional conduct if written policies designed to prevent the reoccurrence of violations had been implemented at the facility, but the policies were violated.

Authority G.S. 90-41;90-48.

CHAPTER 39 - ON-SITE WASTEWATER CONTRACTORS AND INSPECTORS CERTIFICATION

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Onsite Wastewater Contractors and Inspectors Certification Board intends to readopt with substantive changes the rules cited as 21 NCAC 39 .0101, .0102, .0201, .0202,

.0301, .0401-.0404, .0601, .0602, .0604, .0605, .0701, .0801, .1002, .1004-1006, and readopt without substantive changes the rules cited as 21 NCAC 39 .0103, .0405, .0501, .0702, .0703, .0802, .0803, .0901-.0904, .1001, and .1101-.1104.

Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be published. The text of the rules are available on the OAH website: <http://reports.oah.state.nc.us/ncac.asp>.

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

Proposed Effective Date: November 1, 2025

Public Hearing:

Date: June 6, 2025

Time: 10:00 a.m.

Location: Village Inn, 6205 Ramada Drive, Clemmons, NC 27012

Reason for Proposed Action:

.0101 – Define terms used in the Board's rules
.0102 – Establish grade levels of certification per G.S. 90A-74(3)
.0103 - Establish process by which Board makes available an annual report of all Board actions per G.S. 90A-74(7)
.0201 – Establish eligibility requirements for persons seeking certification per G.S. 90A-74(2)
.0202 – Establish a Board-approved training or continuing education program for certification eligibility per G.S. 90A-77(c)
.0301 – Establish reasonable fees for application, certification, and renewal and other services provided by the Board per G.S. 90A-74(8)
.0401 – Establish standards for examinations required for certification per G.S. 90A-74(4)
.0402 – Establish standards for administration of examinations required for certification per G.S. 90A-74(4)
.0403 – Establish standards for administration of examinations required for certification per G.S. 90A-74(4)
.0404 – Establish standards for issuance of credentials per G.S. 90A-74(5)
.0405 – Establish application process for military trained applicants and military spouses per G.S. 93B-15.1
.0501 – Establish standards for renewal of credentials and updating contact information
.0601 – Establish process by which continuing education is considered eligible for renewal of credentials per G.S. 90A-78
.0602 – Establish process by which continuing education is approved per G.S. 90A-792
.0604 - Establish process by which continuing education records must be maintained for submission with a renewal application
.0605 - Establish process by which credential holders can seek extension of time to complete continuing education requirements for active military service, disability, or undue hardship
.0701 - Establish process by which credentials can be revoked or suspended
.0702 - Establish process for reinstatement of credential following revocation or suspension

.0703 - Establish process by which penalties may be assessed for violation of Board's rules
.0801 - Establish rules of professional conduct for credential holders per G.S. 90A-74(6)
.0802 - Establish process by which Board can request information to enforce rules of professional conduct per G.S. 90A-74(6)
.0803 - Establish rule of professional conduct in referral of client services to another credential holders per G.S. 90A-74(6)
.0901 - Establish process by which petitions for rulemaking shall be filed with the Board
.0902 - Establish process by which request for declaratory ruling shall be filed with the Board
.0903 - Establish process by which Board may refuse to issue a declaratory ruling
.0904 - Establish process by which Board may waive or extend a rule upon written request for certificate holder
.1001 - Define terms used in Board's rules related to standards of practice for point-of-sale inspections
.1002 - Establish rules of professional conduct for inspection reports generated by point-of-sale inspectors or contractors
.1004 - Establish rules of professional conduct clarifying exclusions from inspection reports generated by point-of-sale inspectors or contractors
.1005 - Establish rules of professional conduct for inspections conducted by point-of-sale inspectors
.1006 - Establish minimum standards for inclusion in point-of-sale inspection
.1101 - Define terms used in Board's rules related to standards of practice for on-site wastewater evaluators
.1102 - Establish minimum standards for inclusion in on-site wastewater evaluations
.1103 - Establish rules of professional conduct for on-site wastewater evaluators
.1104 - Establish minimum disclosure to be provided to consumers by on-site wastewater evaluators

Comments may be submitted to: Connie Stephens, PO Box 132, Lawsonville, NC 27022; email csstephens@ncowcicb.info

Comment period ends: August 1, 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 (\geq \$1,000,000)
- Approved by OSBM
- No fiscal note required

SECTION .0100 - DUTIES AND DEFINITIONS

21 NCAC 39 .0101 DEFINITIONS

In addition to the terms defined in Article 5 of Chapter 90A of the General Statutes, the following definitions apply to the Rules in this Chapter:

- (1) "Authorized On-Site Wastewater Evaluator" means the same as defined in G.S. 130A-336.2(a); hereafter referred to as "evaluator".
- (2) "Building being constructed" means construction of a site-built single family residence constructed pursuant to Article 1, Chapter 87 of the N.C. General Statutes.
- (3) "College course" means a semester unit or quarter unit-based instruction given at a college or university that is relevant to on-site wastewater contractor or point of sale inspector activities, and is pre-approved by the board as set out in Rule .0603 of this Chapter.
- (4) "Course or Activity" means any course or activity with a purpose and objective that maintains, improves, or expands skills and knowledge relevant to the practice of on-site wastewater contractor or point of sale inspector activities and pre-approved in accordance with G.S. 90A-79(b) and Rule .0602 of this Section.
- (5) "Evaluation and findings" mean, at a minimum, the information required in G.S. 130A-335(e).
- (6) "Licensed soil scientist" means an individual licensed in accordance with Chapter 89F of the North Carolina General Statutes.
- (7) "Notice of Intent to Construct" means, at a minimum, that information required by G.S. 130A-336.2(b) and is provided as a form by the Department of Health and Human Services.
- (8) "Personally supervise" means to direct and control all on-site wastewater ~~contractor or inspector~~ contractor, point of sale inspector, or private compliance inspector activities during the time those activities are being conducted.
- (9) "Professional development hour" or "PDH" means an hour of instruction or presentation and is the basic unit of credit for all courses or activities related to satisfying continuing education requirements.
- (10) "Repair" means construction activity or alteration to an existing on-site wastewater system that is necessary to comply with a Construction Authorization for a repair permit issued by the Local Health Department or

through the Authorized On-Site Wastewater Evaluator option pursuant to G.S. 130A-336.2.

- (11) "Seal" means the seal required by G.S. 130A-336.2(d)(2) for certified Authorized On-Site Wastewater Evaluator.
- (12) "Subordinate" means the same as defined in G.S. 89F-3(10).
- (13) "Private compliance inspector" means the same as defined in G.S. 90A-71(8).
- (14) "Introduction course" means class required to be eligible to apply for certification.

Authority G.S. 90A-71; 90A-72; 90A-74; 130A-336.2.

21 NCAC 39 .0102 TYPES OF CERTIFICATION

(a) The levels of certification for on-site wastewater contractors are as follows:

Level	Description of Activities
I	Single Septic Tank, Conventional (Gravel)
II	Grade I, plus: <u>Single Septic Tank, Conventional (Gravel) Gravity System</u> Multiple tanks, Grease Traps, Single Pump or Single Siphon, Fill Systems, Sand Lined Trench, and any approved gravity or single pump dispersal system not specified in Grade Level III or Grade Level IV <u>IV</u> , Systems of \leq 1500 gdp
III	Grade II, plus: <u>Dual pumps or Dual Siphons, Systems of $>$1500 gpd to $<$3000 gpd, Low Pressure Dispersal, Flow Equalization, and any system requiring ground water lowering with a pump</u>
IV	Grade III, II, plus: <u>Grade III, II, plus:</u> <u>Dual pumps or Dual Siphons, Low-Pressure Dispersal, Flow Equalization, and any system requiring ground water lowering with a pump, Systems of $>$ 1500 gdp, Systems $>$3000 gpd, Multiple Off-Site Systems, Industrial Process Wastewater, Residential Wastewater Treatment Systems (RWTS), TS-I and TS-II System, Drip Dispersal Systems, and Wastewater Reuse Systems or any Pretreatment Component.</u>

- (b) ~~Point of sale Inspectors~~ inspectors are certified to inspect all on-site wastewater systems referenced in Paragraph (a).
- (c) Evaluators shall be certified pursuant to G.S. 130A-336.2.

Authority G.S. 90A-72; 90A-74; 90A-77; 130A-336.2.

21 NCAC 39 .0103 ANNUAL REPORTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0200 - CERTIFICATION OF ON-SITE WASTEWATER CONTRACTORS, POINT OF SALE INSPECTORS, PRIVATE COMPLIANCE INSPECTORS OR AUTHORIZED ON-SITE WASTEWATER EVALUATORS

21 NCAC 39 .0201 APPLICATION REQUIREMENTS FOR CERTIFICATION

(a) Applications for certification shall be submitted on forms provided by the Board.

(1) Applications for a contractor or point of sale inspector shall include:

- (A) Applicant's name;
- (B) Company address;
- (C) Phone number;
- (D) Date of birth;
- (E) Email address, if available;
- (F) Company or employer name and address;
- (G) Company phone number;
- (H) County where company is located;
- (I) If the certification is for contractor or inspector;
- (J) The contractor certification level requested;
- (K) Certification number, if renewal;
- (L) Required certification fee ~~or annual fee~~ for ~~level of~~ certification;
- (M) Dates, locations, hours, and providers of required education and training;
- (N) Applicant signature; ~~and~~
- (O) Social Security ~~Number.~~ Number;
- (P) Grade Level IV or Point of Sale Inspector verification of experience requirements;
- (Q) Copy(ies) of attendance certificate(s) for required education received within 12 months of date of application;
- (R) Exam application; and
- (S) Applicant signature.

(2) Applications for evaluator shall include:

- (A) Applicant's name;
- (B) Company address;
- (C) Phone number;
- (D) Date of birth;
- (E) Email address, if available;
- (F) Company or employer name and address;
- (G) Company phone number;
- (H) County where company is located;
- (I) Required certification fee;
- (J) ~~Dates, locations, hours, providers, and completion certificate that includes the required Board approved evaluator course;~~ Copy(ies) of attendance certificate(s) for required education received within 12 months of date of application;
- (K) Copy of current Errors and Omission Policy declaration page, as required by G.S. 130A-336.2;
- (L) Copy of current General Liability Policy declarations page, as required by G.S. 130A-336.2;

- (M) Copy of current Soil Scientist License pursuant to Chapter 89F;
- (N) Verification of minimum of five years' experience in on-site wastewater soil science;

- (O) Applicant signature; ~~and~~
- (P) Social Security ~~Number.~~ Number; and
- (Q) Exam application.

(3) Applications for private compliance inspector shall include:

- (A) Applicant's name;
- (B) Company address;
- (C) Phone number;
- (D) Date of birth;
- (E) Email address, if available;
- (F) Company or employer name and address;
- (G) Company phone number;
- (H) County where company is located;
- (I) Require certification fee;
- (J) Copy(ies) of attendance certificate(s) for required education received within 12 months of date of application;
- (K) Copy of current Errors and Omission Policy and General Liability Policy declaration page, as required by G.S. 130A-337(a2)(2);
- (L) Verification of minimum of five years' experience as required in G.S. 90A-77(a)(3d);
- (M) Applicant signature;
- (N) Social Security Number; and
- (O) Exam application.

(b) Applications for renewal shall be submitted annually on forms provided by the Board and shall include:

- (1) Certification holder's name;
- (2) Company name;
- (3) Company address;
- (4) Certification number(s)
- (5) Copy of required continuing education documentation;
- (6) Annual renewal fee;
- (7) Current copies of all required insurance declarations pages;
- (8) Evaluators will also submit current copy of LSS license; and
- (9) Applicant signature.

(c) Incomplete applications and applications not accompanied by the fee as set forth in Rule .0301 of this Chapter shall not be processed and shall be returned to the applicant.

(d) Upon approval of an application pursuant to the requirements of this Chapter, the Board shall schedule an applicant to take the required examination.

(e) The Board may request verification of education and training.

~~(f) All certified contractors, inspectors, or evaluators shall submit a renewal application by November 15 of each year. If a renewal applicant's renewal application is not received by the Board until after December 31 of that calendar year, the renewal applicant shall pay a late fee of twenty five dollars (\$25.00) in accordance~~

with G.S. 90A-78(b). If a renewal application is received by the Board after December 31, it will not be processed until the late fee is received.

(g) If the renewal application is postmarked more than 90 days after December 31, the person must meet the requirements for re-certification.

(h) Applications for new certifications requiring testing pursuant to G.S. 90A-77 must be received by the Board at least 15 days prior to the scheduled date of the examination.

(i) Any person requesting a certification level upgrade shall submit a request in writing and pay the difference in the fees set forth in Rule .0301 of this Chapter. Requests must be received no less than 24 hours prior to the scheduled date of the examination.

(j)(f) In cases where the applicant is ineligible for examination for failure to meet the requirements set forth in Rules and statutes, the applicant shall be notified by letter and advised of the reason for ineligibility.

(k)(g) Applicants who have supplied false information must wait 12 months before resubmitting an application for certification or renewal and must forfeit all fees paid.

Authority G.S. 90A-72; 90A-74; 90A-77; 90A-78; 130A-336.2.

21 NCAC 39 .0202 BUSINESS SUCCESSION

- (a) A person may be certified pursuant to G.S. 90A-77(c) by:
- (1) Providing the Board documentation of being supervised by and employed full time with a certified contractor or point of sale inspector for the past three years;
 - (2) Providing the Board three affidavits from local health department, engineers, or customers that show integral involvement with the installation of on-site wastewater systems;
 - (3) Providing the Board with an application for certification, including appropriate initial fees;
 - (4) Providing the Board with proof of attendance at approved continuing education courses for a minimum of two years; and
 - (5) Passing the applicable test for the level certification requested.

Authority G.S. 90A-74; 90A-77.

SECTION .0300 - ONSITE WASTEWATER CONTRACTOR, POINT OF SALE INSPECTOR, PRIVATE COMPLIANCE INSPECTOR, OR EVALUATOR FEES

21 NCAC 39 .0301 SCHEDULE OF CERTIFICATION FEES

(a) Application fees are as follows:

Grade Level	Initial Fee	Renewal Fee
I	\$150.00	\$75.00
II	\$200.00	\$75.00
III	\$250.00	\$75.00
IV	\$300.00	\$75.00

<u>Point of Sale Inspector Certificate Certification</u>	\$200.00	\$75.00
<u>Combination Contractor Certification Grade Level and Inspector Certificate</u>	Sum of individual fees	\$125.00
On-site Wastewater Evaluator	\$300.00	\$100.00
Private Compliance Inspector	\$300.00	\$100.00

- (b) Application fees shall not be pro-rated.
 (c) The fee for re-instatement of a revoked or suspended certification is five hundred dollars (\$500.00).
 (d) The fee for certificate replacement or duplication is twenty-five dollars (\$25.00).
 (e) The fee for late renewal is twenty-five dollars (\$25.00). This fee is charged if the renewal request is received after ~~December 31~~ November 15.
 (f) The fee for each returned check is twenty-five dollars (\$25.00).
 (g) All fees are non-refundable.

