

NORTH CAROLINA REGISTER

VOLUME 39 • ISSUE 23 • Pages 1491 – 1593

June 2, 2025

I. EXECUTIVE ORDERS

Executive Order No. 14-15 1491 – 1495

II. IN ADDITION

DHHS – Notice of Application for a new Innovative
Approval of a Wastewater System 1496
License and Theft Bureau – Notices of License Application Submission 1497 – 1501

III. PROPOSED RULES

Health and Human Services, Department of
Public Health, Commission for 1502 – 1522
Justice, Department of
Criminal Justice Education and Training Standards Commission 1522 – 1537
Environmental Quality, Department of
Public Health, Commission for 1537 – 1593

PUBLISHED BY

The Office of Administrative Hearings
Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
Telephone 984-236-1850
Fax 984-236-1947

Donald R. van der Vaart, Director
Brian Liebman, Codifier of Rules
Julie B. Eddins, Publications Coordinator

Contact List for Rulemaking Questions or Concerns

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

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

Office of Administrative Hearings

Rules Division

1711 New Hope Church Road
Raleigh, North Carolina 27609

984-236-1850

984-236-1947 FAX

contact: Brian Liebman, Codifier of Rules
Julie B. Eddins, Publications Coordinator

brian.liebman@oah.nc.gov

984-236-1941

julie.eddins@oah.nc.gov

984-236-1937

Rule Review and Legal Issues

Rules Review Commission

1711 New Hope Church Road
Raleigh, North Carolina 27609

984-236-1850

984-236-1947 FAX

contact: William W. Peaslee, Commission Counsel
Seth M. Ascher, Commission Counsel
Travis Wiggs, Commission Counsel
Alexander Burgos, Paralegal

bill.peaslee@oah.nc.gov

984-236-1939

seth.ascher@oah.nc.gov

984-236-1934

travis.wiggs@oah.nc.gov

984-236-1929

alexander.burgos@oah.nc.gov

984-236-1940

Fiscal Notes & Economic Analysis

Office of State Budget and Management

116 West Jones Street

Raleigh, North Carolina 27603-8005

Contact: Julie Ventaloro, Economic Analyst

osbmruleanalysis@osbm.nc.gov

984-236-0694

Fiscal Research Division

Legislative Office Building

300 N. Salisbury Street, Suites 619 and 400

Raleigh, NC 27603-5925

Contact: Brian Matteson

brian.matteson@ncleg.gov

919-733-4910

NC Association of County Commissioners

919-715-2893

215 North Dawson Street

Raleigh, North Carolina 27603

contact: Amy Bason

amy.bason@ncacc.org

NC League of Municipalities

919-715-2925

424 Fayetteville Street, Suite 1900

Raleigh, North Carolina 27601

contact: Baxter Wells

bwells@nclm.org

Legislative Process Concerning Rulemaking

545 Legislative Office Building

300 North Salisbury Street

Raleigh, North Carolina 27611

919-733-2578

919-715-5460 FAX

Jason Moran-Bates, Staff Attorney

Chris Saunders, Staff Attorney

Aaron McGlothlin, Staff Attorney

NORTH CAROLINA REGISTER
Publication Schedule for January 2025 – December 2025

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

*Dates not approved by RRC

EXPLANATION OF THE PUBLICATION SCHEDULE

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

GENERAL

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

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

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

FILING DEADLINES

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

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

NOTICE OF TEXT

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

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

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



State of North Carolina

JOSH STEIN
GOVERNOR

April 24, 2025

EXECUTIVE ORDER NO. 14

EXTENDING THE STATE OF EMERGENCY DECLARED IN EXECUTIVE ORDER NO. 12

WHEREAS, the Governor issued Executive Order No. 12 on March 26, 2025, declaring a state of emergency in 34 counties due to the effects of multiple active wildfires in Polk, Henderson, Swain, and Transylvania counties; and

WHEREAS, Executive Order No. 12 ensured adequate emergency response and recovery measures were available in the State to address the wildfires; and

WHEREAS, Executive Order No. 12 provided that the state of emergency would expire on April 26, 2025, unless extended; and

WHEREAS, there have been additional wildfires in the Emergency Area declared in Executive Order No. 12, including the Bee Rock Creek Fire in McDowell County, the Haeo Lead Fire in Graham County, and the Sam Davis Road Fire in Swain County, the latter of which led to Federal Emergency Management Agency approving North Carolina's request for an additional Fire Management Assistance Grant designated as FEMA-5580-FM-NC; and

WHEREAS, the North Carolina Drought Management Advisory Council in its April 22, 2025, assessment observed moderate drought conditions in parts of western North Carolina and abnormally dry conditions across other parts of western North Carolina; and

WHEREAS, the current and anticipated impacts from the multiple wildfires, combined with the ongoing drought conditions, continue to constitute a state of emergency in the Emergency Area declared in Executive Order No. 12; and

WHEREAS, certain measures remain necessary to ensure the protection and safety of North Carolina residents and to coordinate the ongoing emergency response among state and local entities and officials; 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, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Section 1.

Pursuant to N.C. Gen. § 166A-19.20, I hereby declare that the state of emergency declared in Executive Order No. 12, which was issued on March 26, 2025, persists in the Emergency Area identified in that Executive Order.


Section 2.

Pursuant to N.C. Gen. § 166A-19.20, Executive Order No. 12 is hereby extended for an additional thirty (30) days or until rescinded.

Section 3.

This Executive Order is effective immediately.

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 24th day of April 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

May 6, 2025

EXECUTIVE ORDER NO. 15

GOVERNOR'S TEACHER ADVISORY COMMITTEE

WHEREAS, teachers are highly skilled professionals who are essential to the success of our public schools in North Carolina; and

WHEREAS, teachers are a critical component in ensuring that every student receives a sound basic education in North Carolina; and

WHEREAS, teachers work to support all students as they learn, develop, and grow; and

WHEREAS, teachers are foundational to our democracy – creating an educated and engaged citizenry; and

WHEREAS, teachers are committed to working with a wide range of community organizations, businesses, and other partners, including parents, to address students' educational potential and needs; and

WHEREAS, teachers are often the first group of people a student will reach out to during times of trauma and distress; and

WHEREAS, teachers seek to develop the whole child, meeting the physical, social, and emotional needs of their students; and

WHEREAS, teachers strive to use innovative and engaging approaches to ensure that all students receive individualized instruction; and

WHEREAS, teachers pursue high quality professional development to bring best practices to the classroom; and

WHEREAS, teachers prepare students across North Carolina from pre-kindergarten through grade 12 to graduate from high school ready to pursue post-secondary education or a career; and

WHEREAS, it is important for teachers to share their specialized knowledge and skills to enhance public education and help public officials understand how the impact of their decisions affects the classroom; 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, the authority vested in the undersigned as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Establishment.

The Governor's Teacher Advisory Committee (Committee) is hereby established.

Section 2. Membership.

The Committee shall be comprised of no more than thirty (30) members, including chair(s). Members shall be active or former classroom teachers. Members should represent the geographic, economic, and demographic diversity of North Carolina.

All members shall be appointed by the Governor and shall serve at his pleasure. Committee members shall serve a term of two (2) years and may be appointed to successive terms.

The Governor shall select the chair or co-chairs to lead the Committee.

Section 3. Duties.

Committee members shall have the following responsibilities:

- a. Advise the Governor regarding the impact of the following on students, teachers, and schools:
 1. state and federal education policies for pre-kindergarten through grade 12;
 2. local board of education policies that are not beneficial nor required by state or federal laws, policies or regulations;
 3. the state budget;
 4. proposed or pending state or federal legislation, policies or regulations; and
 5. other issues related to education deemed appropriate by the Governor.
- b. Serve as Education Ambassadors for the Governor, including, but not limited to the following:
 1. representing the Governor at designated events;
 2. establishing and maintaining positive communications with local boards of education and education stakeholders for the purpose of sharing the Governor's education agenda;
 3. sharing information about opportunities for the Governor to support teachers in their critical roles; and
 4. highlighting successful programs and practices in their local school systems that can be replicated in other parts of the state.

Section 4. Meetings.

The Committee shall meet quarterly and at the call of the Chair or the Governor. A simple majority of the Committee shall constitute a quorum to transact business. The Committee's meetings shall be governed by the North Carolina Open Meetings Laws, N.C. Gen. Stat. § 143-318.9, *et seq.*

Section 5. Administration.

The Committee shall serve without compensation but may receive per diem allowance and reimbursement for travel and subsistence expenses in accordance with state law and Office of State Budget and Management policies and regulations.

The Committee shall be staffed by the Office of the Governor.

Section 6. Effective Date.

This Executive Order is effective immediately. It supersedes all other executive orders on this subject. It shall remain in effect until May 6, 2029, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capital in the City of Raleigh, this 6th day of May in the year of our Lord two thousand and twenty-five.



Josh Stein
Governor

ATTEST:



Elaine F. Marshall
Secretary of State



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

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

Application by: Mike Stidham
E-Z Treat Company
PO Box 176
Haymarket, VA 20168

For: Modifications to the Innovative Approval for the E-Z Treat Advanced Pretreatment System

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

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

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

North Carolina License and Theft Bureau

PUBLIC NOTICE

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

Applicant's Name: Felling Trailers Inc

Applicant's Address: 1525 Main Street South, Sauk Centre MN 56378

Application Date: 03/20/2025

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

Brenda Jennissen-Pres/CEO

Bonnie Radjenovich-VP

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: GOLF CART OUTLET INC

Applicant's Address: 6004 MARKET STREET, DURHAM, NC 28405-3618

Application Date: 2-24-2025

Names and titles of any individual listed on the application as an owner, partner, member or officer of the applicant: DONALD BYRNE STOCKS, PRESIDENT. RONALD STOCKS, VICE PRESIDENT

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: ITZ NC, Inc
Applicant's Address: 1508 NC HWY 218 W
Indian Trail, NC 28079
Application Date: May 6, 2025

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

Thomas R Disch, CEO / 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: Mickey Truck Bodies Inc.

Applicant's Address: 1305 Trinity Ave High Point, NC 27261

Application Date: 05/08/2025

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

- **Chief Executive Officer** Matthew Dean Sink
- **Vice President** Trais Johnson
- **Secretary** David Dorfman
- **Assistant Secretary** Anthony McAdoo
- **Vice President** Heather Miller
- **Vice President** Thomas Ninneman
- **Assistant Secretary** Nathan Quattrochi

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: Star EV Corporation

Applicant's Address: 378 Neely Ferry Road Simpsonville, SC 29680

Application Date: 05/07/2025

Names and titles of any individual listed on the application as an owner, partner, member or officer of the applicant: Jane Zhang – CEO, Jun Hu - President

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

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to amend the rules cited as 10A NCAC 43D .0201-.0205, .0207, .0304, .0410, .0411, .0501, .0702, .0707-.0709, .0804, .0902, .0904-.0909, and .0911.

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

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

Proposed Effective Date: April 1, 2026

CHAPTER 43 - PERSONAL HEALTH

Public Hearing:

Date: June 17, 2025

Time: 1:00 p.m

Location: CNSS Library, 5601 Six Forks Road, Raleigh, NC 27609

SUBCHAPTER 43D – WIC/NUTRITION

SECTION .0200 - WIC PROGRAM GENERAL INFORMATION

Reason for Proposed Action: *The United States Department of Agriculture, Food and Nutrition Service made updates to the federal Special Supplemental Nutrition Program for Women, Infants and Children (WIC) food package rules. The changes require more diverse food options for WIC participants, ensuring that nutritional needs are met based on the latest dietary guidelines. The required WIC Food Package changes are required to be implemented by April 20, 2026 to avoid an interruption of WIC services in North Carolina. The Commission for Public Health is proposing to amend its rules for the WIC program in compliance with these requirements.*

10A NCAC 43D .0201 DESCRIPTION

The ~~Nutrition Services Branch~~ North Carolina Department of Health and Human Services, Division of Child and Family Well-Being, Community Nutrition Services Section is responsible for the administration of the WIC Program in North Carolina.

Authority G.S. 130A-361; 7 C.F.R. 246.

Comments may be submitted to: Virginia Niehaus, CPH Rulemaking Coordinator, 1931 Mail Service Center, Raleigh, NC 27699-1931; email cphcomment@ml.nc.gov

10A NCAC 43D .0202 DEFINITIONS

(a) For the purposes of this Subchapter, all definitions set forth in 7 C.F.R. Part 246.2 are hereby incorporated by reference, including subsequent amendments and editions, with the following additions and modifications:

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,

- (1) An "administrative appeal" is an appeal in accordance with Section .0800 of this Subchapter through which a local WIC agency, potential local WIC agency, authorized WIC vendor, or WIC vendor applicant may appeal the adverse actions listed in 7 C.F.R. 246.18(a)(1)(i), (a)(1)(ii), and (a)(3)(i).
- (2) An "authorized store representative" includes an owner, manager, assistant manager, head cashier, or chief fiscal officer.
- (3) An "authorized WIC vendor" is a food retailer or free-standing pharmacy that has executed a currently effective North Carolina WIC Vendor Agreement, as set forth in 7 C.F.R. 246.12(h)(3).
- (4) A "chain store" is a store that is owned or operated by a corporation, partnership, cooperative association, or other business entity that has 20 or more stores owned or operated by the business entity.
- (5) An "Electronic Benefit Transfer (EBT) Processor" is an entity contracted by a

- government agency for the implementation, maintenance, and operation of the State WIC agency's WIC EBT system that acts as the agent of the State WIC agency to process and settle EBT transactions.
- (6) "eWIC" is the term used for EBT by the North Carolina WIC Program.
- (6)(7) A "fair hearing" is the informal dispute resolution process in Section .0900 of this Subchapter through which any individual may appeal a State or local agency action that results in a claim against the individual for repayment of the cash value of issued benefits by which the individual is not eligible or results in the individual's denial of participation or disqualification from the WIC Program, as set forth in Rule .0410 of this Subchapter. This process must be complied with prior to requesting a contested case hearing in accordance with G.S. 150B, as set forth in 7 CFR 246.9.
- (7)(8) "First date to spend" means "first date of use" as defined in 7 C.F.R. 246.12, hereby incorporated by reference with all subsequent amendments and editions.
- (8)(9) "FNS" means the Food and Nutrition Service of the U.S. Department of Agriculture.
- (9)(10) "Food benefits" are the prescribed amounts of WIC authorized foods and formulas or a fixed dollar amount prescribed to WIC customers to receive fruits and vegetables.
- (10)(11) "Food benefit balance" means the unspent food benefits for the current month that are available to use by the cardholder.
- (11)(12) "Free-standing pharmacy" means a pharmacy that does not operate within another retail store. Free-standing pharmacy includes free-standing pharmacies that are chain stores and free-standing pharmacies participating under a WIC corporate agreement.
- (12)(13) "Last date to spend" means "last date of use" as defined in 7 C.F.R. 246.12, hereby incorporated by reference with all subsequent amendments and editions.
- (13)(14) The "local WIC agency" is the local agency that enters into an agreement with the ~~Division of Public Health~~ Division of Child and Family Well-Being to operate the Special Supplemental Nutrition Program for Women, ~~Infants~~ Infants, and Children.
- (14)(15) A "local WIC program plan" is a written compilation of information on the local WIC agency policies concerning program operation, including administration, nutrition education, personnel functions, costs and other information prepared by the local WIC agency and submitted to the ~~Nutrition Services Branch~~ Community Nutrition Services Section.
- (15)(16) "New authorized WIC vendor" is an authorized WIC vendor that has been approved to accept WIC for the first time and does not include vendors that have a previous WIC authorization history.
- (16)(17) A "personal identification number" (PIN) is a numeric password selected and used by a WIC participant to authenticate the participant to the EBT system.
- (17)(18) A "point of sale terminal" (POS) is an electronic device used to process EBT card payments at authorized vendor locations.
- (18)(19) A "predominantly WIC vendor" is an "above-50-percent vendor" as defined in 7 C.F.R. 246.2.
- (19)(20) A "product look-up (PLU) code" is an identification number placed on produce sold at authorized vendor locations.
- (20)(21) "Redeemed food benefits" means the benefits that have been used by the WIC customer.
- (21)(22) "Redemption" is the process by which a vendor receives payment from the State agency or its financial agent for food benefits transacted at that vendor location.
- (22)(23) "Shelf price" is the price listed on the shelf for the WIC supplemental food.
- (23)(24) "SNAP-eligible food sales" means "food sales" as defined in 7 C.F.R. 246.2, which are those foods that can be purchased with Supplemental Nutrition Assistance Program ("SNAP") benefits.
- (24)(25) The "State agency" is the ~~Nutrition Services Branch, Women's and Children's Health Section, Division of Public Health, North Carolina Department of Health and Human Services~~ Community Nutrition Services Section, Division of Child and Family Well-Being, North Carolina Department of Health and Human Services.
- (25)(26) "Store" means a food retailer or free-standing pharmacy operating at a single, fixed location.
- (26)(27) "Supplemental food" or "WIC supplemental food" is a food that satisfies the requirements of 10A NCAC 43D .0501.
- (27)(28) "Support costs" are clinic costs, administrative costs, and nutrition education costs.
- (28)(29) "Transaction" is the process by which a WIC customer tenders food benefits at an authorized vendor in exchange for authorized supplemental foods.
- (29)(30) "Universal Product Code (UPC)" means an identification code printed on the packaging of WIC approved foods sold at WIC authorized vendor locations.
- (30)(31) "Vendor applicant" is a store that has submitted an application to become an authorized WIC vendor but is not yet authorized.
- (31)(32) A "vendor overcharge" is intentionally or unintentionally charging more for supplemental

food provided to a WIC customer than to a non-WIC customer or charging more than the current shelf price for supplemental food provided to a WIC customer.

~~(32)~~(33) A "WIC corporate agreement" is a single WIC Vendor Agreement with a corporate entity that has 20 or more stores authorized as WIC vendors under the Agreement.

~~(33)~~(34) "WIC customer" means a WIC participant, parent, or caretaker of an infant or child participant, proxy for the eligible participant, or compliance investigator who transacts food benefits at a vendor in exchange for WIC supplemental food.

~~(34)~~(35) "WIC program" means the Special Supplemental Nutrition Program for Women, Infants, and Children authorized by 42 U.S.C. 1786 of the Child Nutrition Act of 1966 as amended.

(b) A copy of 7 C.F.R. Part 246 is available free of charge at <https://www.ecfr.gov>.

Authority G.S. 130A-361; 7 C.F.R. 246.2; 7 C.F.R. 246.9; 7 C.F.R. 246.12; 7 C.F.R. 246.18; 42 U.S.C. 1786.

10A NCAC 43D .0203 REFERENCES

(a) The State agency shall administer the WIC program in accordance with:

- (1) 42 U.S.C. 1786; and
- (2) 7 C.F.R. 246.1 through 246.28, United States Department of Agriculture, Food and Nutrition Service, Special Supplemental Nutrition Program for Women, ~~Infants~~ Infants, and Children.

(b) The documents listed in Paragraph (a) of this Rule are available for inspection at the ~~Division of Public Health, Women's and Children's Section, Nutrition Services Branch~~ North Carolina Department of Health and Human Services, Division of Child and Family Well-Being, Community Nutrition Services Section at 5601 Six Forks Road, Raleigh, NC 27609 during regular business hours, Monday through Friday from ~~8:00 AM to 5:00 PM~~: 8:00 AM to 5:00 PM, and online at www.ncdhhs.gov/ncwic.

Authority G.S. 130A-361.

10A NCAC 43D .0204 CONTRACT WITH FNS

(a) The ~~Division of Public Health~~ Department of Health and Human Services shall maintain the Federal-State Special Supplemental Nutrition Program Agreement with the United States Department of Agriculture, Food and Nutrition Service.

(b) The state agency shall prepare, submit to FNS, and maintain the North Carolina State WIC Program Plan of Operations to fulfill the requirements of 7 C.F.R. 246.4. This plan is available for inspection at the state agency during business hours.

Authority G.S. 130A-361.

10A NCAC 43D .0205 POLICIES: GUIDELINES AND MANUALS

(a) The state agency shall promulgate policies, guidelines and manuals to facilitate operation of the WIC Program in accordance with the contract with FNS, the guidelines and instructions issued by FNS in policy letters and management evaluations, and the North Carolina State WIC Program Plan of Operations and the rules contained in this Subchapter.

(b) The policies, guidelines and manuals maintained under (a) of this Rule are available for inspection at the state agency during regular business ~~hours~~: hours, and online at www.ncdhhs.gov/ncwic.

Authority G.S. 130A-361.

10A NCAC 43D .0207 LOCAL WIC AGENCY AGREEMENT AND BUDGET

(a) The state agency shall enter into an agreement and negotiate a budget with each local WIC agency in accordance with 7 C.F.R. 246.6.

(b) The availability of budgeted support cost funds for each local WIC agency is contingent upon the availability of WIC program support cost funds.

(c) Since local support cost funds are allocated according to the assigned number of participants to be served, in the event a local WIC agency is unable to serve the assigned number of participants, the state agency shall reduce the amount of support cost funds provided to the local WIC agency by a portion reflective of the level of underperformance.

(d) The state agency shall notify the local WIC agency in writing of any reduction of support cost funds available to the local WIC agency.

~~(e) When state food dollars are overexpended during a federal fiscal year, local WIC Programs that have maintained an active case load in excess of their assigned number of participants shall reimburse to the state their proportionate share of the overexpenditure.~~

Authority G.S. 130A-361.

SECTION .0300 - SELECTION OF LOCAL WIC AGENCIES

10A NCAC 43D .0304 EXPANSION OF LOCAL WIC PROGRAMS

Local WIC agencies that plan to increase the number of persons served shall submit a written request to the ~~Nutrition Services Section~~. Community Nutrition Services Section. The availability of funds and the Affirmative Action Plan contained in the North Carolina State WIC Program Plan of Operation will be considered in making the decision to approve or deny the request.

Authority G.S. 130A-361.

SECTION .0400 - ELIGIBILITY FOR WIC PROGRAM PARTICIPATION

10A NCAC 43D .0410 PARTICIPANT VIOLATIONS AND SANCTIONS

(a) The State agency shall assess a claim for the full value of Program benefits that have been obtained or disposed of improperly as the result of a participant violation. "Participant violation" means those violations listed in 7 C.F.R. 246.2 which are incorporated by reference in Rule .0202 of this Subchapter. A claim shall not be paid by offsetting the claim against future Program benefits.

(b) The following participant violations committed by a participant, parent or caretaker of an infant or child participant, or proxy shall result in a one-year disqualification of the participant from the WIC Program, except as provided in Paragraphs (c) and (d) of this Rule:

- (1) Exchanging ~~food instruments, cash value vouchers or supplemental food for cash;~~ eWIC card, benefits, or supplemental food for cash;
(2) Exchanging ~~food instruments, cash value vouchers or supplemental food~~ eWIC card, benefits, or supplemental food for alcohol, alcoholic beverages, tobacco products, firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802;
(3) A claim for dual participation resulting from intentional misrepresentation;
(4) Intentionally making false or misleading statements or intentionally misrepresenting, concealing, or withholding facts to obtain Program benefits;
(5) Any participant violation for which a claim of one hundred dollars (\$100.00) or more is assessed;
(6) A second or subsequent claim assessed for any participant violation, regardless of the dollar amount. The second or subsequent claim does not have to be for the same participant violation as the initial claim to result in a one-year disqualification; and
(7) Physical harm to clinic or vendor staff.

(c) The one-year disqualification referenced in Paragraph (b) of this Rule shall not be imposed against the participant if a claim is assessed and full payment is made, or a repayment schedule is agreed upon within 30 days of receipt of a written demand for repayment of the claim for the improperly obtained or disposed of Program benefits.

(d) The one-year disqualification referenced in Paragraph (b) of this Rule shall not be imposed against the participant if the participant is an infant, child, or under age 18 and the state or local agency approves the designation of a proxy for the participant. Designation of a proxy shall be approved if the proxy:

- (1) is at least 18 years of age;
(2) presents proof of identification in the form of a government-issued photo identification card, work or school identification card, health benefits or social services program card, social security card, birth certificate, or a pay stub or utility bill no more than 60 days old;

- (3) has written authorization from the participant or the parent or caretaker of an infant or child participant; and
(4) ~~will not be serving as proxy for more than two families at the same time; and~~
(5)(4) will be the person who transacts the ~~food instruments,~~ supplemental food benefits or cash-value benefits.

(e) Except as provided in Subparagraphs (b)(5) and (b)(6) of this Rule, the following participant violations committed by a participant, parent or caretaker of an infant or child participant, or proxy shall result in a written warning for the first violation and the assessment of a claim for the full amount of any improperly obtained or disposed of Program benefits:

- (1) Exchanging ~~food instruments, cash value vouchers or supplemental food~~ eWIC card, benefits or supplemental food for credit;
(2) Exchanging ~~food instruments, cash value vouchers or supplemental food~~ eWIC card, benefits or supplemental food for non-food items, other than alcohol, alcoholic beverages, tobacco products, firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802; and
(3) Exchanging ~~food instruments, cash value vouchers or supplemental food~~ eWIC card, benefits or supplemental food for unauthorized food items, including supplemental foods in excess of those listed on the participant's ~~food instrument,~~ available benefit balance.

For the violations listed in this Paragraph, failure to pay a claim in full or agree to a repayment schedule within 30 days of receipt of a written demand for repayment of a claim, shall result in a 90-day disqualification of the participant, unless the participant is an infant, child, or under age 18 and the state or local agency approves the designation of a proxy for the participant in accordance with Paragraph (d) of this Rule.

(f) The occurrence of a second or subsequent participant violation listed in Paragraph (e) of this Rule shall result in a one-year disqualification of the participant and the assessment of a claim for the full amount of any improperly obtained or disposed of Program benefits. The second or subsequent violation does not have to be the same as the initial violation to result in a one-year disqualification. The one-year disqualification shall not be imposed against the participant if full payment is made, or a repayment schedule is agreed upon within 30 days of receipt of a written demand for repayment of a claim. Additionally, the one-year disqualification shall not be imposed against the participant if the participant is an infant, child, or under age 18 and the state or local agency approves the designation of a proxy for the participant in accordance with Paragraph (d) of this Rule.

(g) Threatening physical harm to or verbal abuse of clinic or vendor staff by a participant, parent or caretaker of an infant or child participant, or proxy shall result in a written warning for the first occurrence of this violation. A second occurrence within a 12-month period shall result in a 90-day disqualification of the participant, unless the participant is an infant, child, or under age 18 and the state or local agency approves the designation of a

proxy for the participant in accordance with Paragraph (d) of this Rule.

(h) For any disqualification imposed under this Rule, a participant may reapply for Program participation if during the period of the disqualification full payment is made or a repayment schedule is agreed upon, or in the case of a participant who is an infant, child, or under age 18, the state or local agency approves the designation of a proxy in accordance with Paragraph (d) of this Rule.

(i) The participant has a right to a fair hearing in accordance with Section .0900 of this Subchapter for sanctions imposed under this Rule.

Authority G.S. 130A-361; 7 C.F.R. 246; 42 U.S.C. 1786.

10A NCAC 43D .0411 DUAL PARTICIPATION

(a) A WIC participant shall not participate simultaneously in one or more than one WIC clinic, or participate in the WIC Program and the Commodity Supplemental Food Program ("CSFP") WIC clinic during the same period of time. For purposes of this Rule, to participate means certification as a in the WIC participant for the receipt of Program receiving WIC food instruments or cash-value vouchers or certification as a CSFP participant for the receipt of CSFP food or cash-value benefits.

(b) The state agency shall immediately terminate the participation in one of the clinics or Programs, or the simultaneous participation in a single clinic, in accordance with 7 C.F.R. 246.7 (l) when a participant is found to be in violation of Paragraph (a) of this Rule.

(c) In the case of dual participation resulting from intentional misrepresentation, the participant, parent or caretaker of an infant or child participant, or proxy shall repay Program benefits improperly issued as a result of the dual participation, and transacted, and the participant shall be disqualified from participation in both Programs or clinic(s) WIC in accordance with 7 C.F.R. 246.7 (l) and Paragraph (b) of Rule .0410 of this Section. For purposes of this Paragraph, receiving WIC food instruments or cash value vouchers or cash-value benefits under two or more participant identities in a single WIC clinic during the same issuance period and transacting one or more of the food instruments or cash value vouchers or cash-value benefits received under two or more of the identities constitutes dual participation based on intentional misrepresentation. Receiving WIC food instruments or cash value vouchers or cash-value benefits from more than one WIC clinic during the same issuance period and transacting one or more of the food instruments or cash value vouchers or cash-value benefits received from two or more of the clinics constitutes dual participation based on intentional misrepresentation. Additionally, receiving WIC food instruments or cash value vouchers and CSFP food during the same time period and transacting one or more of the WIC food instruments or cash value vouchers constitutes dual participation based on intentional misrepresentation.

Authority G.S. 130A-361; 7 C.F.R. 246; 42 U.S.C. 1786.

SECTION .0500 – WIC PROGRAM FOOD PACKAGE

10A NCAC 43D .0501 SUPPLEMENTAL FOODS

(a) The foods that may be provided to WIC program participants are specified in 7 C.F.R. 246.10, which is incorporated by

reference including any subsequent amendments and editions. This material is available for inspection at the Department of Health and Human Services, ~~Division of Public Health,~~ Division of Child and Family Well-Being, 5601 Six Forks Road, Raleigh, North Carolina 27609 and may be obtained from ~~Nutrition Services~~ the Community Nutrition Services Section at no cost.

(b) ~~The following exclusions from the food package have been adopted by the North Carolina WIC Program:~~

- (1) ~~mackerel and sardines;~~
- (2) ~~goat milk; and~~
- (3) ~~dried fruits and vegetables.~~

(c) ~~(b)~~ The State agency may exclude foods ~~other than those described in Paragraph (b) of this Rule~~ if it determines such foods to be inappropriate for provision as supplemental foods through the WIC Program as a result of their cost, nutritional composition, packaging, statewide availability, participant redemption data, or promotion in a manner which is contrary to the purpose of the program as contained in 7 C.F.R. 246.1.

Authority G.S. 130A-361; 7 C.F.R. 246.10; 42 U.S.C. 1786.

SECTION .0700 - WIC PROGRAM FOOD DELIVERY SYSTEM

10A NCAC 43D .0702 ISSUANCE OF FOOD BENEFITS

(a) Local WIC agencies shall issue WIC program food benefits to program participants in a manner which ensures that participants can receive the supplemental foods that have been prescribed for them in accordance with 7 C.F.R. 246.10, which is incorporated by reference with all subsequent amendments and editions.

(b) Local WIC agencies shall issue food benefits and shall retain documentation of issuance. ~~The documentation of issuance shall include the dated signature of the authorized individual receiving the food benefits, as set out in Subparagraph (c) of this Rule.~~

(c) Food benefits shall be issued only to the participant, the participant's parent, the participant's guardian, the participant's caretaker, a proxy, or a representative of the program completing a compliance buy.

Authority G.S. 130A-361; 7 C.F.R. 246.2; 7 C.F.R. 246.10; 42 U.S.C. 1786.

10A NCAC 43D .0707 VENDOR APPLICANTS

To become authorized as a WIC vendor, a vendor applicant shall comply with the following vendor selection criteria:

- (1) A vendor applicant shall complete a WIC Vendor Application, as set forth in Item (20) of this Rule, a WIC Price List, as set forth in Item (4) of this Rule, and a WIC Vendor Agreement, as set forth in 7 C.F.R. 246.12(h)(3). A vendor applicant shall submit its current highest shelf price for each WIC supplemental food listed on the WIC Price List, as set forth in Item (4) of this Rule.
- (2) A vendor applicant, at the time of application and throughout the term of authorization, shall submit all completed forms to the local WIC agency, except that a corporate entity operating

under a WIC corporate agreement shall submit one completed WIC corporate agreement and the WIC Price Lists to the State agency and a separate WIC Vendor Application for each store to the local WIC agency. A corporate entity operating under a WIC corporate agreement may submit a single WIC Price List for those stores that have the same prices for WIC supplemental foods in each store, rather than submitting a separate WIC Price List for each store.

(3) A vendor applicant shall purchase all infant formula, exempt infant formula, and WIC-eligible nutritionals directly from:

- (a) The sources specified in 42 U.S.C 1786(h)(8)(A)(ix), which is incorporated by reference with all subsequent amendments and editions;
- (b) Retail food stores that purchase directly from the sources referenced in Sub-item (3)(a) of this Item; or
- (c) A source on another state's list of approved infant formula sources as verified by that state's agency.

A vendor applicant shall make available to the State or local WIC agency invoices or receipts documenting purchases of all infant formula, exempt infant formula, and WIC-eligible nutritionals. Receipts and invoices shall satisfy the requirements of Sub-items (24)(a) through (24)(c) of Rule .0708 of this Section. A vendor applicant shall not be authorized if within the last year the vendor applicant had a previous WIC Vendor Agreement terminated for failure to purchase infant formula, exempt infant formula, or WIC-eligible nutritionals from the sources specified in this Item. A vendor applicant shall not be authorized if within the last year the vendor applicant had a previous WIC Vendor Agreement terminated for providing infant formula, exempt infant formula, or WIC-eligible nutritionals to WIC customers that was not purchased from the sources specified in this Item.

(4) A vendor applicant's current highest shelf price for each WIC supplemental food listed on the WIC Price List shall not exceed the maximum price set by the State agency for each supplemental food within that vendor applicant's peer group, except as provided in Sub-item (4)(b) of this Item. The maximum price for each supplemental food shall be established as follows:

- (a) The most recent prices submitted through the EBT system by authorized vendors within the same peer group shall be used to determine the maximum price for each supplemental food. The maximum price shall be two

standard deviations above the average current highest shelf price of each supplemental food within a vendor peer group. The State agency shall reassess the maximum price set for each supplemental food at least four times a year.

(b) If any of the vendor applicant's price(s) on its WIC Price List exceed the maximum price(s) set by the State agency for that applicant's peer group, the State agency shall send the applicant written notice. Within 30 days of the date of receipt of the written notice, the vendor applicant may resubmit price(s) that it will charge the State WIC Program for those foods that exceeded the maximum price(s). If none of the vendor applicant's resubmitted prices exceed the maximum prices set by the State agency, the vendor applicant shall be deemed to have met the requirements of Item (4) of this Rule. If any of the vendor applicant's resubmitted prices still exceed the maximum prices set by the State agency, or the vendor applicant does not resubmit prices within 30 days of the date of receipt of the written notice, the agency shall send the applicant a written notice of denial. The vendor applicant shall wait 90 days from the date of receipt of the written denial to reapply for authorization.

(5) A vendor applicant shall pass an announced monitoring review by the local WIC agency to determine whether the store has minimum inventory of supplemental foods as specified in Item (17) of Rule .0708 of this Section. A vendor applicant that fails this review shall be allowed a second opportunity for an unannounced monitoring review within 14 days. If the applicant fails both reviews, the application shall be denied in writing and the applicant shall wait 90 days from the date of the second monitoring review before submitting a new application

(6) A vendor applicant shall either attend or cause a manager or another authorized store representative to attend WIC Vendor Training provided by the local WIC agency prior to vendor authorization and ensure that the vendor applicant's employees receive instruction in WIC program procedures and requirements.

(7) An applicant shall mark the current shelf prices of all WIC supplemental foods on the foods or

- have the prices posted on the shelf or display case at all times.
- (8) The store shall be at a single, fixed location within North Carolina. The store shall be located at the address indicated on the WIC vendor application and shall be the site where WIC supplemental foods are selected by the WIC customer.
- (9) A vendor applicant shall use point of sale (POS) terminals to support the WIC Program that are deployed in accordance with the minimum lane coverage provisions of 7 C.F.R. 246.12(z)(2)(ii).
- (10) The store shall be open throughout the year for business with the public at least six days a week for at least 40 hours per week between 8:00 a.m. and 11:00 p.m.
- (11) The store shall not use the acronym "WIC" or the WIC logo, including facsimiles, in total or in part, in the official name under which the business is registered or in the name under which it does business.
- (12) A vendor applicant shall not submit false, erroneous, or misleading information in an application to become an authorized WIC vendor or in subsequent documents submitted to the state or local WIC agency. A vendor applicant shall not be authorized if within the last year the vendor applicant had a previous WIC Vendor Agreement terminated for submitting false, erroneous, or misleading information.
- (13) The owner(s), officer(s), or manager(s) of a vendor applicant shall not be employed, or have a spouse, child, or parent who is employed by the State WIC program, or the local WIC program serving the county where the vendor applicant conducts business. A vendor applicant shall not have an employee who handles or transacts WIC food benefits who is employed, or has a spouse, child, or parent who is employed by the State WIC program or the local WIC program serving the county where the vendor applicant conducts business. Such situations present a conflict of interest.
- (14) WIC vendor authorization shall be denied if in the last six years any of the vendor applicant's current owners, officers, or managers have been convicted of or had a civil judgment entered against them for any activity indicating a lack of business integrity, including fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, and obstruction of justice, as set out in 7 C.F.R 246.12(g)(3)(ii). For purposes of this Item, "convicted" or "conviction" includes:
 - (a) a plea of guilty;
 - (b) a verdict or finding of guilt by a jury, judge, magistrate, or adjudicating body, tribunal, or official, either civilian or military;
 - (c) a plea of no contest, nolo contendere, or the equivalent; or
 - (d) entry of a prayer for judgment continued following a conviction as defined in this Item is the same as a conviction for purposes of this Item.
- (15) A vendor applicant shall not be authorized if it is currently disqualified from the ~~Supplemental Nutrition Assistance Program ("SNAP")~~ NC Food and Nutrition Services (FNS)(formerly known as the Supplemental Nutrition Assistance Program ["SNAP"]) or it has been assessed a ~~SNAP FNS/SNAP~~ SNAP FNS/SNAP civil money penalty for hardship and the disqualification period that otherwise would have been imposed has not expired.
- (16) A vendor applicant, excluding chain stores and stores under a WIC corporate agreement that have a separate manager on site for each store, shall not have an owner who holds a financial interest in any of the following:
 - (a) a ~~SNAP FNS/SNAP~~ SNAP FNS/SNAP vendor that is disqualified from participation in ~~SNAP FNS/SNAP~~ or has been assessed a civil money penalty for hardship in lieu of disqualification and the time period during which the disqualification would have run, had a penalty not been paid, has not expired; or
 - (b) another WIC vendor that is disqualified from participation in the WIC Program or has been assessed a monetary or civil money penalty pursuant to G.S. 130A-22(c1), Paragraph (e) or Paragraph (f) of Rule .0710 of this Section as the result of violation of Paragraphs (a) or (b) of Rule .0710 of this Section and if assessed a penalty, the time during which the disqualification would have run, had a penalty not been assessed, has not expired.

The requirements of this Item shall not be met by the transfer or conveyance of financial interest during the period of disqualification. Additionally, the requirements of this Item shall not be met even if such transfer or conveyance of financial interest in a ~~SNAP FNS/SNAP~~ SNAP FNS/SNAP vendor under Sub-item (16)(a) of this Item ends the disqualification period applicable to that ~~SNAP FNS/SNAP~~ SNAP FNS/SNAP vendor earlier than the disqualification period otherwise would have expired. The requirements of this Item shall apply until the

- time the ~~SNAP~~ FNS/SNAP vendor disqualification otherwise would have expired.
- (17) A vendor applicant, excluding free-standing pharmacies, shall have ~~SNAP~~ FNS/SNAP authorization for the store as a prerequisite for WIC vendor authorization and shall provide its ~~SNAP~~ FNS/SNAP authorization number to the State agency.
- (18) A vendor applicant shall not become authorized as a WIC vendor if the store has been disqualified from participation in the WIC Program and the disqualification period has not expired. A vendor applicant shall not be authorized as a WIC vendor if any of the vendor applicant's owner(s), officer(s) or manager(s) currently has or previously had a financial interest in a WIC vendor that was assessed a claim by the WIC Program and the claim has not been paid in full.
- (19) A vendor applicant shall enter into contract with the State WIC Program's EBT processor or a certified third party processor prior to WIC authorization and comply with all requirements detailed in the EBT or third party processor's Vendor Agreement.
- (20) A WIC Vendor Application shall include the following information:
- (a) The store name, physical address, and hours of operation;
 - (b) The type of ownership under which the vendor operates;
 - (c) The names and contact information of owners or officers;
 - (d) Annual food sales data and percentages for the following tender types: cash, credit, debit, ~~SNAP~~ FNS/SNAP, and WIC;
 - (e) The store's ~~SNAP~~ FNS/SNAP authorization number and history of ~~SNAP~~ FNS/SNAP participation, if a retail grocery store; and
 - (f) Other information that the store is required to provide to the State agency in accordance with 7 C.F.R. 246.12.
- For a food retailer or free-standing pharmacy to participate in the WIC Program, a current WIC Vendor Agreement shall be signed by the vendor, the local WIC agency, and the State agency. If an application for status as an authorized WIC vendor is denied, the applicant is entitled to an administrative appeal as described in Section .0800 of this Subchapter.
- Authority G.S. 130A-361; 7 C.F.R. 246; 7 C.F.R. 246.12(g)(3); 7 C.F.R. 246.12(g)(3)(ii); 7 C.F.R.*
- 10A NCAC 43D .0708 AUTHORIZED VENDORS**
- By signing the WIC Vendor Agreement, the vendor agrees to:
- (1) Process WIC Program food benefits in accordance with the terms of the WIC Vendor Agreement and 42 U.S.C. 1786, 7 C.F.R. 246.1-246.28, and the rules of this Subchapter;
 - (2) Accept ~~WIC~~ eWIC ~~Program~~ food benefits in exchange for WIC supplemental foods. Supplemental foods are those foods that satisfy the requirements of 10A NCAC 43D .0501;
 - (3) Provide ~~to~~ the WIC customer with only the approved supplemental foods, fruits, and vegetables contained in the authorized product list (APL) after it has been determined that the WIC customer has an available balance on the date of the transaction. The WIC customer is not required to get all of the supplemental foods listed on his or her food benefit balance. However, a WIC customer may obtain more fruits and vegetables than the full dollar value of his or her cash-value benefit if the WIC customer pays the difference, as set forth in 7 C.F.R. 246.12(h)(3)(xi);
 - (4) Transmit only the current shelf price of all WIC-approved supplemental foods purchased in the correct sizes, quantities, and the total dollar amount of all WIC-approved supplemental foods purchased in the EBT system and shall not charge or collect sales taxes for the supplemental food provided;
 - (5) Charge no more for supplemental food provided to a WIC customer than to a non-WIC customer or no more than the current shelf price, whichever is less;
 - (6) Accept payment from the State WIC Program only up to the maximum price set by the State agency for each supplemental food within that vendor's peer group. The maximum price for each supplemental food shall be based on the maximum prices set by the State agency for each supplemental food, as described in Sub-item (4)(a) of Rule .0707 of this Section. A request for payment submitted over the maximum price allowed by the State agency will only be paid up to the maximum price for that supplemental food;
 - (7) Accept payment from the State WIC Program only up to the full dollar value of the cash-value benefit;
 - (8) Not charge the State WIC Program more than the maximum price set by the State agency under Item (4)(a) of Rule .0707 of this Section for each supplemental food within the vendor's peer group;
 - (9) Provide to WIC customers infant formula, exempt infant formula, and WIC eligible nutritionals purchased only from the sources specified in Item (3) of Rule .0707 of this Section. Providing infant formula, exempt infant formula, or WIC eligible nutritionals that ~~has~~ have not been purchased from the sources specified in Item (3) of Rule .0707 of this

PROPOSED RULES

- Section shall result in termination of the WIC Vendor Agreement;
- (10) For free-standing pharmacies, provide only exempt infant formula and WIC-eligible nutritionals;
 - (11) Excluding free-standing pharmacies, redeem at least two thousand dollars (\$2,000) annually in WIC supplemental food sales. Failure to redeem at least two thousand dollars (\$2,000) annually in WIC supplemental food sales shall result in termination of the WIC Vendor Agreement. The store shall wait 180 days to reapply for authorization;
 - (12) Ensure that a personal identification number (PIN) is used by the WIC customer to complete the EBT transaction in lieu of a signature;
 - (13) Ensure that the WIC customer enters the PIN to initiate the EBT transaction. The vendor shall not enter the PIN for the WIC customer;
 - (14) Not transact food benefits ~~in~~ as a whole or in part for cash, credit, unauthorized foods, or non-food items;
 - (15) Not provide refunds or permit exchanges for authorized supplemental foods obtained with food benefits, except for exchanges of an identical authorized supplemental food when the original authorized supplemental food is defective, spoiled, or has exceeded its "sell by," "best if used by," or other date limiting the sale or use of the food. An "identical authorized supplemental food" means the exact brand, type and size as the original authorized supplemental food obtained and returned by the WIC customer;
 - (16) Notify the local WIC agency of misuse (attempted or actual) of WIC Program food benefits;
 - (17) Maintain a minimum inventory of supplemental foods in the store for purchase. Supplemental foods that are outside of the manufacturer's expiration date do not count towards meeting the minimum inventory requirement. Free-standing pharmacies are not required to maintain a minimum inventory of supplemental foods. The following items and sizes constitute the minimum inventory of supplemental foods for vendors:

Food Item	Type of Inventory	Quantities Required
Milk	Whole fluid: gallon	2 gallons
	Skim/lowfat Skim/low fat fluid: gallon	6 gallons
Cheese	1 pound package	2 packages
Cereals	2 types: whole grain (minimum package size 12 ounce)	6 packages total
Eggs	Grade A, large, white: 1 dozen size carton	2 dozen
Juices <u>Juice</u>	Single strength: 48 ounce container	4 containers
	64 ounce container	4 containers
	64 ounce: 2 varieties	6 containers
Dried Peas and Beans <u>Legumes</u>	1 pound package <u>or</u> 4 15-16 ounce cans: <u>2 varieties</u>	2 packages <u>2 packages or 8 cans OR 1 package and 4 cans</u>
Peanut Butter	16 to 18 ounce container	2 containers
Tuna	5 to 6 ounce can	6 cans
Bread/Tortillas	16 to 24 ounce loaf of <u>whole wheat/whole grain</u> bread or package of tortillas	2 loaves or 2 packages OR 1 loaf and 1 package
Rice	14 to 16 ounce package <u>14 to 24 ounce package, whole grain</u>	2 packages
Infant Cereal	8 ounce box	6 boxes
Infant Fruits and Vegetables	3.5 to 4 ounce container 1 type of fruit and 1 type of vegetable	64 ounces

PROPOSED RULES

Infant Formula	milk-based powder; 11.0 to 14.0 ounce -and- soy-based powder; 11.0 to 14.0 ounce Brands must be the primary contract infant formulas	8 cans 4 cans
Fruits	14 to 16 ounce can: 2 varieties	10 cans total
Vegetables (Excludes foods in Dried Peas and Beans <u>Legumes</u> category)	14 to 16 ounce can: 2 3 varieties	10 cans total

All vendors, except free-standing pharmacies, shall supply milk or soy-based infant formula in 32 ounce ready-to-feed or powder within 48 hours of request by the State or local WIC agency. Free-standing pharmacies shall only supply exempt infant formula or WIC-eligible nutritionals. Free-standing pharmacies shall supply exempt infant formula or WIC-eligible nutritionals within 48 hours of a request;

- (18) Ensure that all supplemental foods in the store for purchase are within the manufacturer's expiration date;
- (19) Permit the purchase of supplemental food without requiring other purchases;
- (20) Comply with the following EBT provisions:
 - (a) Sign the WIC Vendor Agreement of the EBT Processor selected by the State WIC Program or a third-party processor that has been certified according to criteria established by the EBT Processor selected by the State WIC Program. Failure by a vendor to sign and retain a WIC Vendor Agreement with the State WIC Program's EBT Processor or a third-party processor that has been certified by the State WIC Program's EBT Processor shall result in termination of the WIC Vendor Agreement. Vendors shall notify the WIC Program within 24 hours of any periods of time during which they do not maintain an Agreement with the State WIC Program's EBT Processor or a third-party processor that has been certified by the State WIC Program's EBT Processor;
 - (b) Process EBT transactions in accordance with the terms of the North Carolina WIC Vendor Agreement, WIC Program State Rules, federal regulations, and statutes;
 - (c) Maintain Point of Sale (POS) terminals used to support the WIC Program in accordance with the minimum lane provisions of 7 C.F.R. 246.12(z)(2);

- (d) Maintain a North Carolina EBT Processor certified in-store EBT system that is available for WIC redemption processing during all hours the store is open;
- (e) Request the North Carolina EBT Processor re-certify its in-store system if the vendor alters or revises the system in any manner that impacts the EBT redemption or claims processing system after initial certification is completed;
- (f) For vendors with integrated systems, obtain EBT card readers to support EBT transactions within their store(s). The vendor shall ensure that the EBT card readers they obtain ~~meets~~ meet all EBT and North Carolina EBT Processor requirements;
- (g) Require an owner, manager, or other authorized store representative to complete training on WIC EBT procedures. The vendor shall ensure that all cashiers and staff are trained on WIC EBT requirements, including training in the acceptance and processing of WIC EBT transactions;
- (h) Require the WIC customer to approve the WIC transaction. Vendors shall ensure that the vendor's staff does not approve the WIC transactions for WIC customers under any circumstances;
- (i) Release supplemental food to WIC customers when the transaction has been completed to include receipt of transaction approval by the EBT processing system, printing of the receipt, and updated balance of the WIC customer's account;
- (j) Scan or manually enter Universal Product Codes (UPC) only from approved supplemental foods being purchased by the WIC customer in the types, sizes, and quantities available on the WIC customer's EBT account.

