

RRC STAFF OPINION

Please Note: This communication is either 1) only the recommendation of an RRC staff attorney as to action that the attorney believes the Commission should take on the cited rule at its next meeting, or 2) an opinion of that attorney as to some matter concerning that rule. The agency and members of the public are invited to submit their own comments and recommendations (according to RRC rules) to the Commission.

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0105, .0106, .0107, .0111, .0112, .0113, .0114, .0205, .0216, .0302, .0303, and .0304.

RECOMMENDED ACTION:

- X Note staff's comment
- Object, based on:
 - Lack of statutory authority
 - Unclear or ambiguous
 - Unnecessary
 - Failure to comply with the APA
- Extend the period of review

COMMENT:

At its January 2016 meeting, the Commission objected to the 12 above-referenced rules submitted by the 911 Board.

The Commission objected to Rules 09 NCAC 06C .0111, .0112, .0113, .0114, .0205, and .0216, finding the agency failed to comply with the Administrative Procedure Act because they were not published in the NC Register for the public comment period required by G.S. 150B-21.2.

The Board published these Rules in the February 1, 2016 NC Register. The comment period will end April 1, 2016. The Commission will review these Rules after the public comment period ends and the agency adopts them.

The Commission objected to Rules 09 NCAC 06C .0107, .0302, .0303, and .0304, finding the Board lacked statutory authority to require CMRS providers to submit a plan for preapproval of all reimbursable costs. Further, the Commission found the Board did not have the authority to require submission of records to prove that costs were incurred, and requiring them exceeded G.S. 62A-45.

In response to the objection, the Board withdrew Rules 09 NCAC 06C .0303 and .0304. The email withdrawing the Rules is included in as Page 3 of the Tab.

Amanda J. Reeder
Commission Counsel

The Board submitted rewritten rules for 09 NCAC 06C .0107 and .0304 (renumbered to .0302). The rewritten rules are Pages 6 and 7 of the Tab. Staff recommends approval of the two rewritten rules.

The Commission objected to Rules 09 NCAC 06C .0105 and .0106 for ambiguity. Specifically, Paragraph (c) of both Rules stated that the Board “may, in its discretion, file a complaint with any other regulatory body exercising jurisdiction.” There was no guidance as to when this may occur and therefore, the Rules were ambiguous.

The Commission also objected to Rule .0106 for lack of statutory authority, as Paragraph (d) stated that the Board may suspend disbursements of a PSAP that is not compliant with the statutes, rules, or requirements of an FCC order. However, G.S. 62A-48 states that the Board is required to suspend disbursements under these circumstances. Therefore, the Commission found that the Board did not have authority for the Rule as submitted.

In response to the objection, the Board submitted rewritten rules for Rules .0105 and .0106. The rewritten rules are Pages 4 and 5 of the Tab. Staff recommends approval of the two rewritten rules.

Burgos, Alexander N

Subject: FW: 911 Board Rules Revisions for February RRC Meeting

From: Bank, Teresa M
Sent: Monday, February 01, 2016 3:49 PM
To: Reeder, Amanda J <amanda.reeder@oah.nc.gov>
Subject: 911 Board Rules Revisions for February RRC Meeting

Amanda,

I have attached a document with the rules the 911 Board voted to revise on January 29, 2016.

The 911 Board also voted to withdraw the following rules from consideration:
09 NCAC 06 .0302
09 NCAC 06 .0303

Please let me know if you are satisfied with the revisions.

Richard would like to meet to discuss these rules after you have had a chance to review them.

Thanks

Teresa M. Bank
Technical Policies Manager
NC Department of Information Technology

919 754 6285 office
teresa.bank@nc.gov



Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties.

09 NCAC 06C .0105 was published as 09 NCAC 06C .0104(a) through (e) in 29:24 NCR 2766-2783, and is adopted as 09 NCAC 06C .0105 with changes, as follows:

9 NCAC 06C .0105 SERVICE PROVIDER FAILURE TO COMPLY WITH RULES

(a) If the Board determines that a ~~Service Provider~~ service provider does not appear to have complied with N.C. General Statutes Chapter 62A, these ~~rules~~ Rules, or the requirements of the FCC ~~Report and Order~~ Order, 94-102 (~~"Report and Order"~~) a certified, return receipt letter shall be mailed to the company representative known to the Board. The letter shall request justification or an explanation from the service provider for the apparent non-compliance. The service provider shall have 15 calendar days to respond to the letter.

(b) Board staff shall ~~initially assess the service provider's response and~~ send a report to the Board. The Board shall review the staff's report. If it appears to the Board that the service provider has failed to comply with applicable law, these ~~rules~~ Rules, or the FCC Order, the Board shall notify the service provider to that effect and to the consequences arising from such failure, and shall provide an opportunity for the service provider to appear before the Board.

~~(c) If after notice to the service provider, and appearance before the Board or service provider's failure to appear, the Board determines that the service provider has offered no reasonable solution, the Board may, at its discretion file a complaint with the FCC, the N.C. Utilities Commission or other regulatory body exercising jurisdiction over the service provider. A reasonable solution shall be defined as one that complies with applicable law, these rules or the FCC Order within thirty days or upon such other conditions as the Board may find reasonable.~~

~~(d)~~ (c) If the non-compliant service provider is a CMRS service provider eligible for reimbursement pursuant to G.S. 62A-45, all reimbursements shall be suspended until compliance with applicable law, these ~~rules~~ Rules, or the FCC Order has been completed.

~~(e)~~ (d) If after notice and hearing, the Board determines that the service provider's failure was caused by one or more primary PSAPs, ~~rules~~ Rule .0106 and procedures regarding PSAP compliance shall be followed.

History Note: Authority G.S. 62A-42; 62A-48; Part 20 of Title 47 of the Code of Federal Regulations; Eff. July 1, 2016.

09 NCAC 06C .0106 was published as 09 NCAC 06C .0104(a) through (e) in 29:24 NCR 2766-2783, and is adopted as 09 NCAC 06C .0106 with changes, as follows:

09 NCAC 06C .0104 .0106 PSAP FAILURE TO COMPLY WITH RULES

~~(b)~~ (a) If the Board determines that a Primary PSAP does not appear to have complied with N.C. General Statutes ~~Chap. Chapter~~ 62A, these ~~rules~~ Rules, or the requirements of FCC ~~Report and Order~~ Order, 942-102 a certified, return receipt letter shall be mailed to the PSAP representative known to the Board. The letter shall request justification or an explanation from the Primary PSAP for the apparent non-compliance. The Primary PSAP shall have ~~fifteen~~ 15 calendar days to respond to the letter.

~~(b)~~ (b) Board staff shall ~~initially assess the Primary PSAP's response and send a report to the Board.~~ The Board shall review the staff's report. If it appears to the Board that the PSAP has failed to comply with applicable law, these ~~rules~~ Rules, or the FCC Order, the Board shall notify the PSAP to that effect and to the consequences arising from such failure, and shall provide an opportunity for the PSAP to appear before the Board.