Authority G.S. 25-3-506; 90A-72(a); 90A-74; 90A-75; 90A-77(f); 90A-78(b); 130A-336.2.

SECTION .0400 - CERTIFICATION BY EXAMINATION

21 NCAC 39 .0401 ON-SITE WASTEWATER CONTRACTOR, POINT OF SALE INSPECTOR, PRIVATE COMPLIANCE INSPECTOR, OR EVALUATOR EXAMINATIONS

- (a) On-site wastewater contractor, point of sale inspector, private compliance inspector, or evaluator examinations shall be comprehensive examinations that are standardized statewide.
 (b) The exam questions shall be specific to the grade level certification being sought by the applicant.
 (c) Any applicant seeking a ~~combination certification~~ multiple certifications shall take and pass each exam specific to the grade level certifications being sought.
 (d) Each applicant shall obtain a passing score of at least 70 percent. Results of the examination shall be reported as either "pass" or "fail."

Authority G.S. 90A-72; 90A-74; 90A-77; 130A-336.2.

21 NCAC 39 .0402 TIME AND PLACE OF EXAMINATION

- (a) The Board may schedule on-site wastewater contractor, point of sale inspector, private compliance inspector, or evaluator examinations in addition to the required examinations pursuant to G.S. 90A-77. Additional examinations may be scheduled by the Board if the Board determines that the three scheduled examinations are insufficient due to the number of applicants for examination or the time between examinations. Information regarding the date, time, and place shall be made available on the Board's web site or upon request.
 (b) The Board shall notify each applicant filing for examination in writing of the date, time, and place of the examination.

Authority G.S. 90A-72; 90A-74; 90A-77; 130A-336.2.

21 NCAC 39 .0403 CONDUCTING AND GRADING EXAMINATIONS

- (a) Examinations shall be conducted and graded under the supervision of a representative of the Board.
- (b) Applicants shall identify themselves by way of a driver's license or other form of photographic identification issued by a state or federal government agency and the identification number shall be recorded ~~on the face of the examination paper.~~
- (c) Applicants shall not cheat or attempt to cheat on an examination by any means, including both giving and receiving assistance, and shall not communicate in any manner for any purpose other than with an examination supervisor during an examination. Applicants shall not deliberately disrupt the quiet and orderly administration of an examination in any manner. Violation of this Paragraph is cause for dismissal from the examination, invalidation of examinations scores, denial of certification and revocation of certification if the person is certified.
- (d) No electronics, reference materials or bags shall be possessed by applicants in examination area.

Authority G.S. 90A-72; 90A-74; 90A-77; 90A-81.

21 NCAC 39 .0404 ISSUANCE OF CERTIFICATES

- (a) After an examination grading, the applicant shall be informed in writing by the Board or its authorized representatives as to the results of his or her examination. The Board shall not respond to requests for exam results.
- (b) Upon successful completion of the examination and all requirements for certification the applicant shall be issued a certification card.
- (c) Questions by the applicant concerning the examination must be made in writing to the Board within six months of the notification date.
- (d) An applicant who fails to pass an examination shall be entitled to and notified of the privilege to review his examination in the presence of one or more Board members or its authorized representative at a location approved by the Board.
- (e) Each certified on-site wastewater contractor, point of sale inspector, private compliance inspector, or evaluator shall be assigned a unique certification number. Certification numbers are not transferable and shall not be used by another onsite wastewater contractor, point of sale inspector, private compliance inspector, or evaluator.
- (f) Upon successful completion of the examination, each evaluator shall be issued a seal.

Authority G.S. 90A-72; 90A-74; 90A-77; 130A-336.2.

21 NCAC 39 .0405 LICENSURE FOR MILITARY-TRAINED APPLICANT; LICENSURE FOR MILITARY SPOUSE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0500 - CERTIFICATION RENEWAL

21 NCAC 39 .0501 CONDITIONS AND LIMITATIONS FOR RENEWAL OF CERTIFICATIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0600 - CONTINUING EDUCATION REQUIREMENTS

21 NCAC 39 .0601 REQUIREMENTS

- (a) Every certified on-site wastewater contractor, point of sale inspector, private compliance inspector, or evaluator shall obtain Professional Development Hours (PDH) units during the renewal period as described in the following table:

Level	Annual PDH Units Required
I	3
II	3
III	6
IV	6
Point of Sale Inspector	6
Combination Certification Holders of Both Contractor Grade Level and Point of Sale Inspector	6
Evaluator	12
Private Compliance Inspector	<u>12</u>

- (b) The certified on-site wastewater contractor, point of sale inspector, private compliance inspector, or evaluator shall select courses and activities that have been approved as set out in Rule .0602 of this Chapter.
- (c) Professional Development Hours (PDH) shall be accepted by the Board for approved courses pursuant to Rule .0602 of this Chapter. Hours for all other courses shall be submitted by providers to the Board for approval pursuant to Rule .0602 of this Chapter. If not approved, no PDH shall be granted for the course.
- (d) Each on-site wastewater contractor, point of sale inspector, private compliance inspector, or evaluator shall attend at least 85 percent of the class in order to receive credit. Any attendee present for less time shall not receive credit for the class. The class provider or authorized representative shall certify that each class attendee meets the requirement of this Paragraph.
- (e) PDH received annually in excess of required PDH shall not be carried forward for future requirements.
- (f) PDH shall expire 15 months after completion.
- (g) PDH received for all introduction courses shall expire 15 months after completion.

Authority G.S. 90A-72; 90A-74; 90A-77; 90A-78; 90A-79; 130A-336.2.

21 NCAC 39 .0602 APPROVAL OF CONTINUING EDUCATION COURSES

- (a) All continuing education courses shall be approved by the Board before PDH can be granted.
- (b) All continuing education courses shall be approved on an annual basis.

(c) The Board shall approve courses in accordance with G.S. 90A-79 that instruct on on-site wastewater contractor, point of sale inspector, private compliance inspector, or evaluator activities and that enhance a contractor's, point of sale inspector's, private compliance inspector's, or evaluator's knowledge of construction, installation, repair, evaluation or inspection of wastewater systems. The Board shall determine that courses and activities result in the maintenance, improvement, or expansion of skills and knowledge related to the practice of on-site wastewater contractor, point of sale inspector, private compliance inspector, or evaluator activities. Providers may request approval of courses or activities from the Board by obtaining and completing a form available on the Board's website (www.ncowcib.info) ~~or by a written request to the Board~~ that provides the following information:

- (1) Course content;
- (2) Course schedule;
- (3) Level of instruction provided (Level ~~1, 2, 3, 4, II, IV,~~ point of sale inspector, private compliance inspector, or evaluator); ~~Inspector, or level 4/Inspector~~; ~~Combination Contractor Grade Level and Inspector, or evaluator~~;
- (4) Qualifications of instructors (including both education and experience); and
- (5) Materials provided, field experiences, and other activities available in connection with the course(s).

(d) Providers shall submit attendance rosters in excel format via email to the Board no later than 10 business days after conclusion of course. Attendance roster shall contain only the following:

- (1) Attendee First Name;
- (2) Attendee Last Name;
- (3) Number of Credit Hours received;
- (4) Certification number for current certification held or "none" for new applicants;
- (5) Name of Provider; and
- (6) Date of Class.

(e) Provider shall submit an email to the Board containing dates of class(es) scheduled a minimum of 10 business days prior to class date.

(f) Provider shall issue an attendance certificate to each attendee at the conclusion of class. Attendance certificates may be electronic or printed.

Authority G.S. 90A-72; 90A-74; 90A-77; 90A-78; 90A-79; 130A-336.2.

21 NCAC 39 .0604 RECORDKEEPING

Each contractor, point of sale inspector, private compliance inspector, or evaluator shall maintain records of any completed PDH courses including the following:

- (1) A log showing the type of activity claimed, sponsoring organization, location, duration, instructors or speaker's name, and PDH credits earned; or
- (2) Attendance verification records in the form of completion certificates or other documents supporting evidence of attendance.

Authority G.S. 90A-72; 90A-74; 90A-77; 90A-78; 90A-79; 130A-336.2.

21 NCAC 39 .0605 EXTENSION OF TIME

(a) The Board shall grant an on-site wastewater contractor, point of sale inspector, private compliance inspector, or evaluator an extension of time to complete continuing education (CE) requirements during a period of service in the Armed Forces of the United States upon submission of the following to the Board:

- (1) written request for extension; and
- (2) documentation that the requestor is serving in the Armed Forces of the United States and is eligible for an extension of time to file a tax return pursuant to G.S. 105-249.2.

(b) The Board shall grant an on-site wastewater contractor, point of sale inspector, private compliance inspector, or evaluator an extension of time to obtain CE requirements if he or she has a disability or illness that prevents him or her from complying with CE requirements. In order to receive the waiver, the requestor shall provide the Board with the following:

- (1) written request for waiver; and
- (2) documentation that describes the disability or illness and explains how the disability or illness prevents the contractor, point of sale inspector, private compliance inspector, or evaluator from complying with the Board's CE requirements. Documentation includes a letter from a licensed physician, nurse practitioner (NP), or physician assistant (PA).

(c) Where on a case-by-case basis the Board determines that due to an undue hardship (such as natural disaster or illness of family member) the contractor, point of sale inspector, or private compliance inspector, evaluator could not reasonably be expected to comply with the Board's CE requirements, the contractor, point of sale inspector, private compliance inspector, or evaluator shall be granted an extension of time in which to obtain the required CE credits. To be considered for an extension of time, a requestor shall submit the following:

- (1) written request for extension; and
- (2) documentation that supports the reason for the extension.

(d) The Board shall grant a waiver of CE requirements upon submission of documentation that a contractor, point of sale inspector, private compliance inspector, or evaluator is in active duty while serving in the Armed Forces and is or has been deployed for at least eight months during the twelve-month period during which CE credits were required.

(e) An extension granted under Paragraphs (b) or (c) of this Rule shall not exceed one year. Prior to the expiration of the one year extension of time, a contractor, point of sale inspector, private compliance inspector, or evaluator may request an additional extension in accordance with this Rule. Except as set out in Paragraph (a) of this Rule, the Board shall grant no more than two consecutive extensions.

Authority G.S. 90A-72; 90A-74; 90A-77; 90A-78; 90A-79; 93B-15; 130A-336.2.

SECTION .0700 - PROCEDURES FOR DISCIPLINARY ACTIONS

21 NCAC 39 .0701 REVOCATION, OR SUSPENSION OF CERTIFICATION

- (a) The Board may revoke or suspend the certification of an on-site wastewater contractor, point of sale inspector, private compliance inspector, or evaluator in accordance with the provisions of G.S. 90A-80, 90A-81, and Article 3A of Chapter of 150B of the NC General Statutes. For holders of ~~the Combination Contractor Grade Level and Inspector~~ multiple certifications, the Board may revoke or suspend either or ~~both~~ all certifications.
- (b) Following a revocation or suspension, a certificate holder shall relinquish his or her certificate or seal by submission to the Board of the original certificate or seal and a notarized statement of relinquishment.
- (c) The Board may restrict the certificate of an on-site wastewater contractor, inspector, or evaluator. Written notice of the restriction shall be delivered in accordance with the provisions of service in G.S. 150B-42. A copy of the letter shall be kept in the on-site wastewater contractor, point of sale inspector, private compliance inspector, or evaluator's file. The on-site wastewater contractor, point of sale inspector, private compliance inspector, or evaluator shall be given the opportunity to put a letter of rebuttal into the file with the Board. The letter shall be received by the Board within 30 days of receipt of the written notice.

Authority G.S. 90A-72; 90A-74; 90A-80; 90A-81; 130A-336.2.

21 NCAC 39 .0702 CERTIFICATION FOLLOWING REVOCATION OR VOLUNTARY SURRENDER OF CERTIFICATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 39 .0703 PENALTIES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0800 – ONSITE WASTEWATER CONTRACTOR, INSPECTOR, OR EVALUATOR CODE OF ETHICS

21 NCAC 39 .0801 CODE OF ETHICS

- (a) Contractors, point of sale inspectors, private compliance inspector, and evaluators shall at all times recognize their primary obligation is to protect the public in the performance of their professional duties and shall conduct the practice of those duties in a manner that protects the public health, safety and welfare.
- (b) Opinions expressed by contractors, point of sale inspectors, private compliance inspector, or evaluators in the discharge of their duties shall only be based on their education and experience.
- (c) No contractor, point of sale inspector, private compliance inspector, or evaluator shall disclose any information about the results of an inspection or evaluation without the approval of the client for whom the inspection or evaluation was performed, or the client's designated representative, except as required by law.
- (d) No contractor, point of sale inspector, private compliance inspector, or evaluator shall accept compensation or any other consideration from more than one interested party for the same service without the consent of all interested parties.

- (e) No contractor, point of sale inspector, private compliance inspector, or evaluator shall accept or offer commissions or allowances, directly or indirectly, from or to other parties dealing with the client in connection with work for which the licensee is responsible.
- (f) No contractor, point of sale inspector, or private compliance inspector, evaluator shall provide an appraisal nor express an opinion of the market value of the inspected property during an inspection or in the inspection report.
- (g) Before the execution of a contract to perform an on-site wastewater system point of sale inspection, ~~an a~~ point of sale inspector shall disclose to the client any interest the point of sale inspector has in a business that may affect the client. No licensee shall allow his or her interest in any business to affect the quality or results of the inspection work that the inspector may be called upon to perform.
- (h) Before the execution of a contract to perform an on-site wastewater system installation, a contractor shall disclose to the client any interest a contractor has in a business that may affect the client. No licensee shall allow his or her interest in any business to affect the quality or results of the installation work that the contractor may be called upon to perform.
- (i) Before the execution of a contract to perform an on-site wastewater system evaluation, an evaluator shall disclose to the client any interest the evaluator has in a business that may affect the client. No evaluator shall allow his or her interest in any business to affect the quality or results of the evaluation work that the evaluator may be called upon to perform. Pursuant to G.S. 130A-336.2(d)(1), the evaluator shall not form a direct business relationship with any technology.
- (j) Before execution of a contract to perform an on-site wastewater system private compliance inspection, the private compliance inspector shall disclose to the client any interest the private compliance inspector has in a business that may affect the client. No private compliance inspector shall allow his or her interest in any business to affect the quality or results of the private compliance inspection that the private compliance inspector may be called upon to perform.
- ~~(j)~~(k) Contractors shall not knowingly or willfully install a non-permitted system.
- ~~(k)~~(l) Contractors shall not knowingly or willfully install a system or any part of a system other than what is specified in the permit.
- ~~(l)~~(m) Contractors, point of sale inspectors, private compliance inspector, and evaluators shall not engage in false or misleading advertising, documentation, and reporting or otherwise misrepresent any matters to the public.
- ~~(m)~~(n) Contractors, point of sale inspectors, private compliance inspector, and evaluators shall discharge their duties in accordance with Article 5 of Chapter 90A of the North Carolina General Statutes and the rules of the Board.
- ~~(n)~~(o) No point of sale inspector shall subcontract with another point of sale inspector for an on-site wastewater system inspection without the knowledge and signed consent of the client.
- ~~(o)~~(p) The contractor of record shall be the responsible party for an on-site wastewater system installation or repair that is permitted through the local health ~~department~~ department or evaluator.
- ~~(p)~~(q) The evaluator of record shall be responsible for the work conducted by a subordinate.