- The vendor shall not scan codes from UPC codebooks or reference sheets;
- (k) Return any EBT card found on the vendor's property and unclaimed for 24 hours to the WIC Program. The vendor shall not hold or use a WIC customer's EBT card and PIN for any purpose whatsoever;
 - (l) Connect the vendor's in-store system for each outlet covered by the WIC Vendor agreement to the State's WIC EBT system at least once each 24-hour period to download reconciliation files and the WIC Authorized Product UPC/Product Look-Up (PLU) list.
- (21) ~~Attend~~, Attend or cause a manager or other authorized store representative to attend, annual vendor training upon notification by the local WIC agency. Failure to attend annual vendor training by September 30 of each year shall result in termination of the WIC Vendor Agreement;
 - (22) Inform and train vendor's cashiers and other staff on WIC Program requirements;
 - (23) Be accountable for the actions of its owners, officers, managers, agents, and employees who commit vendor violations;
 - (24) Allow monitoring and inspection by State and local WIC Program staff of the store premises and procedures to ensure compliance with the agreement and State, and federal WIC Program rules, regulations, and applicable law. This includes providing access to all program-related records, including access to all WIC food instruments and cash-value vouchers at the store; vendor records pertinent to the purchase and sale of WIC supplemental foods, including invoices, receipts, copies of purchase orders, and any other proofs of purchase; federal and state corporate and individual income tax and sales and use tax returns and all records pertinent to these returns; and books and records of all financial and business transactions. These records shall be retained by the vendor for a period of three years or until any audit pertaining to these records is resolved, whichever is later. Notwithstanding any other provision of this Rule and Rules .0707 and .0710 of this Section, failure or inability to provide these records for an inventory audit or providing false records for an inventory audit shall be deemed a violation of 7 C.F.R. 246.12(l)(1)(iii)(B) and Subparagraph (a)(1) of Rule .0710 of this Section. Invoices, receipts, purchase orders, and any other proofs of purchase for WIC supplemental foods shall include:
 - (a) the name of the seller and be prepared entirely by the seller without alteration
- (b) by the vendor or on the seller's business letterhead;
 - (b) the date of purchase and the date the authorized vendor received the WIC supplemental food at the store if different from the date of purchase; and
 - (c) a description of each WIC supplemental food item purchased, including brand name, unit size, type or form, and quantity;
- (25) Maintain a record of all SNAP-eligible food sales and provide to the State agency upon request a statement of the total amount of revenue derived from SNAP-eligible food sales and written documentation to support the amount of sales claimed by the vendor, such as sales records, financial statements, reports, tax documents, or other verifiable documentation;
 - (26) Submit a current completed WIC Price List when signing this agreement, and within two weeks of any written request by the State or local WIC agency;
 - (27) Reimburse the State agency in full or agree to a repayment schedule with the State agency within 30 days of written notification of a claim assessed due to a vendor violation that affects payment to the vendor. Failure to reimburse the State agency in full or agree to a repayment schedule within 30 days of written notification of a claim shall result in termination of the WIC Vendor Agreement. Payment of a claim by the vendor for a vendor violation(s) shall not absolve the vendor of the violation(s). The vendor shall also be subject to any vendor sanctions authorized under Rule .0710 of this Section for the vendor violation(s);
 - (28) Not seek restitution from the WIC customer for reimbursement paid by the vendor to the State agency or for WIC food benefits not paid or partially paid by the State agency. Additionally, the vendor shall not charge the WIC customer for authorized supplemental foods obtained with food benefits;
 - (29) Not contact a WIC customer outside the store regarding the transaction or redemption of WIC food benefits;
 - (30) Notify the local WIC agency in writing at least 30 days prior to a change of ownership, change in store location, cessation of operations, or withdrawal from the WIC Program. Change of ownership, change in store location of more than three miles from the store's previous location, cessation of operations, withdrawal from the WIC Program, or disqualification from the WIC Program shall result in termination of the WIC Vendor Agreement by the State agency. Change of ownership, change in store location, ceasing operations,

withdrawal from the WIC Program, or nonrenewal of the WIC Vendor Agreement shall not stop a disqualification period applicable to the store;

- (31) Not discriminate on the basis of WIC participation, such as failing to offer WIC customers the same courtesies, as set forth in 7 C.F.R. 246.12(h)(3)(iii), offered to other customers or requiring separate WIC lines;
- (32) Reapply to continue to be authorized beyond the period of its current WIC Vendor Agreement. Additionally, a store shall reapply to become authorized following the expiration of a disqualification period or termination of the Agreement. In all cases, the vendor applicant is subject to the vendor peer group criteria set forth in 7 CFR 246.12(g)(4), 7 CFR 246.12(h)(3), and the vendor selection criteria of Rule .0707 of this Section; and
- (33) Comply with all the requirements for vendor applicants of Items (3), (4), and (7) through (17), and (19) of Rule .0707 of this Section throughout the term of authorization. The State agency may reassess a vendor at any time during the vendor's period of authorization to determine compliance with these requirements. The State agency shall terminate the WIC Vendor Agreement of any vendor that fails to comply with Items (3), (4), (8), (9), (10), (11), (12), (13), (14), (16), (17), or (19) of Rule .0707 of this Section during the vendor's period of ~~authorization~~, authorization and terminate the agreement of or sanction or both any vendor that fails to comply with Items (7), (15), (17), or (19) of Rule .0707 of this Section during the vendor's period of authorization.
- (34) Permit the State agency to reassess the peer group designation at any time during the vendor's agreement period and place the vendor in a different peer group if upon reassessment the State agency determines that the vendor is no longer in the appropriate peer group.

Authority G.S. 130A-361; 7 C.F.R. 246.12; 42 U.S.C. 1786.

10A NCAC 43D .0709 LOCAL WIC AGENCY

By signing the WIC Vendor Agreement, the local WIC agency agrees to the following:

- (1) Provide annual vendor training on WIC procedures and rules;
- (2) Conduct routine monitoring, as set forth in 7 C.F.R. 246.2 and 7 C.F.R. 246.12(j)(2), of the vendor's performance under the agreement to ensure compliance with the agreement and state and federal WIC program rules, regulations, and applicable law. A minimum of one-third of all authorized vendors shall be monitored within a fiscal year (October 1 through September 30) and all vendors shall be

monitored at least once within three consecutive fiscal years. Any vendor shall be monitored within one week of written request by the state agency;

- (3) Provide vendors with directions on how to access the North Carolina WIC Vendor Manual, Manual online at <https://www.ncdhhs.gov/wicvendorsconnectio>, all Vendor Manual amendments, blank WIC Price Lists, and the authorized WIC vendor ~~stamp id~~ indicated on the signature page of the WIC Vendor Agreement; and
- (4) Assist the vendor with questions which may arise under the agreement or through the vendor's participation in the WIC Program.

Authority G.S. 130A-361; 7 C.F.R. 246; 42 U.S.C. 1786.

SECTION .0800 - WIC PROGRAM ADMINISTRATIVE APPEALS

10A NCAC 43D .0804 CONTINUATION OF PARTICIPATION

Except as provided in 42 U.S.C. 1786(o)(2) and 7 C.F.R. 246.18(a)(2) and (a)(3)(iii), the participation of a local WIC agency or authorized WIC vendor in the WIC program may continue during an administrative appeal. Except as provided in 42 U.S.C. 1786(o)(2) and 7 C.F.R. 246.18(a)(2) and (a)(3)(iii), the adverse action shall become effective upon issuance of a final agency decision pursuant to ~~G.S. 150B-36~~ G.S. 150B-42 which upholds the adverse action.

Authority G.S. 130A-361; 7 C.F.R. 246.18; 42 U.S.C. 1786.

SECTION .0900 - WIC PROGRAM PARTICIPANT FAIR HEARINGS

10A NCAC 43D .0902 GENERAL CONDITIONS

(a) This Section shall be carried out in accordance with 7 C.F.R. 246.9 and G.S. 150B-22. The fair hearing procedures set out in this Section establish an informal dispute resolution process which must be complied with prior to making a formal appeal in accordance with G.S. 150B.

(b) For the purposes of this Section, agency official shall mean the ~~Branch Head of the Nutrition Services Branch Assistant Director for the Division of Child and Family Well-Being, Community Nutrition Services Section~~ or his or her designee.

Authority G.S. 130A-361; 150B-22; 7 C.F.R. 246.9; 42 U.S.C. 1786.

10A NCAC 43D .0904 NOTIFICATION OF THE RIGHT TO A FAIR HEARING

(a) Every current or potential WIC participant shall be informed by the local WIC agency of his or her right to a fair hearing:

- (1) in writing at the time of application;
- (2) in writing whenever he or she is determined ineligible;

- (3) in writing if disqualified due to abuse of the program;
 - (4) in writing at the time of assessment of a claim for repayment of the cash value of improperly issued Program benefits; and
 - (5) orally or in writing at least 15 days before the expiration of each certification period.
- (b) The content of the notice of fair hearing shall include:
- (1) a statement of the right to a fair hearing;
 - (2) the method by which a fair hearing may be requested, including the time limit
 - (3) who may represent the individual; and
 - (4) the civil rights statement.
- (c) In order to notify current and potential participants of the fair hearing process, a simplified summary of the steps involved in obtaining a fair hearing shall be posted in a visible place at every WIC site where certifications are performed, ~~food instruments~~ eWIC benefits are issued or applications are accepted. This notification shall contain:
- (1) notice of right to a fair hearing;
 - (2) a simplified explanation of the definition and purpose of a fair hearing;
 - (3) the method by which a fair hearing may be requested, including the time limit; and
 - (4) who may represent the individual at the fair hearing and in requesting a fair hearing.

Authority G.S. 130A-361; 150B-22; 7 C.F.R. 246.9; 42 U.S.C. 1786.

10A NCAC 43D .0905 REQUEST FOR A FAIR HEARING

- (a) A request for a fair hearing is any expression that conveys a desire to present a case contesting an action that results in an individual's denial of participation, or disqualification from the program or a claim against an individual for repayment of the cash value of improperly issued Program benefits. This request may be made to any of the following:
- (1) the agency official;
 - (2) the agency director of the local WIC agency;
 - (3) the WIC director of the local WIC agency;
 - (4) any person serving in one of the above three roles in the absence of the agency official, agency director or WIC director.
- (b) If the request is not made directly to the agency official, the individual receiving the request shall immediately notify the agency official of the request by ~~telephone.~~ email.
- (c) All requests shall be documented in writing.
- (1) If the original request is made in writing, the individual receiving the request shall retain a photocopy and send the original copy to the agency official ~~immediately following the telephone call.~~ immediately.
 - (2) If a verbal request is received, the individual receiving the request shall document the request in writing, including:
 - (A) the applicant's or participant's name;
 - (B) the name of the individual making the request;

- (i) their mailing address;
 - (ii) telephone number; and
 - (iii) relation to the applicant or participant;
- (C) the date of the request; and
 - (D) the cause for the request along with the name, title, and signature of the person writing the documentation.

~~The original copy of this documentation shall be sent to the official agency immediately following the telephone call with a copy being retained by the sender.~~

- (d) The request for a fair hearing may be made by the individual affected by the action or the individual's parent, caretaker, or any other person acting on his or her behalf.
- (e) If an individual or an individual's parent, caretaker, or any other person acting on his or her behalf expresses verbally the desire for a fair hearing to a state or local agency staff member not authorized to accept a request, that staff member shall provide assistance in contacting the individuals who can accept a fair hearing request.
- (f) The request for a fair hearing must be made within 60 days from the date the applicant or participant is given notice of the action. If the notification is mailed, this time period shall begin on the date the notification was mailed.

Authority G.S. 130A-361; 150B-22; 7 C.F.R. 246.9; 42 U.S.C. 1786.

10A NCAC 43D .0906 DENIAL OR DISMISSAL OF A REQUEST

- The hearing officer shall deny or dismiss a hearing if:
- (1) the request is not received within 60 days of the date of notification of the action;
 - (2) the request is withdrawn in writing by the appellant or ~~his or her~~ their representative;
 - (3) the request is verbally withdrawn by the appellant or the appellant's parent, caretaker, or any other person acting on his or her behalf during conversation with the agency Official. Within 10 days of this verbal withdrawal request the agency official shall send a letter to the appellant and the local WIC agency summarizing the events which lead to the withdrawal of the request. This letter shall include notification of the appellant's right to reinstate the request for a fair hearing;
 - (4) the appellant or the appellant's parent, caretaker, or any other person acting on his or her behalf fails to appear at the scheduled hearing, unless the failure to appear was due to circumstances beyond the control of the appellant or his or her representative;
 - (5) the request is made in reference to the tailoring of the food package;
 - (6) the initial action assessing a claim for the cash value of improperly issued Program benefits or denying participation or disqualifying from the program has been reversed by the local WIC agency or the state agency, resulting in the

provision of program benefits to the appellant; or
(7) the individual has been denied participation by a previous hearing and cannot provide evidence that circumstances relevant to Program eligibility have changed in such a way as to justify a hearing.

Authority G.S. 130A-361; 150B-22; 7 C.F.R. 246.9; 42 U.S.C. 1786.

10A NCAC 43D .0907 CONTINUATION OF BENEFITS

(a) WIC program benefits shall be continued during the appeal of the following actions when the request for a hearing is received within 15 days of notification of the action:

- (1) disqualification from the program for abuse during a certification period; or
- (2) determination of ineligibility during a certification period due to categorical ineligibility or residential ineligibility; or a change in income eligibility or residential eligibility.
- ~~(3) other terminations during a certification period.~~

(b) WIC program benefits shall not be continued when a fair hearing is requested:

- (1) in any of the situations in Paragraph (a) of this Rule if the request is made more than 15 days after the date of notification; or
- (2) by determination of ineligibility during a certification period due to categorical ineligibility; or
- ~~(2)(3)~~ by applicants who are denied benefits at the initial or subsequent determination of WIC eligibility if the previous certification period has expired.

(c) When benefits are continued due to a request for a fair hearing as specified above, the individual shall continue to receive benefits until an adverse hearing decision is reached or the certification period expires, whichever occurs first.

Authority G.S. 130A-361; 150B-22; 7 C.F.R. 246.9; 42 U.S.C. 1786.

10A NCAC 43D .0908 NOTICE OF HEARING

(a) The local or State agency official shall notify the appellant, or his or her representative, the local WIC agency, and the ~~Nutrition Services Branch~~ Community Nutrition Services Section in writing that a request for a hearing has been received.

(b) Notice of the ~~date, time, time, date,~~ and place of the hearing shall be given to all parties at least 10 days in advance of the hearing.

(c) The notice to the appellant, or his or her representative, shall include a stamped envelope with the return address of the agency official with a request ~~that it be returned~~ for response using the stamped envelope or by email indicating whether the ~~date, time, time, date,~~ and place for the hearing is satisfactory. If a response is not received at least ~~72~~ 24 hours prior to the time proposed for the hearing, it shall be assumed that the ~~date, time, time, date,~~ and place are satisfactory.

(d) The notice shall contain:

- (1) an explanation of the procedure for the hearing;
- (2) a statement of the ~~date, hour, time, date,~~ place and nature of the hearing;
- (3) a reference to the particular sections of the statutes and rules involved; and
- (4) a statement of the factual allegations.

(e) If the appellant, or his or her representative, indicates that he or she desires another time and date, the agency official shall set a new time and date for the hearing. The hearing shall be accessible to the appellant, or his or her representative.

(f) The hearing shall be held within 21 days from the date the agency official receives the request.

Authority G.S. 130A-361; 150B-22; 7 C.F.R. 246.9; 42 U.S.C. 1786.

10A NCAC 43D .0909 HEARING OFFICER

The Director of the ~~Division of Public Health~~ Division of Child and Family Well-Being shall designate a representative who did not participate in taking the action under appeal to be the hearing officer. The hearing officer shall:

- (1) preside over the informal proceeding;
- (2) ensure that all relevant issues are considered;
- (3) request, receive and insert into the hearing record all evidence determined necessary to reach a decision;
- (4) conduct the meeting in accordance with due process and ensure an orderly hearing;
- (5) order, if relevant and necessary, an independent medical assessment or professional evaluation for the appellant from a source mutually satisfactory to all parties to the hearing; and
- (6) issue a decision.

Authority G.S. 130A-361; 150B-22; 7 C.F.R. 246.9; 42 U.S.C. 1786.

10A NCAC 43D .0911 DECISION

(a) The fair hearing decision shall be made by the hearing official and shall be based only on the oral and documentary evidence presented at the hearing and applicable state statutes and rules, and federal laws and regulations and shall be made ~~a~~ as part of the hearing record by the hearing officer.

(b) The hearing official shall notify in writing the aggrieved party, any designated representative of the aggrieved party, the local WIC agency and the ~~Nutrition Services Branch~~ Community Nutrition Services Section of the decision within 45 days from the date of the request for the hearing.

(c) If the decision is in favor of the aggrieved party and benefits were denied or discontinued, benefits shall begin within two business days after the issuance of the decision.

(d) If the decision is in favor of the agency, as soon as administratively feasible any continued benefits shall be terminated as decided by the hearing official.

(e) The hearing officer shall prepare a recording of testimony and exhibits, or an official report containing the substance of what transpired at the hearing which, together with all papers and

requests filed in the proceeding and the written fair hearing decision, shall constitute the exclusive hearing record.

(f) The decision shall be binding on the local WIC agency.

(g) All hearing records shall be retained for three years.

(h) Upon request by any member of the public a copy of all hearing records and decisions in a form that does not identify individuals (appellant or local agency) shall be prepared by the ~~Nutrition Services Branch~~ Community Nutrition Services Section and be available for inspection and copying.

Authority G.S. 130A-361; 150B-22; 7 C.F.R. 246.9; 42 U.S.C. 1786.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to adopt the rules cited as 10A NCAC 48C .0101, .0102, .0201-.0205; 48D .0101, .0201-.0211, and repeal the rules cited as 10A NCAC 48A .0101, .0102, .0201-.0205; 48B .0101-.0103, .0201-.0203, .0301-.0305, .0401, .0402, .0501-.0503, .0601, .0602, .0701-.0703, .0801-.0804, .0901-.0904, .1001, .1101, .1102, .1201-.1204, and .1301-.1308.

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

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

Proposed Effective Date: June 1, 2026

Public Hearing:

Date: June 25, 2025

Time: 2:00 p.m

Location: This public hearing will be held by teleconference at (919) 715-0769 (no access code required).

Reason for Proposed Action: Following consultation with the Local Health Department Accreditation Board, the Commission for Public Health proposes to repeal current local health department accreditation rules at 10A NCAC 48A and 48B and replace them with new rules at 10A NCAC 48C and 48D. These rule actions are intended to update the measures used to assess local health department capacity and capability to provide public health services and more closely align those measures with current best practices. When these rules were first adopted, many of the activities were structured to build capacity to perform public health services and programs. Now that all local health departments have been accredited and reaccredited, the initial capacity has been well established and reviewed, providing an opportunity to update accreditation activities to focus on performance improvement.

Comments may be submitted to: Virginia Niehaus, CPH Rulemaking Coordinator, 1931 Mail Service Center, Raleigh, NC 27699-1931; email cphcomment@ml.nc.gov

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

CHAPTER 48 - LOCAL HEALTH DEPARTMENT ACCREDITATION

SUBCHAPTER 48A - LOCAL HEALTH DEPARTMENT ACCREDITATION –ADMINISTRATION

SECTION .0100 - GENERAL PROVISIONS

- 10A NCAC 48A .0101 PURPOSE
- 10A NCAC 48A .0102 DEFINITIONS

Authority G.S. 130A-34.1.

SECTION .0200 - ACCREDITATION PROCESS

- 10A NCAC 48A .0201 SELF-ASSESSMENT
- 10A NCAC 48A .0202 SITE VISIT
- 10A NCAC 48A .0203 BOARD ACTION
- 10A NCAC 48A .0204 INFORMAL REVIEW PROCEDURES
- 10A NCAC 48A .0205 RE-ACCREDITATION

Authority G.S. 130A-34.1.

SUBCHAPTER 48B - LOCAL HEALTH DEPARTMENT ACCREDITATION STANDARDS

SECTION .0100 - GENERAL PROVISIONS

10A NCAC 48B .0101 PURPOSE
10A NCAC 48B .0102 DEFINITIONS

Authority G.S. 130A-34.1.

10A NCAC 48B .0103 ACCREDITATION
REQUIREMENTS

Authority G.S. 130A-34.1.

SECTION .0200 - MONITOR HEALTH STATUS

10A NCAC 48B .0201 BENCHMARK 1
10A NCAC 48B .0202 BENCHMARK 2
10A NCAC 48B .0203 BENCHMARK 3

Authority G.S. 130A-34.1.

SECTION .0300 - DIAGNOSE AND INVESTIGATE
HEALTH PROBLEMS AND HEALTH HAZARDS IN THE
COMMUNITY

10A NCAC 48B .0301 BENCHMARK 4
10A NCAC 48B .0302 BENCHMARK 5
10A NCAC 48B .0303 BENCHMARK 6
10A NCAC 48B .0304 BENCHMARK 7
10A NCAC 48B .0305 BENCHMARK 8

Authority G.S. 130A-34.1.

SECTION .0400 - INFORM, EDUCATE, AND EMPOWER
PEOPLE ABOUT HEALTH ISSUES

10A NCAC 48B .0401 BENCHMARK 9
10A NCAC 48B .0402 BENCHMARK 10

Authority G.S. 130A-34.1.

SECTION .0500 - MOBILIZE COMMUNITY
PARTNERSHIPS TO IDENTIFY AND SOLVE HEALTH
PROBLEMS

10A NCAC 48B .0501 BENCHMARK 11
10A NCAC 48B .0502 BENCHMARK 12
10A NCAC 48B .0503 BENCHMARK 13

Authority G.S. 130A-34.1.

SECTION .0600 - DEVELOP POLICIES AND PLANS
THAT SUPPORT INDIVIDUAL AND COMMUNITY
HEALTH EFFORTS

10A NCAC 48B .0601 BENCHMARK 14
10A NCAC 48B .0602 BENCHMARK 15

Authority G.S. 130A-34.1.

SECTION .0700 - ENFORCE LAWS AND REGULATIONS
THAT PROTECT HEALTH AND ENSURE SAFETY

10A NCAC 48B .0701 BENCHMARK 16
10A NCAC 48B .0702 BENCHMARK 17
10A NCAC 48B .0703 BENCHMARK 18

Authority G.S. 130A-34.1.

SECTION .0800 - LINK PEOPLE TO NEEDED
PERSONAL HEALTH SERVICES TO ASSURE THE
PROVISION OF HEALTH CARE WHEN OTHERWISE
UNAVAILABLE

10A NCAC 48B .0801 BENCHMARK 19
10A NCAC 48B .0802 BENCHMARK 20
10A NCAC 48B .0803 BENCHMARK 21
10A NCAC 48B .0804 BENCHMARK 22

Authority G.S. 130A-34.1.

SECTION .0900 - ASSURE A COMPETENT PUBLIC
HEALTH WORKFORCE AND PERSONAL HEALTH
WORKFORCE

10A NCAC 48B .0901 BENCHMARK 23
10A NCAC 48B .0902 BENCHMARK 24
10A NCAC 48B .0903 BENCHMARK 25
10A NCAC 48B .0904 BENCHMARK 26

Authority G.S. 130A-34.1.

SECTION .1000 - EVALUATE EFFECTIVENESS,
ACCESSIBILITY AND QUALITY OF PERSONAL AND
POPULATION-BASED HEALTH SERVICES

10A NCAC 48B .1001 BENCHMARK 27

Authority G.S. 130A-34.1.

SECTION .1100 - RESEARCH FOR NEW INSIGHTS AND
INNOVATIVE SOLUTIONS TO HEALTH PROBLEMS

10A NCAC 48B .1101 BENCHMARK 28
10A NCAC 48B .1102 BENCHMARK 29

Authority G.S. 130A-34.1.

SECTION .1200 - PROVIDE FACILITIES AND
ADMINISTRATIVE SERVICES

10A NCAC 48B .1201 BENCHMARK 30
10A NCAC 48B .1202 BENCHMARK 31
10A NCAC 48B .1203 BENCHMARK 32
10A NCAC 48B .1204 BENCHMARK 33

Authority G.S. 130A-34.1.

SECTION .1300 - GOVERNANCE

10A NCAC 48B .1301 BENCHMARK 34

Authority G.S. 130A-34.1.

- 10A NCAC 48B .1302 BENCHMARK 35
- 10A NCAC 48B .1303 BENCHMARK 36

Authority G.S. 130A-34.1.

- 10A NCAC 48B .1304 BENCHMARK 37
- 10A NCAC 48B .1305 BENCHMARK 38
- 10A NCAC 48B .1306 BENCHMARK 39
- 10A NCAC 48B .1307 BENCHMARK 40
- 10A NCAC 48B .1308 BENCHMARK 41

Authority G.S. 130A-34.1.

SUBCHAPTER 48C - LOCAL HEALTH DEPARTMENT ACCREDITATION - ADMINISTRATION

SECTION .0100 - GENERAL PROVISIONS

10A NCAC 48C .0101 PURPOSE

The rules of this Subchapter establish the process for local health departments to become accredited pursuant to G.S. 130A-34.1.

Authority G.S. 130A-34.1.

10A NCAC 48C .0102 DEFINITIONS

The following definitions shall apply throughout this Chapter:

- (1) "Accreditation" means an evaluation of an LHD's infrastructure, competence, and capacity to provide public health services through the satisfaction of the standards set out in 10A NCAC 48D Section .0200.
- (2) "Accreditation status" means the status assigned to an LHD by the Board in accordance with G.S. 130A-34.1 and the rules of this Subchapter. The types of accreditation status are accredited, conditionally accredited, or unaccredited.
- (3) "Activity" means a task demonstrating achievement of a portion of a standard.
- (4) "Board" means "Accreditation Board" as defined in G.S. 130A-2(1).
- (5) "Board of Health" or "BOH" means a "local board of health" as defined in G.S. 130A-2(4), a board of county commissioners that has assumed control of a local board of health in accordance with G.S. 153A-77(a), a consolidated human services board with the authority to carry out the functions of a local board of health in accordance with G.S. 153A-77(b)(2), or hospital authority board acting pursuant to S.L. 1997-502, Sec. 12.
- (6) "Community" means a subdivision of the population that shares one or more characteristics.
- (7) "Community Health Assessment" means a process to identify through the collection and analysis of data and to document in a written

- (8) report the public health needs within an LHD's jurisdiction.
"Community Health Improvement Plan" means a written document setting out the steps to address the public health needs identified in the Community Health Assessment.
- (9) "Community Partner" means individuals, groups, or organizations that are not affiliated with federal, state, local, or tribal government, but work with the LHD to identify and address public health needs.
- (10) "Dashboard" means the web-based portal developed and maintained by the Institute to receive self-assessments submitted by LHDs. The Dashboard is located at <https://nclhdaccreditation.unc.edu/nclhda-dashboard/>.
- (11) "Evidence-informed practice" means a way of doing something that is based on research findings, public health data, professional public health expertise, or customer feedback.
- (12) "Institute" means the North Carolina Institute for Public Health.
- (13) "Jurisdiction" means the county or counties that an LHD serves.
- (14) "Local health department" or "LHD" means a local health department as defined in G.S. 130A-2(5), a consolidated human services agency that includes the local health department pursuant to G.S. 153A-77(b)(3), or an agency acting under the direction of a hospital authority board acting pursuant to S.L. 1997-502, Sec. 12.
- (15) "Local health director" means a local health director as defined in G.S. 130A-2(6) or appointed pursuant to G.S. 153A-77(c).
- (16) "Population" means the people residing within an LHD's jurisdiction.
- (17) "Self-assessment" means a written review that reflects the degree of an LHD's satisfaction of each standard and activity set out in 10A NCAC 48D Section .0200 that is completed and submitted by the LHD in accordance with 10A NCAC 48D .0201. The self-assessment shall include documentation supporting the completion of each activity.
- (18) "Social or Structural Determinants of Health" or "SDOH" means the non-medical factors that impact health, well-being, and quality of life including social, economic, and political factors that generate and maintain individual health outcomes.
- (19) "Standard" means a criterion to be assessed in determining an LHD's accreditation. A standard is comprised of activities.
- (20) "Source of data" means quantitative or qualitative data collected by an LHD or another entity.

Authority G.S. 130A-34.1.

SECTION .0200 - ACCREDITATION PROCESS

10A NCAC 48C .0201 SELF-ASSESSMENT

(a) Each LHD applying for accreditation in accordance with Rule .0205 of this Section shall complete a self-assessment in the Dashboard.

(b) The self-assessment shall include the following components:

- (1) contact information for the LHD;
(2) the LHD's organizational chart;
(3) a narrative describing the LHD's population;
(4) a budget for the LHD for the current state fiscal year;
(5) the roster for the LHD's governing board;
(6) a personnel list for the LHD;
(7) the level of completion of each activity in 10A NCAC 48D Section .0200, scored in accordance with 10A NCAC 48D .0101(a); and
(8) documentation supporting the level of completion for each activity in Subparagraph (7) of this Paragraph.

Authority G.S. 130A-34.1.

10A NCAC 48C .0202 SITE VISIT

(a) The Institute shall select a site visit team composed of not fewer than three individuals. Each site visit team member shall have experience in an LHD. Together the individuals on a site visit team shall have experience in all of the following areas: health administration, environmental health, public health nursing, health education, and governance of an LHD. An individual shall not be part of a site visit team for an LHD where the individual is currently employed.

(b) The site visit team shall conduct the site visit of the LHD by:

- (1) reviewing the LHD's self-assessment; and
(2) speaking with LHD staff and members of the LHD's BOH.

(c) The site visit team shall assess whether the LHD has completed each activity in 10A NCAC 48D Section .0200 and prepare a written report to be shared with the Board summarizing the site visit and recommending an accreditation status based on rule 10A NCAC 48D .0101. The site visit team shall provide a copy of the report to the Institute and to the LHD within 10 business days of the conclusion of the site visit.

Authority G.S. 130A-34.1.

10A NCAC 48C .0203 BOARD ACTION

(a) The site visit team shall present the report required by Rule .0202(c) of this Subchapter to the Board at the Board's next regularly scheduled meeting. The LHD shall have an opportunity to respond to the presentation.

(b) For each LHD site visit team report that is presented, the Board shall:

- (1) assign the LHD an accreditation status in accordance with 10A NCAC 48D .0101; or

(2) defer assignment of an accreditation status in order to request additional information from the LHD.

(c) The Board may defer the assignment of accreditation status under Paragraph (b)(2) of this Rule by no more than six months.

(d) The Board's assignment of an accreditation status is effective the first day of the month following the date of Board action.

(e) An accreditation status of accredited shall expire four years from the last day of the month in which the Board assigned the accreditation status. Notwithstanding the foregoing, if an LHD's last accreditation status was accredited and the Board defers assigning a new accreditation status under Paragraph (b)(2) of this Rule, the LHD's accreditation status shall remain accredited until the Board assigns a new accreditation status.

(f) If a state of emergency declaration has been issued under G.S. 166A-19.3(19), a disaster declaration has been issued under G.S. 166A-19.3(3), or a disaster declaration has been made by the President of the United States under 44 C.F.R. Part 206, Subpart B naming all or part of an LHD's jurisdiction and the jurisdiction has an accreditation of status of "accredited," the Board may extend the LHD's accreditation status by up to 90 days following the end of the declaration.

(g) An accreditation status of conditionally accredited shall expire as set out in G.S. 130A-34.1(g)(2).

(h) The Board shall provide written notice to the LHD of any action taken under this Rule within 5 business days of the action.

Authority G.S. 130A-34.1.

10A NCAC 48C .0204 INFORMAL REVIEW PROCEDURES

(a) If the Board assigns an LHD the status of conditionally accredited or unaccredited, the LHD may submit a written request to the Board within 10 business days of receipt of written notice under Paragraph (g) of Rule .0203 of this Section for reconsideration of the Board's decision. The written request shall describe the LHD's reasoning for how it met the requirements for accreditation as set out in 10A NCAC 48D .0101. The request shall be submitted to NCLHDaccreditation@unc.edu.

(b) The Board shall review the LHD's request at the Board's next regularly scheduled meeting. The Board shall either affirm the LHD's assigned accreditation status or assign a new accreditation status based on the information provided. The Board shall provide written notice to the LHD of the Board's decision within 10 business days of the Board meeting where the request is reviewed.

Authority G.S. 130A-34.1.

10A NCAC 48C .0205 APPLYING FOR ACCREDITATION

(a) Each LHD shall apply for accreditation by completing a self-assessment in the Dashboard in accordance with Rule .0201 of this Section.

(b) If an LHD has an accreditation status of accredited or conditionally accredited, the LHD shall complete the self-assessment no later than five months before the expiration date of its accreditation status.

(c) If a county health department joins a district health department pursuant to G.S. 130A-36, the accreditation status of the district

health department shall apply. If the district health department does not have an accreditation status, the district health department shall complete the self-assessment no later than five months after forming and shall assume the accreditation status that applies to fifty percent or more of the counties in the district or a status of conditionally accredited. The accreditation status assumed under this Paragraph shall apply until the earlier of the Board taking action in accordance with Rule .0203 of this Section or twelve months have elapsed since formation of the district. If twelve months have elapsed since formation of the district without Board action, the district health department shall be unaccredited. (d) If a county health department withdraws from a district health department pursuant to G.S. 130A-38, the county health department shall complete the self-assessment no later than five months after withdrawing from the district health department. The county health department shall retain the accreditation status of the district health department until the earlier of the Board taking action in accordance with Rule .0203 or twelve months elapsing since withdrawal from the district. If twelve months have elapsed since withdrawal from the district without Board action, the district health department shall be unaccredited.

(e) If an LHD timely completes the self-assessment as set out in Paragraphs (b)-(d) of this Rule, the Board shall initiate a site visit in accordance with Rule .0202 of this Section and take action in accordance with Rule .0203 of this Section before the LHD's accreditation status expires. In all other circumstances, the Board shall initiate a site visit in accordance with Rule .0202 of this Section within eight months of completion of the self-assessment and shall take action in accordance with Rule .0203 of this Section at its next regularly scheduled meeting following the site visit.

Authority G.S. 130A-34.1.

SUBCHAPTER 48D - LOCAL HEALTH DEPARTMENT ACCREDITATION - STANDARDS

SECTION .0100 - GENERAL PROVISIONS

10A NCAC 48D .0101 ACCREDITATION REQUIREMENTS

(a) The completion of each activity in Section .0200 of this subchapter shall be scored based on the self-assessment and site visit as follows:

- (1) two points shall be awarded when all of an activity is completed;
- (2) one point shall be awarded when part of an activity is completed; and
- (3) zero points shall be awarded when no part of an activity is completed.

(b) The Board shall assign an LHD an accreditation status of accredited if the LHD earns at least four points in each standard set out in rules .0201 through .0211 of this Subchapter and at least 81 points overall.

(c) If an LHD does not meet the criteria set out in Paragraph (b) of this Rule, the Board shall assign an accreditation status of conditionally accredited or unaccredited in accordance with G.S. 130A-34.1.

Authority G.S. 130A-34.1.

SECTION .0200 – STANDARDS AND ACTIVITIES

10A NCAC 48D .0201 STANDARD A: ASSESSMENT AND SURVEILLANCE

For the assessment and surveillance accreditation standard, a local health department shall complete the following activities:

- (1) a community health assessment;
- (2) collect and use a minimum of two sources of data to document the health of the population and identify communities with barriers accessing health care;
- (3) collect and use a minimum of two sources of data to guide LHD programs and services;
- (4) provide, contract for the provision of, or assure the availability of laboratory services for disease detection in the jurisdiction; and
- (5) monitor emerging health issues and threats and report communicable diseases in accordance with 10A NCAC 41A .0103.

Authority G.S. 130A-34.1.

10A NCAC 48D .0202 STANDARD B: COMMUNITY PARTNERSHIP DEVELOPMENT

For the community partnership and development standard, a local health department shall complete the following activities:

- (1) consult with representatives of communities with barriers accessing health care in developing and implementing LHD programs and services;
- (2) develop and maintain relationships with community partners and government entities to improve LHD programs and services; and
- (3) consult community partners in the development of the community health improvement plan.

Authority G.S. 130A-34.1.

10A NCAC 48D .0203 STANDARD C: COMMUNICATIONS

To satisfy the communications standard, a local health department shall complete the following activities:

- (1) develop a plan for communicating public health information to the population and demonstrate using the plan;
- (2) tailor communications to reach communities and distribute the communications to those communities;
- (3) share data about the health of the population with the public and community partners;
- (4) develop partnerships with the media and promote public health messages through those partnerships; and
- (5) develop and implement a plan to educate the population on public health topics.

Authority G.S. 130A-34.1.

10A NCAC 48D .0204 STANDARD D: EMERGENCY PREPAREDNESS AND RESPONSE

To satisfy the emergency preparedness and response standard, a local health department shall complete the following activities:

- (1) maintain emergency preparedness and response plans and train LHD staff on those plans;
- (2) provide LHD personnel and communications systems to implement preparedness and response plans, in the event of a state of emergency declaration under G.S. 166A-19.3(19), a disaster declaration under G.S. 166A-19.3(3), or a disaster declaration under 44 C.F.R. Part 206, Subpart B in coordination with government entities and community partners;
- (3) maintain LHD continuity of operations in the event of a declared emergency or disaster, as set out in Paragraph (2) of this Rule;
- (4) exercise the powers and duties of the local health director pursuant to G.S. 130A-41; and
- (5) maintain a written plan that describes how to reach the LHD by phone, email, or other form of communication 24 hours per day, seven days per week.

Authority G.S. 130A-34.1.

10A NCAC 48D .0205 STANDARD E: STRUCTURAL AND SOCIAL DETERMINANTS OF HEALTH

To satisfy the structural and social determinants of health standard, a local health department shall complete the following activities:

- (1) develop a plan that addresses structural or social determinants of health in the population;
- (2) provide training to the LHD's workforce on structural or social determinants of health; and
- (3) implement the plan to address structural or social determinants of health in the LHD's programs and services.

Authority G.S. 130A-34.1.

10A NCAC 48D .0206 STANDARD F: ORGANIZATIONAL WORKFORCE DEVELOPMENT

To satisfy the organizational workforce development standard, a local health department shall complete the following activities:

- (1) comply with applicable state and local human resource laws and policies related to local health department employee grievances, performance reviews, and job qualifications;
- (2) develop and implement a workforce development plan to recruit and retain employees who meet LHD job qualifications;
- (3) review the workforce development plan to identify and implement improvements to the plan; and
- (4) provide professional development to members of the LHD's workforce, including opportunities for on-the-job training and continuing education.

Authority G.S. 130A-34.1.

10A NCAC 48D .0207 STANDARD G: ORGANIZATIONAL LEADERSHIP, GOVERNANCE, AND LEGAL SERVICES

To satisfy the organizational leadership, governance, and legal services standard, a local health department shall complete the following activities:

- (1) share public health updates with elected officials and community partners;
- (2) develop and maintain a strategic plan that sets out the LHD's priorities for the LHD's services, programs, and initiatives;
- (3) educate members of the LHD's Board of Health on their roles, responsibilities, and legal authority;
- (4) access and use legal services; and
- (5) develop and implement a plan to include community partners on public health boards, councils, or groups.

Authority G.S. 130A-34.1.

10A NCAC 48D .0208 STANDARD H: ORGANIZATIONAL FACILITIES

To satisfy the organizational facilities standard, a local health department shall complete the following activities:

- (1) maintain facilities used for LHD programs and services;
- (2) develop and maintain written protocols for the security of LHD facilities;
- (3) develop and maintain clinical and environmental health equipment in accordance with manufacturers' requirements; and
- (4) implement tobacco-free policies in LHD facilities.

Authority G.S. 130A-34.1.

10A NCAC 48D .0209 STANDARD I: ORGANIZATIONAL FINANCE AND INFORMATION TECHNOLOGY

To satisfy the organizational finance and information technology standard, a local health department shall complete the following activities:

- (1) develop and maintain a budgeting, auditing, billing, and financial policy;
- (2) evaluate the LHD's finances and identify opportunities to secure additional funding to support LHD programs and services; and
- (3) maintain policies and procedures that comply with the privacy and security standards required by the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, as amended, and its implementing regulations, as applicable.

Authority G.S. 130A-34.1.

10A NCAC 48D .0210 STANDARD J: ACCOUNTABILITY AND PERFORMANCE MANAGEMENT

To satisfy the accountability and performance management standard, a local health department shall complete the following activities:

- (1) develop and maintain written policies and procedures for the administration of the LHD;
(2) comply with state and local laws and rules relating to programs and services offered by the LHD;
(3) maintain a procedure for monitoring and improving the performance of LHD programs and services;
(4) identify and use evidence-informed practices to improve LHD programs and services; and
(5) use quality improvement practices to improve LHD services and programs.

Authority G.S. 130A-34.1.

10A NCAC 48D .0211 STANDARD K: POLICY DEVELOPMENT AND SUPPORT

To satisfy the policy development and support standard, a local health department shall complete the following activities:

- (1) enforce public health laws and rules in accordance with G.S. Chapter 130A-4;
(2) make recommendations to the LHD's Board of Health on local rules or policies to improve the health of the population; and
(3) make recommendations to legislators or regulators regarding state laws or rules impacting public health.

Authority G.S. 130A-34.1.

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education and Training Standards Commission intends to adopt the rule cited as 12 NCAC 09E .0111, amend the rules cited as 12 NCAC 09A .0204; 09B .0203, .0210, .0237, .0303, .0308, .0405; 09E .0103, 09G .0305, .0410, and repeal the rules cited as 12 NCAC 09B .0310, and .0416.

Link to agency website pursuant to G.S. 150B-19.1(c): https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications

Proposed Effective Date: October 1, 2025

Public Hearing: Date: August 1, 2025 Time: 10:00am

Location: Microsoft Teams. https://ncdoj.gov/commission-meeting-information/ or dial by phone 919-670-1307 phone conference ID 724 116 917#

Reason for Proposed Action: To repeal rules no longer in use. To amend training and certification for SMI instructor; to update requirements for admission to BLET; to amend situations where a certification can be suspended, revoked or denied; to update requirements for certification for General Instructors; to add substantive requirements to a Commission form; to add training delivery platform requirements for in-service training; to update transfer and rec-certification requirements for correctional officers;

Comments may be submitted to: Michelle S. Schilling, 1700 Tryon Park Drive, Garner, NC 27529; phone (919) 779-8205; email MSchilling@ncdoj.gov

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

CHAPTER 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SUBCHAPTER 09A - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

SECTION .0200 - ENFORCEMENT OF RULES

12 NCAC 09A .0204 SUSPENSION: REVOCATION: OR DENIAL OF CERTIFICATION

(a) The Commission shall revoke the certification of a criminal justice officer when the Commission finds that the officer has committed or been convicted of:

- (1) a felony offense; or
 - (2) a criminal offense for which the authorized punishment included imprisonment for more than two years.
- (b) The Commission may suspend, revoke, or deny the certification of a criminal justice officer when the Commission finds that the applicant for certification or the certified officer:
- (1) has not enrolled in and satisfactorily completed the required basic training course in its entirety within prescribed time periods relevant or applicable to a specified position or job title;
 - (2) fails to meet or maintain one or more of the minimum employment standards required by 12 NCAC 09B .0100 for the category of the officer's certification or fails to meet or maintain one or more of the minimum training standards required by 12 NCAC 09B .0200 or 12 NCAC 09B .0400 for the category of the officer's certification;
 - (3) has committed or been convicted of:
 - (A) a criminal offense or unlawful act defined in 12 NCAC 09A .0103 as a Class B misdemeanor; or
 - (B) four or more criminal offenses or unlawful acts defined in 12 NCAC 09A .0103 as a Class A misdemeanor, each of which occurred after the date of initial certification;
 - (4) has been discharged by a criminal justice agency for commission or conviction of:
 - (A) a motor vehicle offense requiring the revocation of the officer's driver's license; or
 - (B) any other offense involving moral turpitude;
 - (5) has been discharged by a criminal justice agency because the officer lacks the mental or physical capabilities to properly fulfill the responsibilities of a criminal justice officer;
 - (6) has knowingly made a material misrepresentation of any information required for certification or accreditation;
 - (7) has knowingly and willfully, by any means of false pretense, deception, defraudation, misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or certification from the Commission;
 - (8) has knowingly and willfully, by any means of false pretense, deception, defraudation, misrepresentation or cheating whatsoever, aided another person in obtaining or attempting to obtain credit, training or certification from the Commission;
 - (9) has failed to make either of the notifications as required by 12 NCAC 09B .0101(13);
 - (10) has been removed from office by decree of the Superior Court in accord with the provisions of G.S. 128-16 or has been removed from office by sentence of the court in accord with the provisions of G.S. 14-230;
 - (11) fails to satisfactorily complete the minimum in-service training requirements as prescribed in 12 NCAC 09E;
 - (12) has refused to submit to an applicant or lateral transferee drug screen as required by the rules in this Chapter, or has refused to submit to an in-service drug screen pursuant to the guidelines set forth in the Drug Screening Implementation Guide as required by the agency through which the officer is certified;
 - (13) has produced a positive result on a drug screen reported to the Commission as specified in 12 NCAC 09C .0310, where the positive result cannot be explained to the Commission's satisfaction;
 - (14) has been denied certification or had certification suspended or revoked by the North Carolina Sheriffs' Education and Training Standards Commission, the North Carolina Criminal Justice Education and Training Standards Commission; the North Carolina Company/Campus Police Program; or a similar North Carolina, out of state or federal approving, certifying or licensing agency;
 - (15) has performed activities or duties for which certification by the Commission is required without having first obtained the appropriate certification; or
 - (16) has been convicted of any offense proscribed by 18 USC 922(g)(8) that would prohibit possession of a firearm or ~~ammunition~~ ammunition;
 - (17) has engaged in sexual activity:
 - (A) while on duty;
 - (B) while on or off duty in a motor vehicle owned or under the control of a law enforcement agency;
 - (C) while on or off duty on the premises operated by the employing criminal justice agency;
 - (D) while in uniform of the employing agency;
 - (E) with an employee with whom the person has direct supervisory responsibilities; or
 - (F) with a student enrolled in a Commission-approved course in which the officer is an instructor, qualified assistant, or school director.