~~(2) If after notice to the Primary PSAP, and appearance before the Board or the PSAP's failure to appear, the Board determines that the PSAP has offered no reasonable solution, the Board may, at its discretion file a complaint with any other regulatory body exercising jurisdiction over the PSAP. A reasonable solution shall be defined as one that will comply with applicable law, these rules or the FCC Order within thirty days or upon such other conditions as the Board may find reasonable.~~

~~(3) If the non-compliant Primary PSAP receives 911 Fund disbursements, such disbursements may be suspended by the 911 Board until compliance with applicable law, these rules or the FCC Order has been completed.~~

~~(4) (c) If after notice and hearing, the Board determines that the Primary PSAP is not at fault, the Board shall take additional action investigate to determine the cause of failure, failure and take action to achieve a reasonable solution. A "reasonable solution" shall be defined as one that complies with applicable law, these Rules, or the FCC Order within 30 days or upon such other conditions as the Board may find reasonable.~~

~~(e) If through the review process the Board determines that a PSAP or CMRS Service Provider is not adhering to an approved plan or is not using funds in the manner prescribed in these rules or G.S. 62A, the Board may, after notice and hearing, suspend distributions or reimbursements until satisfactory evidence of compliance is provided to the Board.~~

*History Note: Authority G.S .62A-46; 62A-48;
 Eff. July 1, 2016.*

09 NCAC 06C .0107 was published as 09 NCAC 06C .0105 in 29:24 NCR 2766-2783, and is adopted as 09 NCAC 06C .0107 with changes, as follows:

09 NCAC 06C .0107 REVIEW 911 FUNDS EXPENDITURES, DISBURSEMENTS AND REIMBURSEMENTS

(a) PSAPs shall maintain ~~detailed~~ books and records of 911 Funds received and use of such funds in accordance with the Local Government Budget and Fiscal Control Act G.S. 159-7 et seq. ~~and generally accepted accounting principles.~~ PSAPs shall maintain these books and records to support Fund distributions, ~~reviews~~ reviews, or audits, in accordance with the funding formula adopted by the Board pursuant to G.S. 62A-46(a)(3). All books and records shall be available for review by the Board or its representatives, or audit by other governmental entities with such authority. If any review or audit indicates excess distributions to a PSAP, the Board shall adjust future or final distributions otherwise due. If no distributions are due and owed to a PSAP, or if the excess distribution exceeds the amount otherwise due during that fiscal year, the PSAP shall refund all amounts due to the 911 Fund as requested by the Board.

(b) PSAPs shall provide copies of any audit reports to the Board if such audit reports include receipts or expenditures for 911 systems.

(c) CMRS service providers ~~shall maintain detailed books and records consistent with~~ subject to G.S. 147-64.7 shall maintain records related to service charges remitted, and records necessary to support requested reimbursements in accordance with applicable law and generally accepted accounting principles. ~~CMRS service providers shall maintain these books and records for a minimum of 5 years. All books and records shall be available for review or audit by the Board or its representatives or audit by other governmental entities with such authority upon reasonable notice and during normal business hours. CMRS service providers shall cooperate fully with any such review or audit.~~ If any audit or review indicates ~~overpayment~~ excess distributions to a CMRS service provider, or subcontractor, the Board shall adjust future or final ~~payment~~ distributions otherwise due. If no distributions are due and owed to a CMRS service provider, or if the ~~overpayment~~ excess distribution exceeds the amount otherwise due during that fiscal year, the CMRS service provider shall immediately refund all amounts that may be due to the 911 Fund ~~without delay.~~ Fund.

History Note: Authority G.S. 62A-42(a)(5); ~~62A-46(d); 62A-46(d); 62A-46(e); 62A-46(e); 62A-48; 62A-48;~~ 62A-50;
Eff. July 1, 2016.

09 NCAC 06C .0302 was published as 09 NCAC 06C .0304 in 29:24 NCR 2766-2783, and is adopted as 09 NCAC 06C .0302 with changes, as follows:

09 NCAC 06C .~~0304~~ .0302 CMRS SERVICE PROVIDER REIMBURSEMENT

(a) Sworn invoices ~~must~~ shall be attested to by ~~an authorized agent of a person having authority to represent the CMRS Service Provider, service provider.~~ Only costs ~~which comport with an approved Plan~~ that are commercially reasonable are eligible for cost recovery. ~~Costs~~ The CMRS service provider may present be costs as the actual incurred costs of the CMRS Service Provider, service provider, an estimate of the incurred costs, or the approved rate per subscriber multiplied by the actual subscriber count. If estimated costs are used, ~~the CMRS Service Provider service provider~~ must shall annually true up its costs to ensure that over-recovery does not occur. ~~CMRS Service Providers service providers~~ shall maintain records consistent with Generally Accepted Accounting Principles as applied by the provider to demonstrate that costs were actually incurred as ~~invoiced, submitted for reimbursement.~~ Internal costs (engineering time, facilities, proportionate share of software, etc.) shall be supported by ~~reasonable~~ documentation. All costs are subject to ~~audit~~ review by the Board.

~~(b) A CMRS Service Provider may be reimbursed for actual one-time costs incurred for their selected E911 solution prior to the Board's approval of a CMRS Service Provider's Cost Recovery Plan upon authorization of the Board's Chair and Executive Director. As a condition of such reimbursement, the CMRS Service Provider shall sign an agreement stating that if a mistake in reimbursement is made, the CMRS Service Provider will refund any amounts determined by the board to be mistakenly distributed.~~

~~(c) CMRS Service Providers shall not be reimbursed in excess of actual and approved costs.~~

(b) As used in this Rule, "commercially reasonable" shall mean the cost that takes into account the facts and circumstances at the time the cost is incurred. The Board shall determine whether costs are commercially reasonable pursuant to Chapter 25 of the General Statutes.

*History note: Authority G.S. 62A-45;
Eff. July 1, 2016.*



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6700

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

January 21, 2016

Teresa Bank
NC Department of Information Technology
Sent via email to Teresa.Bank@nc.gov

Re: Objection to Rules 09 NCAC 06C .0105, .0106, .0107, .0111, .0112, .0113, .0114, .0205, .0216, .0302, .0303, and .0304.

Dear Ms. Bank:

At its meeting today, the Rules Review Commission objected to the above-captioned rules in accordance with G.S. 150B-21.10.

The Commission objected to Rules .0111, .0112, .0113, .0114, .0205, and .0216, finding the agency failed to comply with the Administrative Procedure Act because the rules were not published in the NC Register for the public comment period required by G.S. 150B-21.2. The Commission is aware that the Board has submitted these Rules for publication in the February 1, 2016 Register.

The Commission also objected to Rule .0112 because as the Rule was originally submitted, the Board proposed to respond requests for declaratory ruling outside of the timeline set forth in G.S. 150B-4. Therefore, the Commission found that the Board did not have the statutory authority to change the timeline set forth in statute.

The Commission objected to Rules .0107, .0302, .0303, and .0304, finding the Board lacked statutory authority to require CMRS providers to submit a plan for preapproval of all reimbursable costs. Further, the Commission found the Board does not have the authority to require submission of records to prove that costs were incurred. These requirements exceed the requirements of G.S. 62A-45.

The Commission objected to Rules .0105 and .0106 for ambiguity. Specifically, Paragraph (c) of both rules state that the Board “may, in its discretion, file a complaint with any other regulatory body exercising jurisdiction.” There is no guidance in the rule as to when this may occur and therefore, the Rules are ambiguous.

Administration
919/431-3000
fax: 919/431-3100

Rules Division
919/431-3000
fax: 919/431-3104

Judges and
Assistants
919/431-3000
fax: 919/431-3100

Clerk's Office
919/431-3000
fax: 919/431-3100

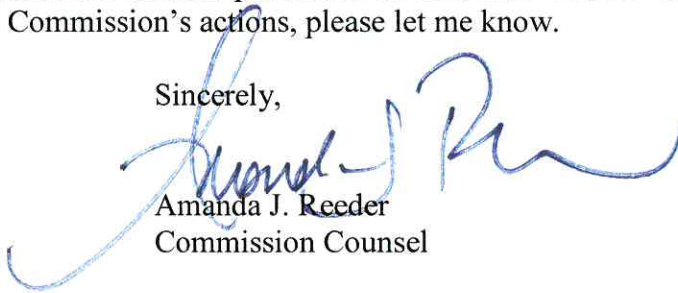
Rules Review
Commission
919/431-3000
fax: 919/431-3104

Civil Rights
Division
919/431-3036
fax: 919/431-3103

The Commission also objected to Rule .0106 for lack of statutory authority, as Paragraph (d) states that the Board may suspend disbursements of a PSAP that is not compliant with the statutes, rules, or requirements of an FCC order. However, G.S. 62A-48 states that the Board is required to suspend disbursements under these circumstances. Therefore, the Commission found that the Board does not have authority for the Rule as submitted.