~~(q)(r)~~ The evaluator shall not perform any of the functions performed by a professional engineer for engineered wastewater systems described in G.S. 130A-336.1

~~(s)~~(s) Evaluators who fail to comply with G.S. 89F-19 and have their soil scientist license revoked or suspended shall also have their authorization as an evaluator revoked or suspended.

~~(t)~~(t) Employees of a local health department or DHHS shall not construct, install, evaluate, inspect or repair, or offer to construct, install, evaluate, inspect or repair, onsite wastewater systems outside of their employment with a local health department or DHHS.

~~(u)~~(u) Evaluators shall not perform duties of ~~contractors or inspectors~~ contractors, point of sale inspectors, or private compliance inspectors on any system on which they are the evaluator.

(v) The private compliance inspector of record shall be responsible for the work conducted by a subordinate.

Authority G.S. 90A-70; 90A-72; 90A-74; 130A-336.2.

21 NCAC 39 .0802 COOPERATION WITH BOARD INQUIRY (READOPTIION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 39 .0803 DELEGATING TO THIRD-PARTY SERVICE PROVIDERS (READOPTIION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0900 – RULEMAKING PROCEDURES

21 NCAC 39 .0901 PETITION FOR RULE-MAKING (READOPTIION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 39 .0902 REQUEST FOR DECLARATORY RULING (READOPTIION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 39 .0903 REFUSAL TO ISSUE DECLARATORY RULING (READOPTIION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 39 .0904 WAIVER OR EXTENSION (READOPTIION WITHOUT SUBSTANTIVE CHANGES)

SECTION .1000 - NC ON-SITE WASTEWATER INSPECTOR STANDARDS OF PRACTICE

21 NCAC 39 .1001 DEFINITIONS (READOPTIION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 39 .1002 GENERAL REQUIREMENTS FOR CONTRACTORS AND POINT OF SALE INSPECTORS

(a) Point of sale Inspectors shall:

- (1) Provide to the client or the client's representative a written contract, signed by both the client or client's representative and the point of sale inspector, before the on-site wastewater system inspection is performed that:

- (A) States that the on-site wastewater system inspection is conducted in accordance with Rules .1004, .1005, and .1006 of this Section; and
- (B) Describes what services shall be provided and their cost;
- (2) Obtain written permission from the owner or owner's representative to perform the inspection;
- (3) Inspect readily openable and accessible installed systems and components listed in Rule .1005 of this Section;
- (4) Submit a written report to the client or client representative within 10 business days of the inspection that:
 - (A) Describes those systems and components required to be described in Rules .1005 through .1006 of this Section;
 - (B) States which systems and components designated for inspection in this Section have been inspected, and state any systems or components designated for inspection that were not inspected, and the reason for not inspecting. Failure to locate the system or components for inspection or "could not locate" shall not be the same as "not visible." If the system or component is not located, the written report shall state the failure to locate the system or components for inspection or "could not locate;"
 - (C) States any systems or components inspected that do not function as intended or harm the wastewater treatment system;
 - (D) States whether the condition reported requires repair or subsequent observation, or warrants further evaluation by the local health department. The statements shall describe the component or system and how the condition is defective, explain the consequences of the condition, and refer the recipient to the local health department or a certified on-site wastewater contractor; and
 - (E) States the name, license number, and signature of the certified point of sale inspector;
- (5) Maintain records for a period of seven years.
- (b) Contractors that contract with an owner of a system permitted by an evaluator in accordance with G.S. 130A-336.2 shall:
 - (1) Submit to the evaluator and Board the insurance declaration page verifying errors and omissions, liability, or other coverage, as appropriate for the system designed, prior to commencing installation;

- (2) Be responsible for all aspects of the construction and installation of the wastewater system and its components, including adherence to specifications and any special inspections that are prepared, signed, and sealed by the evaluator; and
- (3) Submit a dated and signed statement of responsibility to the owner of the wastewater system, prior to commencement of work.

- (2) Offer or perform engineering, architectural, plumbing, electrical, pesticide or any other job function requiring an occupational license in the jurisdiction where the inspection, installation, or repair is taking place, unless the on-site wastewater system ~~inspector~~ point of sale inspector, private compliance inspector, or contractor holds a valid occupational license in that field, in which case the ~~inspector~~ point of sale inspector, private compliance inspector, or contractor shall inform the client that the ~~inspector~~ point of sale inspector, private compliance inspector, or contractor is so licensed.

Authority G.S. 90A-71; 90A-72; 90A-74; 130A-336.2.

21 NCAC 39 .1004 GENERAL EXCLUSIONS FOR CONTRACTORS AND POINT OF SALE INSPECTORS

(a) Point of sale inspectors ~~Inspectors~~ shall not be required to report on:

- (1) Life expectancy of any component or system;
- (2) The causes of the need for a repair;
- (3) The methods, materials, and costs of corrections;
- (4) The suitability of the property for any specialized use;
- (5) The market value of the property or its marketability;
- (6) The advisability or inadvisability of purchase of the property; or
- (7) Normal wear and tear to the system.

(b) Point of sale inspectors ~~Inspectors~~ shall not be required to:

- (1) Identify property lines;
- (2) Offer warranties or guarantees of any kind;
- (3) Calculate the strength, adequacy, or efficiency of any system or component;
- (4) Operate any system or component that does not respond to normal operating controls;
- (5) Move excessive vegetation, structures, personal items, panels, furniture, equipment, snow, ice, or debris that obstruct access to or visibility of the system and any related components;
- (6) Determine the presence or absence of any suspected adverse environmental condition or hazardous substance, including toxins, carcinogens, noise, and contaminants in the building or in soil, water, and air;
- (7) Determine the effectiveness of any system installed to control or remove suspected hazardous substances;
- (8) Predict future condition, including failure of components;
- (9) Project operating costs of components;
- (10) Evaluate acoustical characteristics of any system or component; or
- (11) Inspect equipment or accessories that are not listed as components to be inspected in this Section.

(c) ~~Inspectors~~ Point of sale inspectors, private compliance inspectors, and Contractors shall not:

- (1) Offer or perform any act or service contrary to Article 5 of G.S. 90A or the rules of this Chapter; or

Authority G.S. 90A-72; 90A-74.

21 NCAC 39 .1005 ON-SITE WASTEWATER SYSTEM COMPONENTS

(a) When inspecting an on-site wastewater system the point of sale inspector shall inspect and describe the following in a report as set forth in Rule .1002 of this Chapter:

- (1) any part of the system located more than five feet from the primary structure that is part of the operations permit;
- (2) septic tanks;
- (3) pump tanks;
- (4) distribution devices;
- (5) dispersal fields;
- (6) treatment units;
- (7) control panels;
- (8) any other components required as part of on-site wastewater system permit, including drainage; and
- (9) any vegetation and grading with respect only to their effect on the condition of the system or system components.

(b) The point of sale inspector shall:

- (1) uncover tank lids and distribution devices so as to gain access, unless blocked as described in Rule .1004(b)(5) of this Section. The distribution box may remain covered if the point of sale inspector has an alternate method of observing its condition;
- (2) probe system components where deterioration is suspected;
- (3) report the methods used to inspect the on-site wastewater system;
- (4) open readily accessible and readily openable components as defined in Rule .1001 of this Chapter;
- (5) report signs of abnormal or harmful water entry into or out of the system or components; and
- (6) conduct the inspection using the rules promulgated under Article 11 of Chapter 130A in effect at the time of the initial construction or renovation of the system, whichever occurs later, and any subsequent installation or

replacement of any system or component of the system.

(c) The point of sale inspector shall not be required to:

- (1) conduct dosing volume calculations;
- (2) evaluate soil conditions beyond saturation or ponding;
- (3) evaluate for the presence or condition of buried fuel storage tanks;
- (4) evaluate the system for proper sizing, design, or use of approved materials pursuant to Article 11 of Chapter 130A and the rules promulgated therefrom; or
- (5) perform a hydraulic load test on the system.

Authority G.S. 90A-72; 90A-74.

21 NCAC 39 .1006 MINIMUM ON-SITE WASTEWATER SYSTEM POINT OF SALE INSPECTION

(a) The point of sale inspector shall obtain, evaluate, describe, or determine the following during the inspection:

- (1) Advertised number of bedrooms as stated in the realtor Multiple Listing Service information or by a sworn statement of owner or owner's representative; and
- (2) Designed system size (gallons per day or number of bedrooms) as stated in available local health department information, such as the current operation permit or the current repair permit.

(b) The point of sale inspector shall obtain, evaluate, describe, or determine the following during the inspection:

- (1) Requirement for a certified subsurface water pollution control system operator pursuant to G.S. 90A-44, current certified operator's name, and most recent performance, operation and maintenance reports (if applicable and available);
- (2) Type of water supply, such as well, spring, public water, or community water;
- (3) Location of septic tank and septic tank details:
 - (A) Distance from house or other structure;
 - (B) Distance from well, if applicable;
 - (C) Distance from water line, if applicable and readily visible;
 - (D) Distance from property line, if said property lines are known;
 - (E) Distance from finished grade to top of tank or access riser;
 - (F) Presence and type of access risers;
 - (G) Condition of tank lids;
 - (H) Condition of tank baffle wall;
 - (I) Water level in tank relative to tank outlet;
 - (J) Condition of outlet tee;
 - (K) Presence and condition of outlet filter, if applicable;

- (L) Presence and extent of roots in the tank;
- (M) Evidence of tank leakage;
- (N) Evidence of inflow non-permitted connections, such as from downspouts or sump pumps;
- (O) Connection present from house to tank;
- (P) Connection present from tank to next component;
- (Q) Date tank was last pumped, if known; and
- (R) Percentage of solids (sludge and scum) in tank;

- (4) Location of pump tank and pump tank details:
 - (A) Distance from house or other structure;
 - (B) Distance from well or spring, if applicable;
 - (C) Distance from water line, if applicable;
 - (D) Distance from property line, if said property lines are known;
 - (E) Distance from finished grade to top of tank or access riser;
 - (F) Distance from septic tank;
 - (G) Presence and type of access risers;
 - (H) Condition of tank lids;
 - (I) Location of control panel;
 - (J) Condition of control panel;
 - (K) Audible and visible alarms (as applicable) work;
 - (L) Pump turns on, and effluent is delivered to next component; and
 - (M) Lack of electricity at time of inspection prevented complete evaluation;
- (5) Location of dispersal field and dispersal field details:
 - (A) Type of dispersal field;
 - (B) Distance from property line, if said property lines are known;
 - (C) Distance from septic tank and also pump tank if a pump tank exists;
 - (D) Number of lines;
 - (E) Length of lines;
 - (F) Evidence of past or current surfacing at time of inspection;
 - (G) Evidence of traffic over the dispersal field;
 - (H) Vegetation, grading, and drainage with respect only to their effect on the condition of the system or system components; and
 - (I) Confirmation that system effluent is reaching the drainfield; and
- (6) Conditions that prevented or hindered the inspection or determination of Subparagraph (b)(1) through (b)(5) of this Rule.

(c) If a client declines to allow a tank to be pumped, the inspection form shall contain the statement:

"Client requesting this inspection has been advised that for a complete inspection to be performed, the tank needs to be pumped. Client has declined to have the tank pumped at inspection and hereby acknowledges they have so declined." A space shall be provided for the client signature and date.

(d) The point of sale inspector shall not:

- (1) Insert any tool, probe, or testing device inside pump system control panels; or
- (2) Dismantle any electrical device or control other than to remove the covers of the main and auxiliary control panels.

Authority G.S. 90A-72; 90A-74.

**SECTION .1100 - NC ON-SITE WASTEWATER
EVALUATOR STANDARDS OF PRACTICE**

**21 NCAC 39 .1101 DEFINITIONS (READOPTION
WITHOUT SUBSTANTIVE CHANGES)**

**21 NCAC 39 .1102 GENERAL REQUIREMENTS
FOR EVALUATORS (READOPTION WITHOUT
SUBSTANTIVE CHANGES)**

**21 NCAC 39 .1103 GENERAL EXCLUSIONS FOR
EVALUATORS (READOPTION WITHOUT
SUBSTANTIVE CHANGES)**

**21 NCAC 39 .1104 REQUIRED DOCUMENTS FOR
EVALUATORS (READOPTION WITHOUT
SUBSTANTIVE CHANGES)**

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: Department of Insurance

Rule Citation: 11 NCAC 18 .0102

Effective Date: April 7, 2025

Date Approved by the Rules Review Commission: March 27, 2025

Reason for Action: The amendment is necessary to make 11 NCAC 18 .0102 conform with the amendments to GS 58-50A-70 contained in the Section 3G.1.(b) of SL 2024-57 which allow a statewide chamber of commerce or business league meeting the additional requirements of the amended statute to form a multiple employer welfare arrangement (MEWA).

(3) "Trade association" means member employers who are in the same type of trade, such as plumbers or electricians; and any others that are trade designations as recognized by the required licensing agency.

(4) "Chamber association" means a statewide chamber of commerce or business league that meets all of the criteria listed in G.S. 58-50A-70(a)(2)c.

(d) The feasibility study required by G.S. 58-49-50(7) 58-50A-80(7) shall disclose all material assumptions.

Authority G.S. 58-2-40(1); ~~58-49-40; 58-49-50;~~ 58-50A-70, 58-50A-80.

CHAPTER 18 - MULTIPLE EMPLOYER WELFARE ARRANGEMENTS

11 NCAC 18 .0102 GENERAL ELIGIBILITY

(a) Each MEWA shall provide to the Commissioner ~~adequate~~ documentation from the Internal Revenue Service confirming that the exemption under Section 501(c) of the Internal Revenue Code has been granted, or that the MEWA will operate solely for the benefit of the members of the MEWA. Any profits from the operation of the MEWA shall be invested in securities as allowed by G.S. 58-7-160 through G.S. 58-7-200, and the interest or other profits accrued or received thereon shall be ~~used to provide rate stability~~ contributed to surplus for the stability of rates or provide other such benefits for the members to which the trustees and the Commissioner agree; and the trust agreement required by G.S. 58-50A-70(a)(3) shall so state.

(b) Each MEWA shall be established by a trade association, industry association, ~~or professional association.~~ professional association, or chamber association.

(c) As used in this Rule:

(1) "Industry association" means member employers who are in the same major group code, as defined by the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget; unless restricted by Subparagraph (c)(2) or (3) of this Rule.

(2) "Professional association" means member employers who are of the same type of profession, such as physicians, dentists, accountants, lawyers, or architects; but is not limited to those professions. However, the profession must be one that is recognized by the required licensing agency.

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Rule-making Agency: Department of Environmental Quality

Rule Citation: 15A NCAC 01W .0101-.0105

Effective Date: April 8, 2025

Reason for Action: S.L. 2024-53, s. 4C.8 establishes an emergency infrastructure bridge loan program for commercial underground storage tanks, which is intended to provide immediate temporary funding to assist tank owners and operators in areas affected by Hurricane Helene with recovery efforts to return to operational status. The loans would be repaid with funds that the owner or operator expects to receive from federal aid or private insurance, or other reimbursement sources which may not be immediately available. The emergency and temporary rules are required by the Session Law and are necessary for the Department to clarify multiple aspects of the Session Law requirements, including application and review procedures and repayment requirements. This rule clarifies the requirements for the loan agreement and subsequent amendments.

