



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

<b>1. Rule-Making Agency:</b> North Carolina State Board of Environmental Health Specialist Examiners	
<b>2. Rule citation &amp; name:</b> 21 NCAC 62 .0407(e), 21 NCAC 62 .0407(f), 21 NCAC 62 .0407(k) and 21 NCAC 62 .0411	
<b>3. Action:</b> <input type="checkbox"/> Adoption <input checked="" type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
<b>4. Was this an Emergency Rule:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <b>Effective date:</b> April 16, 2020	
<b>5. Provide dates for the following actions as applicable:</b> a. Proposed Temporary Rule submitted to OAH: April 20, 2020 b. Proposed Temporary Rule published on the OAH website: April 22, 2020 c. Public Hearing date: May 15, 2020 d. Comment Period: April 27, 2020 to May 18, 2020 e. Notice pursuant to G.S. 150B-21.1(a3) (2): Yes f. Adoption by agency on: June 10, 2020 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: June 26, 2020 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b> <input checked="" type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: Effective date: <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:	
<b>Explain:</b> Due to the serious and unforeseen threat to the public health and safety caused by COVID-19, the State Board of Environmental Health Specialist Examiners adopted temporary rules simultaneously adopted as emergency rules. The Board adopted emergency rules without prior notice or hearing or upon any abbreviated notice or hearing the agency found practical, because adherence to the notice and hearing requirements of this part would be contrary to the public interest, and the immediate adoption of the rule is required by a serious and unforeseen threat to the public health , safety, or welfare. On 3/10/20, the Governor of North Carolina issued Executive Order No. 116, declaring a state of emergency to coordinate a response and enact protective measures to help prevent the spread of COVID-19. Additional Executive Orders prohibited mass gatherings and implemented a stay-at-home order for NC residents from 3/30/20 until 4/29/20, at the earliest. COVID-19, a respiratory disease, spreads easily from person to person and can result in serious illness or death. The Board seeks to contribute towards social isolation efforts directed by the Federal and State Government and assist registrants who are unable to complete required training within the timelines outlined in 21 NCAC 62 .0407(e), 21 NCAC 62 .0407(f), 21 NCAC 62 .0407(k) and 21 NCAC 62 .0411.	

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

Without this approach, some Environmental Health Specialists may be unable to meet the prescribed standards resulting in loss of their registration. In-person training and exams cannot occur during the State of Emergency. Exams must be completed in person, and testing sites will remain closed while stay in place orders are in effect, if not longer. In addition, the Board is working under the premises (1) over the last few weeks and into the coming months many, if not all, employers, have/will implement(ed) travel & training restrictions for an indefinite period of time, and (2) not all registrants have access to online or virtual training, thus they rely solely on in-person training.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ **Yes**  
Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ **No**

**9. Rule-making Coordinator:** Daniel Ortiz

**Phone:** 980-314-1636

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**Agency contact, if any:** Donna Coffey

**Phone:** 919-304-6839

**E-Mail:** rehs.board@dhhs.nc.gov

**10. Signature of Agency Head\*:**



**\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

**Typed Name:** Daniel Ortiz

**Title:** Board Chair

**E-Mail:** daniel.ortiz@mecklenburgcountync.gov

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

TEMPORARY RULE  
REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina State Board of Environmental Health Specialist Examiners

RULE CITATION: All Rules

**DEADLINE FOR RECEIPT: June 15, 2020**

**PLEASE NOTE:** *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*Please complete a Findings of Need form for each rule. See 26 NCAC 02C .0502.*

*In Box 2 of the forms, please provide the rule citation and rule name.*

*In Box 4, please compare the effective date provided with the history notes for these rules as published in the Code. The Code has an effective date of April 28, 2020.*

*In Box 5(e), please provide the date the notice was sent to your mailing list.*

*In your introductory statements, you say both rules are adoptions, but you are amending existing permanent rules, correct? If so, your introductory statement for .0407, for example, should read: "21 NCAC 62 .0407 is amended under temporary procedures as follows:" There is no need to show this change; simply do it.*