Please respond to this letter in accordance with the provisions of G.S. 150B-21.12. If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

A handwritten signature in blue ink, appearing to read "Amanda J. Reeder", is written over the typed name and title.

Amanda J. Reeder
Commission Counsel



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6700

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

December 17, 2015

Teresa Bank
NC ITS

Sent via email to Teresa.Bank@nc.gov

Re: Extension of the Period of Review 09 NCAC 06C

Dear Ms. Bank:

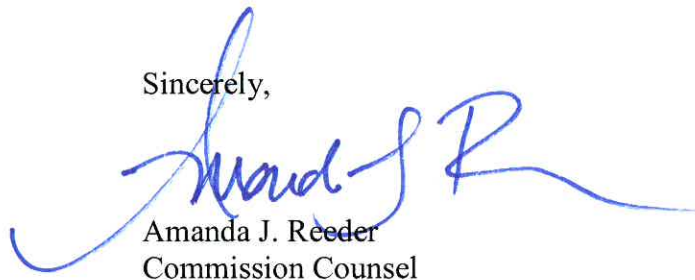
At its meeting this morning, the Rules Review Commission extended the period of review for the above-captioned rules in accordance with G.S. 150B-21.10. They did so because the Board did not submit rewritten rules in the timeframe set forth in Rule 26 NCAC 05 .0108. Therefore, the Commission did not have before it all information necessary to approve or object to the Rules.

Pursuant to G.S. 150B-21.13, when the Commission extends the period of review, it is required to approve or object to rules or call a public hearing on the same within 70 days.

The Commission anticipates reviewing the rules at its January 21, 2016 meeting.

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

Sincerely,



Amanda J. Reeder
Commission Counsel

Administration
919/431-3000
fax: 919/431-3100

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Civil Rights
Division
919/431-3036
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REQUEST FOR WAIVER OF RRC RULE

I request a waiver of RRC Rule 26 NCAC 05.0112 on behalf of the North Carolina 911 Board.

Agency Requesting Waiver: North Carolina 911 Board

Person Requesting Waiver: Richard Bradford, Special Deputy Attorney General, counsel to the NC 911 Board

Reason for Waiver: The 911 Board strongly believes it is necessary, and best, for the rules process to move forward as local governments enter into their budgeting process with an expectation that the effective date will coincide with the beginning of the next fiscal year. The Board developed the rules in close concert with its regulated public. The Board's membership includes representatives from its regulated public: public members representing local government and private members representing telecommunications providers.

Date: December 12, 2015

Factors to be used in determining whether RRC shall grant a waiver (26 NCAC 05.0112):

- (1) the necessity for a waiver;
- (2) the amount of notice given to the Commission and its staff, the agency proposing the rule, and interested parties;
- (3) the applicant's responsibility for the conditions creating the need for a waiver;
- (4) the applicant's previous requests for a waiver;
- (5) the applicant's knowledge of or experience with the rulemaking process;
- (6) the precedential value of such a waiver;
- (7) the harm to the applicant if a waiver is not granted;
- (8) the harm to the agency if a waiver is granted when the agency is not the applicant.

List and explain the appropriate factors affecting your request and why the waiver should be granted:

The Board appointed a "standards committee" to develop the rules. The committee began with published standards familiar to the PSAP (public safety answering point, or 911 center) community and developed the rules over a period of several years. The committee membership majority was selected from the Board's regulated public. Hence the text of the rules, meaning and application have been vetted thoroughly among persons involved in PSAP operation. This represents an inclusive principle the Board has observed, and plans to further by

continuing collaborative communications with PSAPs, local government finance officers and others. It is important to the Board that the Commission act at the earliest opportunity so that its regulated public may have the rules in place well prior to the effective date.

The rules were published in the NC Register on June 15, 2015. Following publication, the standards committee continued to meet and discuss further policies and potential rules. The Board sponsored a series of four meetings for PSAP directors and others across the State relating to the rules: July 8, 9, 15 and 16. During the Board's public comment period, which ended August 28, comments received from PSAPs prompted refinement of some rules, and those refinements are reflected non-substantive text changes. No comments were received from voice communications service providers.

The Board staff has responded to questions and engaged in discussions with RRC staff promptly. The RRC staff noted a number of questions that relate to 911 communications operations as well as technical corrections. These were discussed with the Commission's staff counsel on December 9. All persons have worked diligently, and although the time available may have been less than desired, a completed set of rules has been achieved. The Board's counsel attended continuing legal education on December 8 and 9, and Commission staff counsel attended continuing legal education on December 10 and 11. The 911 Board is aware of the filing requirements of 26 NCAC 5.0108, and sincerely appreciates the Commission's staff counsel's efforts to resolve all questions and technical changes. The agency rules coordinator delivered the completed rules electronically on Monday, December 14. The Board respectfully requests that the Commission consider the rules.

The Board has not requested waivers previously, and finds no precedential value in a waiver granted upon this request.

Signature: _____

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C, All Rules Submitted

DEADLINE FOR RECEIPT: Friday, December 11, 2015

NOTE WELL: *This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

All of these Rules are adoptions. Therefore, you will not have any highlighting to reflect changes made to these Rules after publication. Please follow Rule 26 NCAC 02C .0405(b)(1) to reflect changes made after publication.

Further, please be sure next you are showing all changes made to if the Rules from the text that was published. There are changes that were made post-publication that are not reflected here. Some are pointed out in the text of the Request for Technical Change, but you need to be sure that you are comparing the current text to what was actually published for all Rules.

Please note, where you have adopted the Rule as a different Rule number, please state the deleted number, the new number and the name of the Rule as it currently is. Therefore, for Rule .0103, it's "09 NCAC ~~.0402~~ .0103 Definitions." I have noted this for many Rules in the Request for Technical Changes, but where I did not, please do still make this change.

Please confirm that you intend the Rules to become effective July 1, 2016.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0101

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In the Submission for Permanent Rule form, in box two, please put in the full name of the rule.

So that I understand, I take it the forms you are referring to will have the substantive requirements that are set forth in rule or law?

On line 9, to what policies are you referring?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0101 is adopted as published in 29:24 NCR 2766-2783, with changes, as follows:

TITLE 09, CHAPTER 06, SUBCHAPTER C

911 BOARD

SECTION .0100 – FORMS, DEFINITIONS, ADMINISTRATION

09 NCAC 06C .0101 FORMS

(a) The 911 Board shall prescribe forms by or for use by Public Safety Answering Points (PSAPs), service providers, and any other parties as may be needed to ensure uniformity in the operation of these Rules and policies adopted by the Board.

(b) All forms referenced in this Subchapter are published on the Board's website at <https://www.nc911.nc.gov> and may be accessed free of charge.

History Note: *Authority: G.S. 62A-42;*
Eff. July 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0102

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In Paragraph (a), I am aware this information was published in other rules, so I do not think this is a substantial change. However, some you published a PO Box, not the physical address. Is this the mailing address of the Board, as well?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0102 was published in 09 NCAC 06C .0107 and 09 NCAC 06C .0306 in 29:24 NCR 2766-2783, and is adopted as 09 NCAC 06C .0102 with changes, as follows:

09 NCAC 06C .0102 DEFINITIONS PHYSICAL ADDRESS OF 911 BOARD

(a) The physical address of the 911 board is:

911 Board

c/o NC Office of Information Technology Services

3700 Wake Forest Road

Raleigh, NC 27609

(b) Contact information for staff is located on the Board's website at <https://www.nc911.nc.gov>.