For purposes of this subsection, sexual activity includes any act defined as a sexual act or sexual contact per G.S. 14-27.20 and includes vaginal intercourse; or
 - (18) has been untruthful during a criminal or internal formal investigation conducted by a law enforcement agency or during an investigation for a rules violation conducted by the North

Carolina Criminal Justice Standards Division, North Carolina Sheriffs' Standards Division or the North Carolina Company and Campus Police Administrator.

(c) Following suspension, revocation, or denial of the person's certification, the person may not remain employed or appointed as a criminal justice officer and the person may not exercise any authority of a criminal justice officer during a period for which the person's certification is suspended, revoked, or denied.

Authority G.S. 17C-6; 17C-10.

SUBCHAPTER 09B - STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT: EDUCATION: AND TRAINING

SECTION .0200 – MINIMUM STANDARDS FOR CRIMINAL JUSTICE SCHOOLS AND CRIMINAL JUSTICE TRAINING PROGRAMS OR COURSES OF INSTRUCTION

12 NCAC 09B .0203 ADMISSION OF TRAINEES

(a) The school shall not admit any individual as a trainee in a presentation of the Commission-accredited Basic Law Enforcement Training Course (BLET) who is not a citizen of the United States.

(b) The school shall not admit any individual younger than 20 years of age as a trainee in any basic criminal justice training course. Individuals under 20 years of age may be granted authorization for early enrollment as trainees in a presentation of the ~~Commission-accredited Basic Law Enforcement Training Course~~ BLET with prior written approval from the Director of the Standards Division. The Director shall approve early enrollment if the individual will be 20 years of age prior to the date of the State Comprehensive Examination for the course.

(c) The school shall give priority admission in certified criminal justice training courses to individuals holding full-time employment with criminal justice agencies.

(d) The school shall not admit any individual as a trainee in a presentation of the Commission-accredited Criminal Justice Instructor Training Course who does not meet the education and experience requirements for instructor certification under Rule .0302 of this Subchapter.

(e) The school shall not admit an individual, including limited enrollment trainees, pursuant to Rule .0405 of the Subchapter, as a trainee in a presentation of the ~~Commission-accredited Basic Law Enforcement Training Course~~ BLET unless the individual, within one year prior to admission to the ~~Commission-accredited Basic Law Enforcement Training Course~~, BLET, scores at or above mastery level on the NROC Edready™ Skills Inventory for English or places into course DRE 098 or above at a North Carolina Community College as a result of taking the Reading and English component of the North Carolina Diagnostic Assessment and Placement test as approved by the State Board of Community Colleges on October 17, 2014, (<http://www.nccommunitycolleges.edu/state-board-community-colleges/meetings/october-17-2014>), or has taken the reading component of a nationally standardized test and has scored at or

above the tenth grade level or the equivalent. For the purposes of this Rule:

- (1) Limited enrollment trainees do not include enrollees who hold or have held within 12 months prior to the date of enrollment, general certification pursuant to 12 NCAC 09C .0304.
- (2) A "nationally standardized test" means a test that:
 - (A) reports scores as national percentiles, stanines, or grade equivalents; and
 - (B) compares student test results to a national norm.

(f) The school shall not admit any individual as a trainee in a presentation of the ~~Commission-accredited Basic Law Enforcement Training Course~~ BLET unless the individual has provided to the School Director a medical examination report, completed by a physician, a physician's assistant, or a nurse practitioner, who holds a current license in the United States to practice medicine, as issued by a state medical board, to determine the individual's fitness to perform the essential job functions of a criminal justice officer. The Director of the Standards Division shall grant an exception to this requirement for a period of time not to exceed the commencement of the physical fitness topical area when failure to receive the medical examination report is not due to neglect on the part of the trainee.

(g) The school shall not admit any individual as a trainee in a presentation of the ~~Commission-accredited Basic Law Enforcement Training Course~~ BLET unless the individual is a high school, college, or university graduate or has received a high school equivalency credential recognized by the issuing state. High school diplomas earned through correspondence enrollment in an entity that charges a fee and requires the individual to complete little or no education or coursework to obtain a high diploma shall not be recognized toward the educational requirements.

(h) The school shall not admit any individual trainee in a presentation of the ~~Commission-accredited Basic Law Enforcement Training Course~~ BLET unless the individual has provided the School Director one of the following types of record checks in the manner set forth in Paragraph (i) of this Rule:

- (1) a written notification, known as a "Criminal Record Conviction History for B.L.E.T. Enrollment," Form F-25, located at <https://www.ncdoj.gov/About-DOJ/Law-Enforcement-Training-and-Standards/Criminal-Justice-Education-and-Training-Standards/Forms-and-Publications.aspx>, from a department head stating that a criminal record check for local and state records has been conducted and no criminal convictions as listed in Paragraph (m) of this Rule were found that prohibit the individual trainee's enrollment in a presentation of the ~~Commission-accredited Basic Law Enforcement Training Course~~ BLET. The hiring agency or the individual trainee shall also provide certified court documentation for each criminal conviction;

- (2) a certified criminal record check for local and state records, and certified court documentation for each criminal conviction. For the purpose of this Rule "Certified court documentation" and "record check" mean a document with either a raised seal or other visible verification that the document is authentic as a copy of the court's official record as authorized by law;
- (3) if the individual trainee has only resided in North Carolina since obtaining the age of majority, provide a fingerprint-based criminal history background check known as a "Right to Review" performed by the North Carolina State Bureau of Investigation. For the purpose of this Rule "Resided in" means any place the trainee has lived, worked, attended school, or participated in an internship. The individual shall also provide certified court documentation for each criminal conviction;
- (4) a fingerprint-based criminal history background check known as a "Right to Review" performed by a federal agency including all locations where the trainee has lived since obtaining the age of majority. The individual shall also provide certified court documentation for each criminal conviction, including domestic and foreign locations where the individual has resided; or

(i) Trainees who have served in the United States Armed Forces, in addition to one of the types of criminal records checks listed in Subparagraphs (h)(1) through (4) of this Rule shall provide a copy of their Certificate of Discharge, DD Form 214, that shows their "Character of Service" and "Narrative Reason for Separation." Individuals showing a "Character of Service" as "Bad Conduct" or "Dishonorable" shall provide certified copies of their court-martial proceedings to include the final disposition. Trainees shall also provide documentation to show that they have requested their official military personnel file, which shall be provided upon receipt.

(j) A trainee who has been naturalized as a United States Citizen is exempt from providing the criminal record checks for locations where they resided outside of the United States prior to naturalization.

(k) A trainee who has resided outside the United States, other than those described in Paragraph (j) of this Rule, who cannot obtain a criminal record check from any location outside the United States shall document the following, to be forwarded to the Standards Division:

- (1) the name of the agencies contacted,
- (2) the date the agencies were contacted,
- (3) the contact information for the agencies contacted, and
- (4) the reason the information cannot be provided.

(l) Documents obtained in accordance with Paragraph (h) of this Rule shall meet the following requirements:

- (1) any records provided shall fall within the time period beginning when the trainee obtains the age of majority and continuing through the date of application;

- (2) any records provided shall include all locations where the trainee has resided since obtaining the age of majority; and
- (3) any records provided shall include all legal names utilized by the trainee since obtaining the age of majority.

(m) The school shall not admit any individual as a trainee in a presentation of the ~~Commission accredited Basic Law Enforcement Training Course~~ BLET who has been convicted of the following:

- (1) a felony;
- (2) a crime for which the punishment could have been imprisonment for more than two years;
- (3) a crime or unlawful act defined as a Class B Misdemeanor within the five year period prior to the date of scheduled graduation; date of application for employment, unless the individual intends to seek certification through the North Carolina Sheriffs' Education and Training Standards Commission;
- (4) a crime or unlawful act defined as a "Class B Misdemeanor" occurring after the date of certification;
- ~~(4)~~(5) four or more crimes or unlawful acts defined as Class B Misdemeanors, regardless of the date of conviction;
- ~~(5)~~(6) four or more crimes or unlawful acts defined as Class A Misdemeanors, except the trainee is not barred from enrollment if the last conviction date occurred more than two years prior to the date of enrollment; scheduled graduation; or
- ~~(6)~~(7) a combination of four or more Class A Misdemeanors or Class B Misdemeanors regardless of the date of conviction, unless the individual intends to seek certification through the North Carolina Criminal Justice Education and Training Standards Commission; date;
- (8) an offense that pursuant to 18 USC 922(g)(8) would prohibit the possession of a firearm.

(n) Individuals charged with crimes specified in Paragraph (m) of this Rule are not barred from enrollment into ~~the Commission-accredited Basic Law Enforcement Training Course~~ BLET if such offenses were dismissed or the person was found not guilty, but completion of ~~the Commission accredited Basic Law Enforcement Training Course~~ BLET does not ensure that certification as a law enforcement officer or justice officer through the North Carolina Criminal Justice Education and Training Standards Commission will be issued. Every individual who is admitted as a trainee in a presentation of ~~the Basic Law Enforcement Training Course~~ BLET shall notify the School Director of all criminal offenses the trainee is arrested for or charged with, pleads no contest to, pleads guilty to, or is found guilty of, and of all Domestic Violence Protective Orders (G.S. 50B) that are issued by a judicial official after a hearing that provides an opportunity for both parties to be present. This includes all criminal offenses except minor traffic offenses and includes any offense of Driving Under the Influence (DUI) or Driving While Impaired (DWI). A "minor traffic offense" is defined, for the purposes of this Paragraph, as an offense where

the maximum punishment allowable by law is 60 days or fewer. Other offenses under G.S. 20 (Motor Vehicles) or similar laws of other jurisdictions that shall be reported to the School Director are G.S. 20-138.1 (driving while under the influence), G.S. 20-28 (driving while license permanently revoked or permanently suspended), G.S. 20-30(5)(fictitious name or address in application for license or learner's permit), G.S. 20-37.8 (fraudulent use of a fictitious name for a special identification card), G.S. 20-102.1 (false report of theft or conversion of a motor vehicle), G.S. 20-111(5)(fictitious name or address in application for registration), G.S. 20-130.1 (unlawful use of red or blue lights), G.S. 20-137.2 (operation of vehicles resembling law enforcement vehicles), G.S. 20-141.3 (unlawful racing on streets and highways), G.S. 20-141.5 (speeding to elude arrest), and G.S. 20-166 (duty to stop in event of accident). The notifications required under this Paragraph shall be in writing and specify the nature of the offense, the court where the case was handled, the date of the arrest or criminal charge, the date of issuance of the Domestic Violence Protective Order (50B), and the final disposition and the date thereof. The notifications required under this Paragraph shall be received by the School Director within 30 days of the date the case was disposed of in court. The requirements of this Paragraph are applicable at all times during which the trainee is enrolled in a ~~Basic Law Enforcement Training Course~~. BLET. The requirements of this Paragraph are in addition to the notifications required under 12 NCAC 10B .0301 and 12 NCAC 09B .0101 (13).

(o) The school shall not admit any individual as a trainee in the presentation of ~~the Commission accredited Basic Law Enforcement Training Course BLET~~ who has an active Domestic Violence Order of Protection or Civil Non-Contact Order issued against the individual. The student must provide a signed and dated written statement from the individual certifying that no such active Orders exist related to the individual, unless the individual has provided to the School Director:

- (1) ~~copies of all active Domestic Violence Orders of Protection and Civil Non-Contact Orders issued to the individual; or~~
- (2) ~~a signed and dated written statement from the individual certifying that no such active Orders exist related to the individual.~~

(p) The school shall not admit any individual as a trainee in the presentation of ~~the Basic Law Enforcement Training Course BLET~~ unless the individual has provided to the School Director a copy of their valid driver's license. The trainee's driver's license must remain valid throughout the delivery of the BLET.

Authority G.S. 17C-6; 17C-10; 93B-9.

12 NCAC 09B .0210 RADAR INSTRUCTOR TRAINING COURSE COURSES

(a) The ~~radar instructor training~~ RADAR Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice ~~radar~~ RADAR instructor. ~~This course~~ The RADAR Instructor Training course shall consist of a minimum of 60 hours of classroom instruction and motor-skill performance testing. This course shall be for a period not to exceed six consecutive weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-

19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students that may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that ~~began~~ began, or were in effect, during the effective period of the State of Emergency.

(b) The ~~radar instructor training~~ RADAR Instructor Training course ~~shall include the following identified topic areas and minimum instructional hours for each area: required for radar instructor certification shall include the topic areas and minimum number of hours as outlined in the Radar Instructor Training Course. To qualify for radar instructor certification, an applicant shall meet the requirements as outlined in the Radar Instructor Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.~~

- | | | |
|------|--|-----------------|
| (1) | <u>Orientation</u> | <u>2 Hours</u> |
| (2) | <u>Introduction to RADAR Training</u> | <u>2 Hours</u> |
| (3) | <u>Speed Offenses and Speed Enforcement</u> | <u>4 Hours</u> |
| (4) | <u>Basic Principles of RADAR Speed Measurement</u> | <u>6 Hours</u> |
| (5) | <u>North Carolina Administrative Code and SMI Forms</u> | <u>8 Hours</u> |
| (6) | <u>Legal and Operational Considerations</u> | <u>8 Hours</u> |
| (7) | <u>Familiarization and Operation of Specific RADAR Instruments</u> | <u>16 Hours</u> |
| (8) | <u>Courtroom Preparation</u> | <u>4 Hours</u> |
| (9) | <u>Motor-Skill Performance Testing</u> | <u>8 Hours</u> |
| (10) | <u>Course Review</u> | <u>2 Hours</u> |

(c) Each applicant for ~~radar instructor training~~ the RADAR Instructor Training course shall:

- (1) ~~present~~ Present the endorsement of a ~~Commission-recognized~~ Commission-certified school director or agency executive officer or his designee;
- (2) ~~possess~~ Possess ~~full~~ current criminal justice ~~general~~ instructor certification as required in 12 NCAC 09B .0302; and
- (3) ~~possess~~ Possess a current ~~and valid radar~~ RADAR operator certification.

(d) The RADAR Instructor Re-Certification Training course shall consist of a minimum of 18 hours of classroom instruction and motor-skill performance testing and not exceed one week. Each RADAR Instructor Re-Certification Training course shall include

the following identified topic areas and minimum instructional hours for each area:

- (1) Orientation 1 Hour
- (2) Speed Offenses and Speed Enforcement 1 Hour
- (3) Basic Principles of RADAR Speed Measurement 1.5 Hours
- (4) North Carolina Administrative Code and SMI Forms 2 Hours
- (5) Legal and Operational Considerations 1.5 Hours
- (6) Familiarization and Operation of Specific RADAR Instruments 3 Hours
- (7) Motor-Skill Performance Testing 8 Hours

(e) Each applicant for the RADAR Instructor Re-Certification Training course shall:

- (1) Possess current criminal justice instructor certification as required in 12 NCAC 09B .0302;
- (2) Have been certified as a RADAR instructor within the three years preceding the completion date of the re-certification course; and
- (3) Present the endorsement of a Commission-certified school director, agency executive officer, or his designee.

~~(d) The "Radar Instructor Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the radar instructor training course for radar instructors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:~~

~~Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Post Office Drawer 149
Raleigh, North Carolina 27602~~

~~and may be obtained at cost from the Academy at the following address:~~

~~North Carolina Justice Academy
Post Office Box 99
Salemberg, North Carolina 28385~~

~~(f)(e) Commission-certified school that is certified to offer the "Radar Instructor Training Course" is The North Carolina Justice Academy. The North Carolina Justice Academy is the only Commission-accredited school authorized to administer the RADAR Instructor and RADAR Instructor Re-Certification Training Courses.~~

Authority G.S. 17C-6.

12 NCAC 09B .0237 LIDAR INSTRUCTOR CERTIFICATION TRAINING AND RE-CERTIFICATION COURSES COURSE

(a) The Lidar LIDAR Instructor Training Course shall be designed to provide the trainee with the skills and knowledge to perform the function of a lidar LIDAR instructor. The LIDAR Instructor Training Course shall consist of a minimum of 18 hours of classroom instruction and motor-skill performance testing. This course shall be for a period not to exceed six consecutive weeks. If the Governor declares a State of Emergency pursuant to

G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students that may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that began began, or were in effect, during the effective period of the State of Emergency.

~~(b) The Lidar Instructor Training Course required for lidar instructor certification shall include the topic areas and number of hours as outlined in the Lidar Instructor Training Course. To qualify for lidar instructor certification, an applicant shall meet the requirements as outlined in The Lidar Instructor Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.~~

(e)(b) Each applicant for the LIDAR lidar instructor Instructor Training course training shall:

- (1) present the endorsement of a Commission-recognized Commission-certified school director or agency executive officer or his designee;
- (2) possess full current criminal justice General Instructor Certification instructor certification as required in 12 NCAC 09B .0302; and
- (3) possess a current and valid lidar LIDAR operator certification.

~~(d) The "Lidar Instructor Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the lidar instructor training course for lidar instructors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:~~

~~Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Post Office Drawer 149
Raleigh, North Carolina 27602~~

~~and may be obtained at cost from the Academy at the following address:~~

~~North Carolina Justice Academy
Post Office Box 99
Salemberg, North Carolina 28385~~

(c) The LIDAR Instructor Training course shall include the following identified topic areas and minimum instructional hours for each area:

- (1) Orientation 2 Hours
- (2) Introduction to LIDAR Training 1/2 Hour
- (3) Basic Principles of LIDAR Speed Measurement 1 Hour

- (4) Legal and Operational Considerations 1 Hour
- (5) North Carolina Administrative Code and SMI Forms 1 Hour
- (6) Familiarization and Operation of Specific LIDAR Instruments 7 Hours
- (7) Courtroom Preparation ½ Hour
- (8) Motor-Skill Performance Testing 4 Hours
- (9) Course Review 1 Hour

(d) The LIDAR Instructor Re-Certification Training course shall consist of a minimum of 4 hours of classroom instruction and motor-skill performance testing and not exceed one week. Each LIDAR Instructor Re-Certification Training course shall include the following identified topic areas and minimum instructional hours for each area:

- (1) Course Orientation ½ Hour
- (2) Legal and Operational Considerations 1 Hour
- (3) Familiarization and Operation of Specific LIDAR Instruments 1 Hour
- (4) Motor-Skill Performance Testing 1½ Hours

(e) Each applicant for the LIDAR Instructor Re-Certification Training course shall:

- (1) Possess current criminal justice instructor certification as required in 12 NCAC 09B .0302;
- (2) Have been certified as a LIDAR instructor within the three years preceding the completion date of the re-certification course; and
- (3) Present the endorsement of a Commission-certified school director, agency executive officer, or his designee.

(f) If the trainee fails to demonstrate 100% competence in each motor-skill performance test, he or she shall be authorized one opportunity for a re-test. Failure to score 100% on the re-test will require enrollment in a subsequent LIDAR Instructor course.

(g) Those individuals who have previously held LIDAR Instructor Certification and have not exceeded a six year time period from when his or her LIDAR Instructor Certification expired are eligible to reapply for reissuance of the previously held LIDAR Instructor Certification. An application for re-issuance shall contain documentation that the applicant:

- (1) Holds current criminal justice instructor certification, pursuant to 12 NCAC 09B .0302;
- (2) Has completed the pre-qualification skills assessments;
- (3) Must complete the Commission-approved LIDAR Instructor Re-Certification Training course, pursuant to 12 NCAC 09B .0210;
- (4) Has passed the LIDAR Instructor comprehensive state examination with a minimum score of 75; and
- (5) Has obtained the recommendation of a Commission-certified school director, agency executive or his designee.

(h) Applicants for re-issuance of the LIDAR Instructor Certification shall have one opportunity to pass the prequalification skills assessment and the LIDAR Instructor comprehensive state examination. Should an applicant not

achieve a passing score on either the prequalification skills assessment or the comprehensive state examination, the applicant shall complete the LIDAR Operator and LIDAR Instructor Course in its entirety.

(i) Applicants whose LIDAR Instructor Certification is suspended or revoked shall not qualify for re-issuance.

(j) The term of a LIDAR Instructor is three years from the date of issuance. All LIDAR Instructors seeking re-certification shall complete the re-certification course, as outlined in 12 NCAC 09B .0218, within 12 months of the expiration of the initial certification period. The 12-month period does not extend the instructor certification period.

(k) ~~Commission certified school that is certified to offer the LIDAR Instructor Training Course is The North Carolina Justice Academy. The North Carolina Justice Academy is the only Commission-accredited school authorized to administer the LIDAR Instructor and LIDAR Instructor Re-Certification Courses.~~

Authority G.S. 17C-6.

SECTION .0300 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE INSTRUCTORS

12 NCAC 09B .0303 TERMS AND CONDITIONS OF GENERAL INSTRUCTOR CERTIFICATION

(a) An applicant meeting the requirements for certification as a general instructor shall, shall be in a probationary status, status for a period not to exceed 12 months, until satisfying the requirements of Paragraph (b) of this Rule.

(b) The probationary instructor shall be eligible for General Instructor status certification if the instructor, instructor submits to the Commission the following forms; forms which are found on the agency website <https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/>:

- (1) a Form F-12A, F-12, pursuant to 12 NCAC 09B .0301, signed by a certified School Director of In-Service Training Coordinator, indicating a favorable recommendation; and
- (2) a Form F-16, Commission Instructor Evaluation Form, pursuant to 12 NCAC 09B .0202 indicating the Instructor taught a minimum of eight hours of Commission-accredited basic training, Commission-recognized in-service training course, or training course pursuant to 12 NCAC 10B .0601, 10B. 1302, or 10B .2005, during the probationary period. The Instructor shall achieve a minimum of 64 points on all instruction evaluations submitted to the Commission.

(c) Probationary Instructors may request an extension of up to one year to teach the 8-hour minimum requirement. The Director may grant the requested extension upon showing of for just cause based upon the circumstances that created the need for an extension. For purposes of this Rule, "just cause" includes an accident, illness, emergency, or course cancellation that precluded the instructor from fulfilling the teaching requirement.

(d) The term of certification as a general instructor is indefinite, provided the instructor completes during each calendar year a minimum of one hour of instructor refresher training provided by North Carolina Justice Academy. Probationary instructors and general instructors earning their initial certification are not required to complete this training in the year they are awarded their certification. The Standards Division shall post on its website on January 1 of the current year the list of instructors who have met this requirement during the previous calendar year.

~~(e) If the instructor fails to meet the instructor refresher training specified in Paragraph (d) of this Rule, he or she shall deliver eight hours of evaluated instruction in a Commission accredited basic training, Commission recognized in-service training course, or training course pursuant to 12 NCAC 10B .0601, .1302, or .2005, and complete the instructor refresher training specified in Paragraph (d) of this Rule within 60 days from the last day of the previous calendar year.~~

~~(f)(e)~~ If an instructor fails to meet the requirements of Paragraph (d) ~~or (e)~~ of this Rule, the certification period for the instructor shall cease, and the instructor shall be required to complete the requirements of Rule 09B .0302 of this Section in order to obtain probationary instructor status.

~~(g)(f)~~ The use of guest participants in a delivery of the Basic Law Enforcement Training Course is permissible. However, such guest participants shall be supervised on-site by a Commission-certified instructor and must be authorized by the School Director. A guest participant shall only be used to complement the primary certified instructor of the block of instruction and shall not replace the primary instructor.

~~(h)(g)~~ "Commission-recognized in-service training" shall mean training meeting the following requirements:

- (1) training is taught by an instructor certified by the Commission;
- (2) training utilizes a lesson plan in the Instructional Systems Design format; and
- (3) completion of training shall be demonstrated by a passing score on a written test as follows:
 - (A) a written test comprised of at least five questions per credit shall be developed by the agency or the North Carolina Justice Academy for each in-service training topic requiring testing. Written courses that are more than four credits in length are required to have a written test comprising of a minimum of 20 questions. The Firearms Training and Qualifications in-service course is exempt from this written test requirement;
 - (B) a student shall pass each test by achieving at least 70 percent correct answers; and
 - (C) a student who completes a topic of in-service training in a traditional classroom setting or online and fails the end of topic exam shall be given one attempt to re-test. If the student fails the exam a second time, the student shall complete the in-service

training topic in a traditional classroom setting before taking the exam a third time.

- (D) Topics delivered pursuant to 12 NCAC 09E .0104(1) ~~and 12 NCAC 09E .0105(a)(1)~~ shall not require written testing.

Authority G.S. 17C-6.

12 NCAC 09B .0308 RADAR INSTRUCTOR CERTIFICATION AND RE-CERTIFICATION REQUIREMENTS

~~To qualify for radar instructional assignments, an applicant shall demonstrate a combination of education and experience in criminal justice and proficiency in the instructional process satisfactory to the Commission. The applicant shall meet the following requirements for radar instructor certification:~~

(a) A participant participating in a Commission-approved RADAR Operator or RADAR Instructor training course as an instructor shall meet the following requirements for RADAR Instructor certification:

- (1) Initial Certification:
 - (A) must be employed or appointed as a law enforcement officer by a state or local law enforcement agency or be a federal law enforcement officer;
 - (B) if the applicant is a deputy sheriff, he/she must be in total compliance with the standards established by the North Carolina Sheriff's Education and Training Standards Commission;
 - ~~(C)(1)~~ Must ~~must~~ hold ~~general~~ criminal justice instructor certification as required in 12 NCAC 09B .0302; ~~and~~
 - ~~(D)~~ must hold current RADAR Operator certification, pursuant to 12 NCAC 09C .0308;
 - ~~(E)(2)~~ Must ~~must~~ successfully complete the Commission-approved ~~radar~~ instructor training RADAR Instructor Training course as required in 12 NCAC 09B .0210; ~~and~~
 - ~~(F)(3)~~ Obtain ~~obtain~~ the recommendation of a ~~Commission-recognized~~ Commission-certified school director or agency executive officer or his ~~designee, designee;~~ ~~and~~
 - ~~(G)~~ shall not instruct in any RADAR Instructor/Operator or RADAR Instructor/Operator Re-certification courses until their certification is received from the Commission.
- (2) Re-Certification:
 - (A) must hold current criminal justice instructor certification as required in 12 NCAC 09B .0302;

- (B) must hold current Radar Operator certification, pursuant to 12 NCAC 09C .0308;
- (C) must complete the Commission-approved RADAR Instructor Re-Certification Training course, pursuant to 12 NCAC 09B .0210;
- (D) must have been certified as a RADAR Instructor within the three years preceding the completion of the re-certification course;
- (E) has participated in the classroom instruction and motor skill performance testing in the RADAR Operator Training course, pursuant to 12 NCAC 09B .0212, during the previous certification period; and
- (F) obtain the recommendation of a Commission-certified school director, agency executive officer, or his designee.

(b) Those individuals who have previously held RADAR Instructor Certification and have not exceeded a six year time period from when his or her RADAR Instructor Certification expired are eligible to reapply for reissuance of the previously held RADAR Instructor Certification. An application for re-issuance shall contain documentation that the applicant:

- (1) holds current criminal justice instructor certification, pursuant to 12 NCAC 09B .0302;
- (2) has completed the pre-qualification skills assessments;
- (3) must complete the Commission-approved RADAR Instructor Re-Certification Training course, pursuant to 12 NCAC 09B .0210;
- (4) has passed the RADAR Instructor comprehensive state examination with a minimum score of 75; and
- (5) has obtained the recommendation of a Commission-certified school director, agency executive or his designee.

(c) Applicants for re-issuance of the RADAR Instructor Certification shall have one opportunity to pass the prequalification skills assessment and the RADAR Instructor comprehensive state examination. Should an applicant not achieve a passing score on either the prequalification skills assessment or the comprehensive state examination, the applicant shall complete the RADAR Operator and RADAR Instructor Course in its entirety.

(d) Applicants whose RADAR Instructor Certification is suspended or revoked shall not qualify for re-issuance.

(e) The term of a RADAR Instructor is three years from the date of issuance. All RADAR Instructors seeking re- certification shall complete the re-certification course, as outlined in 12 NCAC 09B .0218, within 12 months of the expiration of the initial certification period. The 12-month period does not extend the instructor certification period.

Note: If Time Distance speed measuring instruments are reinstated for use at any point between years 2026 and 2036,

individuals who currently hold a RADAR Instructor Certification and have previously held a Time/Distance Instructor Certification will be grandfathered and eligible to reinstate their Time/Distance Instructor Certification.

Authority G.S. 17C-6.

~~12 NCAC 09B .0310~~ TERMS AND CONDITIONS — SMI INSTRUCTORS

~~(a) The term of a Speed Measurement Instrument (SMI) instructor, which includes radar, time distance, and lidar instructors, is three years from the date the Commission issues the certificate, unless sooner terminated by the Commission. The certificate may be renewed for subsequent three year periods. The SMI instructor desiring renewal shall:~~

- ~~(1) Hold general instructor certification as required in 12 NCAC 09B .0303.~~
- ~~(2) Have been active in the SMI classroom instructional process during the previous certification period.~~
- ~~(3) Successfully complete a Commission approved SMI instructor re certification course as required in 12 NCAC 09B .0218, .0219, or .0239.~~

~~(b) All SMI instructors seeking re certification shall successfully complete the re certification course within 12 months from expiration of the initial certification period or re certification period. If re certification training is not obtained within the 12-month period, successful completion of the appropriate instructor training program as required in 12 NCAC 09B .0308 is required to obtain instructor certification. This prescribed 12 month period does not extend the instructor certification period.~~

Authority G.S. 17C-6.

SECTION .0400 - MINIMUM STANDARDS FOR COMPLETION OF TRAINING

12 NCAC 09B .0405 COMPLETION OF BASIC LAW ENFORCEMENT TRAINING COURSE

(a) Each delivery of a Commission-accredited Basic Law Enforcement Training Course (BLET) includes all modules as specified in Rule .0205 of this Subchapter. Each trainee shall attend and satisfactorily complete the full course as specified in Paragraph (b) of this Rule during a scheduled delivery. The school director may develop supplemental requirements as set forth in Rule .0202(a)(5) of this Subchapter, but may not add substantive courses, or change or expand the substance of the courses as set forth in Rule .0205 of this Subchapter for purposes of Commission credit. This Rule does not prevent the instruction on local agency rules or standards; however, such instruction shall not be considered or endorsed by the Commission for purposes of certification. The Director of the Standards Division shall issue prior written authorization for a specified trainee's limited enrollment in a subsequent delivery of the same course where the trainee provides evidence that:

- (1) the trainee attended and satisfactorily completed specified class hours and topics of

BLET but through extended absence occasioned by illness, accident, emergency, or other good cause was absent for more than five percent of the total class hours of the course offering;

- (2) the trainee was granted excused absences by the school director that did not exceed five percent of the total class hours for the course offering and the school director has obtained approval from the Standards Division pursuant to Rule .0404 of this Section for make up work to be completed in a subsequent enrollment; or
- (3) the trainee participated in a BLET course but had an identified deficiency in topical area or skill areas in no more than two of the specific topic areas incorporated in course content as prescribed under Rule .0205 of this Subchapter;

For the purposes of this Rule, "limited enrollment" is defined as the requirement to complete the specific number of courses and course hours in which the trainee is deficient. The trainee who is deficient in more than two academic areas or motor skills shall be dismissed from the course delivery and shall be required to complete a subsequent training delivery in its entirety.

(b) The trainee shall demonstrate proficiency in the academic tests by achieving a minimum score of 70 percent on each academic test. If a trainee scores below 70 percent on each academic test, remediation will focus on re-teaching the specific concepts and skills in the topical area(s) that a trainee fails to achieve a passing score, as follows:

- (1) a trainee who fails to achieve a passing score of 70 percent on the first attempt shall have one opportunity for reexamination following remediation;
- (2) a trainee shall be allowed failure, remediation, and reexamination in no more than ~~four~~ seven topical area tests;
- (3) upon initial failure of ~~a fifth~~ an eighth topical area test, the trainee shall not be allowed remediation or reexamination and shall be immediately dismissed from the course and shall be required to complete a subsequent delivery of BLET in its entirety.

(c) Prior to remediating a concept or motor skill, the School Director shall submit to the Division a Request for Deficiency Remediation, Form F-13, which shall include:

- (1) the name and signature of the School Director, accredited school, date of request, and course name;
- (2) the student's name, Acadis #, block of instruction, date of deficiency, and date of remediation;
- (3) the instructor's name, Acadis #, remediation location, date of deficiency, and date of remediation;
- (4) details of the remediation plan; and
- (5) name and signature of reviewing Division staff member, and date of approval or disapproval.

~~(e)~~(d) An authorization of limited enrollment in a subsequent delivery of the BLET shall not be issued by the Standards

Division unless in addition to the evidence required by Paragraph (a) of this Rule:

- (1) The school director of the previous course offering submits to the Standards Division a certification of the particular topics and class hours attended and satisfactorily completed by the trainee during the original enrollment; and
- (2) The school director makes written application to the Standards Division for authorization of the trainee's limited enrollment.

~~(d)~~(c) An authorization of limited enrollment in a subsequent course delivery permits the trainee to attend an offering of BLET commencing within 120 calendar days from the date of administration of the state comprehensive examination in the trainee's prior course delivery.

- (1) The trainee shall attend and complete in its entirety each topical area identified by the school director as an area of trainee deficiency in the prior course participation with the exception of the "Officer Health and Wellness" topical area.
- (2) The two options available for satisfying a deficiency in the "Officer Health and Wellness" topical area are:

- (A) the student shall be allowed to make up the deficiency at the original training site without enrolling in a subsequent delivery of BLET. Under this option, the student shall be given 120 calendar days from the date that the comprehensive state examination was administered to the original BLET course in order to satisfy this deficiency. Students who select this option shall be allowed two attempts to complete the entire Police Officer Physical Abilities Test (POPAT) Course with a minimum of 24 hours of rest between attempts during the 120-day period to satisfy the deficiency; or
- (B) the student shall be allowed to enroll in a subsequent delivery of BLET as a "limited enrollee." This delivery shall begin within 120 calendar days from the date that the comprehensive state examination was administered to the original BLET course in order to satisfy this deficiency. Students who select this option shall be allowed two attempts to complete the entire POPAT Course with a minimum of 24 hours of rest between attempts during the delivery period of the subsequent BLET course.

A certified "~~Officer Health and Wellness~~" Specialized Physical Fitness Instructor ~~instructor~~ is the only person qualified to administer and grade the fitness re-test. At the

time of the re-test, the school director or the Qualified Assistant shall be present.

- (3) Following limited enrollment in the subsequent course offering, scheduled class attendance, and having received passing grades on all required topic and motor-skill tests, and having no deficiencies, the trainee shall be eligible for administration of the State comprehensive examination by the Commission, as set forth in Rule .0406 of this Section.

Authority G.S. 17C-6; 17C-10.

12 NCAC 09B .0416 SATISFACTION OF MINIMUM TRAINING — SMI INSTRUCTOR

~~(a) To acquire successful completion of the "Speed Measurement Instrument (SMI) Instructor Training Courses," and the "SMI Instructor Re-Certification Courses", the trainee shall complete all required course work as specified in Rules .0210, .0211, .0218, .0219, .0237, or .0239 of this Subchapter for the specific course in attendance.~~

~~(b) If the trainee fails to demonstrate 100 percent competence in each motor skill or performance area, he or she shall be authorized one opportunity for a re test. Such re test shall be at the recommendation of the school director and a request shall be made to the Standards Division within 30 days of the original testing. Re-examination shall be completed within 90 days of the original testing. Failure to score 100 percent on the re test requires enrollment in a subsequent SMI operator course and an SMI instructor course.~~

Authority G.S. 17C-6; 17C-10.

SUBCHAPTER 09E - IN-SERVICE TRAINING PROGRAMS

SECTION .0100 - LAW ENFORCEMENT OFFICER'S IN-SERVICE TRAINING PROGRAM

12 NCAC 09E .0103 DEPARTMENT HEAD RESPONSIBILITIES: ANNUAL IN-SERVICE TRAINING

The state or local law enforcement agency head shall ensure that the annual in-service training is conducted according to specifications ~~as outlined in Rules 09E .0105 and pursuant to 12 NCAC 09E .0106, .0111.~~ In addition, the state or local law enforcement agency head or designated representative:

- (1) shall ensure all annual in-service training topics are delivered either in person or through the North Carolina Justice Training and Certification portal, or by a North Carolina community college;
- (2) shall review departmental policies regarding the use of force during the agency's annual in-service training program; and
- ~~(2)(3)~~ shall report to the Criminal Justice Standards Division once each calendar year a roster of all law enforcement officers who fail to successfully complete the annual in-service training and firearms qualification, pursuant to

12 NCAC 09E .0106, and shall certify that all law enforcement officers in the agency not listed did successfully complete the training. This roster shall reflect the annual in-service training and firearms qualification status of all law enforcement officers employed by the agency as of December 31 of each calendar year and shall be received by the Criminal Justice Standards Division no later than the following January 15th. Officers having completed Basic Law Enforcement ~~Training~~ Training as a full-time student or lateral transfer and passed the comprehensive state final examination in this same calendar year must complete the annual in-service training for the year if they were sworn in between January 1st and June 30th of that year. Officers sworn in between July 1st and December 31st must complete the annual in-service training by June 30th of the following year, and

~~(3)(4)~~ shall maintain in each officer's file documentation that the officer has completed the annual in-service training requirement; and

~~(4)(5)~~ shall, where the officer fails to successfully qualify with any of the weapons specified in Rule 09E .0106(a) and (b), prohibit access to such weapon(s) until such time as the officer obtains qualification; and

~~(5)(6)~~ shall, where the officer fails to successfully qualify with any of the weapons specified in Rule 09E .0106(d), prohibit the possession of such weapon(s) while on duty or when acting in the discharge of that agency's official duties, and shall deny the officer authorization to carry such weapon(s) concealed when off-duty, except when the officer is on his own premises; and

~~(6)(7)~~ shall, where an officer has access to any specialized or tactical weapon(s) not specifically covered in Rule .0106(a) and (b) of this Section, prohibit the officer's use of the weapon(s) while engaged in the officer's official capacity unless the agency head determines the officer is competent to use the weapon in a lawful and prudent manner based upon the officer's experience, training, education, and disciplinary record.

Authority G.S. 17C-6; 17C-10.

12 NCAC 09E .0111 COMPLETION OF ANNUAL IN-SERVICE TRAINING

(a) Law enforcement officers certified by the North Carolina Criminal Justice Education and Training Standards Commission shall complete annual in-service training as outlined in 12 NCAC 09E .0108.

(b) Failure to complete all topics required for the annual in-service training shall result in the law enforcement officer's

certification being summarily suspended, pursuant to 12 NCAC 09E .0108.

(c) All annual in-service training topics must be taken in a seated delivery or through the North Carolina Justice Training and Certification portal, or by a North Carolina community college.

(d) All annual in-service training involving motor skills assessment and/or qualification shall be conducted in person using certified Specialized Instructors, pursuant to 12 NCAC 09B .0304.

Authority G.S. 17C-6; 17C-10.

SUBCHAPTER 09G - STANDARDS FOR CORRECTIONS EMPLOYMENT, TRAINING, AND CERTIFICATION

SECTION .0300 - CERTIFICATION OF CORRECTIONAL OFFICERS, PROBATION/PAROLE OFFICERS, AND INSTRUCTORS

12 NCAC 09G .0305 RECERTIFICATION FOLLOWING SEPARATION

(a) Previously certified corrections officers, with a minimum of one year of service who have been separated from the North Carolina Department of Adult Correction (NCDAC) for less than three years, may have their certification reinstated following a reverification of employment standards in 12 NCAC 09G .0202, .0203, .0208 (excluding 12 NCAC 09G .0208(4) and .0209 (excluding 12 NCAC 09G .0209(4), but are exempt from the job appropriate basic training course described in 12 NCAC 09G .0411.

(b) Previously certified corrections officers with less than one year of service who have been separated from the North Carolina Department of Adult Correction for less than two years, may have their certification reinstated following a reverification of employment standards 12 NCAC 09G .0202, .0203, and .0208 (excluding 12 NCAC 09G .0208(5)) and .0209 (excluding 12 NCAC 09G .0209(5)), and shall complete the job appropriate basic training course described in 12 NCAC 09G .0411.

(c) Previously certified corrections officers who have been separated from the North Carolina Department of Adult Correction NCDAC for more than three years, but less than five years, upon their return shall complete the verification of employment standards and shall complete the job appropriate basic training course described in 12 NCAC 09G .0411, following:

- (1) an abbreviated course of instruction focused on current standards of NCDAC, delivered by the NCDAC Office of Staff Development and Training; and
- (2) the mandatory firearms classroom training and achieves a passing qualification score on the firearms range qualification with the agency duty weapon(s).

(c) Applicants pursuant to Paragraph (b) of this Rule will be allowed to remediate one failure under each Subparagraphs (b)(1) and (b)(2), but, upon a second failure, will be required to complete the entire commission accredited basic training for correctional or probation/parole officers before being eligible for certification.

Authority G.S. 17C-2; 17C-6; 17C-10.

SECTION .0400 – MINIMUM STANDARDS FOR TRAINING OF CORRECTIONAL OFFICERS, PROBATION/PAROLE OFFICER, AND PROBATION/PAROLE OFFICERS-SURVEILLANCE

12 NCAC 09G .0410 WAIVER OF COMPLETION OF TRAINING LATERAL TRANSFERS

(a) The Commission may waive an officer's completion of the Commission accredited training course upon receiving documentary evidence from the North Carolina Department of Correction that the officer has satisfactorily completed equivalent training. All such officers, however, shall serve a one year period of probationary certification as defined in 12 NCAC 09G .0303.

(b) Training received in states with laws governing or regulating corrections officer training shall, if subject to such review, have been approved or certified by the appropriate agency of the state in which the training was received.

(c) The Commission shall prescribe as a condition of certification supplementary or remedial training deemed necessary to equate previous training with current standards.

(d) The Commission shall require satisfactory performance on a written examination as proof of equivalent training.

(a) A Corrections Officer holding prior certification from another state, federal, or military Department of Correction or equivalent is eligible to transfer certification from one state, federal, or military Department of Correction or equivalent to the North Carolina Department of Adult Correction (NCDAC) and be certified by the Commission if the officer:

- (1) has a minimum of two years full-time service as a state, federal, or military correctional officer or probation/parole officer;
- (2) has less than a one-year break in service from their most recent certified role;
- (3) provides documentary evidence of the completion of training that has been approved by the appropriate state, federal, or military entity charged with regulating correctional or probation/parole officers in the jurisdiction in which the training was received;
- (4) has completed an abbreviated course of instruction focused on current standards of the NCDAC, delivered by the NCDAC Office of Staff Development and Training;
- (5) has completed the mandatory firearms classroom training and achieves a passing qualification score on the firearms range qualification with the agency duty weapon(s); and
- (6) has achieved a passing score on the Commission-accredited basic training course for correctional officers or probation/parole officers, whichever is applicable.

(b) Applicants pursuant to Paragraph (a) will be allowed to remediate one failure under each Subparagraphs (a)(5) and (a)(6), but, upon a second failure of either, will be required to complete the entire commission accredited basic training for correctional or probation/parole officers before being eligible for certification.

(c) A North Carolina justice officer, as defined in 12 NCAC 10B .0301, is eligible to transfer certification from one state or local law enforcement agency to NCDAC and be certified as a correctional officer by the Commission if the officer:

- (1) has a minimum of two years full-time service as a justice officer as defined in 12 NCAC 10B .0301;
(2) has less than a one-year break in service from their most recent certified role;
(3) provides documentary evidence of the completion of the Detention Officer Certification Course pursuant to 12 NCAC 10B .0605, and holds a general certification or probationary certification from the Sheriffs' Education and Training and Standards Commission;
(4) has completed an abbreviated course of instruction focused on current standards of NCDAC, delivered by the NCDAC Office of Staff Development and Training;
(5) has completed the mandatory firearms classroom training and achieves a passing qualification score on the firearms range qualification with the agency duty weapon(s); and
(6) has achieved a passing score on the Commission-accredited basic training course for correctional officers.

(d) Applicants pursuant to Paragraph (c) will be allowed to remediate one failure under each Subparagraphs (c)(4) and (c)(5), but, upon a second failure of either, will be required to complete the entire commission accredited basic training for correctional or probation/parole officers before being eligible for certification.

(e) Prior to certification, NCDAC must submit to the Division evidence of compliance with the requirements of 12 NCAC 09G .0208 for any applicants pursuant to this section.

Authority G.S. 17C-6; 17C-10.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education and Training Standards Commission intends to amend the rule cited as 12 NCAC 09G .0209, and repeal the rules cited as 12 NCAC 09B .0211, .0218, .0219, .0239, and .0309.

Link to agency website pursuant to G.S. 150B-19.1(c): https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications

Proposed Effective Date: October 1, 2025

Public Hearing:

Date: August 1, 2025

Time: 10:00am

Location: Microsoft Teams. https://ncdoj.gov/commission-meeting-information/ or 919-670-1307 phone conference ID 724 116 917#

Reason for Proposed Action: To repeal rules no longer needed. To update certification requirements for Probation/Parole Officers.

Comments may be submitted to: Michelle S. Schilling, 1700 Tryon Park Drive, Garner, NC 27529; phone (919) 779-8205; email MSchilling@ncdoj.gov

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

CHAPTER 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SUBCHAPTER 09B - STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT: EDUCATION: AND TRAINING

SECTION .0200 – MINIMUM STANDARDS FOR CRIMINAL JUSTICE SCHOOLS AND CRIMINAL JUSTICE TRAINING PROGRAMS OR COURSES OF INSTRUCTION

12 NCAC 09B .0211 TIME-DISTANCE INSTRUCTOR TRAINING COURSE

(a) The time-distance instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a time-distance instructor. This course shall be for a period not to exceed eight consecutive weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A 19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director

determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students that may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that began during the effective period of the State of Emergency.

(b) Each applicant for the time distance speed measurement instrument instructor training course shall meet the requirements of 12 NCAC 09B .0210(c)(1) and (2) and 12 NCAC 09B .0309. The time distance instructor training course required for time distance instructor certification shall include the topic areas and minimum number of hours as outlined in the Time Distance Instructor Training Course. To qualify for time distance instructor certification, an applicant shall meet the requirements as outlined in the Time Distance Instructor Training Course and meet the requirement of 12 NCAC 09B .0408 and .0409.

(c) The "Time Distance Instructor Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the criminal justice time distance speed measurement instrument instructor training course for time distance speed measurement instructors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Post Office Drawer 149
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy
Post Office Box 99
Salemberg, North Carolina 28385

(d) Commission certified school that is certified to offer the "Time Distance Instructor Training Course" is The North Carolina Justice Academy.

Authority G.S. 17C-6.