Note that S.L. 2024-53, s. 4C.8(1) states: "Temporary and permanent rules adopted to replace emergency rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes."

CHAPTER 01 - DEPARTMENTAL RULES

SUBCHAPTER 01W - EMERGENCY INFRASTRUCTURE BRIDGE LOAN PROGRAM FOR COMMERCIAL USTS

SECTION .0100 - EMERGENCY INFRASTRUCTURE BRIDGE LOAN PROGRAM FOR COMMERCIAL USTS

15A NCAC 01W .0101 APPLICABILITY AND DEFINITIONS

(a) Applicability. The rules of this Subchapter shall apply to emergency infrastructure bridge loans for commercial underground storage tanks as established by S.L. 2024-53, s. 4C.8 for short-term financial liquidity necessary to immediately conduct emergency services in the affected area, pending federal disaster relief or payment or reimbursement by insurance. The requirements of S.L. 2024-53, s. 3.1.(b), (c), and (d) are applicable to the rules of this Subchapter, including subsequent amendments or editions. 15A NCAC 02N is incorporated by reference including subsequent amendments or editions.

(b) Documents and payments required to be submitted to the Division by the rules of this Subchapter may be submitted to the Division of Waste Management's Underground Storage Tank Section at the Division's mailing address at 1646 Mail Service Center, Raleigh, NC 27699-1646.

(c) Definitions. The definitions found in Part 2A of Article 21A of Chapter 143 of the General Statutes, the definitions in 15A NCAC 02N, and the definitions in Sections 1.4 and 4C.8 of S.L. 2024-53 shall apply to the rules of this Subchapter. For the purposes of this Subchapter, "applicant" means the owner or operator of a commercial underground storage tank permitted by the Division in accordance with 15A NCAC 02N that is located in the affected area, and that is submitting an application for an emergency infrastructure bridge loan.

Authority S.L. 2024-53, s. 4C.8.(l).

15A NCAC 01W .0102 LOAN APPLICATION

(a) An owner or operator of a commercial underground storage tank permitted by the Division in accordance with 15A NCAC 02N that is located in the affected area may apply for an emergency infrastructure bridge loan in accordance with S.L. 2024-53, s. 4C.8 and the rules of this Subchapter. The application shall be submitted on a form provided by the Division, which can be found on the Division's website at <https://www.deq.nc.gov/about/divisions/waste-management/underground-storage-tanks-section/bridge-loan-program>, and shall include the following information and attachments:

- (1) the owner's contact information, including the name, phone number, email address, and mailing address for the contact person or authorized representative for the owner, and the business name if the owner is a business;
- (2) the operator's contact information, including the name, phone number, email address, and mailing address for the contact person or authorized representative for the operator, and the business name if the operator is a business;
- (3) the UST facility name, UST facility identification number for the operating permit issued by the Division in accordance with 15A NCAC 02N, and the physical address and the county in which the UST system is located;

- (4) a description of the impacts and damage to the UST system from Hurricane Helene, including photographs of the impacts or damage;
- (5) a description of the testing and repairs and the scope of work for which the applicant is requesting funds;
- (6) a list of contractors the applicant is proposing to use for completion of the scope of work;
- (7) the project costs, including costs expended at the time of application and estimated future costs;
- (8) a description and the amount of federal disaster relief funds and private insurance reimbursement that the applicant has applied for and the source of those funds;
- (9) a description and the amount of disaster relief funds that the applicant has already received from other sources as of the date of the application;
- (10) copies of repair cost estimates, contracts, or receipts that comply with Paragraphs (d), (e), and (f) of this Rule;
- (11) a description of the attachments included with the application; and
- (12) a certification signed by the applicant or the applicant's authorized representative certifying that the application and documentation provided to the Division are true and accurate to the best of the applicant's knowledge.

(b) The application shall be submitted by December 31, 2025.

(c) The Division shall review the submitted application and provide a response in writing stating either that the application is complete and under review, or that the application is incomplete and stating the information or attachments that are required to be submitted for the application to meet the requirements of Paragraph (a) of this Rule. The owner or operator shall submit any additional information requested by the Division in the response within 30 days following the date the Division's response was issued.

(d) The UST system testing and repairs for which the loan is being requested shall comply with S.L. 2024-53 and the rules of this Subchapter.

(e) Copies of receipts from testing or repairs in accordance with Paragraph (d) of this Rule that have been completed and paid for at the time the application is submitted shall be submitted with the application. The receipts shall include the name and contact information for the contractor, a description of the testing or repair, and the actual cost for the testing or repair.

(f) Copies of cost estimate documentation such as quotes, invoices, contracts, or similar documents for testing and repairs in accordance with Paragraph (d) of this Rule shall be submitted with the application for testing or repairs that are proposed or in progress and have not been paid for at the time the application is submitted. The testing or repair estimates shall include the name and contact information for the contractor, a description of the proposed testing or repair, and the estimated cost of the proposed testing or repair.

Authority S.L. 2024-53, s. 4C.8.(l).

15A NCAC 01W .0103 APPLICATION REVIEW AND LOAN ELIGIBILITY

(a) The Division shall review an application submitted that complies with Rule .0102 of this Section and determine whether the loan is eligible for approval. The Division may determine that the loan is not eligible for approval, that the loan is eligible for the amount requested, or that the loan is eligible for a portion of the amount requested. In making the determination for loan approval and the amount approved, the Division may consider the following criteria:

- (1) the information submitted in the application;
- (2) the remaining amount of loan funds available;
- (3) the location of the UST system within the affected areas as defined in S.L. 2024-53, with priority given to the areas with the greatest impacts from Hurricane Helene;
- (4) whether the costs included in the scope of work are significantly different from a range of expected or reasonable costs for such work, as determined by the Division;
- (5) federal disaster relief or private insurance reimbursement received for Hurricane Helene response prior to submittal of the application;
- (6) the level of need for other submitted applications under review by the Division that have not yet been awarded pursuant to S.L. 2024-53, s. 4C.8.(h);
- (7) the type of work included in the scope of work, with funding priority given to the specific examples of repairs and testing listed in the definition of emergency services in S.L. 2024-53, s. 4C.8.(b); and
- (8) the operational status of the UST system and the status of the scope of work submitted.

(b) If the Division determines that the loan is eligible for approval, either for the requested amount or a portion of the requested amount, the Division shall send the applicant a letter of intent to award the loan in accordance with S.L. 2024-53, s. 4C.8.(i) with a copy of the loan agreement developed in accordance with Rule .0104 of this Section within 60 days after receipt of the application. Within 30 days after the offer is issued, the recipient shall:

- (1) accept the offer by executing a loan agreement in accordance with Rule .0104(c) of this Section and returning it to the Division; or
- (2) provide a written response to the Division rejecting the offer.

(c) If the applicant has not accepted or rejected the offer in accordance with Paragraph (b) of this Rule within 30 days after the offer is issued, the Division may rescind the offer to award the loan by providing written notice to the applicant. The awarding of new loans shall cease on June 30, 2028.

(d) If the Division determines that the loan is not eligible for approval because it does not comply with S.L. 2024-53 or the rules of this Subchapter, the Division shall send the applicant a letter via certified mail outlining the reasons that the applicant is not eligible within 60 days after receipt of the application.

(e) If the applicant disagrees with the Division's determination, the applicant may elect to submit an informal appeal to the

Division supplying additional supporting information. The appeal must be submitted within 30 days of the date the Division issued the notification of the Division's determination. The Division shall review the additional information and shall issue a final written agency decision via certified mail. Pursuant to S.L. 2024-53, s. 4C.8.(h), the Division's determination of need is conclusive.

Authority S.L. 2024-53, s. 4C.8.(l).

15A NCAC 01W .0104 LOAN AGREEMENT

(a) Within 10 business days after an applicant elects to accept a loan after it is awarded in accordance with S.L. 2024-53, s. 4C.8.(i), the recipient shall submit a signed NC Substitute W-9 form to the Division. The Substitute W-9 form may be obtained from the NC Office of the State Controller website at: <https://www.osc.nc.gov/state-north-carolina-sub-w-9>.

(b) Loan Agreement. If an applicant elects to accept a loan after it is offered in accordance with S.L. 2024-53, s. 4C.8.(i), a loan agreement shall be executed between the Division and the recipient. The loan agreement shall include the terms and conditions of the agreement such as:

- (1) the conditions for issuance of the loan, including the requirements in Paragraph (a) of this Rule;
- (2) information regarding the intended use of the loan proceeds;
- (3) a deadline by which the applicant shall have entered into a construction contract to begin testing and repairs;
- (4) conditions under which the loan will be repaid including any payment plan schedules requested by the applicant;
- (5) the rights and responsibilities of the parties;
- (6) the loan identification number assigned by the Division; and
- (7) any other applicable terms and conditions of the loan as outlined in Rule .0105 of this Section.

(c) The loan agreement shall be signed and notarized by the recipient and an original signed copy shall be returned to the Division. The Division shall also sign and notarize the agreement to execute the agreement. The agreement shall be effective on the date the agreement is signed and notarized by the Division.

(d) After the loan agreement is executed, the applicant may submit a request in writing for an amendment to the loan amount or the terms of the loan agreement. The request shall include the amendment being requested and supporting evidence for the request, including supporting documentation such as updates to any information that was provided in the application that has changed since the application was submitted. The Division shall review and respond to the request in accordance with Rule .0103 of this Section. If approved, the agreement shall be revised accordingly and shall be signed and notarized by the Division and the recipient. No amendments to awarded loans shall be approved after June 30, 2028.

Authority S.L. 2024-53, s. 4C.8.(l).

**15A NCAC 01W .0105 LOAN TERMS, LIMITATIONS,
AND CONDITIONS**

(a) In addition to the loan terms in S.L. 2024-53, s. 4C.8 and the applicable requirements of s. 3.1, a bridge loan from the program is subject to the following terms and conditions:

- (1) The total amount awarded for the loan shall be repaid in full by the maturity date as defined in S.L. 2024-53, s. 4C.8, and no later than June 30, 2030.
- (2) A loan may be repaid early or on a payment plan outlined in the loan agreement prior to the maturity date without penalty.
- (3) Loan payments shall be submitted to the Division of Waste Management Underground Storage Tank Section by certified check or money order.

(b) In addition to the loan limitations in S.L. 2024-53, s. 4C.8, a bridge loan from the program shall not be used for purposes that do not comply with the requirements of S.L. 2024-53, such as the following purposes:

- (1) removal of a commercial underground storage tank unless the applicant provides evidence in the loan application that damage or impacts from Hurricane Helene necessitated the removal, and the removal is necessary to restore the UST system to operational capacity;
- (2) work or testing or repairs related to aboveground storage tanks or non-commercial underground storage tanks, notwithstanding new action from the General Assembly;
- (3) purposes that are or may be eligible for reimbursement from the Commercial Leaking

Petroleum Underground Storage Tank Cleanup Fund in accordance with G.S. 143-215.94B;

- (4) any repairs or testing that have already been paid for or reimbursed by federal disaster relief or private insurance or other emergency funding sources; or
- (5) any repairs or testing that occurred or were necessary prior to the date of Hurricane Helene, or that were not a result or impact of Hurricane Helene.

(c) The recipient shall submit a final report within 90 days after completion of testing and repairs. The report shall include a description of:

- (1) the operational capacity of the UST system;
- (2) any deviations from the scope of work submitted in the application; and
- (3) receipts for completed repairs that were not submitted in the application.

(d) If a recipient fails to comply with S.L. 2024-53, the rules of this Subchapter, or the loan agreement, the Division shall notify the recipient in writing that they are in default, and provide the actions the recipient must take in order to cure the default and the deadlines to take those actions. If the recipient fails to take the required actions by the deadlines stated in the notice, the loan shall be considered to be in default and the Division will refer the loan for collection in accordance with State law.

Authority S.L. 2024-53, s. 4C.8.(l).

APPROVED RULES

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

Rules approved by the Rules Review Commission at its meeting on March 27, 2025 Meeting.

**REGISTER CITATION TO THE
NOTICE OF TEXT**

ELECTIONS, STATE BOARD OF

Federal Political Committee Reporting 08 NCAC 21 .0105* G.S. 150B-21.5(b)(3)

ENVIRONMENTAL QUALITY, DEPARTMENT OF

Applicability and Definitions 15A NCAC 01V .0101* 39:08 NCR
Registration and Fee Requirements for New and Existing USSPs 15A NCAC 01V .0102* 39:08 NCR
Registration Fee Amount for New and Existing USSPs 15A NCAC 01V .0103* 39:08 NCR
Decommissioning Cost Estimate Requirements for New and Ex... 15A NCAC 01V .0104* 39:08 NCR
General Requirements for Financial Assurance for New USSPs 15A NCAC 01V .0105* 39:08 NCR
Allowable Mechanisms for Financial Assurance for New USSPs 15A NCAC 01V .0106* 39:08 NCR
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TITLE 08 - BOARD OF ELECTIONS

**08 NCAC 21 .0105 FEDERAL POLITICAL
COMMITTEE REPORTING**

*History Note: Authority G.S. 163-278.7A; 163-278.21; 163-278.22;
Eff. May 1, 2020;
Repealed Eff. April 1, 2025.*

accordance with the applicability and effective dates of S.L. 2023-58, s. 2.(e) and s. 4, and the requirements of this Section. Non-compliance shall be addressed through penalties issued in accordance with Part 2 of Article 1 of Chapter 130A of the General Statutes, as provided in G.S. 130A-309.243, including G.S. 130A-22 for the issuance of penalties and G.S. 130A-24 for the appeal of enforcement decisions.

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

- (1) "Corporation," "fiscal year," "parent," and "subsidiary" mean these terms as defined in G.S. 105-130.2.
- (2) "Project Owner" means the legal entity or entities that own the personal property that has been constructed or assembled for a USSP, which may be a different legal entity than the owner of the real property (landowner) on which the USSP has been constructed.

**TITLE 15A - DEPARTMENT OF ENVIRONMENTAL
QUALITY**

**15A NCAC 01V .0101 APPLICABILITY AND
DEFINITIONS**

(a) The project owners of a utility-scale solar project (USSP) shall comply with Part 2J of Article 9 of Chapter 130A of the General Statutes, "Management of Solar Energy Equipment," in

- (3) "Substantial Business Relationship" means the extent of a business relationship necessary under applicable State law to make a guarantee contract issued incident to that relationship valid and enforceable. A "substantial business relationship" shall arise from a pattern of recent or ongoing business transactions, in addition to the guarantee itself, that demonstrates to the Department that a business relationship between the guarantor and the project owner exists.
- (4) "USSP" means utility-scale solar project as defined in G.S. 130A-309.240(a). The Department's determination of whether a USSP meets the threshold in the statute definition of being "capable of generating 2 megawatts AC" shall be consistent with the determination made by the NC Utilities Commission as to whether a generating facility meets the two-megawatt capacity threshold for certification requirements pursuant to G.S. 62-110.1(g).
 - (A) "Existing USSP" means a USSP for which an application for a certificate of public convenience and necessity (CPCN) was submitted to the NC Utilities Commission (NCUC) pursuant to G.S. 62-110.1 before June 26, 2023.
 - (B) "New USSP" means a USSP for which an application for a CPCN was submitted to the NCUC pursuant to G.S. 62-110.1 on or after June 26, 2023, or a USSP that was generating solar energy or was interconnected to a transmission facility on June 26, 2023, but was later rebuilt or expanded after June 26, 2023.