History Note: *Authority: G.S. 62A-42;*

Eff. July 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0103

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Throughout this Rule, do not underline and strike the same term.

On line 4, please state: "~~.0102~~ .0103 Definitions"

On lines 5-22, this is language from Rule .0103 that was published but not adopted. You do not need to show the "deletion" of this language. Just do not include it.

On line 25, who will assign those?

On line 28 up, please renumber this definition so that's in alphabetical order.

On line 30, this term is defined differently in G.S. 62A-40. Is the definition in rule intended to clarify the rules? And why is the term capitalized throughout, rather than "back-up"?

On line 31, this is not the correct way to remove "s" after PSAP.

On line 34, define or delete "normally" and "remote"

Page 2, lines 2 and 9, the highlighted language is not new language.

In Item (8), line 11, why are you spelling out "Public Safety Answering Point" rather than stating "PSAP" which you've already used?

On line 22, there is no need to insert the (12) you struck through.

In Item (12), lines 25-26, should it be PSAPs?

On line 26, the term "Emergency Response Unit" is capitalized; it is not on line 27. Please be consistent.

In Item (16), line 37, please insert commas after "decrees" and "rules"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

Also in Item (16) to what “rules” are you referring? Regulations should address federal regulations. Does the term include rules by the 911 Board or other agencies? Is it needed here?

Are the Orders, regulations and decrees all found at the websites included in the Rule?

On Page 3, Item (17), define “commonly” and “usually”

Do you really want to delete Item (19)? Will it not help people reading your rules to know that “LEC” means “Local Exchange Carrier”?

In Item (19), line 13, define “normally”

In Item (20), does your regulated public know what “acknowledged” means?

In Items (22) and (23), you do not need to incorporate these standards again. And is the citation on line 23 “20 CFR 20.18” a typographical error – did you mean to refer to 47 CFR 20.18?

In former Item (aa), line 32, this is an agency decision, but do you not wish to keep the acknowledgment of the acronym that is used throughout the rules?

In Item (26), line 35, replace “which” with “that”

On Page 4, line 4, do not insert the (30).

In Item (28) line 8, define “routinely”

On line 9, this is not new language.

On lines 10, 12, 22, 25, 26, and 28, do not underline and strike the same language.

In Item (31), line 20, please define “substantially”

In Item (33), line 23, I believe “Service” should be capitalized. As it was published capitalized, you do not need to show that it was changed. Simply use a capital letter.

In Item (34), line 27, I believe “full-time” and “part-time” should be hyphenated.

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

09 NCAC 06C .0103 was published as 09 NCAC 06C .0102 in 29:24 NCR 2766-2783, and is adopted as 09 NCAC 06C .0103 with changes, as follows:

09 NCAC 06C .0103 ADMINISTRATION DEFINITIONS

(a) The purposes of rules regarding PSAP operations are as follows:

- ~~(1) To specify operations, facilities, and communications systems that receive emergency 911 calls from the public.~~
- ~~(2) To provide requirements for the retransmission of such emergency 911 calls to the appropriate emergency response agencies.~~
- ~~(3) To provide requirements for dispatching of appropriate emergency response personnel.~~
- ~~(4) To establish the required levels of performance and quality of installations of emergency services communications systems.~~

(b) The rules for PSAP operations apply to emergency 911 systems that include dispatching systems, telephone systems, and public reporting systems that provide the following functions:

- ~~(1) Communication between the public and emergency response agencies.~~
- ~~(2) Communication within the emergency response agency under emergency and non-emergency conditions.~~
- ~~(3) Communication among emergency response agencies.~~

(c) The rules for PSAP operations do not prevent the use of systems, methods, or devices of equivalent or superior quality, strength, fire resistance, effectiveness, durability, and safety over those prescribed by these rules.

- ~~(1) Technical documentation shall be submitted to the local government to demonstrate equivalency.~~
- ~~(2) The system, method, or device shall be approved for the intended purpose by the local government.~~

In addition to the terms defined in N.C.G.S. 62A-40, the following terms have the following definition when used in this Subchapter:

a(1) “Addressing” means the assigning of a numerical address and street name (the street name may be numerical) to all locations within a local government's geographical service area for the purpose of providing Enhanced 911 service.

b(2) “Appropriate Designated Public Safety Answering Point (PSAP)” means a Primary PSAP determined pursuant to the FCC Order or a Board approved Back-up PSAP.

c(3) “Back-up PSAP” means a facility equipped with automatic number identification, automatic location identification displays and all other features common to of a primary PSAPs that it serves. A Back-up PSAP shall receive 911 calls only when they are transferred from the primary PSAP or on an alternate routing basis when calls cannot be completed to the primary PSAP. A Back-up PSAP facility is normally may be unattended, is remote from the Public Safety Answering Point and used to house equipment necessary for the functioning of an emergency communications system.

- d(4) “Circuit” means the conductor or radio channel and associated equipment used to perform a specific function in connection with a 911 call system.
- e(5) “CMRS” means a commercial mobile radio service.
- f(6) “CMRS Non-recurring cost (NRC)” means one-time costs incurred by CMRS service providers for initial connection to selective routers and the wireless systems service provider (third party vendor non-recurring) cost.
- g(7) “Communications System” means a combination of links or networks that serve a general function such as a system made up of command, tactical, logistical, and administrative networks supporting the operations of an individual PSAP.
- h(8) “Comprehensive Emergency Management Plan (CEMP)” means a disaster recovery plan that conforms to guidelines established by the Public Safety Answering Point and is designed to address natural, technological, and man-made disasters.
- i(9) “Computer-Aided Dispatch (CAD)” means a combination of hardware and software that provides data entry, makes resource recommendations, and notifies and tracks those resources before, during, and after 911 calls, and preserves records of those calls and status changes for later analysis by a PSAP or the Board.
- j(10) “Computer-Aided Dispatch (CAD) Terminal” means an electronic device that combines a keyboard and a display screen to allow the exchange of information between a telecommunicator and one or more computers in the system or network.
- k(11) “Control Console” means a wall-mounted or desktop panel or cabinet containing controls to operate communications equipment.
- l(12) “Coordinated Universal Time” means a coordinated time scale, maintained by the Bureau International des Poids et Mesures (BIPM), which forms the basis of a coordinated dissemination of standard frequencies and time signals.
- m(12) “Dispatch Circuit” means a circuit over which a signal is transmitted from the Public Safety Answering Point to an Emergency Response Facility or Emergency Response Unit to notify the emergency response unit to respond to an emergency.
- n(13) “Emergency 911 Call Processing/Dispatching” means a process by which a 911 call answered at the PSAP is transmitted to Emergency Response Facilities (ERFs) or to Emergency Response Units (ERUs) in the field.
- o(14) “Emergency Response Facility (ERF)” means a structure or a portion of a structure that houses PSAP equipment and personnel for receiving and dispatching 911 calls.
- p(15) “Emergency Response Unit (ERU)” means a first responder, such as a police vehicle, a fire truck, and or an ambulance. It also includes personnel who respond to fire, medical, law enforcement, or other emergency situations for the preservation of life and safety.
- (16) “FCC Order” means the Order in FCC Docket 94-102 adopted by the Federal Communications Commission on December 1, 1997, and subsequent Orders, decisions, consent decrees rules and

regulations including 47 C.F.R. 20.18 which are incorporated by reference in these rules. The FCC Order and regulations may be obtained free of charge from the FCC website: <http://transition.fcc.gov/pshs/services/911-services/>, <http://www.fcc.gov/encyclopedia/9-1-1-and-e9-1-1-services> and <http://www.fcc.gov/encyclopedia/rules-regulations-title-47>.