12 NCAC 09B .0218 RE-CERTIFICATION TRAINING FOR RADAR INSTRUCTORS

(a) The radar instructor re-certification training course shall be designed to provide the instructor with the skills and knowledge to continue to proficiently perform the function of a criminal justice radar instructor. This course shall be presented within a period not to exceed one week.

(b) Each applicant for a radar instructor re-certification course shall:

- (1) possess criminal justice general instructor certification as required in 12 NCAC 09B .0302;
- (2) have been certified as a radar instructor within the three years preceding the completion date of the re-certification course.

(c) The radar instructor re-certification training course required for radar instructor re-certification shall include the topic areas and minimum number of hours as outlined in the Radar Instructor Training Course. To qualify for radar instructor re-certification, an applicant shall meet the requirements as outlined in the Radar Instructor Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(d) The "Radar Instructor Training Course" as published by the North Carolina Justice Academy is to be applied as basic curriculum for the radar instructor re-certification training course for radar instructors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
114 West Edenton Street
Post Office Drawer 149
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy
Post Office Box 99
Salemberg, North Carolina 28385

(e) Commission accredited schools that are accredited to offer the "Radar Instructor Re-Certification Training Course" are: The North Carolina Justice Academy.

Authority G.S. 17C-6.

12 NCAC 09B .0219 RE-CERTIFICATION TRAINING FOR TIME DISTANCE INSTRUCTORS

(a) The time distance instructor re-certification training course shall be designed to provide the instructor with the skills and knowledge to continue to proficiently perform the function of a criminal justice time distance instructor. This course shall be presented within a period not to exceed one week.

(b) Each applicant for the time distance instructor re-certification course shall:

- (1) Meet the requirements of 12 NCAC 09B .0218(b) and shall have successfully completed the re-certification courses of 12 NCAC 09B .0218(c).
- (2) Have been certified as a time distance instructor within the three years preceding the completion date of the re-certification course.

(c) The time distance instructor re-certification training course required for time distance instructor re-certification shall include the topic areas and minimum number of hours as outlined in the Time Distance Instructor Training Course. To qualify for time distance instructor re-certification, an applicant shall meet the requirements as outlined in the Time Distance Instructor Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(d) ~~The "Time Distance Instructor Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the time distance instructor re-certification training course for time distance instructors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:~~

~~Criminal Justice Standards Division
North Carolina Department of Justice
114 West Edenton Street
Post Office Drawer 149
Raleigh, North Carolina 27602~~

~~and may be obtained at cost from the Academy at the following address:~~

~~North Carolina Justice Academy
Post Office Box 99
Salemberg, North Carolina 28385~~

(e) ~~Commission-certified schools that are certified to offer the "Time Distance Instructor Re-Certification Training Course" are: The North Carolina Justice Academy.~~

Authority G.S. 17C-6.

12 NCAC 09B .0239 RE-CERTIFICATION TRAINING FOR LIDAR INSTRUCTORS

(a) ~~The Lidar Instructor Re-Certification Training Course shall be designed to provide the instructor with the skills and knowledge to continue to proficiently perform the function of a lidar instructor. This course shall be presented within a period not to exceed one week.~~

(b) ~~Each applicant for a Lidar Instructor Re-Certification Training Course shall:~~

- (1) ~~possess criminal justice General Instructor Certification as required in 12 NCAC 09B .0302; and~~
- (2) ~~have been certified as a lidar instructor within the three years preceding the completion date of the re-certification training course.~~

(c) ~~The Lidar Instructor Re-Certification Training Course required for lidar instructor re-certification shall include the topic areas and number of hours as outlined in the Lidar Instructor Training Course. To qualify for lidar instructor re-certification, an applicant shall meet the requirements as outlined in the Lidar Instructor Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.~~

(d) ~~The "Lidar Instructor Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the Lidar Instructor Re-Certification Training Course for lidar instructors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:~~

~~Criminal Justice Standards Division
North Carolina Department of Justice
114 West Edenton Street
Post Office Drawer 149
Raleigh, North Carolina 27602~~

~~and may be obtained at cost from the Academy at the following address:~~

~~North Carolina Justice Academy
Post Office Box 99~~

Salemberg, North Carolina 28385

(e) ~~Commission-certified schools that are certified to offer the Lidar Instructor Re-Certification Training Course are: The North Carolina Justice Academy.~~

Authority G.S. 17C-6.

SECTION .0300 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE INSTRUCTORS

12 NCAC 09B .0309 TIME-DISTANCE INSTRUCTORS

~~In addition to all requirements contained in 12 NCAC 9B .0308 of this Section, applicants in this category shall complete an instructor training course in time distance speed measurement as required in 12 NCAC 9B .0211. An applicant meeting the requirements for time distance speed measurement instrument instructor certification shall be issued a certification to run concurrently with the existing radar instructor certification.~~

Authority G.S. 17C-6.

SUBCHAPTER 09G - STANDARDS FOR CORRECTIONS EMPLOYMENT, TRAINING, AND CERTIFICATION

SECTION .0200 - MINIMUM STANDARDS FOR CERTIFICATION OF CORRECTIONAL OFFICERS, PROBATION/PAROLE OFFICERS, AND PROBATION/PAROLE OFFICERS-SURVEILLANCE

12 NCAC 09G .0209 MINIMUM STANDARDS FOR PROBATION/PAROLE OFFICERS

(a) The requirements of this Rule shall apply to all applicants for certification and shall also apply at all items during which the probation/parole officer is certified by the Commission.

(b) Every probation/parole officer employed by the North Carolina Department of Adult Correction shall:

- (1) be a citizen of the United States
- (2) be at least 20 years of age
- (3) have attained one of the following: a bachelor's degree as described in 12 NCAC 09G .0204;
 - (A) a bachelor's degree as described in 12 NCAC 09G .0204; or
 - (B) an associate's degree as described in 12 NCAC 09G .0204, in a Human Services field and five years of directly related experience as a sworn law enforcement officer, probation/parole officer, correctional case manager, correctional program supervisor, juvenile court counselor, and/or military police officer;
- (4) have been fingerprinted by the employing agency in the manner provided in 12 NCAC 09G .0207;
- (5) have had a medical examination as required by 12 NCAC 09G .0205;
- (6) have produced a negative result on a drug screen as described in 12 NCAC 09G .0211;

- (7) have been administered a psychological screening examination in accordance with G.S. 17C-10(c). The psychological screening examination shall be valid for a period of one year from the date on which it was administered;
- (8) have a background investigation conducted by the Department of Adult Correction, including a personal interview as described in 12 NCAC 09G .0210;
- (9) not have committed or been convicted of a crime or crimes as specified in 12 NCAC 09G .0302;
- (10) for personnel who are authorized to carry a firearm in the execution of their duties, satisfactorily Complete the Department of Adult Correction's departmental firearms training program as prescribed in 12 NCAC 09G .0412. Such firearms training compliance must have occurred within one year of the date of employment and by using the department approved service handgun(s); and,
- (11) be of good moral character, including possessing the characteristics of honesty, maturity, discipline, attention to detail, and respect for the rights of others as more fully discussed and interpreted in: In re Willis 288 N.C. 1.215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); In re Legg, 325 N.C. 658, 386 S.E. 2d 174 (1989); in re Applicants for License, 143 N.C.1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 47 (1983); and later court decisions; and
- (12) make the following notifications:
 - (A) within 30 days of the qualifying event, notify the Standards Division and the appointing agency head in writing of all criminal offenses for which the officer is charged or arrested. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);
 - (B) within 30 days of the qualifying event, notify the Standards Division and the appointing agency head in writing of all criminal offenses for which the officer pleads no contest, pleads guilty, or of which the officer is found guilty. This shall include traffic offenses identified in the Department of Adult Correction section of the Class B Misdemeanor Manual and offense of driving under the influence (DUI) or driving while impaired (DWI);
 - (C) within 30 days of service, officers shall notify the Standards Division of all Domestic Violence Protective Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are issued by a judicial official against the officer;
 - (D) within 30 days of the date the case was disposed of in court, the agency head, provided he or she has knowledge of the officer's arrests or criminal charges and final dispositions, shall also notify the Standards Division of arrests or criminal charges and final disposition;
 - (E) within 30 days of the issuance of all Domestic Violence Protective Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C), the agency head, provided he or she has knowledge of the order, shall also notify the Standard Division of these orders; and
 - (F) The required notifications in this Rule shall be in writing and shall specify the nature of the offense or order, the court in which the case as handled, the date of the arrest, criminal charge, or service of the order, and the final disposition. The notification shall include a certified copy of the order or court documentation and final disposition from the Clerk of Court in the county of adjudication. The requirements of this Item shall be applicable at all times during which the officer is employed and certified by the Commission and shall also apply to all applicants for certification. Receipt by the Standards Division of a single notification, for the officer or the agency head, shall be sufficient notice for compliance with this Item.

Authority G.S. 17C-6; 17C-10.

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to amend the rules cited as 15A NCAC 18E .0102, .0105, .0202-.0204, .0206, .0207, .0301-.0303, .0401, .0402, .0504, .0506, .0508, .0601, .0701-.0703, .0801, .0805, .0901-.0909, .1101, .1202, .1203, .1205, .1301, .1303, .1305, .1306, .1401-.1405, and .1713.

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

Proposed Effective Date: *Subject to Legislative Review*

Public Hearing:

Date: June 24, 2025

Time: 2:00 p.m.

Location: This public hearing will be held by teleconference at (919) 715-0769 (no access code required).

Reason for Proposed Action: The Commission for Public Health proposes to amend the rules governing on-site wastewater treatment systems to align with Session Laws 2023-77, 2023-63, s.16, and 2024-49 s.4.10 - 4.47. These rule amendments are subject to legislative review.

Comments may be submitted to: Virginia Niehaus, CPH Rulemaking Coordinator, 1931 Mail Service Center, Raleigh, NC 27699-1931; email cphcomment@ml.nc.gov

Comment period ends: August 1, 2025

Rule(s) is automatically subject to legislative review: SL 2023-77, 2023-63, s.16, 2024-49 s.4.10 - 4.47

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 18 - ENVIRONMENTAL HEALTH

SUBCHAPTER 18E – WASTEWATER TREATMENT AND DISPERSAL SYSTEMS

SECTION .0100 – GENERAL

15A NCAC 18E .0102 APPLICABILITY

(a) The rules of this Subchapter shall not apply to any wastewater systems system for which an IP, CA, OP, NOI, ATO, certificate of completion, or an equivalent approval has been issued prior to January 1, 2024, in use which are not malfunctioning as described in Rule .1303(a)(2) of this Subchapter, unless the DDF or wastewater strength increases. increases or unless otherwise specified in this Subchapter. Wastewater systems that are malfunctioning in accordance with Rule .1303(a)(2) of this Subchapter shall adhere to the rules of this Subchapter. The provisions of Rule .0206 of this Subchapter shall apply to any wastewater system for which an OP, ATO, certificate of completion, or an equivalent approval has been issued prior to January 1, 2024.

(b) ~~The rules of this Subchapter shall not apply to IPs and CAs issued prior to the effective date of this Rule. For purposes of this Rule, wastewater strength shall not be determined to be increased unless the facility is a commercial facility or becomes a commercial facility and the wastewater strength is determined to meet the definition of HSE in accordance with Rule .0402 of this Subchapter.~~

(c) Prior to any increase in DDF or wastewater strength for an existing facility, the owner shall submit an application in accordance with Rule .0202 of this Subchapter.

~~(d) Wastewater systems permitted prior to January 1, 2024, on or after July 1, 1977, shall comply with the setback requirements in place at the time the IP, CA, OP, NOI, ATO, certificate of completion, or equivalent was issued. this Subchapter.~~

~~(e) Wastewater systems installed prior to July 1, 1977, and existing wastewater systems for which a permit cannot be found are not considered to meet the conditions of Rules .0302(c)(5) or .0302(c)(6) of this Subchapter.~~

~~(d)(f) Notwithstanding Paragraph (a) of this Rule, all wastewater systems shall comply with Section .1300 of this Subchapter.~~

~~(g) When a wastewater system that was installed on or after July 1, 1977, is expanded, modified, or repaired, and the wastewater strength is not increasing, any existing wastewater system components that are not crushed, broken, damaged, or otherwise rendered unusable or ineffective so that the component will not function as designed shall not be required to meet the requirements of this Subchapter. All components shall comply with the setback requirements in this Subchapter.~~

~~(h) When a wastewater system that was installed prior to July 1, 1977, is expanded, modified, or repaired, and the wastewater strength is not increasing, any existing wastewater system components that are not crushed, broken, damaged, or otherwise rendered unusable or ineffective so that the component will not function as designed shall not be required to meet the requirements of this Subchapter except as follows:~~

- (1) Setbacks to drinking water wells shall not be reduced; and
- (2) Setbacks to surface water bodies specified in Rule .0601 of this Subchapter shall not be reduced by more than 50 percent.

~~(i) Existing wastewater systems for which no permit can be found and with no evidence that the wastewater system was installed in violation of G.S. 130A, Article 11 and the rules in effect at the time of installation shall be considered to have an OP or its equivalent in accordance with this Rule.~~

Authority G.S. 130A-335(e); S.L. 2023-77, s.1; S.L. 2024-49, s.4.10.

15A NCAC 18E .0105 DEFINITIONS

In addition to the definitions set forth in G.S. 130A-334, the following shall apply to the Rules in this Subchapter:

- (1) "Accessory dwelling unit" means a secondary dwelling unit established in conjunction with and clearly subordinate to a primary dwelling unit, whether a part of the same structure as the primary dwelling unit or a detached dwelling unit on the same lot. The DDF for an accessory dwelling unit shall be based on 120 gpd per bedroom, or 60 gpd per person when occupancy exceeds two persons per bedroom. The accessory dwelling unit shall not be considered a separate dwelling unit when sizing a septic tank for a primary dwelling unit and an accessory dwelling unit. When the primary dwelling unit and accessory dwelling unit are

- under common ownership, a multi-party agreement is not required.
- (1)(2) "Aggregate" means naturally occurring inorganic material of a specific size or grade. An example of aggregate is clean, washed gravel, or crushed stone that is graded or sized in accordance with size numbers 4, 5, or 6 of ASTM D448.
- (2)(3) "Apparent Cation Exchange Capacity" means the sum of exchangeable bases plus total soil acidity at a pH of 7.0. ACEC is expressed in milliequivalents per 100 grams (meq/100g) of soil or centimoles per kilogram (cmol/kg) of soil. The soil ACEC is calculated by determining the ACEC using the neutral normal ammonium acetate method, pH of 7.0 neutral normal, dividing by the percent clay as determined by particle size distribution using the pipette method, and then multiplying by 100, as described in USDA-NRCS Soil Survey Laboratory Information Manual, Soil Survey Investigations Report No. 45 and Kellogg Soil Survey Laboratory Methods Manual, Soil Survey Investigation Report No. 42, page 229, or EPA Method 9080.
- (3)(4) "Applicant" means the individual who submits an application to the LHD for an IP, CA, OP, NOI, ATO, or existing system authorization.
- (4)(5) "Approved" means that which the Department or LHD has determined is in accordance with this Subchapter and G.S. 130A, Article 11.
- (5)(6) "Artificial drainage" means any man-made structure or device designed to overcome a SWC or intercept lateral flowing ground or surface water. Artificial drainage systems include groundwater lowering systems, interceptor drains, foundation drains with cuts greater than two feet, and surface water diversions.
- (6)(7) "Authorized agent" means a person who has been authorized by the Department in accordance with G.S. 130A, Article 4 and 15A NCAC 01O .0100 to permit wastewater systems.
- (7)(8) "Authorized designer" means a service provider authorized by the manufacturer who creates plans for the installation, expansion, or repair of a proprietary wastewater system.
- (8)(9) "Authorized On-Site Wastewater Evaluator" means a person licensed in accordance with G.S. 90A, Article 5 and meeting the certification requirements in G.S. 130A-336.2(a) and 21 NCAC 39.
- (9)(10) "Backfill" means the soil that is placed in a trench or bed that surrounds or is on top of the dispersal media within the excavation up to the naturally occurring soil surface.
- (10)(11) "Bed" means an excavation with a width greater than three feet containing dispersal media and one or more laterals.
- (11)(12) "Bedroom" means any room defined as a sleeping room in the North Carolina Building Code.
- (12)(13) "Building drain" means the lowest piping of a drainage system that receives the discharge from waste pipes inside the design unit and extends to 10 ft beyond the walls of the building or five feet for a building with a foundation and conveys the sewage to a building sewer.
- (13)(14) "Building sewer" means the part of a drainage system that extends from the end of the building drain and conveys the discharge to a wastewater system.
- (14)(15) "Certified Inspector" means a person authorized to inspect a wastewater system in accordance with G.S. 90A, Article 5, and applicable rules of the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board.
- (15)(16) "Clod" means a compact, coherent, mass of soil produced by digging, plowing, or other human land manipulation.
- (16)(17) "Coastal region" means Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Chowan, Columbus, Craven, Cumberland, Currituck, Dare, Duplin, Edgecombe, Gates, Greene, Halifax, Harnett, Hertford, Hoke, Hyde, Johnston, Jones, Lenoir, Martin, New Hanover, Northampton, Onslow, Pamlico, Pender, Pasquotank, Perquimans, Pitt, Richmond, Robeson, Sampson, Scotland, Tyrrell, Washington, Wayne, and Wilson counties.
- (17)(18) "Collection sewer" means gravity flow pipelines, force mains, effluent supply lines, manholes, lift stations, and all appurtenances used for conveying wastes from the building drain or sewer to ~~and within~~ a wastewater system. A collection system is a collection sewer.
- (18)(19) "Complete data set" means analytical results for all required influent and effluent constituents as specified in the effluent standard for a specific site on a specific date. A data set may include other constituents specified in an RWTS or PIA Approval, permit, or other document.
- (19)(20) "Component" means a part of a wastewater system. The component may be any part of the wastewater system, such as a collection sewer, pretreatment, dispersal field, etc.
- (20)(21) "Composite sample" means commingled individual samples collected from the same point at different times. Samples may be of equal volume or may be proportional to the flow at time of sampling.

- (21)(22) "Control system" means either conventional or accepted systems that are surveyed as part of a survey protocol identified in Rule .1706 of this Subchapter.
- (22)(23) "Cover" means the soil that is placed at or above the naturally occurring soil surface to cover the wastewater system.
- (23)(24) "Demand dosing" means a configuration in which a specific volume of effluent is delivered to a component based upon patterns of wastewater generation from the source and liquid level detection device settings.
- (24)(25) "Department" means the North Carolina Department of Health and Human Services, as defined in G.S. 130A-334(1f). The mailing address for the Department is as follows: NCDHHS, Division of Public Health, On-Site Water Protection Branch, 1642 Mail Service Center, Raleigh, North Carolina 27699-1642.
- (25)(26) "Design daily flow" means the unadjusted quantity of wastewater a facility is projected to produce in a 24-hour period upon which wastewater system sizing and design are based as determined in Section .0400 of this Subchapter.
- (26)(27) "Design unit" means a discrete connection such as an individual dwelling unit, place of business, or place of public assembly on which wastewater DDF is based. Multiple design units may comprise a facility.
- (27)(28) "Dispersal field" means the physical location where final treatment and dispersal of effluent occurs in the soil.
- (28)(29) "Dispersal media" means the media used to provide void space through which effluent flows and may be stored prior to infiltration, such as washed gravel or crushed stone, products referenced in Section .0900 of this Subchapter, products approved pursuant to Section .1700 of this Subchapter, etc.
- (29)(30) "Dispersal system" means the dispersal field and associated components that distribute effluent to and within the dispersal field. This includes a pump, pump tank, pressure manifold, distribution box, drip box, lateral, dispersal media, etc.
- (30)(31) "Dose volume" means an amount of effluent delivered during a dosing event as determined by the liquid level detection device settings in a demand dosing system or by a timer in a timed dosing system.
- (31)(32) "Dwelling unit" means any room or group of rooms located within a structure and forming a single, habitable unit with facilities which are used or intended to be used for living, sleeping, bathing, toilet usage, cooking, and eating.
- (32)(33) "Effluent" means the liquid discharge from a pretreatment process, component, or system.
- (33)(34) "Facility" means one or more design units located on a single or multiple lot(s) or tract(s) of land and served by a wastewater system comprised of one or more wastewater systems.
- (34)(35) "Finished grade" means the final elevation of the land over the wastewater system after installation.
- (35)(36) "Flow equalization" means a system configuration that includes sufficient storage capacity to allow for uniform flow to a subsequent component despite variable flow from the source.
- (36)(37) "Full kitchen" means ~~the appliances meet the requirements of North Carolina Food Code, Chapters 4-1 and 4-2.~~ a kitchen that contains either domestic or commercial equipment and is used for cooking or preparing foods onsite.
- (37)(38) "Grab sample" means a discrete sample collected at a specific time and location.
- (38)(39) "Grease tank" means the tank located outside the facility that is used to reduce the amount of grease discharged to a wastewater system.
- (39)(40) "Grease trap" means a device used inside the facility to reduce the amount of grease discharged to a wastewater system.
- (40)(41) "Gravity distribution" means gravity flow of effluent to and within each lateral.
- (41)(42) "Groundwater lowering system" means a type of artificial drainage system designed to lower the water table by gravity or, in conjunction with a pump, to maintain the vertical separation beneath a dispersal field.
- (42)(43) "Horizon" means a layer of soil, parallel to the surface that has distinct physical, chemical, and biological properties or characteristics such as color, structure, texture, consistence, kinds and number of organisms present, degree of acidity or alkalinity, etc., resulting from soil forming processes.
- (43)(44) "Infiltrative surface" means the designated interface where effluent moves from dispersal media or a distribution device into treatment media, naturally occurring soil, or fill.
- (44)(45) "Influent" means the sewage discharged to a pretreatment component.
- (45)(46) "Installer" means a person authorized to construct, install, or repair a wastewater system in accordance with G.S. 90A, Article 5 and applicable rules of the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board.
- (46)(47) "Interceptor drain" means a type of artificial drainage designed to intercept and divert lateral moving groundwater or perched water away from the dispersal field or other system component to an effective outlet.
- (48) "Intermittent stream" means a well-defined channel that contains water for only part of the year, typically during winter and spring when

the aquatic bed is below the perched or seasonal high-water table. The flow of an intermittent stream may be supplemented by stormwater runoff.

- ~~(47)~~(49) "Invert" means the lowest elevation of the internal cross-section of a pipe, fitting, or component.
- ~~(48)~~(50) "Jurisdictional wetland" means an area subject to the regulatory jurisdiction of the U.S. Army Corps of Engineers or DEQ.
- ~~(49)~~(51) "Ksat" or saturated hydraulic conductivity, means the rate of water flow through a unit cross sectional area of soil under saturated conditions. In-situ Ksat is measured in the field using clean water. Results of in-situ Ksat are used to simulate movement of effluent through the soil and may be used to field verify LTAR.
- ~~(50)~~(52) "Lateral water movement" means the movement of subsurface water downslope often associated with a less permeable horizon. Lateral water movement can be observed in a bore hole, excavation, or monitoring well on sloping sites.
- ~~(51)~~(53) "Lateral" means any pipe, tubing, or other device used to convey and distribute effluent in a dispersal field.
- ~~(52)~~(54) "Limiting condition" means soil conditions or site features that determine wastewater system design options. Soil conditions are morphology, depth, restrictive horizons, soil wetness, or organic matter content. Site features are topography, slope, landscape position, or available space.
- ~~(53)~~(55) "Lithochromic feature" means soil mottle or matrix associated with variations of color due to weathering of parent materials.
- ~~(54)~~(56) "Long Term Acceptance Rate" means the rate of effluent absorption by the soil, existing fill, or saprolite in a wastewater system after long-term use. The LTAR, in units of gpd/ft², is assigned based upon soil textural class, structure, consistence, depth, percent coarse rock, landscape position, topography, and system type, and is used to determine the dispersal field sizing requirements, in accordance with applicable rules of this Subchapter.
- ~~(55)~~(57) "Local health department" means any county, district, or other health department authorized to be organized under the General Statutes of North Carolina.
- ~~(56)~~(58) "Management Entity" means the person, entity, company, or firm designated by the owner of the wastewater system who has primary responsibility for the operation of a wastewater system in accordance with this Subchapter, G.S. 90A, Article 3, and applicable rules of the

Water Pollution Control System Operators Certification Commission. The Management Entity may be the owner, a public Management Entity, a certified operator, a management company, or an entity that employs certified operators. The Management Entity is or employs the operator in responsible charge for the wastewater system.

- ~~(57)~~(59) "Mass loading" means the total mass of one or more organic or inorganic effluent constituents delivered to the wastewater system over a specified period. It is computed by multiplying the total volume of flow during the specified period by the flow-weighted average constituent concentration in the same period. Units of measurement are pounds per day.
- ~~(58)~~(60) "Matrix" means a volume of soil equivalent to 50 percent or greater of the total volume of a horizon.
- ~~(59)~~(61) "Mean high-water mark" means, for coastal waters having six inches or more lunar tidal influence, the average height of the high-water over a 19-year period as may be ascertained from National Ocean Survey, U.S. Army Corps of Engineers tide stations data, or as otherwise determined under the provisions of the Coastal Area Management Act. The highest high-water mark as reported by the three agencies shall be applied.
- ~~(60)~~(62) "Media" means a solid material that can be described by shape, dimensions, surface area, void space, and application.
- ~~(61)~~(63) "Media filter" means a device that uses materials designed to treat effluent by reducing BOD₅ and removing TSS in an unsaturated environment. Biological treatment is facilitated via microbial growth on the surface of the treatment media.
- ~~(62)~~(64) "Mottle" means subordinate color of a differing Munsell color system notation in a soil horizon.
- ~~(63)~~(65) "Mountain region" means Alleghany, Ashe, Avery, Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Swain, Transylvania, Watauga, and Yancey counties.
- ~~(64)~~(66) "Naturally occurring soil" means soil formed in place due to natural formation processes that is unaltered by filling, removal, or other artificial modification other than tillage.
- ~~(65)~~(67) "NEMA 4X" means an enclosure for an electrical control panel or junction box that meets standards for protection of equipment due to the ingress of water, including rain and hose-directed water, and an additional level of protection against corrosion, as set forth in NEMA Standard 250.

- ~~(66)~~(68) "NSF/ANSI 40 systems" means individual RWTS that are approved and listed in accordance with the standards adopted by NSF International for Class I residential wastewater treatment systems under NSF/ANSI Standard 40 and approved for use in accordance with G.S. 130A-342 and the Rules of this Subchapter.
- ~~(67)~~(69) "Non-ground absorption system" means a system for waste treatment designed not to discharge to the soil, land surface, or surface waters, including approved vault privies, incinerating toilets, mechanical toilets, composting toilets, chemical toilets, and recycling systems.
- ~~(68)~~(70) "Normal water level" means the ~~term as defined in 15A NCAC 02B .0610(28)~~ water level within a pond, lake, or other type of impoundment, natural or man-made, at the elevation of the outlet structure or spillway, such as the elevation of the permanent pool.
- ~~(69)~~(71) "Off-site system" means a wastewater system where any system component is located on property other than the lot where the facility is located.
- ~~(70)~~(72) "Ordinary high-water mark" means the line on the shore established by the fluctuations of water and indicated by physical characteristics such as: a natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; or the presence of litter and debris.
- ~~(71)~~(73) "Organic soils" means those organic mucks and peats consisting of more than 20 percent organic matter, by dry weight, and greater than or equal to 18 inches in thickness.
- ~~(72)~~(74) "Owner" means a person holding legal title to the facility, wastewater system, or property or his or her representative. The owner's representative is a person who holds power of attorney to act on an owner's behalf or an agent designated by letter or contract to act on the owner's behalf.
- ~~(73)~~(75) "Parallel distribution" means the distribution of effluent that proportionally loads multiple sections of a dispersal field at one time.
- ~~(74)~~(76) "Parent material" means the mineral and organic matter that is in its present position through rock decomposition or deposition by water, wind, or gravity.
- ~~(75)~~(77) "Ped" means a unit of soil structure, such as blocky, granular, prismatic, or platy formed by natural processes.
- ~~(76)~~(78) "Perched water table" means a zone of saturation held above the main groundwater body by a less permeable layer, impermeable rock, or sediment, which may or may not exhibit redoximorphic features.
- (79) "Perennial stream" means a well-defined channel that contains water year-round during a year of normal rainfall with the aquatic bed located below the perched or seasonal high water table for most of the year. Groundwater is the primary source of water for a perennial stream, but perennial streams may also carry stormwater runoff.
- ~~(77)~~(80) "Person" means any individual, firm, association, organization, partnership, business trust, corporation, company, or unit of local government.
- ~~(78)~~(81) "Piedmont region" means Alamance, Alexander, Anson, Burke, Cabarrus, Caldwell, Caswell, Catawba, Chatham, Cleveland, Davidson, Davie, Durham, Forsyth, Franklin, Gaston, Granville, Guilford, Iredell, Lee, Lincoln, Mecklenburg, Montgomery, Moore, Nash, Orange, Person, Polk, Randolph, Rockingham, Rowan, Rutherford, Stanly, Stokes, Surry, Union, Vance, Wake, Warren, Wilkes, and Yadkin counties.
- ~~(79)~~(82) "Pressure dispersal" means a system utilizing an effluent pump or siphon to distribute effluent uniformly to the infiltrative surface in the dispersal field through a pressurized pipe network.
- ~~(80)~~(83) "Pressure dosed gravity distribution" means pressure delivery of effluent to a manifold, distribution box, or other splitter with subsequent gravity distribution within one or more laterals to the infiltrative surface.
- ~~(81)~~(84) "Public management entity" means a public entity legally authorized to operate and maintain wastewater systems, including a city pursuant to G.S. 160A, Article 16, a county pursuant to G.S. 153A, Article 15, an interlocal contract pursuant to G.S. 160A, Article 20, a joint management agency pursuant to G.S. 160A, Article 20, a county service district pursuant to G.S. 153A, Article 16, a county water and sewer district pursuant to G.S. 162A, Article 6, a sanitary district pursuant to G.S. 130A, Article 2, Part 2, a water and sewer authority pursuant to G.S. 162A, Article 1, a metropolitan water district pursuant to G.S. 162A, Article 4, a metropolitan sewerage district pursuant to G.S. 162A, Article 5A, a public utility pursuant to G.S. 62, Article 1, a county or district health department pursuant to G.S. 130A, Article 2, or any other public entity legally authorized to operate and maintain wastewater systems.
- ~~(82)~~(85) "Raw sewage lift stations" means a dosing system that is designed to move untreated sewage from a lower elevation to a higher elevation. Raw sewage lift stations are installed prior to any wastewater treatment.

- ~~(83)~~(86) "RCW systems" means advanced pretreatment systems approved by the Department in accordance with Section .1700 of this Subchapter that meet RCW effluent standards in Rule .1002 of this Subchapter.
- ~~(84)~~(87) "Redoximorphic features" means a color pattern of a horizon due to a depletion or concentration of pigment compared to the matrix color, formed by oxidation and reduction of Fe coupled with its removal, translocation, or accrual, or a soil matrix color controlled by the presence of Fe⁺². Redox depletions are a type of redoximorphic feature.
- ~~(85)~~(88) "Repair area" means an area that has been classified suitable consistent with the Rules in this Subchapter that is reserved for the extension, alteration, wastewater system relocation, or replacement of part or all of the initial wastewater system. The repair area shall be available to be used in the event of a malfunction or if a wastewater system is partially or totally destroyed.
- ~~(86)~~(89) "Residential Wastewater Treatment Systems" means approved individual advanced pretreatment systems that are covered under standards of NSF International, in accordance with G.S. 130A-342 and applicable Rules in this Subchapter.
- ~~(87)~~(90) "Restrictive horizon" means a soil horizon that is capable of perching groundwater or effluent and that is brittle and strongly compacted or strongly cemented with iron, aluminum, silica, organic matter, or other compounds. Restrictive horizons may occur as fragipans, iron pans, or organic pans, and are recognized by their resistance in excavation or in using a soil auger.
- ~~(88)~~(91) "Rock" means the body of consolidated or partially consolidated material composed of minerals at or below the land surface. Rock includes bedrock and partially weathered rock that is hard and cannot be dug with hand tools. The upper boundary of rock is saprolite, soil, or the land surface.
- ~~(89)~~(92) "Saprolite" means the body of porous material formed in place by weathering of rock that has a massive, rock-controlled structure and retains the arrangement of minerals of its parent rock in a minimum of 50 percent of its volume. Saprolite can be dug with hand tools. The lower limit of saprolite is rock and its upper limit is soil or the land surface.
- ~~(90)~~(93) "Septic tank" means a structurally sound, water-tight, covered receptacle, approved in accordance with Section .1400 of this Subchapter. A septic tank is designed for primary treatment of wastewater and is constructed to:
- (a) receive the discharge of wastewater from a building;
 - (b) separate settleable and floating solids from the liquid;
 - (c) digest organic matter by anaerobic bacterial action;
 - (d) store digested solids through a period of detention; and
 - (e) allow effluent to discharge for additional treatment and final dispersal.
- ~~(91)~~(94) "Septic tank effluent pump" means a collection system that uses a septic tank to separate solids and incorporates a pump vault, pump, and associated devices to convey effluent under pressure to a subsequent component.
- ~~(92)~~(95) "Sequential distribution" means the distribution method in which effluent is loaded into one trench and fills it to a predetermined level before passing through a drop box or relief device to the succeeding trench at a lower elevation. All trenches are fed from the same side.
- ~~(93)~~(96) "Setback" means the minimum horizontal separation distance between the wastewater system and features listed in Section .0600 of this Subchapter.
- ~~(94)~~(97) "Settling tank" means a septic tank designed for use in conjunction with a RWTS. A settling tank is not required to meet the design requirements of a septic tank.
- ~~(95)~~(98) "Serial distribution" means the distribution method in which effluent is loaded into one trench and fills it to a predetermined level before passing through a pipe to the succeeding trench at the same or a lower elevation.
- ~~(96)~~(99) "Site" means the area in which the wastewater system is located, including the repair area.
- ~~(97)~~(100) "Soil" means the naturally occurring body of unconsolidated mineral and organic materials on the land surface. Soil is composed of sand-, silt-, and clay-sized particles that are mixed with varying amounts of larger fragments and some organic material. Soil contains less than 50 percent of its volume as rock, saprolite, or coarse-earth fraction. The coarse-earth fraction are mineral particles greater than 2.0 millimeters. The upper limit of the soil is the land surface, and its lower limit is rock, saprolite, or other parent materials.
- ~~(98)~~(101) "Soil consistence" means the degree and kind of cohesion and adhesion that a soil exhibits.
- ~~(99)~~(102) "Soil series" means an official series name established by USDA-NRCS.
- ~~(100)~~(103) "Soil structure" means the arrangement of primary soil particles into compound particles, peds, or clusters that are separated by natural planes of weakness from adjoining units.
- ~~(101)~~(104) "Soil textural classes" means soil classification based upon size distribution of mineral particles in the fine-earth fraction less

- than two millimeters in diameter. The fine-earth fraction includes sand, silt, and clay particles. Sand particles are 0.05 – 2.0 mm in size, silt particles are 0.002 – 0.05 mm in size, and clay particles are less than 0.002 mm in size.
- (102) ~~"Stream" means a body of concentrated flowing water in a natural low area or natural or manmade channel on the land surface. This includes ephemeral, intermittent, and perennial streams as those terms are defined at 15A NCAC 02B .0233(2)(d), (g), and (i), respectively, as well as streams which have been modified by channeling, culvert installation, or relocation.~~
- (103)(105) "Structurally sound" means a tank that has been installed in accordance with the tank manufacturer's requirements and is able to withstand a minimum uniform live loading of 150 pounds per square foot in addition to all loads to which an underground tank is normally subjected, such as dead weight of the material and soil over the tank, active soil pressure on tank walls, and the uplifting force of groundwater.
- (104)(106) "Surface water diversion" means a natural or constructed drainage feature used to divert surface water, collect runoff, and direct it to an effective outlet. Surface water diversions include waterways, berms, swales, and ditches. Surface water diversions are a type of artificial drainage.
- (105)(107) "TS-I systems" means advanced pretreatment systems approved by the Department in accordance with Section .1700 of this Subchapter that meet TS-I effluent standards in Table XXV of Rule .1201(a) of this Subchapter.
- (106)(108) "TS-II systems" means advanced pretreatment systems approved by the Department in accordance with Section .1700 of this Subchapter that meet TS-II effluent standards in Table XXV of Rule .1201(a) of this Subchapter.
- (107)(109) "Telemetry" means the ability to contact by phone, email, or another electronic medium. The telemetry unit shall continue alarm notifications to the designated party until the alarm condition is remedied or the telemetry unit is physically turned off.
- (108)(110) "Test system" means the dispersal system proposed for accepted status as part of a survey protocol identified in Rule .1706 of this Subchapter.
- (109)(111) "Third-party" means a person or entity engaged in testing or evaluation that may be compensated for their work product that is independent of the parties for whom testing or evaluation is performed and does not otherwise benefit regardless of the outcome. The third-party person or entity has knowledge of the

- subject area based upon relevant training and experience.
- (110)(112) "Timed dosing" means a configuration in which a specific volume of effluent is delivered to a component based upon a prescribed interval, regardless of facility water use variation over time.
- (111)(113) "Treatment media" means the media used for physical, chemical, and biological treatment in a wastewater treatment component.
- (112)(114) "Trench" means an excavation with a width less than or equal to three feet containing dispersal media and one or more laterals.
- (113)(115) "Underground utility" means any underground line, system, or infrastructure used for producing, storing, conveying, transmitting, identifying, locating, or distributing communication, electricity, gas, petroleum or petroleum products, hazardous liquids, water, steam, or sewage.
- (114)(116) "Unstable slopes" means areas showing indications of mass downslope movement such as debris flows, landslides, and rock falls.
- (115)(117) "Vertical separation" means the depth beneath the dispersal field infiltrative surface to a LC.
- (116)(118) "Warming kitchen" means a kitchen that ~~does not meet the requirements of North Carolina Food Code, Chapters 4-1 and 4-2. contains domestic equipment and is used for plating or dispensing food prepared or cooked at another location.~~
- (117)(119) "Water main standards" means design criteria for pipe and pipe joints and associated installation procedures used in potable water systems and that have been approved by North Carolina DEQ Public Water Supply Section in accordance with 15A NCAC 18C.
- (118)(120) "Watertight" means that no water moves into or out of the structure or device, except through designated inlets and outlets. Watertight tanks shall demonstrate compliance with the leak testing requirements in Rule .0805 of this Subchapter.

Authority G.S. 130A-335(e) and (f); S.L. 2023-77, s.2; S.L. 2024-49, s.4.11.

SECTION .0200 – PERMITS

15A NCAC 18E .0202 APPLICATION

(a) An application for an ~~IP, CA, and existing system authorization~~ IP and CA shall be submitted by the applicant to the ~~LHD, and approved in accordance with these Rules, for each site prior to the construction, location, or relocation of a residence, place of business, or place of public assembly.~~ LHD:

- (1) prior to the construction, location, or relocation of a residence, place of business, or place of public assembly;

- (2) prior to the construction, location, or relocation of a wastewater system; or
- (3) when an increase in DDF or wastewater strength is proposed for an existing system.

(b) An application for an existing system approval shall be submitted to the LHD prior to site modifications that require the issuance of a building permit.

~~(b)(c)~~ Prior to the repair of a wastewater system, an application for a CA shall be submitted to the LHD.

~~(e)(d)~~ A pending application for an IP, CA, or existing system authorization for which the LHD is awaiting action by the applicant shall expire 12 months from the date of application.

~~(d)(e)~~ When an IP, CA, or existing system authorization expires or is revoked, or an application for an IP or CA expires, a new application is required.

~~(e)(f)~~ For a Type V or VI system as specified in Table XXXII of Rule .1301(b) of this Subchapter, a new application shall be submitted at least 30 days prior to the OP expiring.

~~(f)(g)~~ An applicant may choose to contract with an LSS to conduct a soil and site evaluation in accordance with G.S. 130A-335(a2). The soil and site evaluation shall be submitted to the LHD as part of the application process.

~~(g)(h)~~ The application for an IP shall contain the following information:

- (1) name, mailing address, and phone number of the applicant and owner;
- (2) type of permit requested:
 - (A) new;
 - (B) change of use;
 - (C) expansion or increase in DDF; or
 - (D) wastewater system relocation;
- (3) site plan or plat indicating the locations of the following:
 - (A) existing and proposed facilities, structures, appurtenances, and wastewater systems;
 - (B) proposed wastewater system showing setbacks to property line(s) or other fixed reference point(s);
 - (C) existing and proposed vehicular traffic areas;
 - (D) existing and proposed water supplies, wells, springs, and water lines; and
 - (E) surface water, drainage features, and all existing and proposed artificial drainage, as applicable;
- (4) location, parcel identification number, other property identification, 911 address if known, acreage, and general directions to the property;
- (5) description of existing and proposed facilities and wastewater systems;
- (6) information needed to determine DDF and effluent strength of the facility(s) served, including number and function of individual design units, number of bedrooms and occupants per bedroom, or number of occupants;
- (7) whether wastewater other than DSE will be generated;

- (8) notification if the property includes, or is subject to, any of the following:
 - (A) previously identified jurisdictional wetlands;
 - (B) existing or proposed easements, rights-of-way, encroachments, or other areas subject to legal restrictions; or
 - (C) approval by other public agencies; and signature of applicant and owner.

~~(h)(i)~~ The application for a CA shall contain:

- (1) the information required in Paragraph ~~(e)(h)~~ of this Rule. A site plan or plat shall not be required with the application to repair a permitted wastewater system when the repairs will be accomplished on property owned and controlled by the owner and for which property lines are identifiable in the field;
- (2) identification of the proposed use of a grinder pump or sewage pump; and
- (3) the type of the proposed wastewater system specified by the applicant.

~~(i)(j)~~ The application for an existing system authorization shall contain:

- (1) name, mailing address, and phone number of the applicant and owner;
- (2) a site plan or plat indicating the locations of the existing and proposed facilities, existing wastewater systems and repair areas, existing and proposed water supplies, easements, rights-of-way, encroachments, artificial drainage, and all appurtenances;
- (3) location, parcel identification number, other property identification, 911 address if known, acreage, and directions to the property;
- (4) for reconnections, information needed to determine DDF of the facility served, including number and function of individual design units, number of bedrooms and occupants per bedroom, or number of occupants; and
- (5) signature of applicant and owner(s).

~~(j)(k)~~ Submittal of a signed application shall constitute right of entry to the property by an authorized agent.

Authority G.S. 130A-335; 130A-336; 130A-337; 130A-338; S.L. 2023-77, s.3; S.L. 2024-49, s.4.12.

15A NCAC 18E .0203 IMPROVEMENT PERMIT

(a) Upon receipt of a complete application for an IP, an authorized agent shall evaluate the site to determine whether the site is suitable or unsuitable for the installation of a wastewater system in accordance with Section .0500 of this Subchapter. If the site is classified suitable, an IP shall be issued in accordance with this Subchapter. The authorized agent shall prepare dated, written documentation of the soil and site conditions required to be evaluated in Section .0500 of this Subchapter.

(b) When the site is classified suitable an authorized agent shall issue an IP for the site that includes the items contained in G.S. 130A-336(a)(1) through (6) and the following information:

- (1) DDF, number of bedrooms, maximum number of occupants or people served, and wastewater strength in accordance with Section .0400 of this Subchapter;
- (2) required effluent standard - DSE, HSE, NSF/ANSI 40, TS-I, TS-II, or RCW in accordance with Table III of Rule .0402(a), Table XXV of Rule .1201(a), or Rule .1002, of this Subchapter;
- (3) all applicable setbacks and requirements in accordance with Section .0600 of this Subchapter;
- (4) description of the facility, structures, vehicular traffic areas, and other proposed improvements;
- (5) description of existing and proposed public or private water supplies, including private drinking water wells and springs and associated water lines;
- (6) a site plan or plat as defined in G.S. 130A-334 showing the existing and proposed property lines with dimensions, the location of the facility and appurtenances, the site for the proposed wastewater system and repair area, and the location of water supplies and surface water;
- (7) the proposed initial wastewater system and repair system areas and types, including usable depth to a LC, LTARs for each system, LTARs, and maximum trench depth that considers percent slope; and
- (8) permit conditions, such as site-specific site modifications, installation requirements, maintenance of the groundwater lowering system, etc.

(c) When the site is classified unsuitable, a signed, written report shall be provided to the applicant describing the unsuitable site characteristics and citing the applicable rule(s). If modifications or alternatives are available to support site reclassification to suitable this information shall be included in the report.

(d) The period of validity for the permit in accordance with G.S. 130A-335(f) shall be stated on the IP.

(e) The IP shall be transferable subject to the conditions set forth in G.S. 130A-336(a).

(f) An IP shall be suspended or revoked if:

- (1) the information submitted in the application is found to be incomplete, false, or incorrect;
- (2) the site is altered and the permitted system cannot be installed or operated as permitted;
- (3) conditions of the IP or the Rules of this Subchapter cannot be met;
- (4) a new IP is issued for the same design unit on the same property; or
- (5) an NOI is issued in accordance with G.S. 130A-336.1(b) or G.S. 130A-336.2(b) for the same design unit on the same property.

(g) An IP shall be applicable to both initial and repair dispersal field areas identified and approved on the IP. ~~IP and only a CA shall be issued if wastewater system repairs are necessary.~~

Authority G.S. 130A-335; 130A-336; S.L. 2023-77, s.4; S.L. 2024-49, s.4.13.

15A NCAC 18E .0204 CONSTRUCTION AUTHORIZATION

(a) The applicant shall obtain a CA after an IP has been issued and prior to the construction, location, or relocation of a facility, or the construction or repair of a wastewater system.

(b) Conditions of an IP shall be completed prior to the issuance of a CA. A CA shall be issued by an authorized agent for wastewater system installation when it is found that the IP conditions and Rules of this Subchapter are met.

(c) A CA may be issued at the same time as the IP if no conditions on the IP are required to be completed prior to CA issuance.

(d) Any necessary easements, rights-of-way, or encroachment agreements shall be obtained prior to the issuance of a CA.

(e) The CA shall specify the following:

- (1) all information required in Rule .0203(b) of this Section;
- (2) the initial wastewater system type and layout, location of all initial wastewater system components, and design details and specifications for the following, as applicable;
 - (A) tanks;
 - (B) collection sewers; sewers, supply lines, and force mains;
 - (C) pump requirements;
 - (D) advanced pretreatment;
 - (E) distribution devices; and
 - (F) trench width, length, and depth on the downslope side of the trench;
- (3) the nature of the Management Entity required and the minimum operation and maintenance requirements in accordance with Section .1300 of this Subchapter; and
- (4) permit conditions, such as site-specific installation requirements, maintenance of the groundwater lowering system, etc.

(f) A CA shall be issued for each wastewater system serving a facility. Separate CAs may be issued for individual components. A building permit shall not be issued for a design unit until CAs for all components of the wastewater system serving that design unit have been issued.

(g) Prior to the issuance of a CA for a system where all or part of the system will be under common or joint control, a draft multi-party agreement between the developer and an incorporated owners' association shall be submitted to and its conditions approved by the LHD. The draft multi-party agreement shall include and address the following, as applicable:

- (1) ownership;
- (2) transfer of ownership;
- (3) maintenance;
- (4) operation;
- (5) wastewater system repairs; and
- (6) designation of fiscal responsibility for the continued satisfactory performance of the wastewater system and repair or replacement of collection, treatment, dispersal, and other components.