- (b) The subsequent registration updates and fees shall be submitted to the Department every five years in accordance with G.S. 130A-309.240(e) and (h). The deadline for submittal of the five-year registration updates and registration fee shall be the last day of the month in which the five-year anniversary of the due date for the initial submittal occurs in accordance with Paragraph (a) of this Rule for each USSP.
- (c) The Department shall not be required to provide notice to the project owner that the initial registration, periodic updates, or registration fee are due. The project owner shall be responsible for submittal of the registration, periodic updates, and fees by the deadlines established in this Rule.
- (d) In accordance with G.S. 130A-309.240(c), the project owner of a new USSP shall submit a decommissioning plan, and subsequent updates to the plan, with the registration required to be submitted by this Rule. The Department shall review the plan and shall inform the project owner in writing of deficiencies in the plan, if any, within 60 days of submittal. The project owner shall correct the deficiencies identified by the Department and submit the corrected decommissioning plan to the Department no more than 30 days after the Department issued the notification of deficiencies. The project owner shall not commence construction, rebuild, or expansion of the project until the Department has received the decommissioning plan that complies with the requirements of G.S. 130A-309.240 and the rules of this Section.
- (e) In accordance with G.S. 130A-309.240(d) the project owner of a new USSP shall submit a draft copy of the financial mechanism, or updates to the mechanism, with the registration required to be submitted by this Rule. The Department shall review the draft mechanism and shall inform the project owner in writing of deficiencies in the draft mechanism, if any, within 60 days of submittal. The project owner shall correct the deficiencies identified by the Department and submit the corrected and executed financial mechanism to the Department no more than 30 days after the Department issued the notification of deficiencies. The project owner shall not commence construction, rebuild, or expansion of the new USSP until the Department has received the executed financial assurance mechanism that complies with the requirements of G.S. 130A-309.240 and the rules of this Section.
- (f) Project owners of existing USSPs shall submit copies of any decommissioning plan executed, and documentation of financial assurance established, in accordance with G.S. 130A-309.240(e)(6), with the registration required to be submitted by this Rule.
- (g) In accordance with G.S. 130A-309.240(g), the project owner shall also upload with the registration a copy of any additional documentation required by the local government to comply with any more stringent local government requirements.
- (h) The project owner of a USSP that is constructed on more than one parcel of land shall include with the registration the following information for each parcel on which the project is or will be constructed:
 - (1) landowner name, address, and contact information;
 - (2) parcel identification number; and
 - (3) copies of agreements with the landowner as required by G.S. 130A-309.240(e)(6) for each parcel.

History Note: Authority G.S. 130A-309.240(j); Eff. April 1, 2025.

15A NCAC 01V .0102 REGISTRATION AND FEE REQUIREMENTS FOR NEW AND EXISTING USSPS

- (a) The project owner of a USSP shall submit the registration information, periodic updates, and registration fee required by G.S. 130A-309.240(e) and (h) in a registration form prescribed by the Department. The registration form may be accessed from the Department's USSP Management Program website at <https://www.deq.nc.gov/about/divisions/waste-management/utility-scale-solar-management-program>. The initial registration and fee shall be submitted to the Department by the following deadlines:
 - (1) by November 1, 2025, or
 - (2) at least 90 days prior to the commencement of construction if the project is constructed after November 1, 2025; and
 - (3) at least 90 days prior to commencement of rebuild or expansion of a USSP.

History Note: Authority G.S. 130A-309.240(j); Eff. April 1, 2025.

15A NCAC 01V .0103 REGISTRATION FEE AMOUNT FOR NEW AND EXISTING USSPS

(a) Existing USSPs. The amount of the registration fee required by G.S. 130A-309.240(h), submitted to the Department in accordance with Rule .0102 of this Section, for each existing USSP shall be as follows, and shall be adjusted in accordance with Paragraph (c) of this Rule:

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

(b) New USSPs. The amount of the registration fees required by G.S. 130A-309.240(h), submitted to the Department in accordance with Rule .0102 of this Section, for each new USSP shall be as follows, and shall be adjusted in accordance with Paragraph (c) of this Rule:

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

(c) Adjustment for Legislatively Mandated Salaries and Benefits. Beginning July 1, 2029, and every five years thereafter, the Department may adjust the fee amounts in Paragraphs (a) and (b) of this Rule in accordance with the Consumer Price Index computed by the Bureau of Labor Statistics during the prior two bienniums. The Department may also increase or decrease the fees or adjust the fee structures in Paragraphs (a) and (b) of this Rule, on the same five-year schedule, to meet the requirements in G.S. 130A-309.240(h) and G.S. 130A-309.242 that the fees be used to fund program administration. No amendment to this Rule shall be necessary for the Department to adjust the fees in accordance with this Paragraph. The adjustment to the fee amounts shall be

rounded to the nearest dollar (\$1.00). No less than 180 days prior to a registration fee adjustment, the Department shall publish the adjusted fee amounts on the Department's website at <https://www.deq.nc.gov/about/divisions/waste-management/utility-scale-solar-management-program>.

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

History Note: Authority G.S. 130A-309.240(j); Eff. April 1, 2025.

15A NCAC 01V .0104 DECOMMISSIONING COST ESTIMATE REQUIREMENTS FOR NEW AND EXISTING USSPS

(a) The project owner of a new or existing USSP shall submit a cost estimate for decommissioning with the registration required by Rule .0102 of this Section, in accordance with G.S. 130A-309.240(e)(4). The project owner of a new USSP shall also include the cost estimate in the decommissioning plan, in accordance with G.S. 130A-309.240(c)(5).

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

- (1) The cost estimate shall be based on costs for decommissioning of the USSP in accordance with G.S. 130A-309.240(b) and the rules of this Section for new and existing USSPs, the decommissioning plan required for a new USSP pursuant to G.S. 130A-309.240(c), and any decommissioning plan submitted with the registration for existing USSPs pursuant to G.S. 130A-309.240(e)(6).
- (2) The cost estimate shall be based on the costs at the time of submittal of the estimate.
- (3) The cost estimate for new USSPs shall be based on costs for a third party to conduct decommissioning, and shall be itemized to show how the total amount was determined, including itemizing costs for:
 - (A) personnel time and expenses;
 - (B) transportation of materials to the receiving facility or location, such as the nearest existing recycling or disposal facility; and
 - (C) the fees charged by the receiving facility or location to accept the materials, such as the nearest existing recycling or disposal facility.
- (4) During decommissioning, every effort shall be made to prevent breakage of photovoltaic modules. Photovoltaic modules shall not be disassembled, deconstructed, or removed from the frame at the USSP location or at a facility or location other than the facility or location that receives the modules for management, such as the recycling or disposal facility. Decommissioning activities and the management of all equipment, materials, and

waste from the USSP shall comply with Article 9 of Chapter 130A of the General Statutes, and 15A NCAC 13A and 13B, which are incorporated by reference including subsequent amendments and editions. These rules may be accessed at <http://reports.oah.state.nc.us/ncac.asp> at no charge.

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

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

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

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

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

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

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

(g) The project owner of a new USSP may request to reduce the amount of financial assurance based on the salvage value of the equipment submitted in accordance with Paragraph (c) of this

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

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

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

History Note: Authority G.S. 130A-309.240(j); Eff. April 1, 2025.

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

(a) Project owners of a new USSP shall establish, submit, and update an allowable financial mechanism, or a combination of mechanisms, provided in Rule .0106 of this Section, to ensure sufficient funds are available to cover the cost of decommissioning in accordance with G.S. 130A-309.240(d)(1).

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

- (1) the financial assurance mechanism shall ensure that the amount of funds assured is sufficient to cover the cost of decommissioning at any time;
- (2) the financial assurance mechanism shall ensure that the funds will be available to the Department at the time of decommissioning; and
- (3) the financial assurance mechanism shall be legally valid, binding, and enforceable in accordance with State and federal law.

The project owner of a new USSP may submit a request in writing to the Department to revise the language of the mechanism if it is

necessary to accommodate USSP-specific circumstances. The request shall be submitted to the Department in the draft mechanism for approval by the Department prior to submittal of the executed mechanism.

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

(d) A project owner of a new USSP may demonstrate financial assurance for decommissioning by establishing more than one mechanism per project. The mechanism shall be as specified in Rule .0106 of this Section, except that financial assurance for an amount no less than the current cost estimate for decommissioning may be provided by a combination of mechanisms rather than a single mechanism. When multiple financial assurance mechanisms are established, no more than one allowable mechanism shall be provided by the same financial institution or its corporate entities. The financial test provided by a corporation, and the corporate guarantee provided by a corporate parent, sibling, grandparent, or a substantial business relationship, shall not be combined if the financial statements of the two firms are consolidated.

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

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

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

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

(i) Maintenance of financial assurance in the amounts required by the rules of this Section does not limit the responsibility of project owners for the full cost of decommissioning of the USSP, the expenses of any on-site or off-site environmental restoration necessitated by activities at the USSP, or liability for all damages

to third parties or private or public properties caused by the establishment and operation of the USSP.

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

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

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

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

History Note: Authority G.S. 130A-309.240(j); Eff. April 1, 2025.

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

Project owners of a new USSP shall use any combination of the following mechanisms to meet the requirements of this Section for financial assurance, unless otherwise approved in accordance with Rule .0105(m) of this Section.

- (1) Trust Fund.

- (a) A project owner of a new USSP may demonstrate financial assurance for decommissioning by establishing a trust fund that conforms to the requirements of this Item. The trustee shall be an entity or person that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or State agency.
 - (b) The trust fund shall be fully funded for the entire amount of decommissioning established by Rule .0104 of this Section, except as provided in Rule .0105(d) of this Section.
 - (c) The trust agreement shall be effective prior to submittal of the initial executed financial mechanism pursuant to Rule .0102(e) of this Section.
 - (d) The project owner or a third party authorized by the Department to conduct decommissioning may request reimbursement from the trustee for these expenditures. Requests for reimbursement shall be granted only if sufficient funds are remaining in the trust fund to cover the remaining costs of decommissioning, and if justification and documentation of the cost is submitted to the Department and approved by the Department as complying with G.S. 130A-309.240, the rules of this Section, and the decommissioning plan.
 - (e) The trust fund may be terminated by the project owner only if the project owner has substituted alternate financial assurance as specified in this Rule, or if the project owner receives written notice from the Department that they are no longer required to provide continuous financial assurance for decommissioning in accordance with the requirements of Rule .0105(f) of this Section.
 - (f) The trust fund may be elected as a standby trust mechanism to accompany the surety bond mechanism in Item (2) of this Rule, or the letter of credit mechanism in Item (3) of this Rule; or may be elected as a standalone funded trust mechanism.
 - (g) The trust agreement shall be accompanied by a certification of acknowledgement following the language of the trust agreement as specified in Rule .0107(1) of this Section.
 - (h) Schedule A of the trust agreement shall be updated no less than 60 days after any change in the amount of the current cost estimate covered by the agreement.
- (2) Surety Bond Guaranteeing Payment into a Trust Fund.
- (a) A project owner of a new USSP may demonstrate financial assurance for decommissioning by obtaining a payment surety bond that conforms to the requirements of this Item. The surety bond shall be effective prior to submittal of the initial executed financial mechanism pursuant to Rule .0102(e) of this Section. The surety company issuing the bond shall be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury and shall be licensed to do business in North Carolina.
 - (b) The project owner who uses a surety bond to satisfy the requirements of the rules of this Section shall also establish a standby trust fund prior to submittal of the initial executed financial mechanism, pursuant to Rule .0102(e) of this Section. Under the terms of the bond, all payments shall be deposited by the surety directly into the standby trust fund. An originally signed duplicate of the trust agreement shall be submitted to the Department with the surety bond. This standby trust fund shall meet the requirements specified in Item (1) of this Rule, except that the following are not required until the standby trust fund is funded pursuant to the requirements of this Item:
 - (i) payment into the trust fund as specified in Sub-Item (1)(b) of this Rule;
 - (ii) updating of Schedule A of the trust agreement as specified in Sub-Item (1)(h) of this Rule;
 - (iii) annual valuations as required by the trust agreement outlined in Rule .0107(1) of this Section; and
 - (iv) notices of nonpayment as required by the trust agreement outlined in Rule .0107(1) of this Section.
 - (c) The bond shall guarantee that the project owner shall:

- (i) fund the standby trust fund in an amount equal to the penal sum of the bond prior to initiating final decommissioning of the USSP, and no more than one year after cessation of operations of the USSP;
 - (ii) fund the standby trust fund in an amount equal to the penal sum of the bond within 15 days after an order to decommission the USSP is issued by a U.S. district court or other court of competent jurisdiction; or
 - (iii) provide alternate financial assurance that complies with the rules of this Section within 90 days after receipt by both the project owner and the Department of a notice of cancellation of the bond from the surety.
- (d) Under the terms of the bond, the surety shall become liable on the bond obligation when the project owner fails to perform as guaranteed by the bond.
 - (e) The penal sum of the bond shall be in an amount equal to the entire amount of decommissioning established by Rule .0104 of this Section, except as provided in Rule .0105(d) of this Section.
 - (f) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the project owner and to the Department. Cancellation shall not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the project owner and the Department, as evidenced by the certified mail return receipts. If the surety cancels the bond, the project owner shall obtain alternate financial assurance that complies with the rules of this Section prior to cancellation.
 - (g) The penal sum of the surety bond shall be adjusted for any increase or decrease in the amount of financial assurance in accordance with Rule .0104 of this Section.
 - (h) The surety bond may be terminated by the project owner only if the project owner has substituted alternate financial assurance that complies with the rules of this Section, or if the project owner receives written notice from the Department that they are no longer required to provide continuous financial assurance for decommissioning in accordance with Rule .0105(f) of this Section.
- (3) Letter of Credit.
 - (a) A project owner of a new USSP may demonstrate financial assurance for decommissioning by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Item. The letter of credit shall be effective prior to submittal of the initial executed financial mechanism pursuant to Rule .0102(e) of this Section. The issuing institution shall be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or State agency.
 - (b) A letter from the project owner referring to the letter of credit by number, issuing institution, and date, and providing the following information: name, project identification number, address of the USSP, and the amount of funds assured, shall be included with the letter of credit submitted to the Department.
 - (c) The letter of credit shall be irrevocable and issued for a period of no less than one year, in an amount no less than the entire amount of decommissioning established by Rule .0104 of this Section, except as provided in Rule .0105(d) of this Section. The letter of credit shall provide that the expiration date will be automatically extended for a period of no less than one year unless the issuing institution has cancelled the letter of credit by sending notice of cancellation by certified mail to the project owner and to the Department 120 days in advance of cancellation. If the letter of credit is cancelled by the issuing institution, the project owner shall obtain alternate financial assurance prior to cancellation.
 - (d) The project owner of a new USSP shall establish a standby trust fund. The standby trust fund shall meet the requirements of Item (1) of this Rule, except for the requirement to fully fund the trust as specified in Sub-Item (1)(b) of this Rule. Payments made under the terms of the letter of credit

shall be deposited by the financial institution directly into the standby trust fund.