q(17) “Geographic Information Systems (GIS)” means computer programs linking features commonly seen on maps, such as roads, town boundaries, water bodies, with related information not usually presented on maps, such as type of road surface, population, type of agriculture, type of vegetation, or water quality information.

r(18) “GIS Base Map” means a map comprising streets and centerlines used in a Geographic Information System.

s(19) “Local Exchange Carrier” or “LEC” has the same meaning as set forth in G.S. 62A-40.

t(19) “Logging Voice Recorder” means a device that records voice conversations and automatically logs the time and date of such conversations; normally, a multichannel device that keeps a semi-permanent record of operations.

u(20) “Notification” means the time at which a 911 call is received and acknowledged at a PSAP.

v(21) “Operations Room” means the room in the PSAP where 911 calls are received and processed and communications with emergency response personnel are conducted.

w(22) “Phase I Wireless Enhanced 911 Service” has the same meaning as provided in the FCC Order and FCC regulations. The FCC Order and regulations may be obtained free of charge from the FCC website: <http://transition.fcc.gov/pshs/services/911-services/>, <http://www.fcc.gov/encyclopedia/9-1-1-and-e9-1-1-services> and <http://www.fcc.gov/encyclopedia/rules-regulations-title-47>.

x(23) “Phase II Wireless Enhanced 911 Service” has the same meaning as provided in the FCC Order and FCC regulations. The FCC Order and regulations, including 20 C.F.R. 20.18, may be obtained free of charge from the FCC website: <http://transition.fcc.gov/pshs/services/911-services/>, <http://www.fcc.gov/encyclopedia/9-1-1-and-e9-1-1-services> and <http://www.fcc.gov/encyclopedia/rules-regulations-title-47>.

y(24) “Place of Primary Use” has the same meaning as provided in the Mobile Telecommunications Sourcing Act, 4 U.S.C. § 124(8), if applicable; and otherwise sourcing shall be determined pursuant to G.S. 105-164.3 or G.S. 105-164.4B.

z(25) “Public Safety Agency” means an organization that provides law enforcement, emergency medical, fire, rescue, communications, or related support services.

aa(27) “Public Safety Answering Point (PSAP)” means the public safety agency that receives incoming 911 calls.

bb(26) “PSAP Nonrecurring Costs” means non-repetitive charges incurred by a Primary PSAP to pay for equipment or services which do not occur on a fixed schedule. Examples include computer equipment that has become functionally outdated, software upgrades, or repair costs that are not covered by any maintenance agreement.

1 ee(27) “PSAP Recurring Costs” means repetitive charges incurred by a primary PSAP, such as database
2 management, lease of access lines, lease of equipment, network access fees, and applicable
3 maintenance costs.

4 dd(30) “Security Vestibule” means a compartment provided with two or more doors where the intended
5 purpose is to prevent continuous and unobstructed passage by allowing the release of only one door
6 at a time.

7 ee(28) “Standard Operating Procedures (SOPs)” means written organizational directives that establish or
8 prescribe specific operational or administrative methods that are to be followed routinely for the
9 performance of designated operations or actions.

10 ff(29) “Selective Routing” or “Tandem Routing” means routing a 911 call to the appropriate designated
11 PSAP based upon the caller’s location.

12 gg(30) “Stored Emergency Power Supply System (SEPSS)” means a system consisting of a UPS
13 Uninterruptible Power Supply, or a motor generator, powered by a stored electrical energy source,
14 together with a transfer switch designed to monitor preferred and alternate load power source and
15 provide desired switching of the load, and all necessary control equipment to make the system
16 functional.

17 hh(31) “Sworn Invoice” means an invoice prepared by a CMRS service provider’s vendor that describes
18 the goods or services and identifies the costs that the CMRS service provider submits for cost
19 recovery pursuant to an approved cost recovery plan, and that is accompanied by an affidavit that
20 substantially complies with a form provided by the Board.

21 ii(32) “911 Line/Trunk” means a telephone line/trunk which is dedicated to providing a caller with access
22 to the appropriate designated PSAP by dialing the digits 911.

23 jj(33) “service provider” means an entity that provides voice communications service, including resellers
24 of such service.

25 kk “TDD/TTY” means a device that is used in conjunction with a telephone to communicate with persons
26 who are deaf, who are hard of hearing, or who have speech impairments, by typing and reading text.

27 ll(34) “Telecommunicator” means any person engaged in or employed as a full time or part time 911
28 communications center call take, taker, whether called by that or another term, such as emergency
29 communications specialist or emergency dispatcher.

30 mm(35) “Uninterruptible Power Supply (UPS)” means a system designed to provide power, without delay
31 or transients, during any period when the primary power source is incapable of performing.

32 nn(36) “Voice Communication Channel” means a single path for communication by spoken word that is
33 distinct from other parallel paths.

34
35 *History Note:* Authority G.S. 62A-42; 47 C.F.R. 20.18;
36 Eff. July 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0104

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In the Introductory Statement, please reflect that it was published as Paragraph (f) of the Rule

On line 4, please state "09 NCAC 06 ~~.0104~~ .0105"

In line 4, why is "Service Provider" capitalized?

On line 5, "Rules" should be capitalized.

You have deleted the "notice and hearing" provision. Isn't notice required under G.S. 62A-48?

§ 62A-48. Recovery of unauthorized use of funds.

The 911 Board must give written notice of violation to any voice communications service provider or PSAP found by the 911 Board to be using monies from the 911 Fund for purposes not authorized by this Article. Upon receipt of notice, the voice communications service provider or PSAP must cease making any unauthorized expenditures. The voice communications service provider or PSAP may petition the 911 Board for a hearing on the question of whether the expenditures were unauthorized, and the 911 Board must grant the request within a reasonable period of time. If, after the hearing, the 911 Board concludes the expenditures were in fact unauthorized, the 911 Board may require the voice communications service provider or PSAP to refund the monies improperly spent within 90 days. Money received under this section must be credited to the 911 Fund. If a voice communications service provider or PSAP does not cease making unauthorized expenditures or refuses to refund improperly spent money, the 911 Board must suspend funding to the provider or PSAP until corrective action is taken. (2007-383, s. 1(a).)

Also, G.S. 62A-48 only applies to PSAPs and Voice Communication Providers. What is the authority for this Rule to apply to CMRS?

In the History Note, please insert a semicolon after 62A-46.

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

Amanda J. Reeder
Commission Counsel

Date submitted to agency: November 30, 2015

09 NCAC 06C .0104 is adopted as published in 29:24 NCR 2766-2783, with changes, as follows:

09 NCAC 06C .0104 FAILURE TO COMPLY WITH RULES

~~(f) If through the review process the Board determines that a PSAP or CMRS Service Provider is not adhering to an approved plan or is not using funds in the manner prescribed in these rules or G.S. 62A, the Board may, may after notice and hearing, suspend distributions or reimbursements until satisfactory evidence of compliance is provided to the Board. A CMRS Service Provider is not eligible to receive or expend 911 Fund monies until such time as the Board determines that the Service Provider is in compliance with an approved plan and 911 Fund usage limitations.~~

History Note: Authority G.S .62A-42; 62A-46, 62A-48;

Eff. July 1, 2016.

RRC STAFF OPINION

Please Note: This communication is either 1) only the recommendation of an RRC staff attorney as to action that the attorney believes the Commission should take on the cited rule at its next meeting, or 2) an opinion of that attorney as to some matter concerning that rule. The agency and members of the public are invited to submit their own comments and recommendations (according to RRC rules) to the Commission.