(h) Systems or components under common or joint control include the following:

- (1) wastewater system serving a condominium or other multiple-ownership development; or
- (2) off-site systems serving two or more facilities where any components are under common or joint ownership or control.

(i) The CA shall be valid for a period equal to the period of validity of the IP and stated on the permit.

(j) The CA shall be transferable subject to the conditions set forth in G.S. 130A-336(a).

(k) A CA shall be suspended or revoked if:

- (1) the information submitted in the application is found to be incomplete, false, or incorrect;
- (2) the site is altered and the permitted system cannot be installed or operated as permitted;
- (3) conditions of the CA or the Rules of this Subchapter cannot be met;
- (4) a new CA is issued for the same design unit on the same property; or
- (5) an NOI is issued in accordance with G.S. 130A-336.1(b) or G.S. 130A-336.2(b) for the same design unit on the same property.

Authority G.S. 130A-335; 130A-336; 130A-338; S.L. 2024-49, s.4.14.

15A NCAC 18E .0206 EXISTING SYSTEM APPROVALS FOR RECONNECTIONS AND PROPERTY ADDITIONS

(a) ~~The LHD, an AOWE, or a certified inspector may issue an approval for an existing system approval reconnection when the new or improved facility is within the same footprint of the previous existing facility and when there is no increase in DDF or wastewater strength. Approval by an authorized agent shall be issued prior any of the following:~~ strength for the following:

- (1) ~~a facility being reconnected to an existing system; or a reconnection for a new or improved facility; or~~
- (2) ~~other site modifications as described in Paragraph (e) of this Rule: a site modification that requires a building permit, such as a swimming pool or storage shed.~~

(b) ~~Approvals~~ Existing system approvals as described in Paragraph (a) of this Rule for reconnecting a facility shall be issued by an authorized agent, AOWE, or certified inspector upon determination of the following:

- ~~(1) the site complies with its OP or the wastewater system was in use prior to July 1, 1977;~~
- ~~(2)~~(1) there is no current or past uncorrected malfunction of the system as described in Rule .1303(a)(2) of this Subchapter;
- ~~(3)~~(2) the DDF and wastewater strength for the proposed facility do not exceed that of the existing system;
- ~~(4)~~(3) the proposed facility or site modifications meet ~~meets~~ the setbacks in Section .0600 of this Subchapter; and Subchapter.

~~(5) the existing system is being operated and maintained as specified in G.S. 130A, Article 11, this Subchapter, and permit conditions.~~

~~(c) The issuance of the existing system approvals approval expires one year after the date of issuance. for modifications or expansions shall follow the provisions of this Rule.~~

~~(e) Prior to construction, relocation of a structure, the expansion of an existing facility's footprint, or other site modifications that require the issuance of a building permit, but that do not increase DDF or wastewater strength, an approval shall be issued by an authorized agent upon determination of the compliance of the proposed structure with setback requirements in Section .0600 of this Subchapter.~~

~~(d) An applicant shall obtain a CA from the LHD or an NOI from an AOWE prior to starting construction for any of the following:~~

- ~~(1) an increase in DDF;~~
- ~~(2) an increase in wastewater strength; or~~
- ~~(3) the location of the facility is not in the same footprint as the previous existing facility.~~

~~(d)(e) For approvals issued in accordance with this Rule the authorized agent, AOWE, or certified inspector shall provide written documentation of the approval to the applicant. The written documentation of the approval shall include the maximum number of occupants or people served and any other information relating to the facility use, including showing the location of existing and proposed structures, describe the site modification, system use, DDF, wastewater strength, number of bedrooms, and number of occupants, and shall include a site plan showing the location, dimensions, and setbacks of existing and proposed structures to the existing system and repair area.~~

~~(e)(f) When an approval cannot be issued in accordance with this Rule, a signed, written report shall be provided by the authorized agent, AOWE, or certified inspector, as applicable, to the applicant describing the reasons for the denial, citing the applicable rule(s), and including notice of the right to appeal under G.S. 130A-24 and 150B. rule(s). The LHD shall include the notice of the right to appeal under G.S. 130A-24 and 150B.~~

~~(g) The owner is responsible for providing the location of the property lines and site modifications. When the existing wastewater system cannot be located, the owner is responsible for locating the existing wastewater system and providing that information to the LHD, AOWE, or certified inspector. The owner is responsible for the accuracy of the information provided on the application. The owner is responsible for ensuring that all setback requirements in Section .0600 of this Subchapter are met for the property addition.~~

~~(h) Notwithstanding this Rule, the owner of a wastewater system may elect to utilize the Affidavit for Existing Wastewater System Approval offered pursuant to G.S. 160D-1110(h1) to obtain a wastewater system approval and any necessary permits.~~

Authority G.S. 130A-335; 130A-337(c) and (d); S.L. 2023-77, s.5; S.L. 2024-49, s.4.15.

15A NCAC 18E .0207 ALTERNATIVE WASTEWATER SYSTEM PERMITTING OPTIONS

~~(a) The owner of a wastewater system may obtain an IP or a CA from the LHD or an NOI from a PE or AOWE, as applicable.~~

~~(a)~~(b) An ~~applicant~~ owner may choose to use an EOP ~~for wastewater systems~~ in accordance with G.S. 130A-336.1 or an AOWE in accordance with G.S. ~~130A-336.2~~, 130A-336.2 to obtain a wastewater system approval. ~~The An~~ EOP ~~shall~~ may be used if the wastewater system design requires a PE in accordance with Rule .0303(a) of this Subchapter.

(c) For an EOP, a PE may use pretreatment technologies not approved in the State provided the engineering report attached to the ATO specifies that pretreatment technology and includes the manufacturer's approval for use of the pretreatment technology for the conditions at that site.

~~(b)~~(d) Prior to the submittal of an NOI for an EOP or an AOWE system as required by G.S. 130A-336.1(b) or G.S. 130A-336.2(b), respectively, a soil and site evaluation shall be conducted in accordance these Statutes and the Rules of this Subchapter. The NOI submitted pursuant to this Rule shall include the signed and sealed soils report of the LSS or LG releasing the soils report to be used in the issuance of the NOI.

(e) The owner of an EOP system or an AOWE system shall be responsible for the following:

- (1) preventing modifications or alterations on the site, including the designated initial and repair dispersal areas;
- (2) obtaining written approval from the PE or AOWE prior to making any changes to the DDF, wastewater strength, or landscape position of the facility; and
- (3) identifying any drinking water wells, public water supplies, or wastewater systems on the property and on adjoining property if within the setback requirements found in Section .0600 of this Subchapter.

~~(e)~~(f) The NOI for an EOP or AOWE system shall be submitted to the LHD in the county where the facility is located by the applicant, owner, PE authorized as the legal representative of the owner, or AOWE authorized as the legal representative of the owner. The NOI shall be submitted on the common form for EOP or the common form for AOWE provided by the Department. The common forms are available by accessing the Department's website at <https://ehs.ncpublichealth.com/oswp/>. The forms shall include all the information specified in G.S. 130A-336.1(b) or 130A-336.2(b) and the following:

- (1) the LSS's, and LG's name, license number, address, e-mail address, and telephone number, as applicable. The installer's name, license number, address, e-mail address, and telephone number shall be provided on the EOP common form;
- (2) information required in Rule .0202 of this Section for IP and CA applications;
- (3) identification and location on the site plan of existing or proposed potable water supplies, geothermal heating and cooling wells, and groundwater monitoring wells for the proposed site. The PE or AOWE shall reference any existing permit issued for a private drinking water well, public water system as defined in G.S. 130A-313(10), or a wastewater system on both the subject and adjoining properties to

provide documentation of compliance with setback requirements in Section .0600 of this Subchapter; and

- (4) proof of insurance for the PE, LSS, and LG, as applicable. Proof of insurance for the installer shall be provided with the NOI.

~~(d)~~(g) The PE or AOWE design shall incorporate findings and recommendations on soil and site conditions, limitations, site modifications, and geologic and hydrogeologic conditions specified by the LSS or LG, as applicable, and in accordance with G.S. 130A-336.1(b)(8) or G.S. 130A-336.2(b)(9), respectively. ~~For an EOP, when the PE chooses to employ pretreatment technologies not approved in this State, the engineering report shall specify the proposed technology and the associated siting, installation, operation, maintenance, and monitoring requirements, including written manufacturer's endorsement of the proposed use.~~

(e)(h) The PE or AOWE shall allow for the use of Accepted Systems in accordance with G.S. 130A-336.1(e)(5) or G.S. 130A-336.2(d)(5), respectively.

~~(f)~~(i) No building permit for construction, location, or relocation shall be issued until after a decision of completeness of the NOI is made by the LHD. If the LHD fails to act within 15 business days for an EOP or within five business days for an AOWE, the common form is deemed complete.

~~(g)~~(j) If there are any changes in the site plan that can impact the wastewater system, such as moving the house or driveway, site alterations, or if the applicant chooses to change the DDF or the wastewater strength prior to wastewater system construction, a new NOI shall be submitted to the LHD. The applicant shall request in writing that the PE or AOWE invalidate the prior NOI with a signed and sealed letter sent to the applicant and LHD.

~~(h)~~(k) Construction of the wastewater system shall not commence until the system design plans and specifications have been provided to the installer and the signed and dated statement by the installer is provided to the applicant as required by G.S. 130A-336.1(e)(4)(b) or G.S. 130A-336.2(e)(3). The applicant shall be responsible for preventing modifications or alterations of the site for the wastewater system and the system repair area before, during, and after any construction activities for the facility, unless approved by the licensed professionals.

~~(i)~~(l) Prior to the LHD providing written confirmation on the common form for the ATO completeness, the applicant, owner, PE, or AOWE shall submit the following to the LHD:

- (1) documentation that all reporting requirements identified in G.S. 130A-336.1(l) or 130A-336.2(l) have been met;
- (2) information set forth in Rule .0301(d) of this Subchapter;
- (3) system start-up documentation, including applicable baseline operating parameters for all components;
- (4) documentation by the applicant that all necessary legal agreements, including easements, encroachments, multi-party agreements, and other documents have been prepared, executed, and recorded in accordance with Rule .0301(b) and (c) of this Subchapter;

(5) installer's name, license number, address, e-mail address, telephone number, and proof of insurance for AOWE only; and

(6) record drawings.

~~(j)~~(m) The owner of a wastewater system approved in accordance with this Rule shall be responsible for maintaining the wastewater system in accordance with the written operation and management program required in G.S. 130A-336.1(i)(1) or 130A-336.2(i)(1) and Section .1300 of this Subchapter.

~~(k)~~(n) For repair of a malfunctioning EOP or AOWE system, an NOI shall be submitted in accordance with this Rule. Rule .1306 of this Subchapter shall be followed for repair of a malfunctioning system. The Management Entity shall notify the LHD within 48 hours of the system malfunction.

~~(l)~~(o) The applicant of an EOP or AOWE system who proposes to change the use of the facility shall contact the licensed professionals on the NOI to determine whether the current system would continue to comply with the Rules of this Subchapter for the proposed change of use. The licensed professionals shall determine what, if any, modifications shall be necessary for the wastewater system to continue to comply with the Rules of this Subchapter following the proposed change of use. An NOI reflecting the change of use and any required modifications to the system shall be submitted to the LHD. The permitting process set forth in this Rule shall be followed.

~~(m)~~(p) For EOP and AOWE systems, the LHD shall:

- (1) file all EOP and AOWE documentation consistent with current permit filing procedures at the LHD;
- (2) revoke an IP or CA for a wastewater system ~~prior to issuing written confirmation of the NOI~~ for the same design unit on the same property, if applicable;
- (3) revoke an OP for a wastewater system prior to issuing written confirmation of an ATO for the same design unit on the same property, if applicable;
- (4) submit a copy to the Department of the common form indicating written confirmation of NOI and ATO completeness;
- (5) participate in a post-construction conference in accordance with G.S. 130A-336.1(j) or G.S. 130A-336.2(j);
- (6) review the performance and operation reports submitted and perform on-site compliance inspections of the wastewater system in accordance with Rule .1305(c) and Table XXXII of Rule .1301(b) of this Subchapter;
- (7) investigate complaints regarding EOP and AOWE systems;
- (8) issue a NOV for systems determined to be malfunctioning in accordance with Rule .1303(a)(2) of this Subchapter. The LHD shall direct the owner to contact the PE, LSS, LG, and installer, as applicable, for determination of the reason of the malfunction and development of an NOI for repairs; and

(9) require an owner receiving a NOV to pump and haul sewage in accordance with Rule .1306 of this Subchapter.

~~(n)~~(q) The applicant may contract with different licensed professionals than those originally identified on the initial NOI to complete an EOP or AOWE project. When the applicant contracts with different licensed professionals, a revised NOI reflecting the new licensed professionals and proof of insurance shall be submitted to the LHD.

~~(o)~~(r) The applicant and all licensed professionals shall comply with all applicable federal, State, and local laws, rules, and ordinances.

(s) A wastewater system that has been repaired is not required to have an additional repair area.

(t) A wastewater system permitted in accordance with G.S. 130A-336.2 shall follow the rules established by the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board.

Authority G.S. 130A-335; 130A-336.1; 130A-336.2; S.L. 2019-151, s.14; S.L. 2023-77, s.6; S.L. 2024-49, s.4.16.

SECTION .0300 - RESPONSIBILITIES

15A NCAC 18E .0301 OWNERS

(a) The owner of a wastewater system shall:

- (1) comply with G.S. 130A, Article 11, the Rules of this Subchapter, and permit conditions regarding wastewater system location, including repair area;
- (2) identify property lines and fixed reference points in the field prior to the LHD site evaluation;
- (3) make the site accessible for the site evaluation described in Rule .0501 of this Subchapter;
- (4) field stake or otherwise mark the proposed facility location and all associated appurtenances, such as vehicular traffic areas, garage, swimming pool, shed, entryways, decks, etc.;
- (5) provide for pits with excavated steps or a ramp in the pit that allow for ingress and egress when necessary for a soil and site evaluation at the site as determined by the LHD or the Department in accordance with Rule .0501 of this Subchapter;
- (6) provide for system operation, maintenance, monitoring, and reporting, including access for system maintenance;
- (7) maintain artificial drainage systems, as applicable;
- (8) prevent encroachment on the initial wastewater system and repair area by utilities, structures, vehicular traffic areas, etc.;
- (9) provide documentation supporting an exemption from the minimum setback requirements in Rule .0601(a) of this Subchapter to the LHD, as applicable;
- (10) establish and maintain site-specific vegetation over the dispersal field and repair area; and

(11) repair a malfunctioning system as necessary in accordance with this Subchapter.

~~(b) The entire initial wastewater system and repair area shall be on property owned or controlled by the wastewater system owner. The entire initial wastewater system and repair area shall be on property controlled by the wastewater system owner. Property is considered controlled by the wastewater system owner when the owner has an easement or encroachment agreement for the property where the wastewater system or repair area is located. An easement or encroachment agreement shall be required for the permitting of any of the following installations:~~

- (1) any part of the wastewater system is located in a common area with other wastewater systems;
- (2) any part of the wastewater system is located in an area with multiple or third-party ownership or control;
- (3) any part of the wastewater system is proposed to be in an off-site area; or
- (4) any part of the wastewater system and the facility are located on different lots or tracts of land and cross a property line or right-of-way.

(c) Any necessary easements, rights-of-way, or encroachment agreements shall be obtained prior to the issuance of a CA. The easement, right-of-way, or encroachment agreement shall meet the following conditions:

- (1) be appurtenant to specifically described property and run with the land;
- (2) not be affected by change of ownership or control;
- (3) remain valid for as long as the wastewater system is required for the facility that it is designed to serve;
- (4) include a description of the uses being granted and shall include ingress, egress, and regress, system installation, operation, maintenance, monitoring, and repairs and any other activity required to remain in compliance with this Subchapter, including that the easement, right-of-way, or encroachment remain free of structures, landscaping, or any other activities that would interfere with the use of the easement or encroachment for its intended purpose;
- (5) specify in a deed by metes and bounds description the area or site required for the wastewater system and repair area, including collection sewers, force mains, supply lines, tanks, raw sewage lift stations, distribution devices, and dispersal fields; and
- (6) be recorded with the register of deeds in the county where the system and facility are located.

(d) Prior to OP issuance for a system required to be designed by an authorized designer or PE, the owner shall submit to the LHD a statement signed by the authorized designer or PE specifying that the system has been installed in accordance with the permitted design. For systems designed by a PE, the statement shall be affixed with the PE seal.

Authority G.S. 130A-335; S.L. 2023-77, s.7; S.L. 2024-49, s.4.17.

15A NCAC 18E .0302 LOCAL HEALTH DEPARTMENT AND DEPARTMENT

(a) The permitting of a wastewater system shall be the responsibility of agents authorized by the Department in accordance with G.S. 130A, Article 4 and 15A NCAC 01O .0100, and registered with the North Carolina State Board of Environmental Health Specialist Examiners, as required in G.S. 90A, Article 4, unless the permit is issued in accordance with G.S. 130A-336.1 or G.S. 130A-336.2 and Rule .0207 of this Subchapter.

(b) When the wastewater system crosses county lines or the facility is in one county and the wastewater system is in another county, the LHD in the county that assesses property taxes on the facility shall implement the requirements of this Subchapter.

(c) When a LHD issues a NOV to an owner of a wastewater system pursuant to this Rule, the LHD may pursue legal remedies no sooner than 30 days after the date of the NOV, unless the NOV specifies a shorter time frame. The LHD shall issue an NOV to the owner in the following situations:

- (1) the wastewater system is malfunctioning in accordance with Rule .1303(a)(2) of this Subchapter;
- (2) the wastewater system creates or has created a public health hazard or nuisance by effluent surfacing, or effluent discharging into groundwater or surface waters;
- (3) the wastewater system is partially or totally destroyed, such as components that are crushed, broken, damaged, or otherwise rendered unusable or ineffective so that the component will not function as designed;
- (4) the owner does not meet the ownership and control requirements of Rule .0301(b) of this Section;
- (5) the wastewater system was installed without a permit issued in accordance with Section .0200 of this Subchapter; ~~or~~
- (6) when an individual advanced pretreatment system at a single site is out of compliance in accordance with Rule .1302(f) of this Subchapter; or
- ~~(6)~~(7) the facility was expanded without a permit issued in accordance with Section .0200 of this Subchapter.

(d) The authorized agent shall issue a written notice of non-compliance to the owner when the wastewater system is non-compliant with G.S. 130A, Article 11, the Rules of this Subchapter, ~~or the performance standards~~ or conditions in the OP or ATO.

(e) The LHD shall submit a monthly activity report to the Department every month on a form provided by the Department. The monthly activity report collects information on the number and types of permits issued by the LHD.

~~(e)~~(f) The Department shall review and approve the wastewater system, including design, layout, plans, and specifications for all wastewater systems that serve a facility with a cumulative DDF greater than 3,000 gpd, as determined in Section .0400 of this

Subchapter. The Department shall also review and approve plans and specifications for the following:

- (1) IPWW systems required by this Section to be designed by a PE unless the wastewater has been determined to not be IPWW in accordance with Rule .0303(a)(17) of this Section;
- (2) advanced pretreatment or drip dispersal systems not previously approved by the Department; and
- (3) any other system so specified by the authorized agent.

~~(f)(g)~~ Department review shall not be required when the cumulative DDF for the facility is greater than 3,000 gpd as determined in Section .0400 of this Subchapter and:

- (1) the wastewater system is made up of an individual wastewater system that serves an individual dwelling unit or several individual wastewater systems, each serving an individual dwelling unit; or
- (2) the wastewater system meets the following criteria:
 - (A) the individual wastewater system(s) serves individual design units with a DDF less than or equal to 1,500 gpd;
 - (B) the initial and repair dispersal fields for each individual wastewater system(s) is, at a minimum, 20 feet from any other individual wastewater system;
 - (C) the total DDF for all dispersal fields is less than or equal to 1,500 gpd per acre based on the portion of the land containing the dispersal fields; and
 - (D) the wastewater is not HSE as identified in Section .0400 of this Subchapter.

~~(g)(h)~~ Department review shall not be required when a PE calculates the proposed DDF to be less than or equal to 3,000 gpd based on engineering design utilizing low-flow fixtures and low-flow technologies in accordance with Rule .0403(e) of this Subchapter. Pursuant to S.L. 2013-413, s.34, as revised by S.L. 2014-120, s.53, neither the Department nor any LHD shall be liable for a system approved or permitted in accordance with this Paragraph.

~~(h)(i)~~ For systems that require Department review and approval, an IP shall not be issued by the LHD until the site plan or plat and system layout, including details for any proposed site modifications, are approved by the Department. A CA shall not be issued by the LHD until plans and specifications, submitted in accordance with Rule .0304 of this Section, are approved by the Department in accordance with these Rules and engineering practices.

~~(i)(j)~~ The Department shall provide technical assistance to the LHD as needed for interpretation of this Subchapter, in accordance with the recognized principles and practices of soil science, geology, engineering, and public health.

(k) The LHD shall adhere to G.S. 130A, Article 11, the Rules of this Subchapter, and all written guidance and interpretations from the Department.

Authority G.S. 130A-335; S.L. 2024-49, s.4.18.

15A NCAC 18E .0303 LICENSED OR CERTIFIED PROFESSIONALS

(a) Any wastewater system that meets one or more of the following conditions shall be designed by a PE if required in G.S. 89C:

- (1) the system has a DDF greater than 3,000 gpd, as determined in Section .0400 of this Subchapter, except where the system is limited to an individual wastewater system serving an individual dwelling unit or multiple individual wastewater systems, each serving an individual dwelling unit;
- (2) the system requires advanced pretreatment or drip dispersal and is not a system approved under Sections .1500, .1600, or .1700 of this Subchapter;
- (3) pressure dispersal systems that require pumping more than 500 feet horizontally or more than 50 feet of net elevation head;
- (4) pressure dosed gravity distribution systems that require pumping more than 1,000 feet horizontally or more than 100 feet of net elevation head;
- (5) dosing systems or force mains that have one or more intermediate high points greater than five feet;
- (6) the system requires pumping downhill to a pressure dosed gravity or pressure dispersal field where the volume of the supply line that could drain to the dispersal field between doses exceeds 25 percent of the required dose volume;
- ~~(7) pressure dispersal systems and pressure dosed gravity systems with a DDF greater than 600 gpd serving a single design unit;~~
- ~~(8)(7)~~ pressure dispersal systems where there is more than 15 percent variation in line length. The 15 percent variation shall be measured by comparing the longest line length to the shortest line length in any dispersal field;
- ~~(9) two or more septic tanks or advanced pretreatment units, each serving a separate design unit, and served by a common dosing tank;~~
- ~~(10)(8)~~ a STEP system with a pressure sewer or other pressure sewer system receiving effluent from two or more pump tanks;
- ~~(11) an adjusted DDF is proposed based on the use of low flow fixtures or low flow technologies in accordance with Rule .0403(e) of this Subchapter;~~
- ~~(12)(9)~~ the system requires use of sewage pumps prior to the septic tank or other pretreatment system, except for systems governed by the North Carolina Plumbing Code or which consist of grinder pumps and associated pump basins that

- are approved and listed in accordance with standards adopted by NSF International;
- ~~(13)~~(10) an individual system is required to use more than one pump or siphon in a single pump tank. Examples include dual pumps as set forth in Rule .1101(b) of this Subchapter;
- ~~(14)~~(11) the system includes a collection sewer prior to the septic tank or other pretreatment system serving two or more design units, except for systems governed by the North Carolina Plumbing Code;
- ~~(15)~~(12) the wastewater system includes structures that have not been pre-engineered;
- ~~(16)~~(13) the proposed pump model is not listed by a third-party electrical testing and listing agency;
- ~~(17)~~(14) the system is designed for the collection, treatment, and dispersal of IPWW, except under the following circumstances:
 - (A) the Department has determined that the wastewater generated by the proposed facility has a pollutant strength that is lower than or equal to DSE and does not require specialized treatment or management. This determination shall be made based on a review of the wastewater generating process, wastewater characteristic data, and material safety data sheets, as compared to DSE; or
 - (B) the Department has approved a treatment system or process and management method proposed by the facility owner that generates effluent with a pollutant strength which is lower than or equal to DSE. This approval shall be based on a review of documentation provided in conjunction with prior project specific reviews or a PIA approval. This approval shall be based on data from other facilities, management practices, and other information provided by the owner;
- ~~(18)~~(15) the wastewater system is designed for RCW;
- ~~(19)~~(16) any wastewater system designed by a licensed professional that has been determined to be within the practice of engineering in accordance with G.S. 89C-3(6) by the North Carolina Board of Examiners for Engineers and Surveyors;
- ~~(20)~~(17) any wastewater system approved in accordance with Sections .1500, .1600, and .1700 of this Subchapter that requires in the RWTS or PIA Approval that the system be designed by a PE; and
- ~~(21)~~(18) any system or system component where the Rules of this Subchapter provide for an engineer to propose alternative materials,

- ~~(22)~~ capacity determination, or performance requirements; and requirements.
~~any other system so specified by the LHD, based on wastewater system complexity and LHD's experience with the proposed system type.~~
- (b) A PE, in accordance with G.S. 89C, may propose an alternative design for a facility projected to generate HSE in accordance with Rule .0401(h) of this Subchapter. The alternative design shall include supporting documentation showing that the proposed system design will meet DSE in Table III of Rule .0402(a) of this Subchapter. The alternative design shall be reviewed and approved by the Department unless the system has been approved in accordance with Section .1700 of this Subchapter.
- (c) Prior to the issuance of an IP or CA, the LSS or LG shall sign and affix their seal to the consent required by this Rule, which shall be attached to the plans and specifications submitted to the LHD.
- ~~(e)~~(d) Plans and specifications for the use of a groundwater lowering system to comply with the vertical separation to a SWC shall be prepared by a licensed professional if required in G.S. 89C, 89E, or 89F. Prior to the issuance of an IP or CA, the plans and specifications shall be reviewed and approved by the authorized agent if the plans and specifications meet the requirements of Rules .0504 and .0910 of this Subchapter and accepted design practices.
- ~~(4)~~(e) An installer shall construct, install, or repair wastewater systems as required by G.S. 90A, Article 5. The installer shall be responsible for the following:
 - (1) certification at the required level according to the system design specifications as required by G.S. 90A, Article 5;
 - (2) notification to the LHD upon completion of the system installation and each stage requiring inspection as conditioned on a CA;
 - (3) participation in a preconstruction conference when specified in the CA or by the RWTS or PIA Approval;
 - (4) participation during the inspection of the wastewater system by the authorized agent;
 - (5) participation during the post-construction conference and all other requirements when the wastewater system is permitted in accordance with Rule .0207 of this Subchapter and G.S. 130A-336.1 or G.S. 130A-336.2; and
 - (6) final cover of the system after LHD approval. The wastewater system shall be in the same condition when covered as when approved.
- ~~(e)~~(f) The Management Entity, or its employees, shall hold a valid and current certificate or certifications as required for the system from the Water Pollution Control Systems Operators Certification Commission. Nothing in this Subchapter shall preclude any requirements for system Management Entities in accordance with G.S. 90A, Article 3.
- ~~(f)~~(g) Nothing in this Rule shall be construed as allowing any licensed professional to provide services for which he or she has neither the educational background, expertise, or license to

perform, or is beyond his or her scope of work and the applicable statutes for their respective professions.

~~(g)~~(h) The PE, AOWE, or authorized designer shall provide a written statement to the owner specifying that construction is complete and in accordance with approved plans, specifications, and modifications. This statement shall be based on periodic observations of construction and a final inspection for design compliance. Record drawings shall be provided to the owner and LHD when any change has been made to the wastewater system installation from the approved plans.

(i) A LHD may not require any system other than those identified in Paragraph (a) of this Rule to be designed by a PE.

Authority G.S. 89C; 89E; 89F; 90A; 130A-335; S.L. 2023-77, s.8; S.L. 2024-49, s.4.19.

SECTION .0400 – DESIGN DAILY FLOW AND EFFLUENT CHARACTERISTICS

15A NCAC 18E .0401 DESIGN DAILY FLOW

(a) The minimum DDF for dwelling units shall be 120 gpd per bedroom or 60 gpd per person when occupancy exceeds two persons per bedroom, whichever is greater. ~~based on:~~

- (1) ~~175 gpd for a one bedroom dwelling unit with no more than two occupants and 400 square feet of living space or less; or~~
- (2) ~~120 gpd per bedroom with a minimum of 240 gpd per dwelling unit or 60 gpd per person when occupancy exceeds two persons per bedroom, whichever is greater.~~

(b) DDF for facilities other than dwelling units shall be in accordance with Table II as follows:

TABLE II. Design daily flow for Facilities

Facility type	Design daily flow
Commercial	
Airports, railroad stations, bus and ferry terminals, etc.	5 gal/traveler, food preparation not included
Barber shops	50 gal/chair
Bars, cocktail lounges es	20 gal/seat, food preparation not included
Beauty shops, style shops, hair salons	125 gal/chair
Bed and breakfast homes and inns	Dwelling unit DDF based on Paragraph (a) of this Rule plus 120 gal/rented room which includes the following: Meals served to overnight guests Laundry for linens 150 gal/room with cooking facilities in individual rooms
Event Center es	5 gal/person with toilets and hand sinks up to 4 hrs 10 gal/person with toilets and hand sinks up to 8 hrs 15 gal/person with toilets and hand sinks greater than 8 hrs Add 5 gal/person with full kitchen
Markets open less than four days/week, such as a flea market or farmers market	30 gal/stall or vendor, food preparation not included
Marinas with no holding tank discharge included	30 gal/boat slip, with bathhouse 10 gal/boat slip, wet slips or slips on dock 5 gal/boat slip, dry storage or warehouse
Motels/hotels	120 gal/room includes the following: No cooking facilities in individual rooms other than a microwave or other similar devices No food service or limited food service establishment Laundry for linens 150 gal/room with cooking facilities in individual rooms
Offices and factories with no IPWW included	12 gal/employee/≤ 8 hr shift Add 2 gal/employee/hr for more than 8 hr shift Add 10 gal/employee for showers
Stores, shopping centers, and malls	100 gal/1,000 ft ² of retail sales area, food preparation not included
Warehouse that are not retail sales warehouses	100 gal/loading bay or 12 gal/employee/≤ 8 hr shift Add 2 gal/employee/hr for more than 8 hr shift
Storage warehouse including self-storage facilities and does not include caretaker residence	12 gal/employee/≤ 8 hr shift Add 2 gal/employee/hr for more than 8 hr shift
Alcoholic beverage tasting areas with no process wastewater included	200 gal/1,000 ft ² of tasting area floor space and includes glass washing equipment Food preparation and food clean up not included 12 gal/employee/≤ 8 hr shift
Camps/Campgrounds	

PROPOSED RULES

Summer camps with overnight stays*	60 gal/person, applied as follows: 15 gal/person/food preparation 20 gal/person/toilet facilities 10 gal/person/bathing facilities 15 gal/person/laundry facilities
Day camps not inclusive of swimming area bathhouse*	20 gal/person and 5 gal/meal served with multiuse service or 3 gal/meal served with single-service articles
Temporary Labor Camp or Migrant Housing Camp with overnight stays*	60 gal/person, applied as follows: 15 gal/person/food preparation 20 gal/person/toilet facilities 10 gal/person/bathing facilities 15 gal/person/laundry facilities
Travel trailer or RV in an RV park*	100 gal/space
Recreational Park Trailer or Park Model Trailer 400 ft ² or less in an RV park*	150 120 gal/space
Bathhouse for campsites and RV park sites with no water and sewer hook ups with a maximum of four people per campsite	70 gal/campsite
Food preparation facilities	
Food Establishments with multiuse articles*	25 gal/seat or 25 gal/15 ft² of floor space open 6 hrs/day or less 40 gal/seat or 40 gal/15 ft² of floor space open 6 to 16 hrs/day Add 4 gpd/seat for every additional hour open beyond 16 hrs
Food Establishments with single service articles*	20 gal/seat or 20 gal/15 ft² of floor space open 6 hrs/day or less 30 gal/seat or 30 gal/15 ft² of floor space open 6 to 16 hrs/day Add 3 gpd/seat for every additional hour open beyond 16 hrs
Food stand with up to eight seats, mobile food units, and commissary kitchens*	50 gal/100 ft ² of food stand, food unit, or food prep floor space and 12 gal/employee/≤ 8 hr shift Add 2 gal/employee/hr for more than 8 hr shift
Other food service facilities*	5 gal/meal served with multiuse articles 3 gal/meal served with single service articles
Meat markets or fish markets with no process wastewater included*	50 gal/100 ft ² of floor space and 12 gal/employee/≤ 8 hr shift Add 2 gal/employee/hr for more than 8 hr shift
Health care and other care institutions	
Hospitals*	300 gal/bed
Rest homes, assisted living homes, <u>group homes</u> , and nursing homes*	150 gal/bed with laundry 75 gal/bed without laundry Add 60 gal/resident employee with laundry
Day care facilities <u>Family child care home or child care centers</u>	15 gal/person open ≤ 12 hr shift without laundry Add 1 gal/person/hr open for more than 12 hrs per day Add 5 gal/person with full kitchen
Group homes, drug <u>Drug</u> rehabilitation, mental health, and other care institutions	75 gal/person with laundry <u>Add 12 gal/employee/≤ 8 hr shift or 60 gal/resident employee</u> <u>Add 2 gal/employee/hr for more than 8 hr shift</u>
Orphanages	60 gal/student or resident employee with laundry
Public access restrooms	
Convenience store, service station, truck stop*	250 gal/toilet or urinal meeting the following: Open less than 16 hrs/day Food preparation not included Retail space not included
	325 gal/toilet or urinal meeting the following: Open 16 to 24 hrs/day Food preparation not included Retail space not included
Highway rest areas and visitor centers*	325 gal/toilet or urinal or 10 gal/parking space, whichever is greater
Recreational facilities	

PROPOSED RULES

Bowling center	50 gal/lane, food preparation not included
Community center, gym se	5 gal/person plus 12 gal/employee/≤ 8 hr shift Add 2 gal/employee/hr for more than 8 hr shift or 50 gal/100 ft ² , whichever is greater
Country club or golf course	10 gal/person 12 gal/employee/≤ 8 hr shift Add 2 gal/employee/hr for more than 8 hr shift 3 gal/person for convenience stations Food preparation not included
Fairground	250 gal/toilet or urinal
Fitness center, spas, karate, dance, exercise se	50 gal/100 ft² of floor space used by clientele 5 gal/person Add 10 gal/person for showers Food preparation not included
Recreational park, State park, county park, and other similar facilities with no sports facilities	10 gal/parking space
Outdoor sports facilities, mini golf, batting cages, driving ranges, motocross, athletic park, ball fields, stadium, and other similar facilities	250 gal/toilet or urinal, 5 gal/seat, or 10 gal/parking space, whichever is greater Food preparation not included
Auditorium, theater, amphitheater, drive-in theater	2 gal/seat or 10 gal/parking space, whichever is greater Food preparation not included
Swimming pools and bathhouses	5 gal/person domestic waste only, bathing load of pool may be used as an alternative method of sizing
Sports facilities courts or other similar facilities	250 gal/toilet or urinal or 50 gal/court, whichever is greater
Institutions	
Church or other religious institution*	2 gal/seat sanctuary only 3 gal/seat with warming kitchen in same structure as sanctuary 5 gal/seat with full kitchen in same structure as sanctuary
Public or private assembly halls used for recreation, regularly scheduled meetings, events, or amusement se * For churches, flow shall be in addition to sanctuary structure flow	2 gal/person with toilets and hand sinks 3 gal/person with addition of a warming kitchen 5 gal/person with full kitchen
Schools	
Day schools*	6 gal/student with no cafeteria or gymnasium 9 gal/student with cafeteria only <u>9 gal/student with a gymnasium only</u> 12 gal/student with cafeteria and gymnasium
After school program	5 gal/student in addition to flow for regular school day
Boarding schools	60 gal/student and resident employee with laundry

* Facility has potential to generate HSE.

~~se Designer shall use the maximum building occupancy assigned by the local fire marshal in calculating DDF unless another method for determining DDF is proposed, including the justification for not using the maximum building occupancy.~~

(c) The minimum DDF from any facility other than a dwelling unit shall be 100 gpd. For facilities with multiple design units, the minimum DDF shall be 100 gpd per design unit. The DDF of the facility shall be the sum of all design unit flows.

(d) DDF determination for wastewater systems with facilities not identified in this Rule shall be determined using available water use data, capacity of water-using fixtures, occupancy or operation patterns, and other measured data from the facility itself or a comparable facility.

(e) Where laundry is not specified for a facility in Table II, but is proposed to be provided, the DDF shall be adjusted to account for the proposed usage and machine water capacity. The applicant or

a licensed professional shall provide cut-sheets for laundry machines proposed for use in facilities.

(f) HVAC unit or ice machine condensate, gutter or sump pump discharge, water treatment system back flush lines, or similar incidental flows shall not discharge to the wastewater system, unless a PE designs the wastewater system for these flows.

(g) Unless otherwise noted in Table II, the DDF per unit includes employees.

(h) Food service facilities and other facilities that are projected to generate wastewater with constituent levels greater than DSE, as defined in Rule .0402 of this Section, are identified in Table II with a single asterisk (*) as HSE. Any facility that has a food

service component that contributes 50 percent or more of the DDF shall be considered to generate HSE. Determination of wastewater strength shall be based on projected or measured levels of one or more of the following: BOD, TSS, FOG, or TN. Table III of Rule .0402(a) of this Section identifies the constituent limits for DSE.

(i) Wastewater with constituents other than those listed in Table III of Rule .0402(a) of this Section may be classified as IPWW as defined in G.S. 130A-334(2a) on a site-specific basis.

(j) A request for an adjusted DDF shall be made in accordance with Rule .0403 of this Section.

Authority G.S. 130A-335(e); S.L. 2013-413, s.34; S.L. 2014-120, s.53; S.L. 2023-77, s.9; S.L. 2024-49, s.4.20.

15A NCAC 18E .0402 SEPTIC TANK EFFLUENT CHARACTERISTICS

(a) Septic tank effluent standards for DSE shall be as set forth in Table III of this Paragraph. Effluent that exceeds these standards for any constituent shall be considered HSE. When measured, effluent characteristics shall be based on at least two effluent samples collected during normal or above-normal operating periods. A normal period is when the occupancy, operation, or use of the facility is average when compared to the occupancy, operation, or use over a time frame of a minimum of one year. The samples shall be taken from the existing or a comparable facility on non-consecutive days of operation. A comparable facility is based on documentation showing that the hours of operation, floor plan, water use practices, water-using fixtures, location, etc., are similar to the facility listed in the application. The samples shall be analyzed for a minimum of BOD₅, TSS, TN, and FOG.

Table III. Septic tank effluent standards for DSE

Constituent	Maximum DSE mg/L
BOD	≤ 350
TSS	≤ 100
TN * TKN	≤ 100
FOG	≤ 30

*TN is the sum of TKN, nitrate nitrogen, and nitrite nitrogen

(b) Designs for facilities that generate HSE or when an adjusted DDF is proposed in accordance with Rule .0403 shall address the issue of wastewater strength in accordance with one of the following:

- (1) Wastewater systems that meet one of the following criteria shall utilize advanced pretreatment, designed in accordance with Rule .1201(b) of this Subchapter, to produce DSE or better prior to dispersal:
 - (A) DDF greater than 1,500 gpd and HSE;
 - (B) any proposed flow reduction in accordance with Rule .0403 of this Section where the DDF is greater than 1,500 gpd; or
 - (C) any proposed flow reduction in accordance with Rule .0403 of this Section with projected or measured effluent characteristics that exceed DSE as set forth in Table III of this Rule; or
- (2) A licensed professional, in accordance with G.S. 89C, 89E, or 89F, may justify not using advanced pretreatment by providing the following, as applicable:
 - (A) the system design is determined based upon a mass loading adjusted LTAR calculated using site-specific LTAR and projected or measured BOD₅ and TSS values. The adjusted LTAR calculations shall be done as follows:

MLAF =	300/(BOD ₅ + TSS) or one, whichever is smaller
ALTAR =	MLAF x LTAR
Where MLAF =	mass loading LTAR adjustment factor
BOD ₅ =	measured or projected
TSS =	measured or projected
LTAR =	LTAR assigned by the authorized agent for DSE in accordance with this Subchapter
ALTAR =	adjusted LTAR

- (B) site-specific nitrogen migration analysis when projected or measured effluent total nitrogen levels are greater than 100 mg/L. Analysis shall demonstrate that the nitrate-nitrogen concentration at the property line will not exceed 10 mg/L; and
- (C) additional pretreatment to reduce FOG to less than or equal to 30 mg/L, including justification for the proposed pretreatment method.

(c) The requirements of Paragraph (b) shall not apply if the effluent for a specific facility identified in Rule .0401 of this

Section as HSE has been measured in accordance with Paragraph (a) of this Rule and shown to be DSE.

Authority G.S. 130A-335(e); S.L. 2013-413, s.34; S.L. 2014-120, s.53; S.L. 2023-77, s.10.

SECTION .0500 – SOIL AND SITE EVALUATION

15A NCAC 18E .0504 SOIL WETNESS CONDITION

(a) SWC, such as those caused by a seasonal high-water table, a perched water table, tidal water, seasonally saturated soil, or by lateral water movement, shall be determined by field observations of soil wetness indicators as follows:

- (1) the presence of colors with ~~a value 4 or more~~ and a chroma 2 or less using the Munsell Soil Color Book at greater than or equal to two percent of soil volume as redox depletions or as the matrix of a horizon. Colors of chroma 2 or less that are lithochromic features shall not be considered indicative of a SWC; or
- (2) the observation or indication of saturated soils, a perched water table, or lateral water movement flowing into a bore hole, monitoring well, or open excavation above a less permeable horizon, that may occur without the presence of colors with a ~~value 4 or more~~ or chroma 2 or less at greater than or equal to two percent of soil volume as redox depletions or as the matrix of a horizon.
- (3) The shallowest depth to SWC determined in this Paragraph shall be used.

(b) Initial site suitability as to SWC shall be determined by field observations of soil wetness indicators in accordance with Paragraph (a) of this Rule. Sites where the SWC is less than 12 inches below the naturally occurring soil surface, or less than 18 inches if more than six inches of Group I soils are present, shall be considered unsuitable with respect to SWC.

(c) Monitoring or modeling procedures as set forth in this Rule may be used to reclassify the site as suitable with respect to SWC.

(d) Monitoring or modeling procedures as set forth in this Rule shall be required when the owner proposes to use a wastewater system requiring a greater depth to a SWC than the depth observed by soil wetness indicators in accordance with Paragraph (a) of this Rule.

(e) Modeling procedures as set forth in this Rule shall be required when the owner proposes to use sites with Group III or IV soils within 36 inches of the naturally occurring soil surface with artificial drainage, or on sites when fill is proposed to be used in conjunction with an artificial drainage system.

(f) Monitoring or modeling procedures may include the following:

- (1) direct monitoring procedure as set forth in Paragraph (g) of this Rule;
- (2) modeling procedure as set forth in Paragraph (h) of this Rule;
- (3) monitoring and modeling procedure as set forth in Paragraph (i) of this Rule; or
- (4) other modeling procedures as set forth in Paragraph (j) of this Rule.

(g) The direct monitoring procedure involves determining the SWC by observation of water surface elevations in wells during periods of high-water in accordance with the following:

- (1) no later than 30 days prior to the start of the monitoring period, the owner shall notify the LHD of the intent to monitor water surface elevations by submitting a proposal prepared by a licensed professional, if required in G.S. 89C, 89E, or 89F, that includes a site plan, well and soil profile at each monitoring site, and a monitoring plan as follows:
 - (A) the site plan shall include the proposed sites for wastewater systems, the longitude and latitude of the site, the location of monitoring wells, and all drainage features that may influence the SWC. The site plan shall also specify any proposed fill and drainage modifications;
 - (B) the monitoring plan shall include the proposed number, installation depth, screening depth, soil and well profile, materials, and installation procedures for each monitoring well. A minimum of three water level monitoring wells shall be installed for water surface observation at each site. Sites handling systems with a DDF greater than 600 gpd shall have one additional well per 600 gpd increment. Well locations shall include portions of the initial and repair dispersal field areas containing the most limiting soil and site conditions. The monitoring plan shall also provide for monitoring of the water surface elevations in the wells and all precipitation at the site; and
 - (C) notification of whether the owner or a licensed professional will perform the monitoring, including the name of the licensed professional, if applicable.
- (2) prior to installation of the monitoring wells, the authorized agent shall approve the plan. Plan approval shall be based upon a site visit and compliance with this Rule. If the plan is denied, a signed, written report shall be provided to the owner that describes the reasons for denial, the changes necessary for approval of the plan, and notice of the right to appeal under G.S. 130A-24 and 150B;
- (3) wells shall extend a minimum of five feet below the naturally occurring soil surface, or existing ground surface for existing fill determined in accordance with Rule .0909(d) of this Subchapter, except that wells that extend down

- only 40 inches from the ground surface may be used if a continuous record of the water table is provided for a minimum of half of the monitoring period. One or more shallower wells may be required on sites where shallow lateral water movement or a perched SWC is anticipated based on the site investigation;
- (4) the water elevation in the monitoring wells shall be recorded daily from January 1 to April 30, taken at the same time during the day, plus or minus three hours. Rain gauges shall be located within two miles of the site. Daily rainfall measurements shall also be recorded from December 1 through April 30; and
 - (5) the most recent information available from the SCO shall be used to determine the recurrence frequency of the total amount of rainfall at the site for the 120-day period ending April 15 based upon the site's historic rainfall record. This shall be done when the 120-day cumulative rainfall for the monitoring period ending on April 15 equals or exceeds the site's historic rainfall for the same period with a 30 percent frequency. The recurrence frequency shall be determined with one of the following methods:
 - (A) the licensed professional shall determine the 120-day SPI for April
 - (B) 15 by using the Integrated Water Portal located on the SCO's website at: <http://climate.ncsu.edu/water/map>. The licensed professional shall click on the map pixel that corresponds closest to the site's location. The Department will assist in obtaining this information upon request; or
 - (6) the recurrence frequency of the site's cumulative precipitation for the 120-day monitoring period ending on April 15 shall be determined for the site on a case-by-case basis from the most recent master grid provided to the Department by the SCO. The master grid contains probability distribution parameters that shall be used by the Department based upon guidance from the SCO. Based on the master grid, the Department shall derive the recurrence frequency values for the grid point that corresponds closest to the site's latitude and longitude.
- The SWC shall be determined by the shallowest level that is continuously saturated for the number of consecutive days during the January through April well monitoring period shown in Table VIII as follows:

TABLE VIII. Rainfall SPI and exceedance probability during monitoring season related to number of consecutive days of continuous saturation

April 15 SPI 120-day range	Recurrence frequency range 120-day cumulative April 15 rainfall	Number of consecutive days of continuous saturation for SWC
SPI -0.543 to 0	30% to 49.9% duration	3 days or 72 hours
SPI 0 to 0.545	50% to 69.9% duration	6 days or 144 hours
SPI 0.546 to 0.864	70% to 79.9% duration	9 days or 216 hours
SPI ≥ 0.865	80% to 100% duration	14 days or 336 hours

- (7) If monitoring well data is collected during monitoring periods that span multiple years, the year that yields the shallowest SWC shall apply.
- (h) The modeling procedure may be used to determine SWC by using DRAINMOD, a groundwater simulation model, to predict daily water levels over a minimum 30-year period using site-specific input parameters as outlined in the DRAINMOD User's Guide. The SWC shall be determined as the shallowest level predicted by DRAINMOD to be saturated for a 14-day continuous period between January 1 and April 30 with a recurrence frequency of 30 percent, an average of a minimum of nine years in 30, and in accordance with the following:
 - (1) weather input files shall consist of hourly rainfall and daily temperature data collected over the entire period of record but for a minimum of a 30-year period from a measuring station site, such as the National Weather Service or SCO. The measuring station used shall be the station located closest to the owner's site;
 - (2) soil and site inputs for DRAINMOD shall include the following:
 - (A) soil input file with the soil moisture characteristic curve and data for the soil profile that is closest to the described soil profile that is present on the site;
 - (B) soil horizon depths determined on site;
 - (C) site measured or proposed drain depth and spacing, and drain outlet elevation;
 - (D) in-situ Ksat measurements for a minimum of three representative locations on the site and at each location for the three most representative soil horizons within five feet of the surface. In-situ Ksat measurements shall be for one representative soil horizon at or above redoximorphic depletion features and

two representative soil horizons at and below redoximorphic concentration features at each location on the site;

- (E) all other model parameters based upon the DRAINMOD User's Guide; and
- (F) a sensitivity analysis shall be conducted for the following model parameters: soil input files for a minimum of two other most closely related soil profiles; in-situ Ksat of each horizon; drain depth and spacing; and surface storage and depth of surface flow inputs.