- (e) No payments shall be made from the trust fund unless approved by the trustee and the Department.
- (f) The letter of credit shall be adjusted for any increase or decrease in the amount of financial assurance in accordance with Rule .0104 of this Section.
- (g) The letter of credit and standby trust fund may be terminated by the project owner only if the project owner has substituted alternate financial assurance as specified in this Rule, or if the project owner receives written notice from the Department that they are no longer required to provide continuous financial assurance for decommissioning in accordance with the requirements of Rule .0105(f) of this Section.

(4) Insurance.

- (a) A project owner of a new USSP may demonstrate financial assurance for decommissioning by obtaining insurance that conforms to the requirements of this Item. The insurance shall be effective prior to submittal of the initial executed financial mechanism pursuant to Rule .0102(e) of this Section. The insurer shall be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in North Carolina.
- (b) The decommissioning insurance policy shall guarantee that funds will be available to decommission the USSP by cessation of operations. The policy shall also guarantee that once decommissioning begins, the insurer shall be responsible for the paying out of funds to the project owner or a third party authorized by the Department to conduct decommissioning, up to an amount equal to the face amount of the policy.
- (c) The insurance policy shall be issued for a face amount no less than the entire amount of decommissioning established by Rule .0104 of this Section, except as provided in Rule .0105(d) of this Section. The term face amount means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer

shall not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

- (d) A project owner or a third party authorized by the Department to conduct decommissioning may receive reimbursements for decommissioning expenditures. Requests for reimbursement shall be granted by the insurer only if the remaining value of the policy is sufficient to cover the remaining costs of decommissioning, and if justification and documentation of the itemized cost is submitted to the Department, and the Department provides written approval that this requirement has been met. The project owner or third party shall notify the Department that reimbursement has been received.
- (e) Each policy shall contain a provision allowing assignment of the policy to a successor project owner.
- (f) The insurance policy shall provide that the insurer shall not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy shall provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may cancel, terminate, or fail to renew the policy by sending notice by certified mail to the project owner and to the Department 120 days in advance of cancellation, termination, or failure to renew the policy. If the insurer cancels the policy, the project owner shall obtain alternate financial assurance as specified in this Rule prior to cancellation.
- (g) The insurance policy may be terminated by the project owner only if the project owner has substituted alternate financial assurance as specified in this Rule, or if the project owner receives written notice from the Department that they are no longer required to provide continuous financial assurance for decommissioning in accordance with the requirements of Rule .0105(f) of this Section.

- (5) Financial Test. A project owner of a new USSP that satisfies the requirements of this Item may demonstrate financial assurance for

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

- (a) The project owner of a new USSP shall have:
 - (i) two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5;
 - (ii) net working capital and tangible net worth each no less than six times the sum of the decommissioning cost estimate established by Rule .0104 of this Section;
 - (iii) tangible net worth of no less than 10 million dollars (\$10,000,000); and
 - (iv) assets located in the United States amounting to no less than 90 percent of their total assets or no less than six times the sum of the decommissioning cost estimate established by Rule .0104 of this Section.
- (b) The project owner of a new USSP shall have:
 - (i) a current rating for their most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's;
 - (ii) tangible net worth no less than six times the sum of the decommissioning cost estimate established by Rule .0104 of this Section;
 - (iii) tangible net worth of no less than 10 million dollars (\$10,000,000); and
 - (iv) assets located in the United States amounting to no less than 90 percent of their total assets or no less than six times the sum of the decommissioning cost estimate established by Rule .0104 of this Section.
- (c) To pass this test, the project owner shall submit the following items to the Department with the registration and

- subsequent updates required by Rule .0102 of this Section:
 - (i) a letter signed by the project owner's chief financial officer and as specified in Rule .0107(5) of this Section;
 - (ii) a copy of the independent certified public accountant's report of the project owner's financial statements for the latest completed fiscal year; and
 - (iii) a special report from the project owner's independent certified public accountant to the project owner. The special report shall be based upon agreed upon procedures, in accordance with professional auditing standards, and shall describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and the reasons for any differences.
- (d) The project owner is no longer required to submit the documentation specified in Sub-Item (c) of this Item or comply with the requirements of this Item when:
 - (i) the project owner substitutes alternate financial assurance as specified in the rules of this Section; or
 - (ii) the project owner receives written notice from the Department that they are no longer required to provide continuous financial assurance for decommissioning in accordance with the requirements of Rule .0105(f) of this Section.
- (e) If at any time the project owner of a new USSP no longer meets the requirements of Sub-Item (a) or (b) of this Item, the project owner shall send notice to the Department of intent to establish alternate financial assurance as specified in the rules of this Section. The notice shall be sent by certified

- mail within 90 days after the end of the fiscal year for which the year-end financial data show that the project owner no longer meets the requirements. The project owner shall provide the alternate financial assurance that meets the rules of this Section to the Department within 120 days after the end of such fiscal year.
- (f) The Department may, based on a reasonable belief that the project owner may no longer meet the requirements of Sub-Item (a) or (b) of this Item, require reports of financial condition at any time from the project owner in addition to the documentation specified in Sub-Item (c) of this Item. If the Department finds, on the basis of such reports and documentation, that the project owner no longer meets the requirements of Sub-Item (a) or (b) of this Item, the Department shall provide written notice to the project owner of this determination. The project owner shall obtain alternate financial assurance that meets the requirements of this Rule and submit that alternate financial assurance that complies with the rules of this Section to the Department within 90 days of the issuance of the written notice from the Department.
- (g) When calculating the amount of financial assurance, the project owner shall include the cost estimates for all USSPs owned by the project owner and for which they are required to obtain financial assurance. The amount of financial assurance for the financial test shall be adjusted in accordance with Rule .0104 of this Section.
- (h) The Department may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in their report on examination of the project owner's financial statements pursuant to Sub-Item (c)(ii) of this Item. An adverse opinion or a disclaimer of opinion shall be cause for disallowance. The Department may evaluate other qualifications on an individual basis. The project owner shall provide alternate financial assurance that complies with the rules of this Section
- within 90 days of the issuance of the written notice from the Department.
- (6) Corporate Guarantee:
- (a) A project owner of a new USSP may also meet the requirements of the financial test in Item (5) of this Rule by obtaining a written guarantee. The guarantor shall be the direct or higher-tier parent corporation of the project owner, a firm whose parent corporation is also the parent corporation of the project owner, or a firm with a substantial business relationship with the project owner. The guarantor shall meet the requirements for project owners in Item (5) of this Rule and shall comply with the terms of the guarantee. A certified copy of the guarantee shall be submitted to the Department with the copies of the letter from the guarantor's chief financial officer and the independent certified public accountant's opinion for the guarantor as required by Item (5) of this Rule. If the guarantor's parent corporation is also the parent corporation of the project owner, the letter from the guarantor's chief financial officer shall describe the value received in consideration of the guarantee. If the guarantor is a firm with a substantial business relationship with the project owner, this letter shall describe this substantial business relationship and the value received in consideration of the guarantee. The project owner shall submit a corporate ownership organization chart describing the relationship of the project owner to the guarantor with the submittal of the initial executed financial mechanism, and during periodic registration updates thereafter.
- (b) The guarantee shall be effective prior to submittal of the initial executed financial mechanism and all submissions required pursuant to this Item and Rule .0102(e) of this Section.
- (c) The terms of the guarantee shall provide that:
- (i) If the project owner fails to perform decommissioning of a USSP covered by the corporate guarantee, in accordance with the requirements and timelines of G.S. 130A-309.240, the rules of this Section, and the

decommissioning plan, the guarantor shall either perform, or pay a third party to perform, decommissioning; or establish a fully funded trust fund as specified in Item (1) of this Rule in the name of the project owner.

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

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

Eff. April 1, 2025.

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

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

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

TRUST AGREEMENT

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

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

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

Now, therefore, the Grantor and the Trustee agree as follows: Section 1. Definitions. As used in this Agreement:

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

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

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the Department. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established initially as consisting of the property that is acceptable to the Trustee described in Schedule B. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be

History Note: Authority G.S. 130A-309.240(j);

responsible, nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the Department.

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

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

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

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

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

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

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

- (a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;
- (b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;
- (c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;
- (d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and
- (e) To compromise or otherwise adjust all claims in favor of or against the Fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[Signature of Grantor]

[Title]

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

[Title]

[Seal]

State of North Carolina

County of [Name of County]

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

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

[insert Signature of Notary]

Official Signature of Notary

[Notary's printed or typed name]

Notary Public

[Official Seal]

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

State of North Carolina

County of [Name of County]

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

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

[insert Signature of Notary]
Official Signature of Notary
[Notary's printed or typed name]
Notary Public
[Official Seal]

My commission expires: [insert Date of Commission Expiration]
[Signature of Trustee]
[Title]

Attest: [insert name]
[Title]
[Seal]

State of North Carolina
County of [Name of County]

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

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

[insert Signature of Notary]
Official Signature of Notary
[Notary's printed or typed name]
Notary Public
[Official Seal]

My commission expires: [insert Date of Commission Expiration]
Schedule A for Trust Agreement
[For Each Utility-Scale Solar Project (USSP):]

Project Name: [Project Name]
Project Address: [Project Address]
Project ID Number: [Project ID Number]

Total Amount of Decommissioning Costs to be Funded by this Trust: \$ [Amount]
Schedule B for Trust Agreement
[For Standby Trust]

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

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

Account Information:
Account Number assigned to this Trust Agreement: [Account Number]
Amount of Deposit: [Amount of Deposit (zero dollars if used for a standby trust)]

Date: [Date]
Bank/Branch location for this trust account:
Bank/Branch Name: [Bank/Branch Name]
Location Address: [Location Address]
City & State: [City & State]
Contact Person at Bank:
Name: [Name]

Title: [Title]
Phone Number: [Phone Number]
Exhibit A for Trust Agreement
The following persons, acting singly or collectively, shall have the right to issue instructions to the Trustee pursuant to Section 14 of the Agreement:
Name: [insert name]
Position: [insert position]

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

FINANCIAL GUARANTEE BOND

Date bond executed: [insert date of bond execution]
Effective date: [insert effective date]
Principal: [legal name and business address of project owner]
Type of organization: [insert "individual", "joint venture", "partnership", or "corporation"]
State of incorporation: [insert state of incorporation]
Surety(ies): [name(s), business address(es), and contact information]

[For Each Utility-Scale Solar Project (USSP)]
Project ID number: [insert project ID number]
Project name: [insert project name]
Project address: [insert project address]
Decommissioning cost: [insert dollar amount for decommissioning]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Principal

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate seal]

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

Corporate Surety(ies)

[Name and address]

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

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

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

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

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

Bond premium: \$[bond premium]

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

IRREVOCABLE STANDBY LETTER OF CREDIT

N.C. Department of Environmental Quality

c/o Division of Waste Management

1646 Mail Service Center

Raleigh, N.C. 27699-1646

Dear Sir/Madam:

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

- (1) your sight draft, bearing reference to this letter of credit No. [insert mechanism number], and
- (2) your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to requirements of N.C.G.S. 130A-309.240 and 15A NCAC 01V because the applicant has failed to properly decommission the utility-scale solar project (USSP) in accordance with applicable statutes and rules."

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

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

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

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

[Date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce," or "the Uniform Commercial Code"].

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

CERTIFICATE OF INSURANCE FOR DECOMMISSIONING

Name and Address of Insurer

(herein called the "Insurer"):

Name and Address of Insured

(herein called the "Insured"):

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

Face Amount: [insert dollar amount of face value]

Policy Number: [insert insurance policy number]

Effective Date: [insert effective date]

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

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

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

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

[Authorized signature for Insurer]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

[Date]

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

FINANCIAL TEST

LETTER FROM THE CHIEF FINANCIAL OFFICER

[Date]

N.C. Department of Environmental Quality
c/o Division of Waste Management
1646 Mail Service Center
Raleigh, NC 27699-1646

Dear Sir/Madam:

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

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

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

Name: [insert legal entity /principal name]

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

Project Address: [insert physical address of project]

Project ID Number: [insert project ID number]

Decommissioning Cost Estimate: [insert dollar amount for decommissioning]

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

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

- 3. This firm is the project owner or guarantor of the following USSPs, or projects substantially similar to USSPs, for which they are demonstrating financial assurance for decommissioning in other states through the use of a financial test specified in Rule .0106(5) of this Section or a mechanism substantially equivalent to the financial test, the current

decommissioning cost estimates covered by such a test are shown for each USSP: _____.

- 4. This firm is the project owner of the following USSPs, or projects substantially similar to USSPs for which financial assurance for decommissioning is not demonstrated either to EPA or another state through the financial test or any other financial assurance mechanism specified in Rule .0106 of this Section or substantially equivalent mechanism. The current decommissioning cost estimates not covered by such financial assurance are shown for each USSP: _____.

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

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

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

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

Alternative I

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

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

*3. Tangible net worth \$ _____

*4. Net worth \$ _____

*5. Current assets \$ _____

*6. Current liabilities \$ _____

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

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

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

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

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

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

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

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

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

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

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

Alternative II

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

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

3. Date of issuance of bond _____

4. Date of maturity of bond _____

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

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

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

8. Is line 5 no less than 6 times line 1? (Yes/No) _____

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

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

[Signature]

[Name]

[Title]

[Date]

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

CORPORATE GUARANTEE

Corporate Guarantee Terms for Decommissioning

For [Project Owner], [Project ID Number]

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

Recitals:

1. Guarantor meets or exceeds the Financial Test criteria and agrees to comply with the reporting requirements for guarantors, as specified in N.C.G.S. 130A-309.240 and 15A NCAC 01V.

2. [Project owner] owns the following USSPs covered by this guarantee: List for each USSP the following information Name: [insert project name]

Project Address: [insert project address]

Project ID No.: [insert Department-issued project number]

Decommissioning Cost Estimate: [insert dollar amount for decommissioning]

3. Decommissioning Cost Estimate as used above refers to the plans maintained as required by N.C.G.S. 130A-309.240 and 15A NCAC 01V for decommissioning cost estimate of USSPs identified above.

4. For value received from [insert project owner name], pursuant to N.C.G.S. 130A-309.240 and 15A NCAC 01V, Guarantor guarantees to the Department that in the event that [insert project owner name] fails to perform decommissioning of the above USSPs in accordance with the G.S. 130A-309.240, 15A NCAC 01V, and the decommissioning plan whenever required to do so, the Guarantor shall perform the required activities, or pay a third party to do so, or establish a fully-funded trust fund in conformance with G.S. 130A-309.240 and 15A NCAC 01V, in the name of the project owner in the amount of the current

decommissioning cost estimate as specified in 15A NCAC 01V .0104.