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0105

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☐ Lack of statutory authority
 - ☒ Unclear or ambiguous
 - ☐ Unnecessary
 - ☐ Failure to comply with the APA
 - ☐ Extend the period of review

COMMENT:

Staff recommends objecting to the Rule based upon the language in Paragraph (c), which states that the Board may act in its discretion to file a complaint with any other regulatory body exercising jurisdiction. The Rule does not provide any guidance on when the action will be taken, such as factors that will be considered in determining whether this will occur. Therefore, staff believes the Rule is ambiguous as written.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0105

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In the Introductory Statement, please state that the Rule was published as Rule 09 NCAC .0104(a) through (e).

On line 4, please state "09 NCAC 06 ~~.0104~~ .0106"

In (a), line 7, (b), line 13, (c), line 18, and (d), line 21, "Rules" should be capitalized.

In (c), I understand the Board is reserving discretion to file a complaint. However, this Rule offers no guidance as to what factors will the Board consider. What will the Board use to determine this?

On line 16, replace "at" with "in"

On line 18, state "For the purposes of this Rule, a "reasonable solution" shall be..." (Assuming you are containing the definition to this Rule.)

On line 19, replace "thirty" with "30"

What is your authority for Paragraph (d)? G.S. 62A-48 does not apply to CMRS providers.

In Paragraph (e), line 24, to what rules are you referring? Rule .0106?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0105 was published in 09 NCAC 06C .0104 in 29:24 NCR 2766-2783, and is adopted as 09 NCAC 06C .0105 with changes, as follows:

9 NCAC 6C .0105 **~~REVIEW 911 FUND EXPENDITURES SERVICE PROVIDER FAILURE TO COMPLY WITH RULES~~**

(a) If the Board determines that a Service service Provider provider does not appear to have complied with N.C. General Statutes Chapter 62A, these rules or the requirements of the FCC Report and Order 94-102 (“Report and Order”), a certified, return receipt letter shall be mailed to the company representative known to the Board. The letter shall request justification or an explanation from the service provider for the apparent non-compliance. The service provider shall have 15 calendar days to respond to the letter.

(b) Board staff shall initially assess the service provider’s response and send a report to the Board. The Board shall review the staff’s report. If it appears to the Board that the service provider has failed to comply with applicable law, these rules or the FCC Order, the Board shall notify the service provider to that effect and to the consequences arising from such failure, and shall provide an opportunity for the service provider to appear before the Board.

(c) If after notice to the service provider, and appearance before the Board or service provider’s failure to appear, the Board determines that the service provider has offered no reasonable solution, the Board may, at its discretion file a complaint with the FCC, the N.C. Utilities Commission or other regulatory body exercising jurisdiction over the service provider. A reasonable solution shall be defined as one that complies with applicable law, these rules or the FCC Order within thirty days or upon such other conditions as the Board may find reasonable.

(d) If the non-compliant service provider is a CMRS service provider eligible for reimbursement pursuant to G.S. 62A-45, all reimbursements shall be suspended until compliance with applicable law, these rules or the FCC Order has been completed.

(e) If after notice and hearing, the Board determines that the service provider’s failure was caused by one or more primary PSAPs, rules and procedures regarding PSAP compliance shall be followed.

History Note: Authority G.S .62A-42; 62A-48;

Eff. July 1, 2016.

REVISED RRC STAFF OPINION

Please Note: This communication is either 1) only the recommendation of an RRC staff attorney as to action that the attorney believes the Commission should take on the cited rule at its next meeting, or 2) an opinion of that attorney as to some matter concerning that rule. The agency and members of the public are invited to submit their own comments and recommendations (according to RRC rules) to the Commission.

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0106

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☒ Lack of statutory authority
 - ☒ Unclear or ambiguous
 - ☒ Unnecessary
 - ☐ Failure to comply with the APA
- ☐ Extend the period of review

COMMENT:

Staff recommends objection to this Rule based upon a lack of statutory authority, lack of necessity, and ambiguity.

In Paragraph (d) of the Rule, the language states that the Board "may" suspend disbursements. However, G.S. 62A-48 states that the Board must suspend the disbursements. Staff does not believe the Board has the authority to change the requirements of statute by rule.

§ 62A-48. Recovery of unauthorized use of funds.

The 911 Board must give written notice of violation to any voice communications service provider or PSAP found by the 911 Board to be using monies from the 911 Fund for purposes not authorized by this Article. Upon receipt of notice, the voice communications service provider or PSAP must cease making any unauthorized expenditures. The voice communications service provider or PSAP may petition the 911 Board for a hearing on the question of whether the expenditures were unauthorized, and the 911 Board must grant the request within a reasonable period of time. If, after the hearing, the 911 Board concludes the expenditures were in fact unauthorized, the 911 Board may require the voice communications service provider or PSAP to refund the monies improperly spent

Amanda J. Reeder
Commission Counsel
Issued December 14, 2015

within 90 days. Money received under this section must be credited to the 911 Fund. If a voice communications service provider or PSAP does not cease making unauthorized expenditures or refuses to refund improperly spent money, the 911 Board must suspend funding to the provider or PSAP until corrective action is taken. (2007-383, s. 1(a).)

Further, even if the language were changed to “shall,” staff is unsure that this language would be necessary, as it repeats statute.

In addition, staff recommends objecting to the Rule for the language in Paragraph (c), which states that the Board may act in its discretion to file a complaint with any other regulatory body exercising jurisdiction. The Rule does not provide any guidance on when the action will be taken, such as factors that will be considered in determining whether this will occur. Therefore, staff believes the Rule is ambiguous as written.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0106

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In the Introductory Statement, please state that the Rule was published as Rule 09 NCAC .0104(a) through (e).

On line 4, please state "09 NCAC 06 ~~.0104~~ .0106"

In (a), line 6, (b), line 11, (c), line 17, and (d), line 20, "Rules" needs to be capitalized.

In (a), line 8, please state "15"

In (b), should this language be the same as Paragraph (b) in Rule .0105?

In Paragraph (c), please note the inquiry about the Board's discretion for Rule .0105. In addition, please state make sure that "reasonable solution" is in quotation marks.

On line 17, please state "30"

In Paragraph (d), line 19, shouldn't "may" be "shall" per G.S. 62A-48?

On line 20, insert a comma after "rules"

In Paragraph (e), this is entirely new language that requires additional information and to be formatted as such. What action will the Board take? Investigation?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0106 was published in 09 NCAC 06C .0104 in 29:24 NCR 2766-2783, and is adopted as 09 NCAC 06C .0106 with changes, as follows:

09 NCAC 06C .0106 WAIVER OF RULES PSAP FAILURE TO COMPLY WITH RULES

~~(b)~~ (a) If the Board determines that a Primary PSAP does not appear to have complied with N.C. General Statutes Chap. 62A, these rules or the requirements of FCC Report and Order 942-102 a certified, return receipt letter shall be mailed to the PSAP representative known to the Board. The letter shall request justification or an explanation from the Primary PSAP for the apparent non-compliance. The Primary PSAP shall have fifteen calendar days to respond to the letter.

~~(+)~~ (b) Board staff shall initially assess the Primary PSAP's response and report to the Board. The Board shall review the staff's report. If it appears to the Board that the PSAP has failed to comply with applicable law, these rules or the FCC Order, the Board shall notify the PSAP to that effect and to the consequences arising from such failure, and shall provide an opportunity for the PSAP to appear before the Board.

~~(2)~~ (c) If after notice to the Primary PSAP, and appearance before the Board or the PSAP's failure to appear, the Board determines that the PSAP has offered no reasonable solution, the Board may, at its discretion file a complaint with any other regulatory body exercising jurisdiction over the PSAP. A reasonable solution shall be defined as one that will comply complies with applicable law, these rules or the FCC Order within thirty days or upon such other conditions as the Board may find reasonable.