The sensitivity analysis shall be used to evaluate the range of soil and site characteristics for choosing input parameters related to the soil profiles, Ksat input values based upon the range of in-situ Ksat values measured on the site, and inputs for surface and subsurface drainage features based upon the range of possible elevations and distances that occur or may occur after installation of improvements. The sensitivity analysis shall establish which parameters are most critical for determination of the depth to SWC. Conservative values for the most critical parameters shall be used in applying the model to the site;

- (3) for sites designed to receive over 600 gpd, the SWC determination using DRAINMOD shall take into consideration the impact of wastewater application on the projected water table surface; and
- (4) the groundwater simulation analysis shall be prepared and submitted to the LHD by licensed professionals, if required in G.S. 89C, 89E, or 89F, qualified to use DRAINMOD by training and experience. The LHD shall submit the groundwater simulation analysis to the Department for technical review prior to approval of the SWC determination.

(i) The monitoring and modeling procedure is a combination of the direct monitoring procedure and the modeling procedure. The SWC shall be determined as the shallowest level predicted by DRAINMOD to be saturated for a 14-day continuous period between January 1 and April 30 with a recurrence frequency of 30 percent, an average of a minimum of nine years in 30, and in accordance with the following:

- (1) the procedures set forth in Paragraph (g) shall be used to monitor water surface elevation and precipitation. The rain gauges and monitoring wells required by Subparagraph (g)(4) shall use a recording device and a data file that is DRAINMOD compatible. The recording devices shall record rainfall hourly or daily and well water levels daily. The data file shall be submitted with the report to the LHD;

(2) DRAINMOD shall be used to predict daily water levels. The DRAINMOD modeling shall be in accordance with the following:

- (A) weather input files shall be developed from daily temperature and hourly or daily rainfall data collected over a minimum 30-year period from a measuring station, such as the National Weather Service or SCO. The measuring station used shall be the station located closest to the site. Daily maximum and minimum temperature data for the December 1 through April 30 monitoring period shall be obtained from the closest available weather station;
- (B) soil and site inputs for DRAINMOD, including a soils data file closest to the soil series identified, depths of soil horizons, in-situ Ksat of each horizon, depth and spacing of drainage features, and depression storage shall be selected in accordance with procedures outlined in the DRAINMOD User's Guide;
- (C) inputs shall be based upon site-specific soil profile descriptions. Soil and site input factors shall be adjusted during the model calibration process to achieve the best possible fit as indicated by the least squares analysis of the daily observations over the whole monitoring period and to achieve the best possible match between the shallowest water table depth during the monitoring period that is saturated for 14 consecutive days, measured vs. predicted. The mean absolute deviation between measured and predicted values shall be no greater than six inches during the monitoring period;
- (D) for sites intended to receive greater than 1,500 gpd, the SWC determination using DRAINMOD shall take into consideration the impact of wastewater application on the projected water table surface; and
- (E) the DRAINMOD analysis shall be prepared and submitted to the LHD by licensed professionals, if required in G.S. 89C, 89E, or 89F, qualified to use DRAINMOD by training and experience. The LHD or owner may request a technical review by the Department prior to approval of the SWC determination.

The monitoring and modeling procedure may also be used to re-evaluate a SWC that was

previously evaluated by the direct monitoring procedure.

(j) Modeling procedures other than those set forth in this Rule may be used to determine SWC upon approval by the Department. Other modeling procedures shall be approved if the following requirements are met:

- (1) the modeling procedures use daily water levels or weather records over a 30-year period to predict future daily water levels;
- (2) the proposed model and prediction are shown to be as accurate as the prediction from DRAINMOD, calculated in accordance with Paragraph (h) of this Rule; and
- (3) documentation is provided in accordance with Rule .0509(c) of this Section.

(k) A report of the investigations made for the direct monitoring procedure, modeling procedure, or monitoring and modeling procedure in accordance with Paragraphs (g), (h), or (i) of this Rule shall be prepared prior to approval of the SWC determination. A request for technical review of the report by the Department shall include digital copies of monitoring data, model inputs, output data, and graphic results, as applicable.

Authority G.S. 130A-335(e); S.L. 2023-77, s.11.

15A NCAC 18E .0506 SAPROLITE

(a) Sites classified unsuitable due to depth to saprolite or other LC may be reclassified suitable in accordance with this Rule.

(b) Saprolite shall be evaluated for suitability by the LHD. Sites with saprolite shall be classified as suitable if an investigation of the site using pits at locations approved by the authorized agent. An LSS, other than an LSS employed as an authorized agent, may use either borings or pits to evaluate saprolite. Sites with saprolite shall be classified as suitable if ~~confirms that~~ the following conditions are met:

- (1) a 24-inch minimum vertical separation shall be maintained in saprolite from the infiltrative surface to an unsuitable LC, unless any of the vertical separation consists of a suitable soil horizon, in which case, the 24-inch separation may be calculated based on one inch of suitable soil being equivalent to two inches of saprolite; and
- (2) the following physical properties and characteristics shall be present in the saprolite below the proposed infiltrative surface:
 - (A) the saprolite texture as determined in the field by hand texturing samples of each horizon shall be sand, loamy sand, sandy loam, loam, or silt loam;
 - (B) the clay mineralogy shall be suitable in accordance with Rule .0503(3) of this Section;
 - (C) greater than two-thirds of the saprolite by volume shall have a moist consistence of loose, very friable, friable, or firm;

- (D) the saprolite wet consistence shall be nonsticky or slightly sticky and nonplastic or slightly plastic;
- (E) the saprolite shall be in an undisturbed, naturally occurring state;
- (F) the saprolite shall have no open and continuous joints, quartz veins, or fractures relic of parent rock; and
- (G) laboratory determinations may be used to supplement field determinations. Split samples shall be made available to the LHD.

Authority G.S. 130A-335(e); S.L. 2015-147, s.3; S.L. 2023-77, s.12.

15A NCAC 18E .0508 AVAILABLE SPACE

(a) Sites shall have available space to allow for the installation of the initial wastewater system and repair area for a system identified or approved in Sections .0900, .1500, or .1700 of this Subchapter. The available space provided shall meet all required setbacks in Sections .0600 or .1200 of the Subchapter and provide access to the wastewater system for operation and maintenance activities. A site with sufficient available space shall be suitable.

(b) If the site does not have available space for both an initial wastewater system and repair area it shall be unsuitable.

(c) The repair area requirement of Paragraph (a) of this Rule shall not apply to a lot or tract of land which meets the following:

- (1) described in a recorded deed or a recorded plat on or before January 1, 1983;
- (2) insufficient size to satisfy the repair area requirement of Paragraph (a) of this Rule, as determined by the authorized agent;
- (3) DDF is no more than 480 gallons for a single-family dwelling unit or a single facility; and
- (4) the proposed facility will generate DSE.

(d) Although a lot or tract of land may be exempt from the repair area requirement under Paragraph (c) of this Rule, the authorized agent shall determine if there is any available space for the repair area. The authorized agent shall determine the maximum feasible repair area available, and that repair area shall be specified on the IP, CA, and OP.

(e) If a site meets any of the following criteria, a repair area shall be required, even if the site is exempt from the repair area requirement of Paragraph (c) of this Rule:

- (1) proposed increase in flow or wastewater strength to an existing facility permitted under the exemption of Paragraph (c) of this Rule; or
- (2) any new initial wastewater system is proposed on a lot or tract of land on which the exemption in Paragraph (c) of this Rule was previously utilized.

(f) Notwithstanding the criteria for when a repair area is required in accordance with Paragraph (e) of this Rule, a site shall remain exempt from the repair area requirements of Paragraph (a) of this Rule when all of the following conditions are met:

- (1) an owner submits an application to the LHD for an increase in flow to an existing facility permitted in accordance with Paragraph (c) of

this Rule and the facility DDF remains less than or equal to 480 gpd of DSE;

- (2) there is sufficient available space for the existing system to be modified pursuant to the Rules of this Subchapter;
- (3) the site for the existing system complies with the Rules of this Subchapter and the existing system is not malfunctioning in accordance with Rule .1303(a)(2) of this Subchapter; and
- (4) the conditions set forth in Paragraph (d) of this Rule are met.

(g) Prior to the issuance of the IP, the proposed dispersal field shall be field located and staked on-contour, as applicable, to verify that initial and repair wastewater systems can be installed in the area delineated. The dispersal field may be installed level but off contour if an authorized agent has determined that there is sufficient vertical separation to a LC along the entire trench length in accordance with Rule .0901(g)(2) of this Subchapter.

(h) The initial and repair area shall not be altered so that the wastewater system specified on the IP, CA, and OP cannot be installed and function as permitted.

(i) A wastewater system certified in accordance with NSF/ANSI Standard 350 or that has data from a two-year field demonstration documenting that the wastewater system meets NSF/ANSI Standard 350 or better may eliminate the requirement for a repair area when installed in Group I soils. The Department shall specify the information required for a wastewater system to be approved with a two-year field demonstration. A wastewater system that does not have a repair area in accordance with this Paragraph shall only be used to treat DSE, shall meet a TN effluent standard of 20 mg/L, and shall be classified as a Type VI(b) pursuant to Table XXXII of Rule .1301(b) of this Subchapter. Evidence of TN standards shall be provided by applicable NSF/ANSI testing or approval as a TS-II wastewater system in accordance with this Subchapter and included in the IP, CA, or NOI.

Authority G.S. 130A-335(e) and (f); S.L. 2015-147, s.1; S.L. 2023-77, s.13; S.L. 2024-49, s.4.21.

SECTION .0600 – LOCATION OF WASTEWATER SYSTEMS

15A NCAC 18E .0601 LOCATION OF WASTEWATER SYSTEMS

(a) Every wastewater system shall be located the minimum setbacks from the site features specified in Table IX. The setback shall be measured on the ground surface, unless otherwise specified in this Rule, from the nearest wastewater system component sidewall or as otherwise specified in a system specific rule or PIA Approval.

TABLE IX. Minimum setbacks from all wastewater systems to site features

Site Features	Setback in feet
Any transient or non-transient non-community water supply well, community well, shared water supply well, well that complies with 15A	100

NCAC 18A .1700, or water supply spring	
A private drinking water well or upslope spring serving a single family dwelling unit unit, including wastewater systems permitted or installed in saprolite	50
Any other well or source not listed in this table, excluding monitoring wells	50
Surface waters classified WS-I, from ordinary high-water mark	100
Waters classified SA, from mean high-water mark	100
Any Class I or Class II reservoir, from normal water level	100
Lake or pond, from normal water level	50
Any other stream, non-water supply spring, or other surface waters, from the ordinary high-water mark	50
Tidal influenced waters, such as marshes and coastal waters, from mean high-water mark	50
Permanent stormwater retention basin, from normal water level	50
Any water line, unless the requirements of Paragraph (i) have been met	10
Closed loop geothermal wells	15
Building foundation and deck supports any structural supports requiring a footing or other load bearing construction in the North Carolina Building Code	5
Patio, porch, stoop, lighting fixtures, or signage, including supporting structures such as posts or pilings Appurtenant structures such as stairs, or landing structures designed specifically to be set directly on the ground and do not require footings; sidewalks; pavers; lighting fixtures; or signage	1
Any basement, cellar, or in-ground swimming pool	15
Buried storage tank or basin, except stormwater	10
Above ground swimming pool and appurtenances that require a building permit	5
Top of slope of embankment or cuts of two feet or more vertical height with a slope greater than 50 percent	15
Top of slope of embankment or cuts of two feet or more vertical height with a slope greater than 33 percent and less than or equal to 50 percent	15
	If the site has suitable soil depth that extends for a minimum horizontal

PROPOSED RULES

	distance of 15 feet from the edge of the dispersal field, no minimum setback is required.
Top of slope of embankment or cuts of two feet or more vertical height with a slope less than <u>or equal to</u> 33 percent	0
Groundwater lowering system, as measured on the ground surface from the edge of the feature	25
Downslope interceptor drains and surface water diversions with a vertical cut of more than two feet, as measured on the ground surface from the edge of the feature	15
Upslope and sideslope interceptor drains and surface water diversions with a vertical cut of more than two feet, as measured on the ground surface from the edge of the feature	10
A stormwater collection system as defined in 15A NCAC 02H .1002(48), excluding gutter drains that connect to a stormwater collection system, with a vertical cut of more than two feet as measured from the center of the collection system	10
Bio-retention area, injection well, infiltration system, or dry pond	25
Any other dispersal field, except designated dispersal field repair area for project site	20
Any property line	10
Burial plot or graveyard boundary	10
Above ground storage tank from dripline or foundation pad, whichever is more limiting	5
Utility transmission and distribution line poles and towers, including guy wires, unless a greater setback is required by the utility company	5
Utility transformer, ground-surface mounted	5
Underground utilities	5

(b) Wastewater systems may be located closer than 100 feet but never less than 50 feet from water supply wells or an upslope spring for repairs, space limitations, and other site-planning considerations when one of the following conditions is met:

- (1) the well was constructed prior to July 1, 1993, in accordance with 15A NCAC 18A .1720; or
- (2) a variance for a reduced well setback has been issued in accordance with one of the following:
 - (A) 15A NCAC 02C .0118 for a shared water supply well, ~~a wastewater system permitted or installed in~~

~~saprolite~~, or for a transient non-community public water supply well; or

- (B) 15A NCAC 18C .0203(b) for a non-transient non-community public water system.

(c) Wastewater systems shall not be located closer than 100 feet to springs, uncased wells, and ungrouted wells used as a source of drinking water and located downslope from the dispersal field.

~~(d) Underground utilities maintain a five foot setback and shall not encroach on the wastewater system and repair area.~~

~~(e)~~(d) The reduced setbacks in Table X shall apply to septic tanks and pump tanks if a leak test has been performed at the job site on the septic tank and pump tank in accordance with Rule .0805 of this Subchapter that verifies the tank, pipe penetrations, and riser connections are watertight.

TABLE X. Reduced setbacks for tanks to some site features

Site Features	Setback in feet
Permanent stormwater retention basin, from normal water level	35
Bio-retention area, injection well, infiltration system, or dry pond	15
Groundwater lowering system, as measured on the ground surface from the edge of the feature	15
Any water line	5
A stormwater collection system as defined in 15A NCAC 02H .1002(48), excluding gutter drains that connect to a stormwater collection system, with a vertical cut of more than two feet as measured from the center of the collection system	5

~~(f)~~(e) No minimum setback shall be required from a well that has been permanently abandoned in accordance with 15A NCAC 02C .0113 and for which a record of abandonment has been submitted in accordance with 15A NCAC 02C .0114.

~~(g)~~(f) Initial and repair dispersal field systems shall not be located under impervious surfaces or areas subject to vehicular traffic unless approved in accordance with G.S. 130A-343 and Section .1700 of this Subchapter.

~~(h)~~(g) If a collection sewer supply line or force main is installed under areas subject to vehicular traffic or areas subject to soil disturbance or compaction, one of the following pipe materials shall be used:

- (1) DIP;
- (2) a minimum of Schedule 40 PVC, Polyethylene, or ABS pipe sleeved in DIP;
- (3) a minimum of Schedule 40 PVC, Polyethylene, or ABS pipe sleeved in DOT traffic rated culvert pipe;
- (4) a minimum of Schedule 40 PVC, Polyethylene, or ABS pipe with 30 inches of compacted material provided over the crown of the pipe; or
- (5) other pipe materials may be proposed when designed, inspected, and certified by a PE and approved by the LHD.

(h) In addition to the requirements of Paragraph (a) of this Rule, wastewater systems with a proposed DDF greater than 3,000 gpd, as determined in Rule .0401 of this Subchapter, shall be located the minimum setbacks from the site features in Table XI.

TABLE XI. Minimum setbacks from wastewater systems greater than 3,000 gpd to site features

Feature	Setback in feet
Any Class I or II reservoir or any public water supply source utilizing a shallow, under 50 feet, groundwater aquifer, from feature or normal water level	500
Any other public water supply source, unless a confined aquifer	200
Any private drinking water well or upslope spring, unless a confined aquifer	100
Surface water classified WS- I, from ordinary high-water mark	200
Surface waters classified WS-II, WS-III, B, or SB, from mean high-water mark or ordinary high-water mark	100
Waters classified SA, from mean high-water mark	200
Any property line	25

(i) Wastewater systems with a DDF greater than 3,000 gpd that meet the requirements of Rule .0510(f) of this Subchapter may use the setbacks identified in Table IX of this Rule.

(j) Collection ~~sewers~~ sewers, force mains, and supply lines shall be located the minimum setbacks to site features shown in Table IX, unless a different minimum setback is specified in Table XII. When a reduced setback to a collection ~~sewer~~ sewer, force main, or supply line is utilized, the piping requirements for the reduced setback shall be extended to comply with the unreduced setback. The distribution device shall receive the reduced setback when demonstrated to be watertight with an on-site leak test.

TABLE XII. Minimum setbacks from collection ~~sewers~~ sewers, force mains, and supply lines to site features

Feature	Setback in feet
Any public water supply source, including wells, springs, and Class I or Class II reservoirs, from feature or normal water level	100
	50, if constructed of or sleeved in Schedule 80 PVC or DIP with mechanical joints equivalent to water main standards, and the collection sewer <u>sewer, force main, or supply line</u> is leak tested and shown to be watertight*
Any water supply well excluding those regulated under 15A NCAC 18C	50
	25, if constructed of Schedule 40 pressure rated PVC or DIP with mechanical joints equivalent to water main standards, and the collection sewer <u>sewer, force main, or</u>

	<u>supply line</u> is leak tested and shown to be watertight*
	15, if constructed of Schedule 80 PVC, sleeved in DIP or Schedule 80 PVC, and the collection sewer <u>sewer, force main, or supply line</u> is leak tested and shown to be watertight*
Surface waters classified WS-I, WS-II, WS-III, B, SA, or SB, from mean high-water mark or ordinary high-water mark	50
	10, if constructed of or sleeved in Schedule 80 PVC or DIP with mechanical joints equivalent to water main standards, and the collection sewer <u>sewer, force main, or supply line</u> is leak tested and shown to be watertight*
Any other stream, non-water supply spring, or other surface waters, from the ordinary high-water mark	10
Tidal influenced waters, such as marshes and coastal waters, from mean high-water mark	10
Closed loop geothermal wells	5
Any service connection as defined in 15A NCAC 18C .0102(c)(21)	5
Any basement, cellar, or in-ground swimming pool	10
Top of slope of embankment or cuts of two feet or more vertical height with a slope greater than 50 percent	5
Interceptor drains and surface water diversions, with a vertical cut of more than two feet as measured on the ground surface from the edge of the diversion	5
Permanent stormwater retention basin, from normal water level	10
Bio-retention area, injection well, infiltration system, or dry pond	5
Any other dispersal field, except designated dispersal field repair area for project site	5
Any property line	5
Burial plot or graveyard boundary	5

*Pipe materials other than DIP, Schedule 40 pressure rated PVC, or Schedule 80 PVC shall be acceptable when the materials conform to materials, testing methods, and acceptability standards meeting water main standards and when the line has been designed, installed, inspected, and certified by a PE and approved by the LHD.

~~(k)~~(k) The minimum setback from water lines to collection ~~sewers~~ sewers, force mains, or supply lines shall be 10 feet, except as follows:

- (1) the water line is laid in a separate trench with the elevation of the bottom of the water line 18 inches above the top of the collection ~~sewer~~ sewer, force main, or supply line; or
- (2) the water line is laid in the same trench as the collection ~~sewer~~ sewer, force main, or supply line with the water line located on one side of the trench, on a bench of undisturbed earth and with the elevation of the bottom of the water line 18 inches above the top of the collection ~~sewer~~ sewer, force main, or supply line. The collection ~~sewer~~ sewer, force main, or supply line shall be located the width of the trench from the water line.

~~(m)~~(l) Collection ~~sewers~~ sewers, force mains, and supply lines and water lines shall not cross, except as follows:

- (1) 18 inches clear vertical separation is maintained, with the collection ~~sewer~~ sewer, force main, or supply line crossing under the water line; or
- (2) the water line crosses under the collection ~~sewer~~ sewer, force main, or supply line or 18 inches clear vertical separation is not maintained and the following criteria are met:
 - (A) the collection ~~sewer~~ sewer, force main, or supply line is constructed of DIP with joints equivalent to water main standards and extends 10 feet on each side of the point of crossing, with full sections of pipe centered at the point of crossing; and
 - (B) the water line is constructed of ferrous materials with joints equivalent to water main standards and extends a minimum of 10 feet on each side of the point of crossing, with full sections of pipe centered at the point of crossing.

~~(n)~~(m) Collection ~~sewers~~ sewers, force mains, and supply lines shall not cross storm drains, except as follows:

- (1) 12 inches clear vertical separation is maintained between the collection ~~sewer~~ sewer, force main, or supply line and storm drain;
- (2) the collection ~~sewer~~ sewer, force main, or supply line is constructed of DIP with mechanical joints or restrained push-on joints equal to water main standards; or
- (3) the collection ~~sewer~~ sewer, force main, or supply line is encased in concrete or DIP for a

minimum of five feet on either side of the crossing.

~~(n)~~(n) Collection ~~sewers~~ sewers, force mains, and supply lines shall not cross under a stream, except as follows:

- (1) a minimum of 36 inches of separation from the stream bottom is maintained;
- (2) the collection ~~sewer~~ sewer, force main, or supply line is constructed of DIP with mechanical joints or restrained push-on joints equal to water main standards; or
- (3) the collection ~~sewer~~ sewer, force main, or supply line is encased in concrete or DIP for a minimum of 10 feet on either side of the crossing and protected against the normal range of high and low water conditions, including the 100-year flood or wave action.

~~(o)~~(o) Collection ~~sewer~~ sewer, force main, or supply line aerial crossings shall be constructed of DIP with mechanical joints or restrained push-on joints equal to water main standards and freeze protected. Pipe shall be anchored for a minimum of 10 feet on either side of the crossing.

~~(p)~~(p) If septic tanks, pump tanks, grease tanks, raw sewage lift stations, wastewater treatment plants, sand filters, and other advanced pretreatment systems are located in areas subject to flooding at a frequency greater than a 10-year storm, they shall be designed and installed to be watertight and to remain operable during all flooding events.

Authority G.S. 130A-334; 130A-335(e) and (f); S.L. 2019-215, s.2; S.L. 2024-49, s.4.22.

SECTION .0700 – COLLECTION SEWERS, RAW SEWAGE LIFT STATIONS, SEPTIC TANK EFFLUENT PUMP SYSTEMS, AND PIPE MATERIALS

15A NCAC 18E .0701 COLLECTION SEWERS

(a) Collection sewers for wastewater systems with a DDF greater than 3,000 gpd shall be designed and constructed in accordance with the following criteria:

- (1) Building drains and building sewers shall be in accordance with the North Carolina Plumbing Code and approved by the local building inspector.
- (2) Pipe material shall be specified to comply with the applicable ASTM standards based on pipe material.
- (3) Gravity sewers shall be designed to maintain minimum scour velocities of two feet per second with the pipe half full and one foot per second at the peak projected instantaneous flow rate. Force mains shall be sized to obtain a minimum two-foot per second scour velocity at the projected pump operating flow rate.
- (4) Infiltration and exfiltration shall not exceed 100 gpd per inch diameter per mile of gravity sewer pipe or 20 gpd per inch diameter per mile of pressure pipe in force mains and supply lines.

- (5) Collection sewers shall be buried three feet deep, except as provided for in Rule .0601(h)(4) of this Subchapter.
- (6) Ferrous material pipe or other pipe designed and bedded for traffic-bearing loads shall be provided where collection sewers are subject to vehicular traffic.
- (7) Manholes shall be used for gravity collection sewers at any bend, junction, and a maximum of every 425 feet along the collection sewer. Drop manholes shall be required where the inlet to outlet elevation difference exceeds two and one half feet. Manhole lids shall be watertight if located below the 100-year flood elevation, within 100 feet of any public water system source, or within 50 feet of any private water system source or any surface waters classified WS-I, WS-II, WS-III, SA, SB, or B.
- (8) Cleanouts may be used instead of manholes for four-inch and six-inch sewers serving one or two design units, or as otherwise allowed by the North Carolina Plumbing Code. Cleanouts shall be required a maximum of every 100 feet for four or six-inch sewers and at all junctions and bends which exceed 45 degrees, unless otherwise allowed by the North Carolina Plumbing Code.
- (9) Air relief valves shall be provided as needed for force mains when the length exceeds 1,000 feet or for intermediate high points that exceed five feet.
- (10) Collection sewers may require additional ventilation provisions, such as a stand pipe, based on length, size, and location.

(b) STEP systems may be used as an alternative to gravity collection sewers.

Authority G.S. 130A-335(e), (f), and (f1); S.L. 2024-49, s.4.23.

15A NCAC 18E .0702 RAW SEWAGE LIFT STATIONS

(a) Raw sewage lift stations ~~permitted by the LHD~~ for wastewater systems with a DDF greater than 3,000 gpd shall meet all setbacks for wastewater systems in accordance with Table IX of Rule .0601(a) of this Subchapter.

(b) Raw sewage lift stations for wastewater systems with a DDF greater than 3,000 gpd shall meet the following design and construction standards:

- (1) dual pumps shall be provided for stations serving two or more buildings or for a facility with more than six water closets;
- (2) pumps shall be listed by a third-party electrical testing and listing agency, such as Underwriter's Laboratories;
- (3) pumps shall be grinder pumps or solids-handling pumps capable of handling a minimum of three-inch spheres. If the raw sewage lift station serves no more than a single water closet, lavatory, and shower, two-inch solids handling pumps shall be acceptable;

- (4) minimum pump capacity shall be two and one half times the average daily flow;
- (5) raw sewage lift stations serving single buildings shall be designed for pump run times between three to 10 minutes at average daily flow;
- (6) pump station emergency storage capacity and total liquid capacity shall be determined in accordance with Rule .0802 of this Subchapter except for a sealed, watertight chamber serving an individual building, in which case a minimum storage capacity of eight hours shall be required; and
- (7) all applicable requirements for pump tanks and dosing systems as set forth in Rule .0802 and Section .1100 of this Subchapter shall apply to raw sewage lift stations.

(c) A raw sewage lift station that is a sealed, watertight chamber shall meet the setback requirements for collection sewers in Rule .0601(k) of this Subchapter. Sealed, watertight chambers shall be a single prefabricated unit with a sealed top lid, and preformed inlet and outlet pipe openings connected with solvent welds, O-ring seals, rubber boots, stainless steel straps, or equivalent.

Authority G.S. 130A-335(e), (f), and (f1); S.L. 2024-49, s.4.24.

15A NCAC 18E .0703 PIPE MATERIALS

(a) The gravity pipe between a septic tank, gravity distribution device, and the dispersal field shall be a minimum of three-inch Schedule 40 PVC, Schedule 40 polyethylene, or Schedule 40 ~~ABS~~ ABS, with a minimum fall of 1/8-inch per foot if the installation requirements of Paragraph (b) of this Rule are met.

(b) Three-inch or greater non-perforated polyethylene corrugated tubing, PVC SDR 21 and SDR 26 pressure rated at 160 psi or greater and labeled as compliant with ASTM D2241, PVC SDR 35 gravity sewer pipe rated as compliant with ASTM D3034, or alternative non-perforated pipe materials described in Paragraph (d) of this Rule, may be substituted for Schedule 40 between the distribution device and the dispersal field when the following minimum installation criteria are met:

- (1) the pipe is placed on a compacted, smooth surface free of indentations or clods at a uniform grade, and with an excavation width of one foot;
- (2) the pipe is placed in the middle of the excavation with three inches of clearance between the pipe and the walls;
- (3) a washed gravel or crushed stone envelope is placed in the excavation on both sides of the pipe and to a point two inches above the top of the pipe;
- (4) six inches of soil is placed and compacted over the stone or gravel envelope; and
- (5) earthen dams consisting of two feet of undisturbed or compacted soil are located at both ends of the excavation separating the trench from the distribution device.

(c) All pipe joints from the septic tank to the dispersal field shall be watertight. Solvent cement-joints shall be made in a two-step

process with primer manufactured for thermoplastic piping systems and solvent cement conforming to ASTM D2564.

(d) Pipe used for gravity distribution laterals shall be corrugated plastic tubing complying with ASTM F667 or smooth-wall plastic pipe complying with ASTM D2729 or ASTM F810. The pipe shall be marked as complying with ASTM standards. The corrugated tubing or smooth-wall pipe shall have three rows of holes, each hole between one-half inch and three-fourths inches in diameter and spaced longitudinally approximately four inches on centers. The rows of holes may be equally spaced 120 degrees on centers around the pipe periphery, or three rows may be located in the lower portion of the tubing, the outside rows being approximately on 120-degree centers. The holes may be located in the same corrugation or staggered in adjacent corrugations. Other types of pipe may be used for laterals provided the pipe satisfies the requirements of this Rule and is approved by the Department.

(e) Pump discharge piping, including the force main to the next component in the wastewater system, shall be of Schedule 40 PVC or stronger material and pressure rated for water service at a minimum of 160 psi or two times the maximum operating pressure, whichever is greater. The pipe shall meet ASTM D1784, ASTM D1785, and ASTM D2466.

(f) Pipe materials other than those identified in this Rule may be proposed when designed and certified by a PE, including any installation and testing procedures. Gravity pipe materials shall be shown to comply with the requirements of Paragraphs (a), (b), and (c) of this Rule. Alternative pressure rated pipe materials shall be constructed of PVC, polyethylene, or other pressure rated pipe and conform to applicable ASTM standards for pipe material and methods of joining. The proposed pipe shall be installed per ASTM D2774. Installation testing shall include a hydrostatic pressure test similar to pressure testing required for water mains for any line exceeding 500 feet in length and shall comply with the requirements of Rule .0701(a)(4) of this Section.

Authority G.S. 130A-335(e), (f), and (f1); S.L. 2024-49, s.4.25.

SECTION .0800 – TANK CAPACITY, LEAK TESTING, AND INSTALLATION REQUIREMENTS

15A NCAC 18E .0801 SEPTIC TANK CAPACITY REQUIREMENTS

(a) Minimum liquid capacities for septic tanks shall be in accordance with the following:

- (1) The minimum capacity of any septic tank shall be 1,000 gallons unless otherwise provided for in this Rule.
- (2) The minimum capacity of any septic tank serving an individual dwelling unit with five bedrooms or less shall be sized as set forth in Table XIV.

TABLE XIV. Minimum septic tank liquid capacity for dwelling units

Number of bedrooms	Minimum liquid capacity in gallons
4 or less	1,000
5	1,250

- (3) Septic tanks for dwelling units greater than five bedrooms, ~~multiple dwelling units~~, places of business, or places of public assembly shall be sized in accordance with Table XV.
- (4) The minimum septic tank capacity serving two or more dwelling units shall be sized in accordance with Table XV, ~~1,500 gallons based on the DDF of 120 gpd per bedroom or 60 gpd per person.~~

TABLE XV. Septic tank capacity for facilities not listed in Table XIV

Design daily flow in gpd (Q)	Minimum septic tank liquid capacity (V) calculation in gallons
$Q \leq 600$	$V = 2Q$
$600 < Q < 1,500$	$V = 1.17Q + 500$
$1,500 \leq Q \leq 4,500$	$V = 0.75Q + 1,125$
$Q > 4,500$	$V = Q$

- (5) Septic tanks for RWTS and PIA Systems shall be sized in accordance with the RWTS or PIA Approval, pursuant to Sections .1500 and .1700 of this Subchapter.

(b) The minimum liquid capacity requirements of Paragraph (a) of this Rule shall be met by use of a single two compartment tank or by two tanks installed in series. The tanks in series may be constructed with or without a baffle wall. Each tank shall have a minimum liquid capacity of 1,000 gallons.

(c) When a grinder pump or sewage lift pump is installed prior to the septic tank, the required septic tank liquid capacity as set forth in this Rule shall be doubled. The minimum liquid capacity may be met by installing two or more septic tanks in series, each tank containing two compartments. The minimum liquid capacity of each tank shall be 1,000 gallons. The installation of two septic tanks in series is not required if the grinder pump or sewage lift pump discharges into 10 feet of four-inch pipe, as specified by the North Carolina Plumbing Code.

(d) The Department shall review other septic tanks designed to receive wastewater from grinder pumps or sewage lift pumps if designed by a PE to ensure that effluent discharged from the septic tank meets DSE as set forth in Table III of Rule .0402(a) of this Subchapter.

(e) An effluent filter approved in accordance with Rule .1404 of this Subchapter shall be in the outlet of the final compartment of the septic tank.

(f) When two or more tanks are used in series in accordance with Paragraphs (b) or (c) of this Rule, the following conditions shall be met:

- (1) the outlet of the initial tank shall consist of an outlet sanitary tee extending down 25 to 50 percent of the liquid depth; and
- (2) an approved effluent filter shall be in the outlet of the final compartment.

Authority G.S. 130A-334; 130A-335(e), (f), and (f1); S.L. 2023-77, s.14; S.L. 2024-49, s.4.26.

15A NCAC 18E .0805 TANK LEAK TESTING AND INSTALLATION REQUIREMENTS

(a) All tanks installed under the following conditions shall be leak tested:

- (1) when a SWC is present within four feet of the elevation of the top of a mid-seam pump tank;
- (2) with advanced pretreatment when required in the RWTS or PIA Approval;
- (3) when required in the approved plans and specifications for a wastewater system designed by a ~~PE~~, PE or AOWE;
- (4) when the tank is constructed in ~~place~~; place at the jobsite by a person not approved by the Department as a tank manufacturer using bricks, blocks, or poured in place concrete; or
- (5) as required by the authorized agent based upon site or system specific conditions, such as misaligned seams, exposed reinforcement, or damage observed that may have occurred during transport or installation.

(b) Tanks subject to leak testing in accordance with Paragraph (a) of this Rule shall be leak tested using either a hydrostatic test procedure or vacuum test procedure as follows:

- (1) The operational procedures to be followed for the hydrostatic test are:
 - (A) fill tank with water to the underside of the top of the tank or, for corrugated tanks, to the bottom of the upper most corrugation that forms the top of the tank; outlet invert or pipe, as applicable;
 - (B) allow the tank to sit for one hour;
 - (C) tank shall be approved if the water level drops less than or equal to one-eighth inch in one hour;
 - (D) if a leak is detected, the tank may be repaired in accordance with the tank manufacturer's written instructions, refilled, and retested;
 - (E) surface wetness or condensation shall not be considered an active water leak; and
 - (F) the tank manufacturer or installer is allowed one attempt to retest the tank before the authorized agent can deny the tank for use in the installation based on failure to pass the leak test.
- (2) The operational procedures to be followed for the vacuum test are:
 - (A) temporarily seal inlet and outlet pipes and access openings;
 - (B) using calibrated equipment, draw a vacuum on the empty tank to a negative pressure of two and one half inches of mercury;
 - (C) hold the vacuum for five minutes and re-measure and record the ending negative pressure inside the tank;

- (D) no bracing or internal support that is not part of the approved tank shall be allowed;
- (E) tank shall be approved if the difference between the starting negative pressure and the ending negative pressure is less than or equal to one-fifth inch;
- (F) if a leak is detected, the tank may be repaired in accordance with the tank manufacturer's written instructions and retested;
- (G) the tank manufacturer or installer is allowed one attempt to retest the tank before the authorized agent can deny the tank for use in the installation based on the failure to pass the leak test; and
- (H) all tank openings shall be un-sealed after the vacuum test is completed.

(3) Instead of the operational procedures set out in Paragraphs (b)(2)(B) and (b)(2)(E) of this Rule, a tank manufacturer may choose to sue a negative pressure of five inches of mercury held for two minutes with the tank approved if the difference between the starting negative pressure and the ending negative pressure is less than or equal to two-fifths of mercury.

- (c) The LHD shall document the observation of the leak testing.
- ~~(e)~~(d) Tanks unable to pass a leak test or be repaired to pass a leak test shall be removed from the site and the imprint described in Rule .1402(d)(15) or (e)(8) of this Subchapter marked over.
- ~~(d)~~(e) The septic tank outlet pipe shall be inserted through the outlet pipe penetration boot, creating a watertight joint, and extending ~~a minimum of two feet~~ beyond the septic tank outlet. The pump tank outlet pipe shall be inserted through the outlet pipe penetration boot, creating a watertight joint, or through another watertight joint, such as a rubber grommet, in the pump tank riser.
- ~~(e)~~(f) The septic tank outlet pipe and pump tank outlet pipe shall be placed on undisturbed ~~soil~~ soil, compacted soil, or bedded in accordance with Rule .0703(b) of this Subchapter to prevent differential settling of the pipe. The pump tank outlet pipe shall be level for a minimum of two feet after exiting the tank.
- ~~(f)~~(g) The tank shall be installed level. A tank is considered level if the difference between the front and back is plus or minus one inch and the difference from side to side is plus or minus one inch. The tank excavation, bedding, backfill, and compaction shall be in accordance with the tank manufacturer's installation requirements, specifications, and the tank approval.
- ~~(g)~~(h) The tank excavation shall be separated from the dispersal system by at least two feet of undisturbed soil. Piping from the tank to the next component shall be placed on undisturbed soil, compacted soil, or bedded using sand, gravel, stone, or other aggregate.
- ~~(h)~~(i) Effluent filters and risers shall be installed in accordance with the design and construction criteria of Rule .1402(b) and (c) of this Subchapter.
- ~~(i)~~(j) Any system serving a facility with a DDF greater than 3,000 gpd shall have access manholes installed on the tank and extending at a minimum to finished grade. The access manholes

shall be designed and maintained to prevent surface water inflow and sized to allow access for routine inspections, operation, and maintenance.

Authority G.S. 130A-335(e), (f), and (f1); S.L. 2023-77, s.15; S.L. 2024-49, s.4.27.

SECTION .0900 – SUBSURFACE DISPERSAL

15A NCAC 18E .0901 GENERAL DESIGN AND INSTALLATION CRITERIA FOR SUBSURFACE DISPERSAL SYSTEMS

(a) Wastewater systems shall be used on sites classified suitable in accordance with Rule .0509 of this Subchapter. The sizing and siting criteria in this Rule shall be based on soil receiving DSE. The site shall meet the following minimum criteria:

- (1) 12 inches of naturally occurring soil between the infiltrative surface and any LC; and
- (2) 18 inches of separation between the infiltrative surface and any SWC if more than six inches of separation consists of Group I soils.

(b) If any part of the trench or bed media extends above the naturally occurring soil surface, the system shall be a fill system and shall meet the requirements of Rule .0909 of this Section.

(c) The LTAR shall be determined in accordance with the following:

- (1) Tables XVII and XVIII shall be used, as applicable;
- (2) the LTAR shall be assigned based upon soil textural class or saprolite textural class, as applicable, structure, consistence, SWC, depth, percent coarse rock, landscape position, topography, and system type;
- (3) LTARs determined from Table XVII shall be based on the soil textural class of the most limiting, naturally occurring soil horizon to a depth of 12 inches below the infiltrative surface or 18 inches to any SWC if more than six inches of the separation consists of Group I soils;
- (4) LTARs determined from Table XVIII shall be based on the saprolite textural class of the most limiting, naturally occurring saprolite to a depth of 24 inches below the infiltrative surface, or less than 24 inches if combined with soil in accordance with Rule .0506(b) of this Subchapter; and
- (5) for facilities that generate HSE as specified in Rule .0401(h) of this Subchapter or a facility with a full kitchen, the LTAR shall not exceed the mean rate for the applicable Soil Group.

TABLE XVII. LTAR for wastewater systems based on Soil Group and texture class

Soil Group	USDA Soil Textural Class		LTAR in gpd/ft ²
I	Sands	Sand	0.8 – 1.2
		Loamy Sand	
II	Coarse Loams	Sandy Loam	0.6 – 0.8
		Loam	

III	Fine Loams	Sandy Clay Loam	0.3 – 0.6
		Silt Loam	
		Clay Loam	
		Silty Clay Loam	
		Silt	
IV	Clays	Sandy Clay	0.1 – 0.4
		Silty Clay	
		Clay	

TABLE XVIII. LTAR for wastewater systems in saprolite based on Saprolite Group and texture class

Saprolite Group	Saprolite Textural Class		LTAR in gpd/ft ²
I	Sands	Sand	0.6 – 0.8
		Loamy Sand	0.5 – 0.7
II	Loams	Sandy Loam	0.4 – 0.6
		Loam	0.2 – 0.4
III	Fine Loams	Silt Loam	0.1 – 0.3
		Sandy Clay Loam*	0.05 – 0.15

* Sandy clay loam saprolite can only be used with advanced pretreatment in accordance with Section .1200 of this Subchapter.

(d) The minimum required infiltrative surface area and trench length shall be calculated in accordance with the following:

- (1) the minimum required infiltrative surface area shall be calculated by dividing the DDF by the LTAR;
- (2) the minimum trench length shall be calculated by dividing the minimum required infiltrative surface area by the equivalent trench width. The following equation shall be used to calculate the minimum trench length required:

$$TL = \frac{DDF}{LTAR} \div ETW$$

Where

- TL = trench length, in feet
- DDF = design daily flow, in gpd
- LTAR = in gpd/ft²
- ETW = equivalent trench width, in feet;

- (3) the area occupied by step-downs, drop boxes, and supply lines shall not be part of the minimum required infiltrative surface area;
- (4) the total trench length required for trench products other than conventional gravel shall be as follows:

(A) for trench products identified in Section .0900 of this Subchapter, the minimum line length shall be calculated in accordance with this Section; or

- (B) for trench products approved under Section .1700 of this Subchapter, the minimum line length shall be calculated in accordance with the PIA Approval; and
- (5) when HSE is proposed to be discharged to a dispersal field with no advanced pretreatment as required in Rule .0402(b)(1) of this Subchapter or has not been reclassified as DSE in accordance with Rule .0402(c) of this Subchapter, a licensed professional, if required in G.S. 89C, 89E, or 89F, shall calculate the adjusted LTAR in accordance with Rule .0402(b)(2) of this Subchapter.
- (e) Any dispersal field where cover is required above the naturally occurring soil surface shall not be installed on slopes greater than 30 percent.
- (f) Soil cover above the original grade shall be placed over the entire dispersal field and shall extend laterally five feet beyond the trenches. On level sites, the final grade of the dispersal field shall be crowned at one-half percent grade as measured from the centerline of the dispersal field.
- (g) Wastewater system installation shall be in accordance with the following criteria:
- (1) a device that measures elevation, such as an engineer's level or laser level shall be used for the following:
 - (A) staking, flagging, or marking on the ground surface the location of trenches on site before installation begins;
 - (B) installation of the trenches; and
 - (C) verification of elevations, excavations, and installation of other system components;
 - (2) trenches shall be installed with 12 inches of naturally occurring suitable soil between the infiltrative surface and any unsuitable LC. If the vertical separation between the infiltrative surface and any SWC is less than 18 inches, and if more than six inches of the separation consists of Group I soils, a pressure dispersal system shall be required;
 - (3) the trenches shall follow the ground contour. Trenches may be installed level but off contour if an authorized agent has determined that there is sufficient vertical separation to a LC along the entire trench length in accordance with Subparagraph (2) of this Paragraph;
 - (4) the lateral shall be centered horizontally in the trench;
 - (5) the type and placement of soil cover shall be approved by the authorized agent in accordance with this Subparagraph. The cover material shall be free of trash, debris, or large clods that do not break apart. The system can be installed utilizing native backfill unless otherwise specified in this Section or the PIA Approval;
 - (6) final soil cover over the dispersal field shall be a minimum of six inches deep after settling. The finished grade over the tanks and dispersal field shall be sloped to shed surface water;
- (7) surface water runoff, including stormwater, gutter drains, or downspouts, shall be diverted away from the wastewater system. No depressions shall be allowed over the dispersal field area;
 - (8) Schedule 40 PVC or other pipe approved pursuant to Section .0700 of this Subchapter may be used as needed to connect sections of trench and overcome site limitations. The trench bottom area where solid piping is installed shall not be included as part of the minimum required infiltrative surface area;
 - (9) gravity effluent distribution components including distribution boxes, drop boxes, and flow diversion devices shall be watertight, corrosion resistant, constructed to withstand active and passive loads, and their installation shall meet the following criteria:
 - (A) separated by a minimum of two feet of undisturbed soil from the septic tank and trench(es);
 - (B) placed level on a solid foundation of undisturbed soil, pea gravel, or concrete to prevent differential settling of the component; and
 - (C) backfilled by hand to minimize disturbance;
 - (10) when parallel distribution is used to distribute effluent to the trenches, the installer shall demonstrate to the authorized agent during the final inspection that the distribution devices perform as designed;
 - (11) serial and sequential distribution shall be approved by the authorized agent when the step-down or drop box in an individual trench is constructed to allow full utilization of the upstream trench prior to overflowing to the next downslope trench in accordance with the following criteria:
 - (A) step-downs shall be constructed of a minimum of two feet of undisturbed soil, bedding material, or concrete and the effluent shall be conveyed over the step-down through Schedule 40 PVC or other pipe approved in accordance with Rule ~~.0703~~ .0703(f) of this Subchapter. Nonperforated corrugated polyethylene tubing may be used on sites with slopes greater than 25 percent. The installer shall demonstrate that the step-downs perform as designed. The authorized agent shall approve the step-downs when the installation and elevations have been verified in accordance with the CA; or

- (B) drop boxes shall be separated from the trench by a minimum of two feet of undisturbed soil and constructed to allow for full utilization of the upstream trench prior to overflowing to the next lower drop box. The installer shall demonstrate that the drop boxes perform as designed. The authorized agent shall approve the drop boxes when the installation and elevations have been verified in accordance with the CA; and
- (12) trench products other than conventional gravel shall be installed as follows:
 - (A) for trench products identified in Section .0900, the trench products shall be installed in accordance with this Section; or
 - (B) for trench products approved under Section .1700 of this Subchapter, the trench products shall be installed in accordance with their PIA Approval.
- (h) Alternating dual dispersal fields shall only be used with DSE in Soil Groups III and IV. Alternating dual dispersal fields shall be approved when designed and installed in accordance with Paragraph (g) of this Rule and the following:
 - (1) both initial and repair dispersal fields shall be installed at the same time;
 - (2) initial and repair dispersal fields of the same system type are each sized at a minimum of 75 percent of the total trench length required;
 - (3) the initial and repair dispersal fields shall be separated by an effluent flow diversion valve(s);
 - (4) diversion valve(s) shall be resistant to 500 pounds crushing strength and corrosion resistant;
 - (5) effluent flow diversion valves shall be installed below finished grade in a valve box and be accessible and operable from the ground surface; and
 - (6) trench products approved under Section .1700 of this Subchapter shall be installed in accordance with their PIA Approval.