*In your history notes, please update the line regarding the emergency amendment to reflect the language in the Code: "Emergency Amendment Eff. April 28, 2020." There is no need to show this change; simply do it.*

*In your history notes, in the last line, are these proposed temporary adoptions or temporary amendments?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder  
Commission Counsel  
Date submitted to agency: June 11, 2020

TEMPORARY RULE  
REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina State Board of Environmental Health Specialist Examiners

RULE CITATION: 21 NCAC 62 .0407

**DEADLINE FOR RECEIPT: June 15, 2020**

**PLEASE NOTE:** *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*At line 7, please review the website link to ensure it is accurate.*

*In (e), who is required to complete the health law course? Is it registered environmental health specialists and registered environmental health specialist interns? If so, please consider adding that to the Rule to make it clear. Please also consider writing this sentence in active voice by saying who shall do what.*

*In (e), line 18, do environmental health specialists renew their registration annually? If so, what do you mean by "shall be completed within the first four years after the date of the most recent registration by the Board?" Please clarify.*

*At line 20, do you mean "and" instead of "or?"*

*At lines 28 and 38, consider changing "job related" to "job-related."*

*In (j), lines 17-18, did you intend to say "registered environmental health specialist or registered environmental health ~~specialist's~~ specialist intern's?"*

*In (k), as I read this, the Rule does not require the standard 15 clock hours before the additional 5 to roll over, is that correct? If so, consider: "Up to five clock hours of approved continuing education completed in the year ending December 31, 2020 may be applied toward the continuing education requirements for the following year."*

*Compare lines 17, 21, and page 2, line 21. What is the difference between a "contact hour," an "instructional clock hour," and a "clock hour?" Does your regulated public know?*

*In your history note, why is 90A-67 listed?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder  
Commission Counsel  
Date submitted to agency: June 11, 2020

21 NCAC 62 .0407 is adopted as a temporary rule as follows:

**21 NCAC 62 .0407            RENEWAL**

(a) Applications for renewal shall be filed with the Board on a form provided by the Board and available from the Board website at: [www.rsboard.com](http://www.rsboard.com) or from the Division of Environmental Health, 1630 Mail Service Center, Raleigh, NC 27699-1630. The renewal form may also be generated by the Registered Sanitarian Training and Authorization (RSTAS) computer system at: <http://apps.bluelizard.com/RSTAS/>.

(b) The renewal application shall be completed and signed by the applicant.

(c) Renewal fees shall be paid in accordance with Rule .0405(a)(5) of this Section. The renewal application shall be posted on the Board's website at [www.rsboard.com](http://www.rsboard.com) by October 1 of each year. The individual shall download and submit the application for renewal to the Board. Individuals may also contact the Board at the Division of Environmental Health, 1630 Mail Service Center, Raleigh, NC 27699-1630 for a copy.

(d) Registered environmental health specialists or registered environmental health specialists interns who fail to renew by December 31 shall be notified by the Board that their registration has expired and that they may not practice as a registered environmental health specialist or a registered environmental health specialists intern until they have met the requirements for renewal.

(e) An environmental health law course based on North Carolina laws and rules with at least 15 contact hours approved by the Board shall be completed within the first four years of the date of most recent registration by the Board. This timeframe shall be extended by one additional year for anyone whose fourth year occurs in 2020.