~~(3)~~ (d) If the non-compliant Primary PSAP receives 911 Fund disbursements, such disbursements may be suspended by the 911 Board until compliance with applicable law, these rules or the FCC Order has been completed.

~~(4)~~ (e) If after notice and hearing, the Board determines that the Primary PSAP is not at fault, the Board shall take additional action to determine the cause of failure.

~~(e) If through the review process the Board determines that a PSAP or CMRS Service Provider is not adhering to an approved plan or is not using funds in the manner prescribed in these rules or G.S. 62A, the Board may, after notice and hearing, suspend distributions or reimbursements until satisfactory evidence of compliance is provided to the Board.~~

History Note: Authority G.S .62A-46; 62A-48;

Eff. July 1, 2016.

RRC STAFF OPINION

Please Note: This communication is either 1) only the recommendation of an RRC staff attorney as to action that the attorney believes the Commission should take on the cited rule at its next meeting, or 2) an opinion of that attorney as to some matter concerning that rule. The agency and members of the public are invited to submit their own comments and recommendations (according to RRC rules) to the Commission.

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0107

RECOMMENDED ACTION:

- Approve, but note staff's comment
- X Object, based on:
 - X Lack of statutory authority
 - Unclear or ambiguous
 - Unnecessary
 - Failure to comply with the APA
- Extend the period of review

COMMENT:

Staff recommends objecting to this Rule for lack of statutory authority. Specifically, staff does not believe that the agency has the authority to state that it will conduct reviews of the records as set forth in Paragraph (c). Please note the recommended objections to Rules 09 NCAC 06C .0302-.0304, particularly Rule .0304, as staff does not believe the Board has the authority to require creation of records for reimbursement. Instead, G.S. 62A-45 speaks to the submission of sworn invoices.

In this Rule, the Board is referring to a requirement for preparation for audit by the State Auditor, and staff does not dispute the authority of the Auditor to audit the use of State funds (see G.S. 62A-50). However, staff is not aware of any statutory authority for the Board to review the records of a CMRS provider. In the History Note, the Board relies upon many statutes that relate only to PSAPs (G.S. 62A-42(a)(5), which clearly allows the review of PSAP revenues and expenditures, and 62A-46).

Staff notes that the History Notes cites to G.S. 62A-48, which speaks to recovery of unauthorized funds, so the Board may believe this is sufficient to allow for the review. However, staff does not see that this statute establishes sufficient statutory authority to require the records or allow the Board to perform reviews of records.

§ 62A-42. Powers and duties of the 911 Board.

(a) Duties. - The 911 Board has the following powers and duties:

- (1) To develop the 911 State Plan. In developing and updating the plan, the 911 Board must monitor trends in voice communications service technology and in enhanced 911 service technology, investigate and incorporate GIS mapping and other resources into the plan, ensure individual PSAP plans incorporate a back-up PSAP, and formulate strategies for the efficient and effective delivery of enhanced 911 service.
- (2) To administer the 911 Fund and the monthly 911 service charge authorized by G.S. 62A-43.
- (3) To distribute revenue in the 911 Fund to CMRS providers and PSAPs in accordance with this Article and advise CMRS providers and PSAPs of the requirements for receiving a distribution from the 911 Fund.
- (4) To establish policies and procedures to fund advisory services and training for PSAPs, to set operating standards for PSAPs and back-up PSAPs, and to provide funds in accordance with these policies, procedures, and standards.
- (5) To investigate the revenues and expenditures associated with the operation of a PSAP to ensure compliance with restrictions on the use of amounts distributed from the 911 Fund.
- (6) To make and enter into contracts and agreements necessary or incidental to the performance of its powers and duties under this Article and to use revenue available to the 911 Board under G.S. 62A-44 for administrative expenses to pay its obligations under the contracts and agreements.
- (6a) To use funds available to the 911 Board under G.S. 62-47 to pay its obligations incurred for statewide 911 projects.
- (7) To accept gifts, grants, or other money for the 911 Fund.
- (8) To undertake its duties in a manner that is competitively and technologically neutral as to all voice communications service providers.
- (8a) To design, create, or acquire printed or Web-based public education materials regarding the proper use of 911.
- (9) To adopt rules to implement this Article. This authority does not include the regulation of any enhanced 911 service, such as the establishment of technical standards for telecommunications service providers to deliver 911 voice and data.
- (10) To take other necessary and proper action to implement the provisions of this Article.

(b) Prohibition. - In no event shall the 911 Board or any other State agency lease, construct, operate, or own a communications network for the purpose of providing 911 service. The 911 Board may pay private sector vendors for provisioning a network for the purpose of providing 911 service. (2007-383, s. 1(a); 2010-158, s. 3; 2014-66, s. 1.2.)

§ 62A-45. Fund distribution to CMRS providers.

(a) Distribution. - CMRS providers are eligible for reimbursement from the 911 Fund for the actual costs incurred by the CMRS providers in complying with the requirements of enhanced 911 service. Costs of complying include costs incurred for designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining all necessary data, hardware, and software required

to provide service as well as the recurring and nonrecurring costs of providing the service. To obtain reimbursement, a CMRS provider must comply with all of the following:

- (1) Invoices must be sworn.
- (2) All costs and expenses must be commercially reasonable.
- (3) All invoices for reimbursement must be related to compliance with the requirements of enhanced 911 service.
- (4) Prior approval must be obtained from the 911 Board for all invoices for payment of costs that exceed the lesser of:
 - a. One hundred percent (100%) of the eligible costs allowed under this section.
 - b. One hundred twenty-five percent (125%) of the service charges remitted to the 911 Board by the CMRS provider.

(b) **Payment Carryforward.** - If the total amount of invoices submitted to the 911 Board and approved for payment in a month exceeds the amount available from the 911 Fund for reimbursements to CMRS providers, the amount payable to each CMRS provider is reduced proportionately so that the amount paid does not exceed the amount available for payment. The balance of the payment is deferred to the following month. A deferred payment accrues interest at a rate equal to the rate earned by the 911 Fund until it is paid.

(c) **Grant Reallocation.** - If the amount of reimbursements to CMRS providers approved by the 911 Board for a fiscal year is less than the amount of funds allocated for reimbursements to CMRS providers for that fiscal year, the 911 Board may reallocate part of the excess amount to the PSAP Grant and Statewide 911 Projects Account established under G.S. 62A-47. The 911 Board may reallocate funds under this subsection only once each calendar year and may do so only within the three-month period that follows the end of the fiscal year. If the 911 Board reallocates more than a total of three million dollars (\$3,000,000) to the PSAP Grant and Statewide 911 Projects Account in a calendar year, it must consider reducing the amount of the service charge in G.S. 62A-44 to reflect more accurately the underlying costs of providing 911 system services.

The 911 Board must make the following findings before it reallocates funds to the PSAP Grant and Statewide 911 Projects Account:

- (1) There is a critical need for additional funding for PSAPs in rural or high-cost areas to ensure that enhanced 911 service is deployed throughout the State.
- (2) The reallocation will not impair cost recovery by CMRS providers.
- (3) The reallocation will not result in the insolvency of the 911 Fund. (2007-383, s. 1(a); 2010-158, s. 6.)

§ 62A-46. Fund distribution to PSAPs.