Authority G.S. 130A-335(e), (f), and (f1); S.L. 2024-49, s.4.28.

15A NCAC 18E .0902 CONVENTIONAL WASTEWATER SYSTEMS

- (a) A conventional wastewater system shall consist of a septic tank and a gravity distribution dispersal field. In addition to the requirements set forth in Rule .0901 of this Section, this Rule shall apply to conventional wastewater systems as defined in G.S. 130A-343.
- (b) In addition to the installation requirements set forth in Rule .0901(g) of this Section, the following shall apply:
 - (1) trenches shall be constructed level in all directions with a plus or minus one-half inch tolerance from side-to-side and the maximum

- fall in a single trench not to exceed one-fourth inch in 10 feet as determined by a device that measures elevation, such as an engineer's level or laser level;
- (2) trenches shall be located not less than three times the trench width on centers. The minimum spacing for trenches is six feet on center;
- (3) trench widths shall be at least two feet, but no more than three feet, and trench depth shall not exceed 36 inches on the downslope side of the trench, except as approved by an authorized agent;
- (4) aggregate used in trenches shall be clean, washed gravel or crushed stone and graded or sized in accordance with size numbers 4, ~~467M~~, 5, ~~or 6~~ 6, 57, or 67 of ASTM D448. The aggregate shall be distributed uniformly across the infiltrative surface and over the pipe and placed 12 inches deep with a minimum of six inches below the pipe and two inches over the pipe; and
- (5) the laterals shall meet the requirements of Rule .0703(d) of this Subchapter.

Authority G.S. 130A-335(e) and (f); 130A-343; S.L. 2024-49, s.4.29.

15A NCAC 18E .0903 BED SYSTEMS

- (a) This Rule shall apply to bed systems receiving DSE.
- (b) Bed systems shall be limited to 600 gpd unless approved for a greater DDF in accordance with a PIA Approval.
- (c) Sites for bed systems shall meet the following criteria:
 - (1) soil texture is Group I, II, or ~~III~~; III to a depth of 48 inches below the naturally occurring soil surface or to a depth of 12 inches below the infiltrative surface, whichever is deeper; and
 - (2) design options for the site are limited by topography or available space.
- (d) The number of square feet of infiltrative surface area required shall be increased by 50 percent over that required for a trench system as calculated in accordance with Rule .0901(d) of this Section.
- (e) In addition to the installation requirements set forth in Rule .0901(g) of this Section, the following shall apply:
 - (1) the bottom of the bed shall be excavated level, plus or minus one-half inch, in all directions;
 - (2) laterals shall be one and one-half feet from the side of the bed;
 - (3) laterals shall be placed on three-foot centers;
 - (4) aggregate used shall comply with the requirements of Rule .0902(b)(4) of this Section;
 - (5) products approved under Section .1700 of this Subchapter shall be installed in accordance with their PIA Approval;
 - (6) the gravel surface shall be covered by an approved geo-textile fabric capable of preventing the downward movement of soil

- particles while allowing the movement of liquids and gases; and
- (7) when pressure dispersal is used, the lateral design criteria shall meet the minimum requirements of Rules .0907(e) or .0908(d) of this Section or in accordance with a PIA Approval.

Frazier Air Permeability	500 cubic feet per minute per square foot at pressure differential of one-half inch of water
--------------------------	--

Authority G.S. 130A-335(e), (f), and (f1); S.L. 2023-77, s.16.

15A NCAC 18E .0904 LARGE DIAMETER PIPE SYSTEMS

(a) LDP systems consist of laterals composed of corrugated, polyethylene tubing encased in a nylon and polyester blend filter wrap that are installed in trenches in the dispersal field. The laterals shall be one of the following:

- (1) eight-inch inside diameter with a 10-inch outside diameter; or
- (2) 10-inch inside diameter with a 12-inch outside diameter.

(b) LDP systems shall ~~only be used with DSE.~~ not be used with food service establishments or other facilities where the fats, oils, and grease exceed the limit of DSE when measured as it enters the dispersal product.

(c) LDP pipe, filter wrap, and fittings shall meet the following criteria:

- (1) pipe and fittings shall comply with the requirements of ASTM F667;
- (2) the corrugated pipe shall have two rows of holes, each hole between three-eighths inch and one-half inch in diameter, located 120 degrees apart along the bottom half of the pipe with each hole 60 degrees from the bottom center line, and staggered so that one hole is present in the valley of each corrugation;
- (3) pipe shall be marked with a visible top location indicator, 120 degrees away from each row of holes;
- (4) corrugated pipe shall be covered with filter wrap at the factory;
- (5) filter wrap shall be spun, bonded, or spunlaced nylon, polyester, or nylon/polyester blend filter wrap meeting the minimum requirements in Table XIX; and
- (6) the LDP with filter wrap shall be encased in a black polyethylene sleeve prior to installation in the trench to prevent physical damage and ultraviolet radiation deterioration of the filter wrap.

Table XIX. Minimum filter wrap requirements for LDP

Property	Value
Unit Weight	1.0 ounce per square yard
Sheet Grab Tensile Strength	Machine Direction: 23 pounds
Trapezoid Tear Strength	Machine Direction: 6.2 pounds
Mullen Burst Strength	40 psi or 276 kilopascals

(d) The requirements of Rule .0901 of this Section shall apply to LDP systems except as follows:

- (1) the LTAR determined in accordance with Rule .0901(c) of this Section shall not exceed 0.8 gpd/ft²; and
- (2) to calculate the minimum trench length in accordance with Rule .0901(d) of this Section, an equivalent trench width of two feet shall be used for eight-inch LDP and two and one-half feet shall be used for 10-inch LDP.

(e) In addition to the requirements set forth in Rule .0901(g) of this Section, LDP system installations shall comply with the following:

- (1) trenches for eight-inch LDP shall be a minimum of 10 inches and a maximum of 18 inches wide. Trenches for ten-inch LDP shall be a minimum of 12 inches and a maximum of 24 inches wide;
- (2) the infiltrative surface and pipe shall be level with a maximum fall of one inch in 100 feet;
- (3) backfill shall have no more than 10 percent by volume of fibrous organics, building rubble, rocks, large clods, or other ~~debris and shall be Soil Groups I, II, or III;~~ debris;
- (4) the LDP shall be connected to the collection sewer or a stepdown pipe using an offset adapter to create a mechanical joint; and
- (5) the minimum on center spacing for eight-inch LDP shall be five feet and for 10-inch LDP shall be six feet.

Authority G.S. 130A-335(e) and (f); S.L. 2024-49, s.4.30.

15A NCAC 18E .0905 PREFABRICATED PERMEABLE BLOCK PANEL SYSTEMS

(a) PPBPS utilize both horizontal and vertical air chambers in a 16-inch PPBPS and are constructed to promote downline and horizontal distribution of effluent. PPBPS systems shall ~~only be used with DSE.~~ not be used with food service establishments or other facilities where the fats, oils, and grease exceed the limit of DSE when measured as it enters the dispersal product.

(b) The requirements of Rule .0901 of this Section shall apply to PPBPS systems except as follows:

- (1) the LTAR determined in accordance with Rule .0901(c) of this Section shall not exceed 0.8 gpd/ft²; and
- (2) to calculate the minimum trench length in accordance with Rule .0901(d) of this Section, an equivalent trench width of six feet shall be used.

(c) In addition to the requirements set forth in Rule .0901(g) of this Section, PPBPS system installations shall comply with the following and the manufacturer's specifications:

- (1) PPBPS trenches shall be located a minimum of eight feet on center or three times the trench ~~width; width, whichever is greater;~~ and
- (2) trench sidewalls shall be raked in Group IV soils.
- (d) When used in ~~bed and fill~~ bed, fill, or sand lined trench systems, PPBPS shall use the equivalent trench width of six feet to calculate the minimum trench ~~or lateral length required.~~ required, unless otherwise instructed by the manufacturer on a case-by-case basis.
- ~~(e) When used in sand lined trench systems, PPBPS shall use the equivalent trench width of three feet to calculate the minimum trench length required.~~

Authority G.S. 130A-335(e) and (f); S.L. 2023-63, s.16; S.L. 2024-49, s.4.31.

15A NCAC 18E .0906 SAND LINED TRENCH SYSTEMS

- (a) Sand lined trench systems receiving DSE may be used ~~on sites originally classified unsuitable due to SWC, soil morphology, restrictive horizon, or soil depth that may be reclassified as suitable~~ in accordance with this Rule when there is a DDF less than or equal to 1,500 gpd.
- (b) Sand lined trench systems with advanced pretreatment shall comply with Rule .1205 of this Subchapter.
- (c) The soil and site shall meet the following criteria:
 - (1) the texture of the receiving permeable horizon is sand, loamy sand, sandy loam, loam, or silt loam;
 - (2) the structure of the receiving permeable horizon is classified suitable;
 - (3) the moist consistence of the receiving permeable horizon is loose, very friable, friable, or firm;
 - (4) if the receiving permeable horizon has zones of heavier textured materials, these zones are discontinuous with an average thickness not exceeding one-third of the required thickness of the receiving permeable horizon;
 - ~~(5) the naturally occurring receiving permeable horizon shall be less than or equal to 60 inches below the naturally occurring soil surface. If the receiving permeable horizon is greater than 60 inches below the naturally occurring soil surface, advanced pretreatment shall be used in accordance with Rule .1205 of this Subchapter;~~

- ~~(6)~~(5) artificial drainage shall be provided, as needed, to maintain the following minimum vertical separation from the infiltrative surface to a SWC:
 - (A) 18 inches with gravity or pressure dosed gravity distribution; or
 - (B) 12 inches with pressure dispersal; and
- ~~(7)~~(6) the minimum required thickness of the receiving permeable horizon shall be determined by the texture of that horizon as follows:
 - (A) sand or loamy sand texture requires a minimum thickness of one foot;
 - (B) sandy loam or loam texture requires a minimum thickness of two feet; or
 - (C) silt loam texture requires a minimum thickness of three feet.

(d) If a groundwater lowering system is required to comply with the minimum vertical separation in Paragraph (c)(6) of this Rule to a SWC that is not related to lateral water movement, design plans and specifications shall be prepared by a licensed professional if required in G.S. 89C, 89E, or 89F. The groundwater lowering system shall:

- (1) extend into the receiving permeable horizon;
- (2) have an outlet with location and elevation that allows for free discharge of groundwater as required for the groundwater lowering system to be functional. The outlet location and elevation shall be shown on the artificial drainage system plan with relative water level elevations and wastewater system site elevations labeled; and
- (3) all groundwater lowering system components are integral to the wastewater system and subject to ownership and control requirements of Rule .0301(b) and (c) of this Subchapter.

(e) The LTAR shall be determined in accordance with Table XX for sand-lined trench systems. The minimum trench length shall be calculated in accordance with Rule .0901(d) of this Section, except that the ETW shall be equal to the installed trench width. The LTAR shall be based on the lesser of the following:

- (1) LTAR set forth in Table XX based on the most hydraulically limiting, naturally occurring soils overlying the permeable receiving horizon; or
- (2) 10 percent of the in-situ Ksat of the receiving permeable horizon.

TABLE XX. LTAR for sand lined trench systems based on the most hydraulically limiting, naturally occurring soils overlying the permeable receiving horizon

Soil Group	Texture of Most Hydraulically Limiting Overlying Soil Horizon	Distribution Type	LTAR in gpd/ft ²
I	Sands	Gravity or Pressure Dosed Gravity	0.7 – 0.9
		Pressure Dispersal	0.8 – 1.2
II	Coarse Loams	Gravity or Pressure Dosed Gravity	0.5 – 0.7
		Pressure Dispersal	0.6 – 0.8
III	Fine Loams	Gravity or Pressure Dosed Gravity	0.2 – 0.4

PROPOSED RULES

IV	Clays	Pressure Dispersal	0.3 – 0.6
		Gravity or Pressure Dosed Gravity	0.1 – 0.2
		Pressure Dispersal	0.15 – 0.3

(f) ~~There shall be no reduction in trench length compared to a conventional wastewater system when Accepted or Innovative gravelless trench product is used. Trench length for trench dispersal products approved with a specific dispersal field reduction in area or trench length when receiving DSE in accordance with this Subchapter or a PIA Approval shall be calculated in accordance with this Subchapter or PIA Approval.~~

(g) A special site evaluation in accordance with Rule .0510 of this Subchapter shall be required for the following conditions to field verify the LTAR:

- (1) the texture of the receiving permeable horizon is sandy loam or loam and the system DDF is greater than 600 gpd; or
- (2) the texture of the receiving permeable horizon is silt loam.

(h) In addition to the requirements set forth in Rule .0901(g) of this Section, sand lined trench system installations shall comply with the following:

- (1) gravity trenches shall have a maximum width of three feet and a minimum width of one and a half feet;
- (2) trenches shall be located not less than three times the trench width on center. The minimum spacing for trenches shall be five feet on center;
- (3) the sand lined trenches shall be constructed to extend into the naturally occurring receiving permeable horizon;
- (4) the infiltrative surface shall be no deeper than 24 inches below finished grade. The top of the trench media shall be at or below the naturally occurring soil surface. Drip tubing shall be installed a minimum of six inches below the natural grade;
- (5) soil used to line the trench shall be sand in texture. The installer shall provide written laboratory verification of the media textural classification and quality when requested by the LHD based on a visual inspection of the sand used during installation. When laboratory analysis is required, the material shall be clean, uncoated fine, medium, or coarse sand with a minimum of 90 percent in sizes ranging from 0.1 to 2.0 millimeters, with no more than one percent smaller than 0.074 millimeters or a No. 200 Sieve;
- (6) pressure dosed gravity distribution or pressure dispersal shall be used when the total dispersal field line length exceeds 750 linear feet in a single system;
- (7) pressure dispersal shall be used when the total dispersal field line length exceeds 1,200 linear feet in a single system;
- (8) when pressure dispersal is used, the pressure dispersal network shall be designed in

accordance with Rules .0907(e) or .0908(f) of this Section, except that the trench width shall comply with this Paragraph. The total line length shall be calculated based on infiltrative surface area;

- (9) drip dispersal systems in sand lined trenches shall require multiple runs per trench of drip tubing with emitters as follows:
 - (A) a minimum of two runs within a trench between one and one half and two feet wide; and
 - (B) a minimum of three runs within a trench between two and three feet wide.

The drip tubing shall be uniformly spaced across the trench with the tubing six inches from the trench sidewalls. Drip tubing shall be covered by a minimum of six inches of sand lined trench media meeting the requirements of Subparagraph (5) of this Paragraph. Drip dispersal systems shall comply with the requirements of Section .1600 of this Subchapter and this Rule;

- (10) finished grade shall provide for positive surface drainage away from all system components, with the dispersal field crowned at one-half percent as measured from the centerline of the dispersal field. The finished grade requirements shall be made a condition of the CA; and
 - (11) trench products approved under Section .1700 of this Subchapter shall be installed in accordance with PIA Approval.
- (i) Other sand lined trench systems may be approved on a site-specific basis in accordance with Rule .0509(c) of this Subchapter.

Authority G.S. 130A-335(e) and (f); S.L. 2023-77, s.17; S.L. 2024-49, s.4.32.

15A NCAC 18E .0907 LOW PRESSURE PIPE SYSTEMS

(a) LPP systems utilize a network of small diameter pipes with three feet to six feet pressure head to distribute effluent across the entire dispersal field. Any subsurface dispersal system listed in this Section may incorporate LPP dispersal.

(b) LPP systems with advanced pretreatment shall comply with Rules .1202, .1203, .1205, or .1206 of this Subchapter.

(c) The LTAR shall be determined as follows:

- (1) Tables XXI and XXII shall be used to determine the LTAR for LPP systems, as applicable;
- (2) the LTAR determined from Table XXI shall be based on the soil textural class of the most limiting, naturally occurring soil horizon to a depth of 12 inches below the infiltrative surface;

- (3) the LTAR determined from Table XXII shall be based on the saprolite textural class of the most limiting, naturally occurring saprolite to a depth of 24 inches below the infiltrative surface, or less than 24 inches if combined with soil in accordance with Rule .0506(b) of this Subchapter; and
- (4) for facilities that generate HSE as specified in Rule .0401(h) of this Subchapter or a facility with a full kitchen, the LTAR shall not exceed the mean rate for the applicable Soil Group.

- (3) When HSE is proposed to be discharged to an LPP dispersal field with no advanced pretreatment as required in Rule .0402(b)(1) of this Subchapter or has not been reclassified as DSE in accordance with Rule .0402(c) of this Subchapter, a licensed professional, if required in G.S. 89C, 89E, or 89F, shall calculate the adjusted LTAR in accordance with Rule .0402(b) of this Subchapter.

(e) In addition to the requirements set forth in Rule .0901(g) of this Section, LPP system design and installation shall comply with the following, unless otherwise specified in a PIA Approval:

- (1) the LPP distribution network shall be constructed of one to two-inch diameter pressure rated Schedule 40 PVC laterals placed in gravel that meets the requirements in Rule .0902(b)(4) of this Section or other approved media;
- (2) the trench width shall be one to two feet;
- (3) trenches shall be located not less than three times the trench width on center. The minimum spacing for trenches shall be five feet on center;
- (4) trenches shall include a minimum of eight inches of gravel or other approved media, either from a PIA Approval or subsurface dispersal system listed in Section .0900 of this Subchapter. The lateral shall be installed a minimum of five inches above the infiltrative surface;
- (5) laterals, manifolds and LPP fields shall comply with the following design criteria:
 - (A) the maximum lateral length shall yield no more than a 10 percent difference in orifice delivery rate between the first and last orifice along the lateral;
 - (B) no more than one-third of the total number of holes shall be less than 5/32 inches in diameter, with no orifices sized smaller than one-eighth inch in diameter in any lateral line;
 - (C) all orifices shall face upwards, except for two orifices, one-third of the way from the beginning and end of each lateral, which shall face downward; and
 - (D) maximum orifice spacing shall be as follows: Soil Group I - five feet; Soil Group II - six feet; Soil Group III - eight feet; and Soil Group IV - 10 feet;
- (6) the orifices shall be protected by the following:
 - (A) lateral sleeved within a three or four-inch perforated corrugated or smooth wall tubing meeting the requirements of Rule .0703(d) of this Subchapter; or
 - (B) orifice shields that prevent aggregate, soil, and tree roots from clogging the orifices;
- (7) the following additional design provisions shall be required for sloping sites:

TABLE XXI. LTAR for LPP systems based on Soil Group and texture class

Soil Group	USDA Soil Textural Class		LTAR in gpd/ft ²
I	Sands	Sand	0.4 – 0.6
		Loamy Sand	
II	Coarse Loams	Sandy Loam	0.3 – 0.4
		Loam	
III	Fine Loams	Sandy Clay Loam	0.15 – 0.3
		Silt Loam	
		Clay Loam	
		Silty Clay Loam	
IV	Clays	Sandy Clay	0.05 – 0.2
		Silty Clay	
		Clay	

TABLE XXII. LTAR for LPP systems in saprolite based on Saprolite Group and texture class

Saprolite Group	Saprolite Textural Class		LTAR in gpd/ft ²
I	Sands	Sand	0.3 – 0.4
		Loamy Sand	0.25 – 0.35
II	Loams	Sandy Loam	0.2 – 0.3
		Loam	0.1 – 0.2
		Silt Loam	0.05 – 0.15

(d) The minimum required dispersal field area and trench length shall be calculated in accordance with the following:

- (1) the minimum required dispersal field area shall be calculated by dividing the DDF by the LTAR; and
- (2) the minimum trench length shall be calculated by dividing the required dispersal field area by a lateral spacing of five feet. The following equation shall be used to calculate the minimum line length required.

Where

TL	=	(DDF / LTAR) / LS
TL	=	length of trench, in feet
DDF	=	design daily flow, in gpd
LTAR	=	in gpd/ft ²
LS	=	five-foot line spacing

- (A) separately valved manifolds shall be required for all subfield segments where the elevation difference between the highest and lowest laterals exceeds three feet;
 - (B) the orifice spacing, orifice size or both shall be adjusted to compensate for relative elevation differences between laterals branching off a common supply manifold and to compensate for the lines at the lowest elevation receiving more effluent at the beginning and end of a dosing cycle;
 - (C) the lateral network shall be designed to achieve a 10 to 40 percent higher steady state flow rate per linear foot into the upper lines, relative to the lower lines, depending on the amount of elevation difference and the number of laterals. The steady state flow rate is based on the pipe being full;
 - (D) maximum elevation difference between the highest and lowest laterals in a field shall not exceed 10 feet unless the flow is uniformly divided using multiple pumps or split between subfield segments without requiring simultaneous adjustment of multiple pressure regulating valves in separate locations. Flow shall be uniformly divided such that the dose volumes to the subfields does not vary more than 10 percent on an area basis; and
 - (E) the Department shall approve other designs based upon the authorized designer or PE providing documentation showing equivalent hydraulic performance to this Subparagraph;
- (8) turn-ups shall be provided at the ends of each lateral, constructed of Schedule 40 PVC pipe or stronger pressure-rated pipe, and shall terminate at the ground surface and be installed in a valve box or equivalent that provides access for operation and maintenance;
 - (9) the supply manifold shall be constructed of solvent-welded pressure rated Schedule 40 PVC;
 - (10) the supply manifold shall be sized large enough based on the size and number of laterals served to prevent more than a 20 percent variation in pressure head between the first and last laterals due to losses within the manifold when feeding the manifold from a lower elevation;
 - (11) the supply manifold shall comply with the following design criteria:
 - (A) the ratio of the supply manifold inside cross-sectional area to the sum of the inside cross-sectional areas of the laterals served shall exceed 0.7:1 as measured from where the supply line connects to the manifold;
 - (B) the reduction between the manifold and connecting laterals shall be made off the manifold using reducing tees or fittings; and
 - (C) cleanouts shall be installed at the distal ends of the supply manifold and shall be enclosed in valve boxes accessible from the ground surface;
 - (12) pressure regulating valves shall be provided for pressure adjustment at the fields;
 - (13) valves shall be installed in an access device, such as a valve box, and be accessible and operable from the ground surface. Valves serving contiguous subfields shall be in a common valve box;
 - (14) the LPP dosing system shall comply with the following design criteria:
 - (A) the pump operating flow rate shall be based upon delivering three feet to six feet of residual pressure head at the distal end of all laterals;
 - (B) the dose volume shall be between five and 10 times the liquid capacity of the lateral pipe dosed, plus the liquid capacity of the portions of manifold and supply lines which drain between doses; and
 - (C) when pumping downhill and the supply line volume exceeds 20 percent of the calculated dose volume, special design considerations shall be followed to prevent more than 20 percent of the dose volume from draining by gravity to the dispersal field between doses; and
 - (15) the trenches shall be covered to a minimum depth of four inches after settling.
- (f) The authorized agent or Department may approve on a site-specific basis drip dispersal systems used in LPP trenches and other LPP designs based on documentation showing that the proposed design meets the performance requirements of this Rule.

Authority G.S. 130A-335(e) and (f); S.L. 2024-49, s.4.33.

15A NCAC 18E .0908 DRIP DISPERSAL SYSTEMS

- (a) This Rule provides for the permitting of drip dispersal systems receiving DSE. Drip dispersal systems shall comply with the provisions of this Rule and Section .1600 of this Subchapter.
- (b) Drip dispersal systems with advanced pretreatment shall comply with Rule .1204 of this Subchapter.
- (c) Drip dispersal systems receiving DSE shall meet the following soil and site criteria:
 - (1) A minimum of 18 inches of naturally occurring suitable soil above a LC, 13 inches of naturally occurring suitable soil above a SWC, and the

minimum vertical separation to any LC shall be 12 inches. A groundwater lowering system may be used to comply with the vertical separation to a SWC when only Group I or II soils with suitable structure are present within 36 inches of the naturally occurring soil surface.

- (2) For new fill, the soil and site shall meet the following criteria:
 - (A) Rule .0909(b) and (c) of this Section, except as otherwise specified in this Subparagraph;
 - (B) no SWC shall exist within the first 12 inches below the naturally occurring soil surface. A groundwater lowering system shall not be used to comply with the initial site requirements for a new fill system; and
 - (C) minimum vertical separation to any unsuitable soil horizon or rock shall be 18 inches and 12 inches for any SWC.
- (3) For existing fill, the soil and site shall meet the following criteria:
 - (A) Rule .0909(d) and (e) of this Section, except as otherwise specified in this Subparagraph; and
 - (B) minimum vertical separation to any LC shall be 24 inches.

(d) Tables XXIII and XXIV shall be used to determine the LTAR for all DSE drip dispersal systems:

- (1) Table XXIII shall be used for systems utilizing soil. The LTAR shall be based on the most limiting, naturally occurring soil horizon within 18 inches of the naturally occurring soil surface or to a depth of 12 inches below the infiltrative surface, whichever is deeper;
- (2) Table XXIV shall be used for systems utilizing saprolite. The LTAR shall be based on the most limiting, naturally occurring saprolite to a depth of 24 inches below the infiltrative surface;
- (3) the LTAR for new fill systems shall not exceed 0.5 gpd/ft² for Group I, 0.3 for gpd/ft² Group II, 0.15 gpd/ft² for Group III or 0.05 gpd/ft² for Group IV soils, respectively;
- (4) sections of blank tubing without emitters shall not count towards the minimum dripline length required; and
- (5) the DDF shall be divided by the LTAR, determined from Table XXIII or XXIV, to determine the minimum dispersal field area required. The minimum dripline length shall be determined by dividing the required area by the maximum line spacing of two feet. The designer may recommend additional linear footage as soil and site conditions allow. The following equations shall be used to calculate the minimum dispersal field area and dripline length required:

$$MA = DDF / LTAR$$

- DL = MA / LS
- Where MA = minimum dispersal field area, in ft²
- DDF = design daily flow, in gpd
- LTAR = in gpd/ft²
- DL = dripline length, in feet
- LS = two-foot line spacing

TABLE XXIII. LTAR for DSE drip dispersal systems based on Soil Group and texture class

Soil Group	USDA Soil Textural Class		LTAR in gpd/ft ²
I	Sands	Sand	0.4 – 0.6
		Loamy Sand	
II	Coarse Loams	Sandy Loam	0.3 – 0.4
		Loam	
III	Fine Loams	Sandy Clay Loam	0.15 – 0.3
		Silt Loam	
		Clay Loam	
		Silty Clay Loam	
IV	Clays	Silt	0.05 – 0.2
		Sandy Clay	
		Silty Clay Clay	

TABLE XXIV. LTAR for DSE drip dispersal systems based on Saprolite Group and texture class

Saprolite Group	Saprolite Textural Class	LTAR in gpd/ft ²
I	Sand	0.3 – 0.4
	Loamy sand	0.25 – 0.35
II	Sandy loam	0.2 – 0.3
	Loam	0.1 – 0.2
	Silt Loam	0.05 – 0.1

(e) A special site evaluation shall be required in accordance with Rule .0510 of this Subchapter, as applicable.

(f) Drip dispersal installation shall be in accordance with the following criteria:

- (1) dripline shall be installed in accordance with the approved design. The design shall specify installation depth, installation equipment, blanking, drainback prevention, and any other site-specific design requirements identified by the designer;
- (2) dripline shall be installed a minimum of one inch into naturally occurring soil, except when installed in a fill system;
- (3) driplines shall be installed level. A maximum variance of plus or minus two inches shall be allowed within any contiguous section of dripline containing drip emitters;
- (4) a minimum of six inches of cover shall be maintained over the dripline. The six inches of cover may be met by the addition of up to six

- (5) inches, after settling, of suitable Group II or III soil over the drip field;
- (5) drip dispersal fields shall be sloped to shed surface water;
- (6) if cover material is required and the slope is greater than 30 percent, a slope stabilization plan shall be provided by a licensed professional if required in G.S. 89C, 89E, or 89F; and
- (7) the drip dispersal system shall be field tested after installation in accordance with Rule .1603 of this Subchapter.

- (4) soils, for the establishment of a vegetative cover;
- (4) minimum cover shall be six inches after settling;
- (5) additional fill may be added to facilitate drainage and accommodate final landscaping requirements at the site necessary to stabilize the fill, shed surface water, and establish a vegetative cover. The additional fill may be provided if the infiltrative surface is less than 30 inches below the finished grade;
- (6) where fill material is added, the fill material and the existing soil shall be mixed to a depth of six inches below the interface. Vegetative cover, organic litter, and the O horizon shall be removed before the additional fill material is incorporated;
- (7) the fill system shall be constructed as an elongated berm with the long axis parallel to the ground elevation contours of the slope;
- (8) the side slope of the fill system shall not exceed a rise to run ratio of 1:4. If the first 18 inches below the naturally occurring soil surface is Group I soil, the side slope of the fill shall not exceed a rise to run ratio of 1:3;
- (9) the outside edge of the trench shall be located a minimum of five feet horizontally from the top of the side slope;
- (10) the fill system shall be shaped to shed surface water and shall be stabilized with a vegetative cover;
- (11) trench products approved under Section .1700 of this Subchapter shall be installed in accordance with PIA Approval; and
- (12) the setback requirements shall be measured from the projected toe of the slope. If this setback cannot be met, the setback requirements shall be measured five feet from the nearest edge of the trench if the following conditions are met:
 - (A) slope of the site does not exceed two percent;
 - (B) the first 18 inches of soil beneath the naturally occurring soil surface shall consist of Group I soils; and
 - (C) the lot or tract of land was recorded on or before December 31, 1989.
- (d) An existing pre-July 1, 1977 fill site that does not meet the requirements of Paragraph (b) of this Rule may be utilized for a wastewater system if the following requirements are met:
 - (1) substantiating data are provided by the lot owner indicating that the fill material was placed on the site prior to July 1, 1977;
 - (2) the fill material shall have Group I soil texture for a minimum depth of 24 inches below the existing ground surface;
 - (3) the fill material shall have no more than 10 percent by volume of fibrous organics, building rubble, or other debris, and shall not have

Authority G.S. 130A-335(e) and (f); S.L. 2024-49, s. 4.34.

15A NCAC 18E .0909 FILL SYSTEMS

(a) Both new and existing fill systems are a system in which all or part of the dispersal field media is installed in fill material. The system includes both the basal area of dispersal field and the toe slope in all directions.

(b) New fill systems may be installed on sites that meet the following requirements:

- (1) a minimum of the first 18 inches below the naturally occurring soil surface consists of suitable soil with the exception that no SWC exists within the first 12 inches below the naturally occurring soil surface and a groundwater lowering system is not used to meet this requirement;
- (2) systems shall be installed only on sites with uniform slopes less than ~~four~~ 15 percent;
- (3) stormwater diversions, subsurface interceptor drains, or swales shall be required as needed upslope of the system to divert surface runoff or lateral flow from passing over or into the system; and
- (4) the area of suitable soil shall be large enough to include the basal area of dispersal field and the toe slope in all directions.

(c) New fill system design and installation shall be in accordance with the following criteria:

- (1) trenches shall be installed with a minimum of 24 inches separating the infiltrative surface and any LC for gravity distribution and pressure dosed gravity distribution, except for any SWC that requires 18 inches of separation. If pressure dispersal is used, the minimum separation distance shall be 18 inches between the infiltrative surface and any LC and 12 inches to a SWC. This separation requirement may be met with the use of a groundwater lowering system only in Soil Groups I and II with suitable structure;
- (2) fill systems with a DDF greater than 480 gpd shall use pressure dispersal systems;
- (3) fill material soil texture shall be classified as Group I up to the top of the trenches. The final six inches of fill used to cover the system shall have a finer texture, such as Group II or III

- (4) discreet layers containing greater than 35 percent of shell fragments;
 - (4) if a minimum of 24 inches of Group I fill material is present, additional fill with soil texture classified Group I may be added to comply with the separation requirements of Subparagraph (e)(5) of this Rule;
 - (5) SWC is 18 inches or greater below the ground surface of the fill. This requirement shall be met without the use of a groundwater lowering system; and
 - (6) the area of suitable soil shall be large enough to include the basal area of dispersal field and the toe slopes in all directions.
- (e) Existing fill system design and installation shall be in accordance with Paragraph (c) of this Rule and the following criteria:
- (1) the DDF shall not exceed 480 gpd;
 - (2) pressure dispersal shall be used. LPP systems shall meet the requirements of Rule .0907(d) and (e) of this Section. Drip dispersal systems shall meet the requirements of Rule .0908(d) and (f) of this Section;
 - (3) the LTAR shall not exceed 0.5 gpd/ft² for pressure dispersal systems;
 - (4) existing fill sites with 48 inches of Group I soils may use conventional trenches with a maximum LTAR of 1.0 gpd/ft² in lieu of a pressure dispersal system;
 - (5) the minimum vertical separation to any LC shall be 24 inches for pressure dispersal systems and 48 inches for conventional systems. This vertical separation requirement may be met by adding additional Group I soil, but shall not be met with the use of a groundwater lowering system;
 - (6) where additional Group I fill is to be added, the side slope of the fill shall not exceed a side slope ratio of 1:3; and
 - (7) trench products approved under Section .1700 of this Subchapter shall be installed in accordance with their PIA Approval.
- (f) The LTAR for new and existing fill systems shall be determined in accordance with Rule .0901(c) of this Section and the following:
- (1) the LTAR shall be based on the most limiting, naturally occurring soil horizon within 18 inches of the ground surface or to a depth 12 inches below the infiltrative surface, whichever is deeper;
 - (2) the lowest LTAR for the applicable Soil Group shall be used for systems installed in accordance with this Rule; and
 - (3) for sites with a minimum of 18 inches of Group I soils below the naturally occurring soil surface or to a depth of 12 inches below the infiltrative surface, whichever is deeper, the LTAR shall not exceed 1.0 gpd/ft² for gravity or pressure

- dosed gravity distribution or 0.5 gpd/ft² for pressure dispersal systems.
- (g) The authorized agent or Department may approve other fill system designs on a site-specific basis in accordance with a PIA Approval or Rule .0509(c) of this Subchapter.

Authority G.S. 130A-335(e) and (f); S.L. 2024-49, s.4.35.

SECTION .1100 – SYSTEM DOSING AND CONTROLS

15A NCAC 18E .1101 GENERAL DOSING SYSTEM REQUIREMENTS

- (a) Dosing systems with a single pump or siphon shall be required to be used to deliver effluent into laterals when:
- (1) gravity distribution cannot be achieved between the septic tank and dispersal field;
 - (2) the total lateral length exceeds 750 linear feet in a single system; or
 - (3) a pressure dosed gravity distribution or pressure dispersal system is used.
- (b) Dosing systems with multiple alternating or sequencing pumps or siphons shall be used to discharge to separate dispersal fields when:
- (1) DDF from a single system exceeds 3,000 gpd; or
 - (2) the total line length exceeds 2,000 linear feet in a single trench system or 5,000 linear feet in a drip dispersal system.
- (c) If alternating pumps or siphons are not required in accordance with Paragraph (b) of this Rule, but used, then the alternating pumps or siphons may discharge to a single dispersal field.
- (d) The dose volume to a dispersal field shall be calculated as follows:
- (1) 66 to 75 percent of the volume of the installed linear lateral footage for pressure dosed gravity distribution systems;
 - (2) 66 to 75 percent of the volume of the installed linear lateral footage for LDP systems and trench products with a PIA approval based on lateral capacity equivalent to the capacity of a four-inch corrugated pipe;
 - (3) LPP systems in accordance with Rule .0907(e)(14)(B) of this Subchapter; and
 - (4) drip dispersal systems in accordance with Rule .1602(f)(3) of this Subchapter.
- (e) The pump operating flow rate from a dosing system shall be designed to achieve scour velocity in the supply line and to distribute effluent in accordance with the dispersal field design.
- (f) The pump operating flow rate or average pump run time shall be within 25 percent of the initial measurements collected during the final inspection.
- (g) All dosing systems shall be tested using water prior to issuance of an ~~OP~~ OP or the ATO. The test ~~shall~~ may be conducted by the ~~installer~~ installer. The installer shall give the LHD, LSS, authorized designer, AOWE, and or PE, as applicable, the option to witness the test. witnessed by the LHD, A PE and AOWE shall be authorized to witness the dosing tests for systems they have designed and for LHD permits upon a signed acceptance of responsibility for the verification of the dosing

system. The dosing test shall ~~and~~ include a demonstration and documentation of the following:

- (1) pump or siphon operating flow rate and dose volume delivered;
- (2) float control levels;
- (3) high-water alarm, including sound;
- (4) operating pressure head, if applicable; and
- (5) delivery of water to the dispersal field.

(h) Documentation of the dosing system test results shall be provided to the LHD, PE, or AOWE for attachment to the permit or NOI, as applicable.

Authority G.S. 130A-335(e), (f), and (g); S.L. 2023-77, s.18.

SECTION .1200 – ADVANCED PRETREATMENT SYSTEMS STANDARDS, SITING, AND SIZING CRITERIA

15A NCAC 18E .1202 SITING AND SIZING CRITERIA FOR ADVANCED PRETREATMENT SYSTEMS WITH A

DESIGN DAILY FLOW LESS THAN OR EQUAL TO 1,500 GALLONS/DAY

(a) Wastewater systems utilizing advanced pretreatment with a DDF less than or equal to 1,500 gpd may only use one of the following modifications to system siting and sizing criteria, unless otherwise identified in this Rule:

- (1) reduction in depth to LC or vertical separation to LC in accordance with Paragraph (b) of this Rule;
- (2) LTAR increase in accordance with Paragraph (c) of this Rule; or
- (3) setback reductions in accordance with Paragraph (d) of this Rule.

(b) The minimum required vertical separation to a LC in natural soil may be reduced with the use of advanced pretreatment in accordance with Table XXVI. Table XXVII provides the minimum depths and vertical separation for new and existing fill. A special site evaluation shall be submitted and approved in accordance with Rule .0510 of this Subchapter when a reduction in vertical separation to a LC is proposed in accordance with this Rule.

Table XXVI. Minimum vertical separation to LC based on effluent standards for wastewater systems with a DDF less than or equal to 1,500 gpd

Minimum vertical separation in inches from infiltrative surface to LC					
Soil Group	Distribution Method	Effluent Standard**			
		DSE*	NSF/ANSI 40	TS-I	TS-II
I	Gravity	18	12	12	12
	LPP	12	12	9	6
	Drip	12	12	9	6
II-IV	Gravity	12	12	9	9
	LPP	12	12	9	6
	Drip	12	12	9	6

*For comparison

**12-inch vertical separation shall always be maintained to rock or tidal water

Table XXVII. Minimum depth to LC and vertical separation to SWC in new or existing fill based on effluent standards for wastewater systems with a DDF less than or equal to 1,500 gpd for new fill and less than or equal to 480 gpd for existing fill

Minimum depth in inches from naturally occurring soil surface or existing fill surface to LC					
Type of Fill	Distribution Method	Effluent Standard			
		DSE**	NSF/ANSI 40	TS-I	TS-II
New Fill	Gravity	18 to LC 12 to SWC	18 to LC 12 to SWC	14 to LC 12 to SWC	14 to LC 12 to SWC
	LPP	18 to LC 12 to SWC	18 to LC 12 to SWC	12	12
	Drip	18 to LC 12 to SWC	18 to LC 12 to SWC	12	12
Existing Fill	Gravity LPP Drip	24 of Group I Fill or Soil to LC 18 of Group I Fill or Soil to SWC			
Minimum vertical separation in inches from infiltrative surface to LC*					
Type of Fill	Distribution Method	Effluent Standard			

PROPOSED RULES

		DSE**	NSF/ANSI 40	TS-I	TS-II
New Fill	Gravity	24 to LC 18 to SWC	18 to LC 18 to SWC	18 to LC 14 to SWC	18 to LC 14 to SWC
	LPP	18 to LC 12 to SWC	18 to LC 12 to SWC	12 to LC 9 to SWC	9 to LC 6 to SWC
	Drip	18 to LC 12 to SWC	18 to LC 12 to SWC	12 to LC 9 to SWC	9 to LC 6 to SWC
Existing Fill	Gravity	48	36	24	24
	LPP	24	18	12	12 to LC 9 to SWC
	Drip	24	18	12	12 to LC 9 to SWC

*Minimum depth after adjustment for slope correction

**For comparison

(c) The LTAR shall be based on the effluent standard and dispersal field type proposed in accordance with the following:

- (1) The LTAR may be increased by the following factors when compared to the rate assigned by the authorized agent for a new system using DSE:
 - (A) up to 1.33 for NSF/ANSI 40 effluent standards in soils which are Group I or II with suitable structure;
 - (B) up to 2.0 for TS-I or TS-II effluent standards when pressure dispersal is utilized; or
 - (C) up to 2.5 for TS-II effluent standards when all the following conditions are met: minimum of 36 inches of Group I soils from the naturally occurring soil surface; minimum depth to a SWC below the naturally occurring soil surface is 24 inches; space shall be available for an equivalently sized dispersal field repair area; and pressure dispersal shall be utilized.
- (2) A special site evaluation, if required in accordance with Rule .0510 of this Subchapter, shall be submitted and approved.
- (3) The LTAR for an aerobic drip system shall be determined in accordance with Rule .1204 of this Section.
- (4) Trench dispersal products approved for a specific dispersal field reduction in area or

trench length when receiving DSE in accordance with this Subchapter or a PIA Approval shall not be reduced by more than 50 percent when any LTAR adjustments are taken in accordance with this Rule.

- (5) When using pressure dispersal systems, the proposed LTAR increases in Subparagraph (c)(1) may be used concurrently with the reduced setbacks for TS-II Systems in Table XXVIII.
- (6) The DDF shall not be increased by the addition of advanced pretreatment to an existing wastewater system by more than 33 and one-third percent on a site without repair area or by more than 50 percent on a site with 100 percent repair area.
- (d) Advanced pretreatment systems shall meet the following setback requirements:
 - (1) minimum setback requirements of Section .0600 of this Subchapter shall be met, except as shown in Table XXVIII; and
 - (2) when any other siting or sizing modifications are applied, such as reduced depth to LC, vertical separation, or increased LTAR, for a TS-I or TS-II system in accordance with Paragraphs (b) and (c) of this Rule, no setback reductions shall be taken except those to artificial drainage systems described in Table XXVII, unless otherwise specified in this Section.

Table XXVIII: Setbacks for wastewater systems meeting NSF/ANSI 40, TS-I, or TS-II effluent standards

Site Features	Setback in feet according to Effluent Standard**			
	DSE*	NSF/ANSI 40	TS-I	TS-II
Surface waters classified WS-I, from ordinary high-water mark	100	70	70	50
Waters classified SA, from mean high-water mark	100	70	70	50
Any Class I or Class II reservoir, from normal water level	100	70	70	50

PROPOSED RULES

Any other stream, non-water supply spring, or other surface water, from the ordinary high-water mark	50	35	35	25
Tidal influenced waters, such as marshes and coastal water, from mean high-water mark	50	35	35	25
Lake or pond, from normal water level	50	35	35	25
Groundwater lowering system, as measured on the ground surface from the edge of the feature	25	25	20	15
Downslope interceptor drains and surface water diversions with a vertical cut of more than two feet, as measured on the ground surface from the edge of the feature	15	15	10	10
Upslope and side slope interceptor drains and surface water diversions with a vertical cut of more than two feet, as measured on the ground surface from the edge of the feature	10	10	7	5
A stormwater collection system as defined in 15A NCAC 02H .1002(48), excluding gutter drains that connect to a stormwater collection system, with a vertical cut of more than two feet as measured from the center of the collection system	10	10	7	5
Permanent stormwater retention basin, from normal water level	50	50	35	25
Any other dispersal field, except designated dispersal field repair area for project site	20	20	10	5

*For comparison

**May require a variance from DEQ based on local buffer rules.

(e) Sandy clay loam saprolite may be used with advanced pretreatment meeting NSF/ANSI 40, TS-I, or TS-II effluent standards.

Authority G.S. 130A-334; 130A-335; 130A-342; 130A-343; S.L. 2024-49, s.4.36.

15A NCAC 18E .1203 SITING AND SIZING CRITERIA FOR ADVANCED PRETREATMENT SYSTEMS WITH A DESIGN DAILY FLOW GREATER THAN 1,500 GALLONS/DAY AND LESS THAN OR EQUAL TO 3,000 GALLONS/DAY

(a) Wastewater systems utilizing advanced pretreatment with a DDF greater than 1,500 gpd and less than or equal to 3,000 gpd may utilize the system siting and sizing in this Rule.

(b) The LTAR shall be based on the effluent standard and dispersal field type proposed in accordance with the following:

- (1) The LTAR may be increased by the following factors when compared to the rate assigned by the authorized agent for a new system using DSE:
 - (A) up to 2.0 for TS-I or TS-II effluent standards; or
 - (B) up to 2.5 for TS-II effluent standards when there is a minimum of 48 inches of Group I soils from the naturally occurring soil surface and a minimum of 30 inches to a SWC below the naturally occurring soil surface.
- (2) The LTAR for an aerobic drip system shall be determined in accordance with Rule .1204 of this Section.

(c) When the LTAR for a system is proposed to be increased in accordance with Paragraph (b) of this Rule, the following conditions shall be met:

- (1) a special site evaluation required in accordance with Rule .0510 of this Subchapter shall be submitted and approved;
- (2) pressure dispersal shall be utilized;
- (3) space shall be available for an equivalently sized dispersal field repair area; and
- (4) 25-foot setback shall be maintained to all property lines unless a site-specific nitrogen migration analysis for a TS-I system indicates that the nitrate-nitrogen concentration at the property line will not exceed 10 mg/L or a TS-II system is used.

(d) Trench dispersal products approved for a specific dispersal field reduction in area or trench length when receiving DSE in accordance with this Subchapter or a PIA Approval shall not be reduced by more than 50 percent as a result of increased LTAR in accordance with this Rule.

(e) The DDF shall not be increased by the addition of advanced pretreatment to an existing wastewater system.

(f) Sandy clay loam saprolite may be used with advanced pretreatment meeting NSF/ANSI 40, TS-I, or TS-II effluent standards.

~~(g)~~ Wastewater systems utilizing advanced pretreatment with a DDF greater than 3,000 gpd may propose LTAR adjustments in accordance with Paragraphs (a) through (c) of this Rule. Sandy clay loam saprolite may be used with advanced pretreatment with a DDF greater than 3,000 gpd. The Department shall review and approve the proposed LTAR adjustments in accordance with Rule .0302(e) of this Subchapter. Documentation shall also be provided that the proposed system meets the requirements of Rule .0510(e) of this Subchapter.

Authority G.S. 130A-334; 130A-335; 130A-342; 130A-343; S.L. 2024-49, s.4.37.

15A NCAC 18E .1205 ADVANCED PRETREATMENT SAND LINED TRENCH SYSTEMS

(a) Sand lined trench systems with a DDF less than or equal to 1,500 gpd receiving TS-I or TS-II effluent shall meet the requirements of this Rule.