5. Pursuant to G.S. 130A-309.240, Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the Guarantor fails to meet the Financial Test criteria the Guarantor shall, within 90 days, send by certified mail notice to the Department and to [project owner name] that the Guarantor is providing alternate financial assurance in accordance with 15A NCAC 01V in the name of [project owner name]. Within 120 days after the end of such fiscal year, the Guarantor shall establish such financial assurance unless [project owner name] has done so.

6. Guarantor agrees to notify the Department by certified mail of voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming Guarantor as debtor, within 10 days after commencement of the proceeding.

7. Guarantor agrees that within 30 days after being notified by the Department of a determination that Guarantor no longer meets the Financial Test criteria or that they are disallowed from continuing as a Guarantor for decommissioning of a USSP, they shall establish alternate financial assurance as required by N.C.G.S. 130A-309.240 and 15A NCAC 01V, as applicable, in the name of [project owner name] unless [project owner name] has done so.

8. Guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: modification or amendment of the decommissioning plan, the extension or reduction of the time of performance of the decommissioning of a USSP, or any other modification or alteration of an obligation of the project owner pursuant to N.C.G.S. 130A-309.240 and 15A NCAC 01V.

9. Pursuant to 15A NCAC 01V .0106(6)(c)(ii), Guarantor agrees to remain bound under this guarantee for as long as [project owner name] shall comply with N.C.G.S. 130A-309.240 and 15A NCAC 01V for the above-listed USSP(s), except as provided in paragraph 10 of this agreement.

10. [Insert the following language if the Guarantor is (a) a direct or higher-tier corporate parent, or (b) a firm whose parent corporation is also the parent corporation of the project owner]: Guarantor may terminate this guarantee by sending noticed by certified mail to the Department and to [project owner name], provided that this guarantee may not be terminated unless and until [project owner name] obtains, and the Department approves, alternate financial assurance as required by N.C.G.S. 130A-309.240 and 15A NCAC 01V.

[Insert the following language if the Guarantor is a firm qualifying as a Guarantor due to its substantial business relationship with the project owner]: Guarantor may terminate this guarantee 120 days following the receipt of notification of its intended cancellation by certified mail by both the Department and by [project owner name].

11. Guarantor agrees that if [project owner name] fails to provide alternate financial assurance as specified in N.C.G.S. 130A-309.240 and 15A NCAC 01V and obtain written approval of such assurance from the Department within 90 days after a notice of cancellation from the Guarantor is received by the Department, Guarantor shall provide such alternate financial assurance in the name of [project owner name].

12. Guarantor expressly waives notice of acceptance of this guarantee by the Department or by [project owner name]. Guarantor also expressly waives notice of amendments or

modifications of the decommissioning plan, and of rebuilding or expansion of the project.

Effective date: [insert mechanism effective date]
 [Name of Guarantor]
 [Corporate Seal]
 [For no corporate seal, see Rule .0105(j)]
 [Authorized signature for Guarantor]
 [Name of person signing]
 [Title of person signing]
 [Telephone Number]
 [Email Address]
 State of North Carolina
 County of [Name of County]
 On this [day] day of [month], [year], before me personally came [name signing for Guarantor] to me known, who, being by me duly sworn, did depose and say that she/he resides at [Guarantor address], that she/he is [title at Guarantor Firm] described in and that executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

Witness my hand and official seal this [Day] day of [Month], 20[Year].
 [insert Signature of Notary]
 Official Signature of Notary
 [Notary's printed or typed name]
 Notary Public
 [Official Seal]
 My commission expires: [insert Date of Commission Expiration]

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

SPECIAL REPORT
 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT'S
 REPORT
 ON APPLYING AGREED-UPON PROCEDURES

The Board of Directors
 [Name of Company]
 [Mailing and location address]
 [Project No.]

We have performed the procedures enumerated below that were agreed to by management of [Name of Company] pursuant to N.C.G.S. 130A-309.240 and 15A NCAC 01V with respect to the letter dated [insert date] from the [insert Corporate Official name and title] to the N.C. Department of Environmental Quality (hereinafter called the Department), solely to assist you in filing the Letter (prepared in accordance with the criteria specified therein) for the year ended [insert date of end of corporate fiscal year]. [Name of Company] is responsible for this Letter. This agreed-upon procedures engagement was conducted in

accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is solely the responsibility of [Name of Company] and the Department. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

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

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

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

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

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

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

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

[Date]
[Name of Accounting Firm]

History Note: Authority G.S. 130A-309.240(j);
Eff. April 1, 2025.

15A NCAC 10F .0304 BLADEN COUNTY

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

- (1) White Lake. The water between the shoreline and regulatory markers 500 feet from the shoreline is a Restricted Area.
- (2) Cape Fear River:
 - (A) the waters shore to shore between a point 100 yards east and 100 yards west of the ferry cable at Elwell Ferry and Elwells Ferry Boating Access Area, 2702 Elwell Ferry Road, Council;
 - (B) the waters within 50 yards of the Tar Heel Boating Access Area, 1000 Wildlife Landing Drive, Tar Heel; and
 - (C) the waters within 50 yards of the Tory Hole Boating Access Area, 335 N. Poplar Street, Elizabethtown.
- (3) Black River. The waters within 50 yards of the Hunts Bluff Boating Access Area, 351 Hunts Bluff Road, Kelly.

(b) Restricted Area. Motorboats, as defined in G.S. 75A-2(1e), shall not be operated on a course parallel to the shoreline in the area described in Subparagraph (a)(1) of this Rule.

(c) Speed Limit. No person shall operate a motorboat at greater than no-wake speed within the regulated areas described in Paragraph (a).

(d) Placement and Maintenance of Markers.

- (1) the North Carolina Department of Natural and Cultural Resources, Division of State Parks shall be the designated agency for placement and maintenance of markers implementing the regulated area designated in Subparagraph (a)(1) of this Rule.
- (2) the North Carolina Wildlife Resources Commission shall be the designated agency for placement and maintenance of markers implementing the regulated areas designated in Parts (a)(2)(A) through (C), and Subparagraph (a)(3) of this Rule.

History Note: Authority G.S. 75A-3; 75A-15;
Eff. February 1, 1976;
Amended Eff. April 1, 1990; August 1, 1988; June 17, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Amended Eff. June 1, 2024; October 1, 2018;
Emergency Amendment Eff. August 5, 2024;
Temporary Amendment Eff. November 8, 2024;
Amended Eff. April 1, 2025.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 10 - CHIROPRACTIC EXAMINERS

21 NCAC 10 .0302 ETHICS OF ADVERTISING AND PUBLICITY

Prohibited Advertising. The following shall constitute false or misleading advertising, which constitutes unethical conduct pursuant to G.S. 90-154.2:

- (1) Advertising that purports to guarantee a beneficial result from chiropractic treatment.
(2) Advertising that promotes a treatment, therapy, or service that constitutes unethical conduct as defined by G.S. 90-154.2 or any rule promulgated by the Board pursuant to G.S. 90-154.3(b).
(3) Advertising in which the licentiate is identified as a specialist, unless the licentiate has complied with the requirements of 21 NCAC 10 .0304, and any reference to the specialty is immediately preceded by the term "chiropractic." Illustrations are as follows:
(a) "Pediatrics" standing alone is deemed false or misleading; "chiropractic pediatrics" conforms to this Rule; and
(b) "Neurologist" standing alone is deemed false or misleading; "chiropractic neurologist" conforms to this Rule.
(4) Advertising which would lead a reasonable person to believe the licensee holds any other license(s) authorized under Chapter 90 of the North Carolina General Statutes when the licensee does not hold such license, including but not limited to a medical physician, physical therapist, massage therapist, or acupuncturist.

History Note: Authority G.S. 90-142; 90-154.2; Eff. February 1, 1976; Readopted Eff. January 27, 1978; Amended Eff. January 1, 1983; May 8, 1979; Legislative Objection Lodged Eff. January 31, 1983; Curative Amended Eff. February 28, 1983; Curative Amended Eff. March 2, 1983; Amended Eff. November 1, 2007; December 1, 1988; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019; Amended Eff. April 1, 2025; January 1, 2020.

CHAPTER 56 - ENGINEERS AND SURVEYORS

21 NCAC 56 .0502 APPLICATION PROCEDURE: INDIVIDUAL

- (a) General. A person desiring to become certified as an Engineer Intern or licensed as a Professional Engineer shall apply to the Board.
(b) Application. The appropriate application may be accessed on the Board's website. Applicants may access the Engineer Intern certification forms at https://www.ncbels.org/application/engineer-intern-certification/. Applicants may access the Professional Engineer

licensure forms at https://www.ncbels.org/applications/professional-engineers/.

(c) Applicable Forms:

- (1) Engineer Intern Certification Form. After passing the Fundamentals of Engineering examination, an applicant may apply to the Board to become certified as an "Engineer Intern." This form requires the applicant to set forth their personal history, educational background, engineering experience, and character references. The applicant shall submit a 2-inch by 2-inch passport style photograph adequate for current identification purposes.
(2) Professional Engineer Form. All persons, including comity applicants and certified Engineer Interns, shall apply for licensure using the Professional Engineer Form. This form requires the applicant to set forth their personal and educational background, engineering experience, and character references. The applicant shall submit a 2-inch by 2-inch passport style photograph adequate for current identification purposes.
(3) Supplemental Form. All persons applying for licensure as a Professional Engineer shall submit the Supplemental Form, which requires the applicant to list all engineering experience.
(4) Reference Forms:
(A) Persons applying for certification as an Engineer Intern shall submit to the Board the names of three individuals, one of whom is a professional engineer, who are familiar with the applicant's work, character, and reputation. Persons applying for licensure as a Professional Engineer shall submit to the Board the names of five individuals, three of whom are professional engineers, who are familiar with the applicant's work, character, and reputation.
(B) Applicants may access Engineer Intern certification reference forms and Professional Engineer licensure reference forms at the websites listed above in Paragraph (b) of this Rule. The applicant shall distribute the reference forms to the persons listed on the application as references. To be considered, completed reference forms shall be received by the Board from the person providing the reference within one year of application.
(C) The reference form provides the individual evaluating the applicant the opportunity to state the evaluating individual's profession, knowledge of the applicant, and information

concerning the applicant's engineering experience, character, and reputation.

(d) Fees:

- (1) Engineer Intern Certification Form. No application fee is required to become certified as an "Engineer Intern."
- (2) Professional Engineer Form. The application fee of one hundred dollars (\$100.00) is payable with the filing of the application.
- (3) Comity. The licensure fee of one hundred dollars (\$100.00) is payable with the filing of the application.
- (4) Examination. The examination fee for any applicant is payable to the National Council of Examiners for Engineering and Surveying (NCEES) at the time of registering to take the exam in accordance with G.S. 89C-14.

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

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

(g) Personal interview. During the application process, Board members shall interview the applicant if the members have questions regarding the applicant's education, experience, or character.

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

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. May 1, 1994; November 2, 1992; April 1, 1989; December 1, 1984;

RRC Objection due to lack of Statutory Authority Eff. November 17, 1994;

Amended Eff. August 1, 2014; May 1, 2009; August 1, 2002; August 1, 2000; August 1, 1998; January 1, 1995;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;

Amended Eff. April 1, 2025; May 1, 2024.

21 NCAC 56 .0901

OFFICES

(a) Professional Engineering Services. Every firm, partnership, corporation, or limited liability company that performs or offers to perform engineering services, as defined in G.S. 89C-3(6), within the State of North Carolina shall have a resident Professional Engineer in each separate office located in North Carolina where those services are performed or offered to be performed. Out-of-state office locations where engineering services are performed or offered to be performed for North Carolina projects shall have Professional Engineers in responsible charge of only those specific projects in compliance with Rule .0701(d) of this Chapter.

(b) Land Surveying Services. Every firm, partnership, corporation, or limited liability company that performs or offers to perform land surveying services, as defined in G.S. 89C-3(7), within the State of North Carolina shall have a resident Professional Land Surveyor in each separate office located in North Carolina where those services are performed or offered to be performed. Out-of-state office locations where surveying services are performed or offered to be performed for North Carolina projects shall have Professional Land Surveyors in responsible charge of only those specific projects in compliance with Rule .0701(d) of this Chapter.

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

(d) No firm, partnership, corporation, or limited liability company shall practice, offer to practice, or market either engineering or land surveying services unless there is a licensed resident professional for that service in responsible charge at that office. Advertisements, signs, letterheads, business cards, directories, or any other form of representation shall not include any reference to any service that cannot be provided under the responsible charge of a properly qualified resident professional. The licensed entity shall give notice to the Board of a change of resident professional within 30 days after the change.

(e) A licensed entity shall not practice, offer to practice, or market professional services during any period of time without a resident professional.

History Note: Authority G.S. 55B-12(b); 89C-10; 89C-24; Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. August 1, 2014; August 1, 2002; April 1, 2001; August 1, 1998; May 1, 1994; January 1, 1992; April 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;

Amended Eff. April 1, 2025.

21 NCAC 56 .0902 BUSINESS TITLES

(a) Companies, partnerships, corporations, limited liability companies, or any other business providing professional engineering or land surveying services, as defined in G.S. 89C-3, within North Carolina shall not practice under a name that is misleading.

(b) Business names are misleading when they:

- (1) are not truthful; suggest qualifications, credentials, or expertise that the firm does not possess; or provide inaccurate information;
- (2) make exaggerated, deceptive, or false statements or claims about professional qualifications, experience, or performance;
- (3) create an unjustified expectation or prediction of future success;
- (4) imply a connection with a government agency;
- (5) include obscene, indecent, or profane language; or
- (6) use a name which is deceptively similar to that of an existing firm name by not having at least one unique substantive word, not including

articles, prepositions, suffixes, or words denoting organizational structure such as group, associate, or similar words or any derivative of those words.

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

History Note: Authority G.S. 55B-12(b); 89C-10; 89C-24; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. August 1, 2000; August 1, 1998; May 1, 1994; April 1, 1989; April 1, 1980; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019; Amended Eff. April 1, 2025; July 1, 2020.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission March 27, 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

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

Appointed by House

Jake Parker (1st Vice-Chair)
Paul Powell (2nd Vice-Chair)
Wayne R. Boyles, III
Christopher Loutit
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

May 29, 2025	July 30, 2025
June 26, 2025	August 28, 2025

RULES REVIEW COMMISSION MEETING

MINUTES

March 27, 2025

The Rules Review Commission met on Thursday, March 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, John S. Hahn, Jeff Hyde, Brandon Leebrick, Chris Loutit, Randy Overton, Bill Nelson, Jake Parker, and Paul Powell were present in the Commission Room.

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 10:01 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.

The Chair announced that with all members present in the commission room, there will be no roll call votes taken at this meeting.

The Chair notified the Commission that due to technical difficulties with Staff Counsel Bill Peaslee's laptop, his rules would be taken out of order on the agenda.

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the minutes from the February 27, 2025 meeting. There were none, and the minutes were unanimously approved as distributed.