(f) Registered environmental health specialists or registered environmental health specialists interns shall complete a minimum of 15 instructional clock hours of continuing education acceptable to the Board each year, except the 15 hours shall not be required for the year ending December 31, 2020. Continuing education acceptable to the Board includes:

- (1) the specialized training course required in Rule .0411 of this Section;
- (2) District Environmental Health Section Educational meetings;
- (3) professional association courses and educational meetings;
- (4) seminars or courses offered by the North Carolina State of Practice Committee;
- (5) completion of a job related course offered by a college or university accredited by the Council of Higher Education Accreditation with the hours credited for the year that the course is completed;
- (6) successful completion of a job related course offered by the Centers for Disease Control and Prevention, the Food and Drug Administration, or the Environmental Protection Agency;
- (7) other practice-related training which:
  - (A) is technical in nature, related to the environment, environmental health or improving the practice of environmental health;
  - (B) is relevant to the actual job being performed by the participants or applicant;
  - (C) includes a method for determining the number of hours spent;
  - (D) includes a method of documentation for verification of completion;

- 1 (E) is available to all registered environmental health specialists and environmental health  
2 specialist interns; and
- 3 (F) has been granted approval by the Board based on the above standards; and
- 4 (g) Registrations that have expired may be renewed within 12 months after expiration upon submittal of application  
5 and payment of the renewal fee. The applicant shall provide verification to the Board that continuing education clock  
6 hours were obtained during the year since the expiration to comply with the requirements of this Section. Registrations  
7 that have expired for more than 12 months may not be renewed.
- 8 (h) Interns that are no longer employed in the field of environmental health in North Carolina may not renew.
- 9 (i) A registered environmental health specialist or a registered environmental health specialist intern in good standing  
10 whose active military service has impaired their ability to obtain the continuing education requirements in Paragraph  
11 (f) of this Rule are exempt from the continuing education requirement if written orders from their military unit are  
12 provided to the Board. In addition, the renewal fee is waived for each calendar year the environmental health specialist  
13 is on active duty.
- 14 (j) A registered environmental health specialist or registered environmental health specialist intern who is disabled  
15 may request a variance in continuing education hours during the period of the disability. The Board may grant or deny  
16 requests for variance in continuing education hours based on a disabling condition on a case by case basis, taking into  
17 consideration the particular disabling condition involved and its effect on the registered environmental health specialist  
18 or registered environmental health specialist's ability to complete the required hours. In considering the request, the  
19 Board may require additional documentation substantiating any specified disability.
- 20 (k) A maximum of five clock hours of approved continuing education, that is in excess of the required 15 clock hours,  
21 may be applied toward the continuing education requirements for the following year. A maximum of five clock hours  
22 of approved continuing education for the year ending December 31, 2020 may be applied toward the  
23 continuing education requirements for the following year.

24

25 *History Note: Authority G.S. 90A-57; 90A-63; 90A-67; 93B-15;*  
26 *Eff. February 1, 1976;*  
27 *Readopted Eff. December 22, 1978;*  
28 *Amended Eff. July 1, 2010; November 1, 1994; May 1, 1990; April 1, 1989; February 1, 1983;*  
29 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13,*  
30 *2015;*  
31 *Emergency Rule Eff. April 16, 2020;*  
32 *Temporary Adoption Eff. June 26, 2020.*

TEMPORARY RULE  
REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina State Board of Environmental Health Specialist Examiners

RULE CITATION: 21 NCAC 62 .0411

**DEADLINE FOR RECEIPT: June 15, 2020**

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*Just to be clear, is this the course required of initial applicants pursuant to 90A-53(a)(4)?*

*G.S. 90A-51 is a definitions statute. Why is it listed in your history note?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder  
Commission Counsel  
Date submitted to agency: June 11, 2020

21 NCAC 62 .0411 is adopted under temporary procedures as follows:

**21 NCAC 62 .0411        SPECIALIZED TRAINING**

Every applicant for registration as a registered environmental health specialist intern shall complete the course entitled "Orientation and Initial Internship Training for Environmental Health Interns" offered by the Division of Environmental Health at the centralized training site within ~~12~~ 18 months of registration as a registered environmental health specialist intern.

*History Note:     Authority G.S. 90A-50; 90A-51; 90A-53; 90A-57;*

*Eff. February 1, 1983;*

*Amended Eff. July 1, 2010; November 1, 1994; May 1, 1990;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;*

*Emergency Rule Eff. April 28, 2020;*

*Temporary Adoption Eff. June 26, 2020.*