(b) The site meets the criteria in Rule .0906(c) of this Subchapter and the receiving permeable horizon may be deeper than 60 inches below the natural grade.

(c) If a groundwater lowering system is used to comply with the vertical separation to a SWC, the following conditions shall apply:

- (1) the site shall comply with the requirements of Rule .0906(d) of this Subchapter; and
- (2) the vertical separation requirement to a SWC shall be reduced to nine inches with pressure dosed gravity distribution or six inches with pressure dispersal.

(d) Table XXXI shall be used to determine the LTAR for a sand-lined trench system and shall be based on the most limiting, naturally occurring soils overlying the permeable receiving layer. An equivalent trench width of three feet shall be used to determine trench length in accordance with Rule .0901(d) of this Subchapter. The LTAR shall be one of the following:

- (1) the rate set forth in Table XXXI; or
- (2) 20 percent of the in-situ Ksat of the receiving permeable horizon, whichever is less.

TABLE XXXI. LTAR for advanced pretreatment sand lined systems based on texture of the most hydraulically limiting overlying soil horizon

Soil Group	Texture of Most Hydraulically Limiting Overlying Soil Horizon	LTAR in gpd/ft ² *
I	Sand	0.9 – 1.4
II	Coarse Loams	0.7 – 1.0
III	Fine Loams	0.4 – 0.8
IV	Clays	0.2 – 0.4

* ~~There shall be no reduction in trench length compared to a conventional gravel trench when Accepted or Innovative gravelless trench product is used.~~ Trench length for trench dispersal products approved with a specific dispersal field reduction in area or trench length when receiving DSE effluent in accordance with this Subchapter or a PIA approval shall be calculated in accordance with this Subchapter or the PIA approval.

(e) A Special Site Evaluation in accordance with Rule .0510 of this Subchapter shall be required for the following conditions to field verify the LTAR:

- (1) when the texture of the receiving permeable horizon is sandy loam or loam, and the system DDF is greater than 600 gpd; or
- (2) when the texture of the receiving permeable horizon is silt loam.

(f) Setbacks in accordance with Table XXVIII of Rule .1202(d) of this Section shall be applied to sand lined trench systems.

(g) Sand lined trench system installation shall be in accordance with Rule .0906(h) of this Subchapter.

Authority G.S. 130A-334; 130A-335; 130A-342; 130A-343; S.L. 2024-49, s.4.38.

SECTION .1300 – OPERATION AND MAINTENANCE

15A NCAC 18E .1301 OPERATION AND MAINTENANCE OF WASTEWATER SYSTEMS

(a) Wastewater systems shall be operated and maintained in accordance with the conditions of the OP, PIA Approval, and the Rules of this Section, including the manufacturer's operation and maintenance instructions, as applicable. Dispersal field repair areas shall be maintained in accordance with the Rules of this Subchapter.

(b) System management in accordance with Table XXXII shall be required for all systems installed or repaired after July 1, 1992. System management in accordance with Table XXXII shall also be required for all Type V and VI systems installed on or before July 1, 1992.

TABLE XXXII. Management responsibilities based on wastewater system classification type and description

System Classification Type and Description	LHD Compliance Inspection Frequency	Management Entity	Management Entity Minimum Maintenance Inspection Frequency
Ia – Privy or vault privy	N/A	Owner	N/A
Ib – Chemical toilet	N/A	Owner	N/A
Ic – Incinerating toilet	N/A	Owner	N/A
Id – Composting toilet system	N/A	Owner	N/A
Ie – Other toilet system	N/A	Owner	N/A
IIa – Conventional system for a single family or 480 gpd or less with 750 linear feet of trench or less	N/A	Owner	N/A
IIb – Accepted wastewater gravity system	N/A	Owner	N/A
IIIa – Conventional wastewater system greater than 480 gpd excluding single family residences	N/A	Owner	N/A

PROPOSED RULES

IIIb – Wastewater system with a single pump or siphon	5 years N/A	Owner or Certified Operator	N/A 5 years
IIIc – Gravity fill system	N/A	Owner	N/A
IIId – Alternating dual fields with gravity distribution	N/A	Owner	N/A
IIIe – PPBPS gravity system	N/A	Owner	N/A
IIIf – LDP gravity system	N/A	Owner	N/A
IIIg – Other non-conventional systems	N/A	Owner	N/A
IIIh – Gravity groundwater lowering system	5 years	Owner	N/A
IVa – LPP distribution	3 years	Private Certified Operator or Public Management Entity with a Certified Operator	2/year
IVb – System with more than one pump or siphon	3 years	Private Certified Operator or Public Management Entity with a Certified Operator	2/year
IVc – Off-site system serving two or more facilities with any components under common or joint control	5 years	Private Certified Operator or Public Management Entity with a Certified Operator	1/year
IVd – Alternating dual fields with pressure dosed gravity distribution including off-site systems	3 years	Private Certified Operator or Public Management Entity with a Certified Operator	1/year
Va – Advanced pretreatment meeting NSF/ANSI 40, TS-I, or TS-II, approved under Section .1700 of this Subchapter, DDF ≤ 3,000 gpd	1/year	Private Certified Operator or Public Management Entity with a Certified Operator	≤ 1,500 gpd - 2/year* > 1,500 gpd and ≤ 3,000 gpd - 4/year
Vb – DSE wastewater systems > 3,000 gpd with dispersal field > 1,500 gpd	1/year	Private Certified Operator or Public Management Entity with a Certified Operator	> 3,000 and ≤ 10,000 gpd - monthly > 10,000 gpd flow - weekly
Vc – RWTS, approved under Section .1500 of this Subchapter, meeting NSF/ANSI 40, DDF ≤ 1,500 gpd	1/year	Private Certified Operator or Public Management Entity with a Certified Operator	≤ 1,500 gpd - 2/year*
Vd – Anaerobic drip dispersal systems	1/year	Private Certified Operator or Public Management Entity with a Certified Operator	≤ 1,500 gpd - 2/year* > 1,500 gpd and ≤ 3,000 gpd - 4/year > 3,000 gpd and ≤ 10,000 gpd – 12/year > 10,000 gpd – 1/week
Ve - Flow equalization	≤ 1,500 gpd – once every three years > 1,500 gpd – 1/year	Private Certified Operator or Public Management Entity with a Certified Operator	Based on equalized flow ≤ 1,500 gpd - 2/year > 1,500 and ≤ 3,000 gpd - 4/year > 3,000 gpd and ≤ 10,000 gpd – 12/year >10,000 gpd – 1/week
Vf – Sand lined trench system with no advanced pretreatment or drip dispersal	1/year	Private Certified Operator or Public Management Entity with a Certified Operator	1/year
Vg – Wastewater system with pump groundwater lowering systems	1/year	Private Certified Operator or Public Management Entity with a Certified Operator	2/year with one visit during the wet season

PROPOSED RULES

Vh – IPWW designed by a PE and reviewed by the Department and determined to be IPWW	1/year	Private Certified Operator or Public Management Entity with a Certified Operator	≤ 1,500 gpd - 2/year* > 1,500 gpd and ≤ 3,000 gpd - 4/year > 3,000 gpd and ≤ 10,000 gpd - 12/year > 10,000 gpd – 1/week
Vi – Permanent pump and haul	1/year	Private Certified Operator	1/month
VIa – Advanced pretreatment > 3,000 gpd meeting NSF/ANSI 40, TS-I, or TS-II	6 months	Private Certified Operator or Public Management Entity with a Certified Operator	Media filters > 3,000 gpd and ≤ 10,000 gpd - 12/year >10,000 gpd – 1/week All other advanced pretreatment > 3,000 gpd and ≤ 10,000 gpd - 12/year > 10,000 and ≤ 25,000 gpd - 2/week > 25,000 and ≤ 50,000 gpd - 3/week > 50,000 gpd - 5/week
VIb – Any system using RCW	6 months	Private Certified Operator or Public Management Entity with a Certified Operator	≤ 3,000 gpd - 12/year > 3,000 and ≤ 10,000 gpd - 1/week > 10,000 and ≤ 25,000 gpd - 2/week > 25,000 and ≤ 50,000 gpd - 3/week > 50,000 gpd - 5/week

*Quarterly Management Entity inspections shall be required for the first year. The quarterly inspections may be reduced to twice a year if the wastewater system is in compliance with all OP conditions after the first year.

(c) Wastewater systems with multiple components shall be classified by their highest or most complex system classification type in accordance with Table XXXII to determine LHD and Management Entity responsibilities.

(d) The Department shall classify wastewater systems not identified in Table XXXII after consultation with the Water Pollution Control Systems Operators Certification Commission.

(e) The site for the wastewater system shall be accessible for monitoring, maintenance, inspection, and repair.

(f) The system shall be maintained to comply with the effluent standards specified in Table XXV of Rule .1201(a) or Rule .1002 of this Subchapter and the OP, as applicable. Influent and effluent sampling may be required for food preparation or processing facilities, IPWW, and other systems as specified in the PIA Approval or OP.

(g) The owner may submit a written request to the LHD and Department to reduce the wastewater system effluent sampling frequency, effluent sampling constituents, or Management Entity inspection frequency. The written request shall include documentation showing that the wastewater system is compliant with its OP and Rule .1302(f) of this Section.

(h) The replacement of a specific component, except tanks and dispersal media, by an identical replacement component, including pipes, blowers, pumps, disinfection components, effluent filters, and control panels and appurtenances, shall be considered maintenance. When the replacement is performed as maintenance by the Management Entity, this activity shall be reported to the owner and LHD within 30 days of when the activity occurs.

(i) All residuals shall be removed as specified in the OP, the RWTS or PIA Approval, Rule .1303 of this Section, or as otherwise determined to be needed by the Management Entity. Residuals from the wastewater system shall be transported and disposed of in accordance with G.S. 130A, Article 9, and 15A NCAC 13B.

Authority G.S. 130A-335(e) and (f); S.L. 2015-147, s.2; S.L. 2024-49, s.4.39.

15A NCAC 18E .1303 OWNER RESPONSIBILITIES FOR WASTEWATER SYSTEM OPERATION AND MAINTENANCE

(a) Any person owning or controlling the property upon which a wastewater system is installed shall be responsible for the following items regarding the operation and maintenance of the system:

- (1) the wastewater system shall be operated and maintained to protect North Carolina ground and surface water quality standards and to prevent the following conditions:
 - (A) discharge of sewage or effluent to the surface of the ground, surface waters, or into groundwater at any time;
 - (B) back-up of sewage or effluent into the facility, building drains, collection system, freeboard volume of the tanks, or distribution system; or
 - (C) effluent within three inches of finished grade over one or more trenches based on two or more observations made not less than 24 hours apart, and greater than 24 hours after a rainfall event;
- (2) the system shall be considered to be malfunctioning when one or more of the conditions of Subparagraph (a)(1) of this Rule occur or if it is necessary to remove the contents of the tank(s) at a frequency greater than once per month in order to prevent one or more of the conditions of Subparagraph (a)(1) of the Rule. The owner shall contact the LHD when the

wastewater system is malfunctioning. ~~malfunctioning and implement remedies as directed by the LHD in accordance with Rule .1306 of this Section.~~ If the system was permitted under an EOP or AOWE permit, the owner shall also contact the PE or AOWE when the wastewater system is malfunctioning;

- (3) wastewater systems shall be inspected, and the entire contents of all septic tank compartments shall be removed whenever the depth of both the scum and sludge is found to be more than one-third of the liquid depth in any compartment. The effluent filter shall be rinsed to remove accumulated solids that can cause the wastewater to back up into the facility or clog the system, or replaced as needed;
- (4) residuals from the wastewater system shall be transported and disposed of in accordance with G.S. 130A, Article 9, and 15A NCAC 13B;
- (5) grease traps and grease tanks shall be pumped as needed to prevent discharge of FOG from the trap or tank to the next treatment component, but no less than yearly. Grease traps and grease tanks shall be maintained in accordance with Rule .0803(h) of this Subchapter and the owner shall maintain a contract with a septage management firm. All pumping records shall be maintained on-site;
- (6) site-specific vegetation shall be established and maintained over the wastewater system and repair area to stabilize slope and control erosion;
- (7) activities that result in soil disturbance or soil compaction shall not occur over the initial and repair dispersal field area;
- (8) maintaining the wastewater system in accordance with Rule .1301(a) of this Section; and
- (9) turning the effluent flow diversion valve for alternating dual dispersal fields once a year or as specified by the PE, AOWE, or authorized designer.

(b) A contract for operation and maintenance of a wastewater system required to be maintained by a Management Entity, as specified in Table XXXII of Rule .1301(b) of this Section, shall be in effect for as long as the system is in use. A contract shall be executed between the system owner and a Management Entity prior to the issuance of an OP, unless the system owner and Management Entity are the same. The contract shall include:

- (1) specific requirements for operation, maintenance, and associated reporting;
- (2) responsibilities of the owner;
- (3) responsibilities of the Management Entity;
- (4) provisions for notification to the LHD by the owner and Management Entity upon termination of the contract; and
- (5) other requirements for the continued performance of the system, as determined by

the Management Entity, LHD, and Department, as applicable.

Authority G.S. 130A-335(e) and (f); S.L. 2023-77, s.19.

15A NCAC 18E .1305 LOCAL HEALTH DEPARTMENT RESPONSIBILITIES FOR WASTEWATER SYSTEM OPERATION AND MAINTENANCE

- (a) No IP, CA, or OP shall be issued for Type IV, V, or VI systems, unless a Management Entity of the type specified in Table XXXII in Rule .1301(b) of this Section is authorized and operational to carry out operation and maintenance requirements for the wastewater system as set forth in these Rules and the OP.
- (b) An LHD may be the Management Entity only for systems classified Type IV, Va, Vb, Vc, Vd, Ve, Vf, and Vg and only when authorized by the local board of health.
- (c) An authorized agent shall review the performance and inspection reports submitted in accordance with Rule .1304(c) of this Section and perform an on-site compliance inspection of the systems as required in Table XXXII in Rule .1301(b) of this Section. More frequent inspections may be performed by an authorized agent if requested by the system owner or the Management Entity, or specified in the PIA approval or OP.
- (d) The LHD may provide the owner with the option for a private Management Entity, who is not the owner, to perform the on-site compliance inspection for Type IIIb and IIIh systems in accordance with Table XXXII in Rule .1301(b) of this Section instead of the LHD. The Management Entity shall provide to the owner and LHD a written compliance inspection report every five years. The report shall document that the wastewater system is compliant with this Subchapter, the performance standards in the OP or ATO, and conditions in the OP or the ATO.
- (e) The authorized agent shall issue a written notice of non-compliance to the owner when the wastewater system is not malfunctioning in accordance with Rule .1303(a)(2) of this Section, but non-compliant with this Subchapter, ~~the performance standards in the OP or ATO, or conditions in the OP, OP or the ATO.~~
- (f) The LHD shall investigate malfunctions in accordance with Rule .1306 of this Section.

Authority G.S. 130A-335(e) and (f); S.L. 2024-49, s.4.40.

15A NCAC 18E .1306 SYSTEM MALFUNCTION AND REPAIR

- (a) This Rule identifies the responsibilities of the LHD and the owner when a system is ~~malfunctioning~~ malfunctioning, totally or partially destroyed, or otherwise determined to require repair.
- (b) The LHD or Department shall issue a written NOV to the wastewater system owner in accordance with Rule .0302(c) of this Subchapter.
- (c) The wastewater system shall be repaired within 30 days of the date on the NOV issued by the Department or LHD unless the NOV specifies a different time frame for the repair based on site-specific factors, such as the severity of the repair, wastewater backing up into a restaurant or discharging into SA waters, or adverse weather that delays construction of the repair. The

following steps shall be followed to remedy a malfunctioning wastewater system:

- (1) The owner shall apply for a repair in accordance with Section .0200 of this Subchapter, unless only maintenance is required to bring the wastewater system into compliance.
- (2) ~~After investigating the malfunction, the Department or LHD shall require that the wastewater system be repaired to correct the malfunction and eliminate any public health hazard. The wastewater system shall be repaired so that it meets G.S. 130A, Article 11 and this Subchapter. The owner of the system may request, on a form provided by the Department, that the authorized agent, AOWE, or PE When it is not possible to bring the wastewater system into compliance with G.S. 130A, Article 11 and this Subchapter, the authorized agent shall use their best professional judgement judgement, based on education and experience, to require develop a repair that should enable the wastewater system to function in a manner that complies with Rule .1303(a)(1) of this Section. The LHD LHD, AOWE, or PE shall document on the form the aspects of the rules that are being altered with the use of best professional judgement to repair the wastewater system. The owner of the wastewater system shall be liable for any damages caused by a system repaired in this manner and shall agree in writing to all terms and conditions set forth by the LHD, AOWE, or PE that developed the repair, including any operation and maintenance requirements. shall document that the repair uses best professional judgement on the CA and OP. This written agreement shall be attached to the CA, OP, NOI, or ATO, as applicable. Best professional judgement shall not be used when:~~
 - ~~(A) the IP, CA, NOI, or ATO indicates the repair area and system type. This does not preclude the owner from applying for a different wastewater system than the one specified on the permit as a repair;~~
 - ~~(B)(A) there are reductions in setbacks to drinking water wells less than what is required in Rule .0601 of this Subchapter;~~
 - ~~(C)(B) there are reductions in setbacks to surface water bodies greater than 50 percent of the allowed setbacks as indicated in Rule .0601 of this Subchapter; or~~
 - ~~(D)(C) there is no reasonable expectation that the repaired wastewater system will function to eliminate public health hazards.~~

- (3) When necessary to protect the public health, the Department or LHD shall require the owner of a malfunctioning system to pump and haul sewage to an approved wastewater system during the time needed to repair the wastewater system. This requirement shall be included in the NOV issued to the owner.
 - (d) If no repair options are available for the wastewater system in accordance with Paragraph (c), the LHD may issue a CA and OP for a permanent pump and haul system. The applicant shall submit an application to the LHD for the permanent pump and haul system. The application and permanent pump and haul system shall meet the following conditions:
 - (1) The owner shall provide the following information as part of the application:
 - (A) a report that the system cannot be repaired by connection to a system approved under this Section or a system approved under G.S. 143, Article 21;
 - (B) a contract with a septage management firm permitted in accordance with G.S. 130A-291.1 to pump and haul the sewage;
 - (C) documentation that the wastewater system has been approved under this Subchapter or in accordance with 15A NCAC 02H or 15A NCAC 02T to accept sewage; and
 - (D) documentation from the facility receiving the sewage confirming that the facility has the capacity for the additional sewage and agrees to accept it.
 - (2) The LHD shall design the pump and haul system based on the following criteria:
 - (A) tankage with a minimum of five days storage capacity and two days emergency storage capacity;
 - (B) high-water alarm set to go off with two days of emergency storage capacity left in the tankage; and
 - (C) telemetry unit that contacts the septage management firm.
 - (3) The owner of a non-residential facility may request a reduction in the five day storage requirement, if the owner can document the ability to have the tanks pumped out with only 24 hours' notice. The total tank capacity shall never be less than the minimum required septic tank and pump tank capacity required by Section .0800 of this Subchapter.
 - (4) Tanks shall be approved by the LHD for permanent pump and haul if shown to be structurally sound, watertight, and of a capacity needed based on the DDF and projected pumping frequency. Existing tanks may be used for permanent pump and haul if the tanks meet the requirements in this Subparagraph.

- (5) Prior to issuing the OP, the LHD shall receive from the owner a contract with a Management Entity for inspection and maintenance of the system.
- (6) A non-transferrable OP, valid for a period of five years, shall be issued to the pump and haul system owner.

(e) A malfunctioning wastewater system that has been disconnected from the facility for any reason shall be repaired prior to reuse.

(f) If the dispersal field in a malfunctioning wastewater system is found to be nonrepairable, the dispersal field shall not be used. The system owner shall be required to abandon the system to protect the public health and safety as specified in Rule .1307 of this Section.

(g) For facilities with a malfunctioning wastewater system installed prior to July 1, 1977, the authorized ~~agent agent, AOWE, or PE shall may~~ use their best professional ~~judgement, based on education and experience, judgement~~ to repair the system.

(h) For facilities with a wastewater disposal method installed prior to July 1, 1977, which has been in continual use and acts as the sole source of wastewater disposal, the authorized ~~agent agent, AOWE, or PE shall may~~ use their best professional ~~judgement, based on education and experience, judgement~~ to repair the wastewater disposal method.

(i) Legal remedies may be pursued, in accordance with G.S. 130A, Article 1, Part 2, after an authorized agent has observed and documented one or more malfunctioning conditions and issued an NOV.

Authority G.S. 130A-291.1; 130A-291.2; 130A-335(e) and (f); S.L. 2023-77, s.20; S.L. 2024-49, s.4.41.

SECTION .1400 – APPROVAL OF TANKS, RISERS, EFFLUENT FILTERS, AND PIPE PENETRATION BOOTS

15A NCAC 18E .1401 PLANS FOR PREFABRICATED TANKS

(a) All tanks proposed for use in a wastewater system described in this Subchapter shall be approved by the Department. ~~Tanks shall be approved as follows: The tank design shall be approved based on the plans and specifications submitted in accordance with Subparagraphs (c)(1) through (c)(8) of this Rule.~~

- (1) ~~The tank design shall be approved based on the plans and specifications submitted in accordance with Subparagraphs (c)(1) through (c)(8) of this Rule. After the tank design has been approved, a temporary identification number shall be assigned for tracking purposes.~~
- (2) The tank shall pass a structural load test as described in Subparagraph (c)(9) of this Rule. The test shall be performed and certified by a third party. The test shall be observed in person by the Department, LHD, PE, or a third party testing organization. If the tank passes the structural load test, then the tank shall be assigned a permanent identification number. Tanks shall not be sold for use in a wastewater

~~system without a permanent identification number.~~

(3) ~~The structural design verification shall be required for new tanks, modifications to tank design, and when tank forms are sold to a different tank manufacturer.~~

(4) ~~Pump tanks may be tested and approved with a baffle wall, without a baffle wall, or with a partial baffle wall. The most limiting design produced by the manufacturer shall be tested.~~

(b) The tank manufacturer shall submit three copies of the plans and specifications for the initial design of each tank to the Department for approval.

(c) Plans and specifications for tanks with a total liquid capacity less than or equal to 4,000 gallons shall include the following:

- (1) all tank dimensions in inches, including:
 - (A) top, bottom, and sidewall thickness and variations;
 - (B) minimum and maximum dimensions on tanks with tapered or ribbed walls;
 - (C) baffle wall location and minimum and maximum thickness and variations;
 - (D) location and dimension of all openings in baffle wall for gas and liquid movement; and
 - (E) dimensions of all compartments;
- (2) material type and strength, including reinforcement material and location, as applicable, specified by the manufacturer;
- (3) method for fastening the baffle wall to the tank interior;
- (4) liquid depth and operating capacity in gallons;
- (5) pipe penetration boot locations and pipe penetration boots approved in accordance with Rule .1404 of this Section;
- (6) methods and material for sealing sections and forming watertight joints in tanks with multiple sections;
- (7) drawings showing access openings, tank lids, access manhole risers, and other proposed appurtenances to the tank;
- (8) tank manufacturer and PE requirements for installation, including bedding, additional sealing methods, and leak testing ~~procedures; and procedures.~~
- (9) ~~documentation of proof of design. The tank shall withstand a minimum uniform live load of 150 pounds per square foot in addition to the dead weight of the material and all geostatic and hydrostatic loads to which an underground tank is normally subjected, such as active soil pressure on tank walls and the uplifting force of groundwater. The documentation shall be one of the following:~~
 - (A) ~~a vacuum test of 4.24 inches of mercury held for five minutes meeting the following criteria:~~

- ~~(i) no loss in vacuum greater than two fifths of an inch of mercury during the test;~~
- ~~(ii) no deformation or deflection greater than two percent along any dimension unless shown by measurement or calculation to result in a reduction in volume no greater than two percent;~~
- ~~(iii) no distortion of the access openings occurs during the testing that prevents removal and replacement of the access opening lids at the conclusion of the test; and~~
- ~~(iv) for tanks constructed with integral risers, no distortion of the riser during the testing and the riser lid can be removed and replaced at the conclusion of the test;~~
- ~~(B) calculations from a PE that the tank can withstand the loading requirements of this Subparagraph and the performance requirements of Part (A) of this Subparagraph shall be met; or~~
- ~~(C) the tank shall be either IAPMO/ANSI Z1000 or CSA B66 certified and the tank manufacturer enrolled in a third-party quality assurance and quality control program, which includes material testing and unannounced annual manufacturing facility audits.~~

(d) Plans and specifications for tanks with a total liquid capacity greater than 4,000 gallons and all tanks designed for traffic loads shall be designed by a PE in accordance with ASTM C890. Plans shall show the design, including all the information listed in Paragraph (c) of this Rule and engineering calculations showing the minimum and maximum soil burial depth, water table, and traffic load the tank is designed to support.

(e) Plans for tanks not proposed for general use and issued an identification number under this Section shall meet the minimum requirements of this Section and shall be approved by the Department.

(f) The Department or LHD may inspect approved tanks at the place of manufacture, the inventoried sites of the distributors, or at the installation of the tank in a wastewater system for compliance with the approved plans and specifications.

(g) Tanks found to be out of compliance shall be brought back into compliance by the tank manufacturer or the installer as directed by the Department or LHD. Tanks that are not or cannot be brought into compliance shall not be used in a wastewater system and the imprints identified in Rule .1402(d)(15) or (e)(8) of this Section shall be permanently marked over by the authorized agent.

Authority G.S. 130A-335(e), (f), and (f1); S.L. 2024-49, s.4.42.

15A NCAC 18E .1402 TANK DESIGN AND CONSTRUCTION

(a) Tanks shall be watertight, structurally sound, and not subject to corrosion or decay.

(b) Septic tanks and grease tanks shall have effluent filters and access devices approved in accordance with Rule .1404 of this Section. An effluent filter and support case shall be installed level in the outlet end of the septic tank or grease tank and shall meet the following criteria:

- (1) solvent welded to a minimum of three-inch PVC Schedule 40 outlet pipe;
- (2) be installed in accordance with filter manufacturer's specifications and effluent filter approval; and
- (3) be accessible and removable without entering the septic tank or grease tank.

(c) Septic tanks installed where the access openings on the top of the tank are deeper than six inches below finished grade shall have an access riser over each compartment with a cover that extends to within six inches of the finished grade. The opening of the access riser shall be large enough to accommodate the removal of the septic tank lid. ~~When the top of the septic tank or access riser is below the finished grade, the location of the tank shall be visible at finished grade.~~ When access risers are used they shall be installed in accordance with the Rules of this Subchapter, the manufacturer's specifications, and the Department's approval.

(d) Septic tanks shall meet the following minimum design standards:

- (1) a minimum liquid depth of 36 inches;
- (2) a minimum of nine inches freeboard, measured as the air space between the top of the liquid and the bottom of the tank top. Venting of the tank shall be provided to prevent the buildup of gases;
- (3) the approved septic tank capacity shall be determined as the liquid volume below the outlet invert to the bottom of the tank;
- (4) the length of the tank shall be a minimum of twice as long as the width, as measured by the longest axis and widest axis based on the internal tank dimensions;
- (5) there shall be three inlet openings in the tank, one on the tank end and one on each sidewall of the inlet end of the tank;
- (6) outlet openings shall have a cast or manufactured penetration point and include a watertight, sealed, non-corrodible, and flexible connective sleeve. A flexible connective sleeve shall be able to bend without breaking. The connective sleeve shall meet ASTM C1644 for precast concrete tanks or ASTM C1644, C923, or C564 for thermoplastic or glass-fiber-reinforced polyester tanks and be approved by the Department if it meets the requirements of this Subparagraph and Rule .1404 of this Section;
- (7) inlet penetrations shall be greater than or equal to four inches in diameter and outlet

- penetrations shall be greater than or equal to three inches in diameter;
- (8) there shall be no openings below the septic tank operating liquid level;
- (9) the outlet shall be through an effluent filter approved in accordance with Rule .1404 of this Section, and secured in place in an effluent filter support case. The effluent filter case inlet shall extend down to between 25 and 50 percent of the liquid depth measured from the top of the liquid level. Other methods of supporting the effluent filter case and for making pipe penetrations shall be approved by the Department on a case-by-case basis upon a showing that the performance is identical to those designed in accordance with this Rule;
- (10) the invert of the outlet shall be a minimum of two inches lower in elevation than the invert of the inlet;
- (11) all septic tanks shall be designed with a partition so that the tank contains two compartments. The following conditions shall be met:
 - (A) the partition shall be located at a point not less than two-thirds or more than three-fourths the length of the tank from the inlet end;
 - (B) the partition shall be designed, manufactured, installed, and maintained to remain in position when subjected to a liquid capacity in one compartment that corresponds with the lowermost elevation of the water passage slot or holes;
 - (C) the partition shall be designed to create a gas passage, not less than the area of the inlet pipe, and the passage shall not extend lower than seven inches from the bottom side of the tank top;
 - (D) the top and bottom sections of the partition shall be designed to create a water passage slot four inches high for the full interior width of the tank, or a minimum of two four- or five-inch openings, or one four- or five-inch opening per 30 horizontal linear inches of baffle wall, whichever is greater, may be designed into the partition instead of the four-inch slot;
 - (E) the partition shall be designed, manufactured, and installed to create an average opening not greater than one-half inch between the partition and the tank wall below the liquid level, with a tolerance of one-half inch;
 - (F) the entire liquid passage in the partition wall shall be located between 25 and 50 percent of the liquid depth of the tank, as measured from the top of the liquid level; and
 - (G) other methods for designing the partition shall be approved by the Department on a case-by-case basis upon a showing that the performance is identical to those designed in accordance with this Rule;
- (12) access openings shall be provided in the top of the tank, located over each compartment, and have a minimum opening of 15 inches by 15 inches or 17 inches in diameter. The opening shall allow for maintenance and removal of internal devices of the septic tank;
- (13) access risers and covers shall be designed and manufactured to prevent surface water infiltration;
- (14) tank lids and riser covers shall be locked, secured with fasteners, or weigh a minimum of 40 pounds, but no more than 80 pounds; and
- (15) all septic tanks shall bear an imprint or embossment identifying the manufacturer, the septic tank serial number assigned to the manufacturer's plans and specifications approved by the Department, and the liquid or working capacity of the tanks. The imprint or embossment shall be located to the right of the blockout made for the outlet pipe on the top or end of outlet end of the tank.
- (e) Pump tanks shall meet the design requirements of Paragraph (d) of this Rule with the following modifications:
 - (1) a watertight access riser with removable cover shall be located over the pump. The access riser shall extend to a minimum of six inches above finished grade and shall be designed and maintained to prevent surface water infiltration;
 - (2) the access opening over the pump shall have a minimum opening of 24 inches in diameter or equidimensional opening;
 - (3) when two or more pumps are required in accordance with Rule .1101(b) of this Subchapter the access openings shall be sized to allow for pump removal, operation, and maintenance;
 - (4) tanks may be designed with a single compartment. If a partition is provided, the partition shall be designed to contain a minimum of two four-inch diameter circular openings, or openings with an equivalent area, located no more than 12 inches above the tank bottom;
 - (5) there shall be no requirement as to tank length, width, or shape, provided the tank satisfies all other requirements of the rules of this Section;
 - (6) the invert of the inlet openings shall be located within 12 inches of the tank top. No freeboard shall be required in the pump tank;

- (7) tanks shall be vented if located more than 50 feet from the facility, and accessible for routine maintenance;
- (8) all pump tanks shall bear an imprint or embossment identifying the manufacturer, the pump tank serial number assigned to the manufacturer's plans and specifications by the Department, and the liquid or working capacity of the tank. The imprint or embossment shall be located to the left of the blockout made for the outlet pipe on the top or end of outlet end of the tank; and
- (9) the pump tank working capacity shall be the entire internal tank volume.

(f) Grease tanks shall be septic tanks approved in accordance with Paragraph (d) of this Rule with the following modifications:

- (1) the liquid passage between chambers shall be located between 40 and 60 percent of the operating liquid depth measured from the top of the liquid level. The liquid passage between chambers may be made using a sanitary tee extending down between 40 and 60 percent of the liquid depth measured from the top of the liquid level;
- (2) when sanitary tees are used as the liquid passage through an interior compartment partition, an access opening and riser to grade over the tees shall be provided for servicing and routine maintenance;
- (3) when two or more tanks are used in series, a sanitary tee shall be provided in the outlet end of each interconnected tank extending down between 40 and 60 percent of the liquid depth;
- (4) the final chamber shall contain an effluent filter and support case extending down between 40 and 60 percent of the liquid depth. The effluent filter shall be approved by the Department for use in grease tanks. The grease rated effluent filter shall be sized for the DDF and have openings of 1/32-inch or less; and
- (5) access risers shall extend to finished grade and be capped with cast iron manhole rings and covers. Lockable aluminum hatches may be substituted for cast iron manhole rings and covers in non-traffic areas. Aluminum hatches or manhole rings and covers shall be designed and maintained to prevent surface water infiltration. Locks shall be the responsibility of the person owning or controlling the system.

(g) Siphon tanks shall meet the design requirements of Paragraph (e) of this Rule and shall:

- (1) be designed in accordance with the requirements of this Rule and Rule .0804 of this Subchapter;
- (2) provide three inches of freeboard;
- (3) have the invert of the inlet pipe three inches above the siphon trip level; and
- (4) have a watertight access opening over each siphon with an opening of 24 inches, extending

to finished grade, and designed to prevent surface water inflow.

Authority G.S. 130A-335(e), (f), and (f1); 130A-335.1; S.L. 2024-49, s.4.43.

15A NCAC 18E .1403 TANK MATERIAL REQUIREMENTS

(a) Tanks approved in accordance with this Section shall be constructed of materials capable of resisting corrosion from sewage and sewage gases, structurally sound, and watertight.

(b) Reinforced precast concrete tanks shall meet the following minimum material and construction requirements:

- (1) the ends and sides of the tank shall have a minimum thickness of two and one-half inches. The top and bottom of the tanks shall be a minimum of three inches thick;
- (2) the top, bottom, end and sides of the concrete tank and tank lid shall be reinforced by using a minimum reinforcing of six-inch by six-inch No. 10 gage welded steel reinforcing wire. Reinforcement shall be placed to maximize the structural integrity of the tank;
- (3) alternative reinforcement designs may be used when they perform in a manner equal to or more effective than the reinforcement design described in Subparagraph (2) of this Paragraph;
- (4) when the concrete tank, tank lid, riser, or riser cover are subjected to vehicular traffic, the tank shall be designed by a PE to handle the traffic load in accordance with ASTM C890;
- (5) any tank installed deeper than three feet shall be designed by a PE for the proposed tank burial depth. The tank design shall be submitted to the Department for review. The design shall be approved when documentation is provided to show that the proposed tank design can withstand all active and passive loads on the tank, including the additional soil weight from a deeper burial depth.
- (6) the concrete shall achieve a minimum 28-day compressive strength of 4,000 psi. The concrete shall meet a compressive strength of 3,500 psi prior to removal of the tank from the place of manufacture. ~~It shall be the responsibility of the manufacturer to certify that the tank meets this condition.~~ The delivery of the tank to the jobsite is considered the certification by the tank manufacturer of these conditions. An authorized agent, PE, or AOWE shall follow the requirements of this Rule on any subsequent testing to verify this certification. Readings from a rebound hammer shall not be used to reject a tank at the jobsite. The LHD, PE, or AOWE shall report test readings taken in accordance with this Rule to the On-Site Water Protection Branch and shall be used to schedule

- a future random inventory verification by the Department:
- (7) Rebound hammers shall be used in accordance with the following when checking the strength of a precast concrete tank:
- (A) the surface of the concrete tank tested should be smooth, dry, and free of honeycombing;
- (B) the concrete to be tested must be at least four inches thick;
- (C) the readings should be taken around the edge of the tank;
- (D) tests should not be on trowelled surfaces; and
- (E) the test locations should be at least one inch from the edge of the tank or the location of another test point;
- (8) The procedure for testing a tank with a rebound hammer shall be as follows:
- (A) take a total of 12 readings from around the tank;
- (B) the rebound hammer shall be directly perpendicular to the surface of the tank;
- (C) the readings should be from different sides of the concrete tank;
- (D) take readings from at least two different edges on each tank side, if possible;
- (E) eliminate the highest and lowest readings taken;
- (F) average the remaining ten readings and use that average to determine the concrete compressive strength from the conversion chart on the rebound hammer;
- (G) adjust the concrete compressive strength by plus or minus 25 percent to account for the rebound hammer's 25 percent error in the reading; and
- (H) the rebound hammer should be calibrated annually.
- (7)(9) tanks manufactured in multiple sections shall be joined and sealed at the joint by using butyl rubber or other pliable sealant meeting ASTM C990 or other material that has been approved by the Department when documentation has been provided to show that the material meets all performance requirements of ASTM C990. Documentation shall also be provided to the Department to show that the material is waterproof and corrosion resistant; and
- (8)(10) tank lids and riser covers shall have a durable handle made of corrosion-resistant materials and capable of pull capacity sufficient for the weight of the lid or cover.

(c) Thermoplastic tank materials shall conform with IAPMO/ANSI Z1000 or CSA B66 requirements.

- (d) Glass-fiber-reinforced polyester tanks shall meet the following requirements:
- (1) top, bottom, ends, and sides of the tank shall have a minimum thickness of one-fifth inches. The baffle wall shall be a minimum of 3/16-inches thick;
- (2) material and laminate requirements specified in IAPMO/ANSI Z1000 or CSA B66 for glass-fiber-reinforced polyester tanks; and
- (3) enrolled in a third-party quality assurance and quality control program, which include material testing and unannounced annual audits.
- (e) Cast or manufactured in place tanks shall be designed by a PE, if required by G.S. 89C, and approved by the Department when the tank design, construction, and materials meet the criteria set forth in this Rule and Rule .1402 of this Section.

Authority G.S. 130A-335(e), (f), and (f1); S.L. 2024-49, s.4.44.

15A NCAC 18E .1404 PLANS AND SPECIFICATIONS FOR RISERS, EFFLUENT FILTERS, AND PIPE PENETRATION BOOTS

- (a) All plastic or fiberglass risers, effluent filters, and pipe penetration boots proposed for use in a wastewater system shall be approved by the Department prior to being offered for sale or use in North Carolina.
- (b) Three copies of the plans and specifications for the initial design of each plastic or fiberglass riser, effluent filter, or pipe penetration boot shall be submitted to the Department. Plans for plastic or fiberglass risers, effluent filters, and pipe penetration boots shall be approved by the Department and an approval letter issued when the design is found to comply with this Section. All changes or modifications to plastic or fiberglass risers, effluent filters, or pipe penetration boots shall be approved by the Department when the changes or modifications comply with the requirements of this Rule.
- (c) ~~Risers~~ Plastic or fiberglass risers and riser lids shall be able to withstand a minimum uniform live loading of 300 pounds per square foot or a minimum 1,500 pound load applied in a 10 inch by 10 inch area centered on the lid, in addition to all loads to which a riser is normally subjected, such as dead weight of the material and soil cover and active soil pressure on riser walls.
- (d) ~~Riser~~ Plastic or fiberglass riser plans and specifications submitted to the Department for review and approval shall show the design of the riser and include the following information:
- (1) manufacturer's name, mailing address, phone and fax numbers, email address, and name of manufacturer's point of contact;
- (2) physical dimensions of the riser and riser cover, including wall thickness, internal diameter, proposed casting or installation details and methods, and pipe penetrations;
- (3) material type and strength, including reinforcement material and location as required;
- (4) documentation from a third-party showing that the riser meets the load requirements specified in Paragraph (c) of this Rule;

- (5) plans for septic tank risers of a secondary lid, concrete plug, or other safety device that shall be provided inside the riser for security and to prevent accidental entry;
 - (6) plans for pump tank risers of primary and secondary safety mechanisms that shall be provided with the riser. The primary safety mechanism shall be a locking riser lid, ring and lock, or other riser lid locking or tamper-resistant mechanism. The secondary safety mechanism shall be a secondary lid, concrete plug, or other safety device to be provided inside the pump tank riser; and
 - (7) specifications for application, installation, operation, and maintenance for both new and retrofit applications for single and multiple riser sections.
- (e) Effluent filter plans and specifications submitted to the Department for review and approval shall show the design of the effluent filter and include the following information:
- (1) manufacturer's name, address, phone and fax numbers, and contact name;
 - (2) documentation and a written statement from the manufacturer that the effluent filter is designed, constructed, and performs in compliance with G.S. 130A-335.1(a);
 - (3) capacity and wastewater strength for all models of proposed filters to be approved; and
 - (4) specifications for application, installation, operation, and maintenance.
- (f) Pipe penetration boot plans and specifications submitted to the Department for review and approval shall show the design of the pipe penetration boot and include the following information:
- (1) manufacturer's name, address, phone and fax numbers, and contact name;
 - (2) design specifications and materials used in the manufacture of pipe penetration boot components;
 - (3) applicable testing results from third-party verification showing pull and flexibility testing;
 - (4) documentation of a watertight seal around the piping and any component or device needed to ensure the seal, such as non-corrodible adjustable bands;
 - (5) documentation that the pipe penetration boot meets the requirements of ASTM C1644 for precast concrete tanks or ASTM C1644, C923, or C564 for thermoplastic or glass-fiber-reinforced polyester tanks; and
 - (6) specifications for application, installation, operation, and maintenance of the pipe penetration boot.
- (g) Plans for ~~prefabricated~~ plastic or fiberglass risers, effluent filters, and pipe penetration boots, other than those approved for general use and issued an approval letter under this Rule, shall be considered for approval on a case-by-case basis. The plastic or fiberglass riser, effluent filter, or pipe penetration boot shall be approved if it is determined that it meets the requirements of this

Rule based on information provided by the manufacturer to the Department.

(h) Concrete risers and riser lids shall be able to withstand a minimum uniform live loading of 300 pounds per square foot or a minimum 1,500 pound load applied in a 10 inch by 10 inch area centered on the lid, in addition to all loads to which a riser is normally subjected, such as dead weight of the material, soil cover, and active soil pressure on riser walls. Concrete risers shall meet the following requirements:

- (1) septic tank risers shall have a secondary lid, concrete plug, or other safety device that shall be provided inside the riser for security and to prevent accidental entry; and
- (2) pump tank risers shall have a secondary safety mechanism that shall be provided with the riser. The secondary safety mechanism shall be a secondary lid, concrete plug, or other safety device to be provided inside the pump tank riser.

Authority G.S. 130A-335(e), (f), and (f1); 130A-335.1; S.L. 2024-49, s.4.45.

15A NCAC 18E .1405 RISERS, EFFLUENT FILTERS, AND PIPE PENETRATION BOOTS APPROVAL RENEWAL

(a) All plastic or fiberglass riser, effluent filter, and pipe penetration boot approvals shall expire on December 31 of each year. ~~Riser,~~ Plastic or fiberglass riser, effluent filter, and pipe penetration boot manufacturers who wish to continue product approval shall submit annually a proprietary product renewal form provided by the Department no later than November 30 of each year.

(b) The approval renewal form shall include the following elements:

- (1) manufacturer's name, mailing address, phone and fax numbers, email address, , and manufacturer's point of contact;
- (2) model number(s) approved; and
- (3) a notarized statement that the product has not changed from the previous year without prior approval from the Department.

(c) The Department shall notify the manufacturer of the pending plastic or fiberglass riser, effluent filter, and pipe penetration boot Approval expiration in writing no later than September 30 of each year. The notification shall include information on how to request plastic or fiberglass riser, effluent filter, and pipe penetration boot renewal.

(d) The plastic or fiberglass riser, effluent filter, and pipe penetration boot approval shall be deemed renewed upon receipt of a renewal form that contains all of the elements set out in Paragraph (b) of this Rule.

Authority G.S. 130A-335(e) and (f); 130A-343; S.L. 2024-49, s.4.46.

SECTION .1700 – APPROVAL AND PERMITTING OF WASTEWATER SYSTEMS, TECHNOLOGIES, COMPONENTS, OR DEVICES

15A NCAC 18E .1713 LOCAL HEALTH DEPARTMENT RESPONSIBILITIES

To implement this Section the LHD shall:

- (1) When a Provisional System is proposed, confirm that the designated repair system complies with the provisions of Rule .0508 of this Subchapter and with individual PIA Approval requirements, except:
 - (a) when an existing wastewater system is available for immediate use, including connection to a public or community wastewater system;
 - (b) when the Provisional System is used as a repair to an existing malfunctioning system when there are no other approved Innovative or Accepted repair options; or
 - (c) as provided in G.S. 130A-343(f) for Provisional Systems.
- (2) Notify the Department of all IPs, CAs, and OPs issued for Provisional Systems.
- (3) Notify the Department of all OPs issued for Innovative Systems.
- (4) Permit systems designated as Accepted ~~Systems~~ Systems, without requiring a request from the owner, in an equivalent manner to a conventional system. ~~system at the owner's request~~. The Accepted System shall be sited and sized in accordance with Section .0900 of this Subchapter or PIA Approval. The type of Accepted System installed shall be indicated on the OP. The owner shall re-apply to the LHD and receive a new or revised IP or CA for any of the following before system installation:
 - (a) location of any part of the dispersal field outside of the approved initial dispersal field area;
 - (b) changes to the trench depth, and slope correction if applicable, specified on the IP or CA;
 - (c) changes to the effluent distribution method; or
 - (d) changes to the DDF or wastewater strength.
- (5) Grant permit reductions in total trench length less than or equal to 25 percent for Innovative or Accepted Systems only to dispersal fields receiving DSE or better quality. A facility with a full kitchen shall not be granted a permit reduction in total trench length.
- (6) Grant facilities generating HSE the 25 percent reduction allowed for Innovative or Accepted Systems if the system includes an approved advanced pretreatment system designed to ensure effluent strength equal to or better than DSE.
- (7) Prohibit issuance of an OP for a proprietary system installed by a person not authorized by the manufacturer, unless the manufacturer of the proprietary system approves the installation in writing.
- (8) Inform the Department, as well as the manufacturer or their authorized representative, of any system determined to be malfunctioning. If the system has been permitted in accordance with G.S. 130A-336.1 or G.S. 130A-336.2 and Rule .0207 of this Subchapter, the LHD shall instruct the owner to contact the PE or AOWE for determination of the reason and the malfunction and development of an NOI for repairs.
- (9) Issue a NOV to the owner when the system is determined to be malfunctioning in accordance with Rule .1303(a)(1) and (2) of this Subchapter or when an individual advanced pretreatment system at a single site is out of compliance in accordance with Rule .1302(f) of this Subchapter. The notice shall identify the violations and steps necessary to remedy the problems, including modification of the system, established time frame to achieve compliance, other follow-up requirements, and specify further enforcement possibilities if compliance is not achieved.
- (10) ~~Include in its monthly activity report submitted to the Department the following information identified by unique codes:~~
 - (a) ~~number of new system OPs issued for PIA Systems;~~
 - (b) ~~number of new system OPs issued for Accepted Systems;~~
 - (c) ~~number of CAs issued for Provisional Systems, including system type;~~
 - (d) ~~number of CAs issued for repairs of PIA Systems, including system type being repaired;~~
 - (e) ~~number of CAs issued for repairs of Accepted Systems, including system type being repaired; and~~
 - (f) ~~repair system type.~~

Authority G.S. 130A-335(e) and (f); 130A-343; S.L. 2023-77, s.21; S.L. 2024-49, s.4.47.