FOLLOW UP MATTERS

Coastal Resources Commission

15A NCAC 07H .0508; 15A NCAC 07J .1401, .1402, .1403, .1404 .1405; .1501, .1502, and .1503 – The rules were returned to the agency on March 11, 2025, pursuant to staff authorization contained in the July 2024 Commission minutes.

Mary L. Lucasse, with the Department of Justice and representing the agency, addressed the Commission.

LOG OF FILINGS (PERMANENT RULES)

Board of Elections

08 NCAC 21 .0105 was unanimously approved.

Department of Environmental Quality

Prior to the review of the rules from the Department of Environmental Quality, Commissioner Parker recused himself and did not participate in any discussion or vote concerning the rules because of a potential conflict of interest.

15A NCAC 01V .0101, .0102, .0103, .0104, .0105, .0106, and .0107 were unanimously approved.

Wildlife Resources Commission

15A NCAC 10F .0304 was unanimously approved.

Board of Chiropractic Examiners

21 NCAC 10 .0302 was unanimously approved.

Board of Examiners for Engineers and Surveyors

21 NCAC 56 .0502, .0901, and .0902 were unanimously approved.

LOG OF FILINGS (TEMPORARY RULES)

Department of Insurance

11 NCAC 18 .0102 was unanimously approved.

Existing Rules Review

Board of Agriculture

02 NCAC 48C - The Commission unanimously approved the report as submitted by the agency.

02 NCAC 48D - The Commission unanimously approved the report as submitted by the agency.

Rural Electrification Authority

04 NCAC 08 - The Commission unanimously approved the report as submitted by the agency.

DHHS - Division of Aging

10A NCAC 05 - The Commission unanimously approved the report as submitted by the agency.

Child Care Commission

10A NCAC 09 – The Commission unanimously approved the report as submitted by the agency.

DHHS Commission for Mental Health/DD/SAS

10A NCAC 27E – The Commission unanimously approved the report as submitted by the agency.

10A NCAC 27F – The Commission unanimously approved the report as submitted by the agency.

10A NCAC 27H – The Commission unanimously approved the report as submitted by the agency.

10A NCAC 28A – The Commission unanimously approved the report as submitted by the agency.

DHHS - Division of Mental Health/DD/SAS

10A NCAC 27I, Section -.0400 and .0500 – The Commission unanimously approved the report as submitted by the agency.

DHHS - Commission for Mental Health/DD/SAS

10A NCAC 27I .0600 – The Commission unanimously approved the report as submitted by the agency.

Board of Examiners in Optometry

21 NCAC 42 – The Commission unanimously approved the report as submitted by the agency.

Department of Public Safety

14B NCAC 18 - As reflected in the attached letter, the Commission voted to schedule the readoption of these Rules no later than December 1, 2026 pursuant to G.S. 150B-21.3A(d)(2).

Acupuncture Licensing Board

21 NCAC 01 - As reflected in the attached letter, the Commission voted to schedule the readoption of these Rules no later than October 1, 2027 pursuant to G.S. 150B-21.3A(d)(2).

Landscape Contractor's Licensing Board

21 NCAC 28 - As reflected in the attached letter, the Commission voted to schedule the readoption of these Rules no later than August 1, 2027 pursuant to G.S. 150B-21.3A(d)(2).

Board of Podiatry Examiners

21 NCAC 52 - As reflected in the attached letter, the Commission voted to schedule the readoption of these Rules no later than May 1, 2027 pursuant to G.S. 150B-21.3A(d)(2).

COMMISSION BUSINESS

Pursuant to G.S. 150B-21.3A(d)(1), the Commission unanimously voted to grant the exemption of Subchapter 18 NCAC 07J from the decennial review that began in 2024.

Upon a motion by Commissioner Hyde and a second by Commissioner Powell, the Commission unanimously voted that mandatory in-person attendance is required by all members of the Commission except in cases where remote attendance is necessary to establish a quorum. Mandatory in-person attendance does not apply to agency representatives and members of the public.

The meeting adjourned at 10:23 a.m.

The next regularly scheduled meeting of the Commission is Thursday, April 24, 2025, at 10:00 a.m.

Alexander Burgos, Paralegal

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

March 27, 2025

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Emily Wiley	NC DOT
Helen Landi	NC DEVA
Mary Lucassy	NC DOJ
Ann Wall	SOS
ANN ELMORE	SOBNC
Jennifer Everett	DEQ
Alyssa Wright	DEQ
Alisha Benjamin	DOT
Wes Tripp	NC Bd of Engineers & Surveyors
Aubrey Davis	DCDEE
Ryan Mitiguy	NC BOCE
Paris Pennip	DHMS
Anna Hayworth	NCDA
Julie Peck	DCDES

Rules Review Commission Meeting March 27, 2025

Via WebEx

Name	Agency
Dana McGhee	IC
Devon Horine	DHHS
Jessica Montie	DEQ
Julie Ventaloro	OSBM
Jennifer Patterson	DEQ
Virginia Niehaus	DHHS
Robert Croom	DOI
Catherine Blum	DEQ
Catherine Lee	Hedrick Gardner
Julie Youngman	SELCNC
Elizabeth Pope	NCSW
Eric Anderson	toyota.com
Misty Piekaar	DHHS
Liebman, Brian R	OAH
Baker, Denise	DHHS
Wakely, Lindsey	NCSBE
Elly Young	DOJ
Dilcy Burton	DOJ
Michael Rhodes	pima.org
Janice Peterson	Optometry
Betsy Haywood	WRC
Wakely, Lindsey	NCSBE
Tamika Jenkins	DHHS
Jordan Hennessy	
Johnny Loper	Optometry

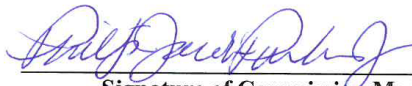
MEMORANDUM OF ABSTENTION FROM
PARTICIPATION IN OFFICIAL ACTION
RULES REVIEW COMMISSION

In accordance with N.C. General Statute G.S. 138A-15(e), I have abstained from taking any verbal or written action, including voting, on the agenda item regarding

IV. 2. Department of Environmental Quality

I have abstained because of a potential conflict of interest.

This the 27th day of March, 2025



Signature of Commission Member

No public servant authorized to perform an official action requiring the exercise of discretion shall knowingly participate in an official action by the board if the public servant, a member of the public servant's extended family, or a business with which the public servant is associated has an economic interest in, or a reasonably foreseeable benefit from, the matter under consideration, which would impair the public servant's independence of judgment or from which it could be reasonably inferred that the interest or benefit would influence the public servant's participation. A potential benefit includes a detriment to a business competitor or (1) the public servant; (2) a member or the public servant's extended family, or (3) a business with which the public servant is associated. The public servant shall abstain from taking any verbal or written action and shall submit in writing to the board the reasons for the abstention.



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

March 27, 2025

Margaret McDonald, NC Department of Public Safety
Sent via email to: margaret.mcdonald@ncdps.gov
Re: Readoption deadline for 14B NCAC 18

Dear Ms. McDonald:

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 March 27, 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 **December 1, 2026**.

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

Sincerely,

/s/ Travis Wiggs
Travis Wiggs
Commission Counsel

Cc: Joseph Newsome (JNewsome@ncsbi.gov)

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

Public Safety – Division of Criminal Information

Total: 45

14B NCAC 18A .0101	14B NCAC 18B .0302
14B NCAC 18A .0102	14B NCAC 18B .0303
14B NCAC 18A .0103	14B NCAC 18B .0401
14B NCAC 18A .0201	14B NCAC 18B .0402
14B NCAC 18A .0202	14B NCAC 18B .0403
14B NCAC 18A .0203	14B NCAC 18B .0404
14B NCAC 18A .0301	14B NCAC 18B .0405
14B NCAC 18A .0302	14B NCAC 18B .0406
14B NCAC 18A .0303	14B NCAC 18B .0407
14B NCAC 18A .0304	14B NCAC 18B .0408
14B NCAC 18A .0401	14B NCAC 18B .0409
14B NCAC 18A .0402	14B NCAC 18B .0410
14B NCAC 18A .0403	14B NCAC 18B .0501
14B NCAC 18B .0101	14B NCAC 18B .0601
14B NCAC 18B .0102	14B NCAC 18B .0602
14B NCAC 18B .0103	14B NCAC 18B .0603
14B NCAC 18B .0104	14B NCAC 18B .0701
14B NCAC 18B .0201	14B NCAC 18B .0801
14B NCAC 18B .0202	14B NCAC 18C .0101
14B NCAC 18B .0203	14B NCAC 18C .0102
14B NCAC 18B .0204	14B NCAC 18C .0103
14B NCAC 18B .0301	14B NCAC 18C .0201
	14B NCAC 18C .0301



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

March 27, 2025

Michael Tadych, NC Acupuncture Licensing Board

Sent via email to: mike@smvt.com

Re: Readoption deadline for 21 NCAC 01

Dear Mr. Tadych:

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 March 27, 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 **October 1, 2027**.

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

Sincerely,

/s/ Travis Wiggs
Travis Wiggs
Commission Counsel

Cc: pat@smvt.com

Donald Robert van der Vaart, Director
Chief Administrative Law Judge

John C. Evans
Senior Administrative Law Judge

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www.oah.nc.gov

RRC DETERMINATION: Necessary
PERIODIC RULE REVIEW
September 25, 2024
APO Review: November 26, 2024
Acupuncture Licensing Board
Total: 23

21 NCAC 01 .0101
21 NCAC 01 .0102
21 NCAC 01 .0103
21 NCAC 01 .0104
21 NCAC 01 .0105
21 NCAC 01 .0106
21 NCAC 01 .0107
21 NCAC 01 .0201
21 NCAC 01 .0202
21 NCAC 01 .0301
21 NCAC 01 .0401
21 NCAC 01 .0402
21 NCAC 01 .0501
21 NCAC 01 .0701
21 NCAC 01 .0702
21 NCAC 01 .0703
21 NCAC 01 .0704
21 NCAC 01 .0705
21 NCAC 01 .0706
21 NCAC 01 .0707
21 NCAC 01 .0709
21 NCAC 01 .0710
21 NCAC 01 .0711



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

March 27, 2025

Calvin Kirven, Landscape Contractor's Licensing Board
Sent via email to: ckirven@nclclb.com
Re: Readoption deadline for 21 NCAC 28

Dear Mr. Kirven:

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 March 27, 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 **August 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

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RRC DETERMINATION: Necessary
PERIODIC RULE REVIEW
November 26, 2024
APO Review: January 26, 2025
Landscape Contractors Licensing Board
Total: 35

21 NCAC 28B .0101
21 NCAC 28B .0102
21 NCAC 28B .0103
21 NCAC 28B .0104
21 NCAC 28B .0201
21 NCAC 28B .0202
21 NCAC 28B .0203
21 NCAC 28B .0204
21 NCAC 28B .0301
21 NCAC 28B .0302
21 NCAC 28B .0303
21 NCAC 28B .0401
21 NCAC 28B .0402
21 NCAC 28B .0403
21 NCAC 28B .0404
21 NCAC 28B .0405
21 NCAC 28B .0406
21 NCAC 28B .0501
21 NCAC 28B .0502
21 NCAC 28B .0503
21 NCAC 28B .0504
21 NCAC 28B .0505
21 NCAC 28B .0506
21 NCAC 28B .0507
21 NCAC 28B .0508
21 NCAC 28B .0509
21 NCAC 28B .0510
21 NCAC 28B .0511
21 NCAC 28B .0601
21 NCAC 28B .0701
21 NCAC 28B .0801
21 NCAC 28B .0802
21 NCAC 28B .0803
21 NCAC 28B .0804
21 NCAC 28B .0901



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

March 27, 2025

Tracy Steadman, Board of Podiatry Examiners
Sent via email only to: tsteadman@firstpointresources.com

Re: Readoption deadline for 21 NCAC 52: Board of Podiatry Examiners

Dear Ms. Steadman

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 March 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 **May 1, 2027**.

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

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www.oah.nc.gov

**RRC DETERMINATION: NECESSARY
PERIODIC RULE REVIEW**

August 28, 2024

APO Review: October 29, 2024

Podiatry Examiners, Board of

Total: 42

21 NCAC 52 .0101	21 NCAC 52 .0409
21 NCAC 52 .0201	21 NCAC 52 .0601
21 NCAC 52 .0202	21 NCAC 52 .0610
21 NCAC 52 .0204	21 NCAC 52 .0611
21 NCAC 52 .0205	21 NCAC 52 .0612
21 NCAC 52 .0207	21 NCAC 52 .0613
21 NCAC 52 .0208	21 NCAC 52 .0701
21 NCAC 52 .0209	21 NCAC 52 .0702
21 NCAC 52 .0210	21 NCAC 52 .0703
21 NCAC 52 .0211	21 NCAC 52 .0804
21 NCAC 52 .0212	21 NCAC 52 .1001
21 NCAC 52 .0213	21 NCAC 52 .1002
21 NCAC 52 .0214	21 NCAC 52 .1003
21 NCAC 52 .0215	21 NCAC 52 .1004
21 NCAC 52 .0301	21 NCAC 52 .1005
21 NCAC 52 .0302	21 NCAC 52 .1202
21 NCAC 52 .0303	21 NCAC 52 .1203
21 NCAC 52 .0402	21 NCAC 52 .1204
21 NCAC 52 .0403	21 NCAC 52 .1301
21 NCAC 52 .0404	21 NCAC 52 .1302
21 NCAC 52 .0408	21 NCAC 52 .1401

LIST OF APPROVED PERMANENT RULES
March 27, 2025 Meeting

ELECTIONS, STATE BOARD OF

<u>Federal Political Committee Reporting</u>	08 NCAC	21	.0105
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ENVIRONMENTAL QUALITY, DEPARTMENT OF

<u>Applicability and Definitions</u>	15A NCAC	01V	.0101
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<u>Registration and Fee Requirements for New and Existing USSPs</u>	15A NCAC	01V	.0102
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<u>Registration Fee Amount for New and Existing USSPs</u>	15A NCAC	01V	.0103
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<u>Decommissioning Cost Estimate Requirements for New and Ex...</u>	15A NCAC	01V	.0104
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<u>General Requirements for Financial Assurance for New USSPs</u>	15A NCAC	01V	.0105
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<u>Allowable Mechanisms for Financial Assurance for New USSPs</u>	15A NCAC	01V	.0106
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<u>Required Language for Financial Assurance Mechanisms for ...</u>	15A NCAC	01V	.0107
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WILDLIFE RESOURCES COMMISSION

<u>Bladen County</u>	15A NCAC	10F	.0304
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CHIROPRACTIC EXAMINERS, BOARD OF

<u>Advertising and Publicity</u>	21 NCAC	10	.0302
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ENGINEERS AND SURVEYORS, BOARD OF EXAMINERS FOR

<u>Application Procedure: Individual</u>	21 NCAC	56	.0502
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<u>Offices</u>	21 NCAC	56	.0901
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<u>Business Titles</u>	21 NCAC	56	.0902
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LIST OF APPROVED TEMPORARY RULES
March 27, 2025 Meeting

INSURANCE, DEPARTMENT OF

<u>General Eligibility</u>	11 NCAC	18	.0102
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