(a) **Monthly Distribution.** - The 911 Board must make monthly distributions to primary PSAPs from the amount allocated to the 911 Fund for PSAPs. A PSAP is not eligible for a distribution under this section unless it complies with the requirements of this Article, provides enhanced 911 service, and received distributions from the 911 Board in the 2008-2009 fiscal year. The Board may reduce, suspend, or terminate distributions under this subsection if a PSAP does not comply with the requirements of this Article. The Board must comply with all of the following:

- (1) **Administration.** - The Board must notify PSAPs of the estimated distributions no later than December 31 of each year. The Board must determine actual distributions no later than June 1 of each year. The Board must determine a method for establishing distributions that is equitable and sustainable and that ensures distributions for eligible operating costs and anticipated increases for all

funded PSAPs. The Board must establish a formula to determine each PSAP's base amount. The formula must be determined and published to PSAPs in the first quarter of the fiscal year preceding the fiscal year in which the formula is used. The Board may not change the funding formula for the base amount more than once every year.

(2) Reports. - The Board must report to the Joint Legislative Commission on Governmental Operations and the Revenue Laws Study Committee within 45 days of a change in the funding formula. The report must contain a description of the differences in the old and new formulas and the projected distributions to each PSAP from the new formula.

(3) Formula. - The funding formula established by the Board must consider all of the following:

- a. The population of the area served by a PSAP.
- b. PSAP reports and budgets, disbursement histories, and historical costs.
- c. PSAP operations, 911 technologies used by the PSAP, compliance with operating standards of the 911 Board, level of service a PSAP delivers dispatching fire, emergency medical services, law enforcement, and Emergency Medical Dispatch.
- d. The tier designation of the county in which the PSAP is located as designated in G.S. 143B-437.08.
- e. Any interlocal government funding agreement between a primary PSAP and a secondary PSAP, if the secondary PSAP was in existence as of June 1, 2010, receives funding under the agreement, and is within the service area of the primary PSAP.
- f. Any other information the Board considers relevant.

(4) Additional distributions. - In the first quarter of the Board's fiscal year, the Board must determine whether payments to PSAPs during the preceding fiscal year exceeded or were less than the eligible costs incurred by each PSAP during the fiscal year. If a PSAP receives less than its eligible costs in any fiscal year, the Board may increase a PSAP's distribution in the following fiscal year above the base amount as determined by the formula to meet the estimated eligible costs of the PSAP as determined by the Board. The Board may not distribute less than the base amount to each PSAP except as provided in subsection (b1) of this section. The Board must provide a procedure for a PSAP to request a reconsideration of its distribution or eligible expenses.

(b) Percentage Designations. - The 911 Board must determine how revenue that is allocated to the 911 Fund for distribution to primary PSAPs and is not needed to make the base amount distribution required by subdivision (a)(1) of this section is to be used. The 911 Board must designate a percentage of the remaining funds to be distributed to primary PSAPs on a per capita basis and a percentage to be allocated to the PSAP Grant Account established in G.S. 62A-47. If the 911 Board does not designate an amount to be allocated to the PSAP Grant Account, the 911 Board must distribute all of the remaining funds on a per capita basis. The 911 Board may not change the percentage designation more than once each fiscal year.

(b1) Carryforward. - A PSAP may carry forward distributions for eligible expenditures for capital outlay, capital improvements, or equipment replacement. Amounts carried forward to the next fiscal year from distributions made by the 911 Board may not be used to lower the distributions

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in subsection (a) of this section unless the amount is greater than twenty percent (20%) of the average yearly amount distributed to the PSAP in the prior two years. The 911 Board may allow a PSAP to carry forward a greater amount without changing the PSAP's distribution.

(c) Use of Funds. - A PSAP that receives a distribution from the 911 Fund may not use the amount received to pay for the lease or purchase of real estate, cosmetic remodeling of emergency dispatch centers, hiring or compensating telecommunicators, or the purchase of mobile communications vehicles, ambulances, fire engines, or other emergency vehicles. Distributions received by a PSAP may be used only to pay for the following:

(1) The lease, purchase, or maintenance of:

- a. Emergency telephone equipment, including necessary computer hardware, software, and database provisioning.
- b. Addressing.
- c. Telecommunicator furniture.
- d. Dispatch equipment located exclusively within a building where a PSAP or back-up PSAP is located, excluding the costs of base station transmitters, towers, microwave links, and antennae used to dispatch emergency call information from the PSAP or back-up PSAP.

(1a) The nonrecurring costs of establishing a 911 system.

(2) Expenditures for in-State training of 911 personnel regarding the maintenance and operation of the 911 system. Allowable training expenses include the cost of transportation, lodging, instructors, certifications, improvement programs, quality assurance training, training associated with call taking, and emergency medical, fire, or law enforcement procedures, and training specific to managing a PSAP or supervising PSAP staff. Training outside the State is not an eligible expenditure unless the training is unavailable in the State or the PSAP documents that the training costs are less if received out-of-state. Training specific to the receipt of 911 calls is allowed only for intake and related call taking quality assurance and improvement. Instructor certification costs and course required prerequisites, including physicals, psychological exams, and drug testing, are not allowable expenditures.

(3) Charges associated with the service supplier's 911 service and other service supplier recurring charges. The PSAP providing 911 service is responsible to the voice communications service provider for all 911 installation, service, equipment, operation, and maintenance charges owed to the voice communications service provider. A PSAP may contract with a voice communications service provider on terms agreed to by the PSAP and the provider.

(d) Local Fund. - The fiscal officer of a PSAP to whom a distribution is made under this section must deposit the funds in a special revenue fund, as defined in G.S. 159-26(b)(2), designated as the Emergency Telephone System Fund. The fiscal officer may invest money in the Fund in the same manner that other money of the local government may be invested. Income earned from the invested money in the Emergency Telephone System Fund must be credited to the Fund. Revenue deposited into the Fund must be used only as permitted in this section.

(e) Compliance. - A PSAP, or the governing entity of a PSAP, must comply with all of the following in order to receive a distribution under this section:

- (1) A county or municipality that has one or more PSAPs must submit in writing to the 911 Board information that identifies the PSAPs in the manner required by the FCC Order.
- (2) A participating PSAP must annually submit to the 911 Board a copy of its governing agency's proposed or approved budget detailing the revenues and expenditures associated with the operation of the PSAP. The PSAP budget must identify revenues and expenditures for eligible expense reimbursements as provided in this Article and rules adopted by the 911 Board.
- (3) A PSAP must be included in its governing entity's annual audit required under the Local Government Budget and Fiscal Control Act. The Local Government Commission must provide a copy of each audit of a local government entity with a participating PSAP to the 911 Board.
- (4) A PSAP must comply with all requests by the 911 Board for financial information related to the operation of the PSAP.
- (4a) A PSAP must have a plan and means for 911 call-taking in the event 911 calls cannot be received and processed in the primary PSAP. The plan must identify the alternative capability of taking the redirected 911 calls. This subdivision does not require a PSAP to construct an alternative facility to serve as a back-up PSAP.
- (5) A primary PSAP must comply with the rules, policies, procedures, and operating standards for primary PSAPs adopted by the 911 Board.
- (f) Application to Cherokees. - The Eastern Band of Cherokee Indians is an eligible PSAP. The Tribal Council of the Eastern Band is the local governing entity of the Eastern Band for purposes of this section. The Tribal Council must give the 911 Board information adequate to determine the Eastern Band's base amount. The 911 Board must use the most recent federal census estimate of the population living on the Qualla Boundary to determine the per capita distribution amount. (2007-383, s. 1(a); 2008-134, ss. 1(b), (c); 2010-158, ss. 7(a)-(d); 2011-291, s. 2.18; 2014-66, s. 1.3.)

§ 62A-48. Recovery of unauthorized use of funds.

The 911 Board must give written notice of violation to any voice communications service provider or PSAP found by the 911 Board to be using monies from the 911 Fund for purposes not authorized by this Article. Upon receipt of notice, the voice communications service provider or PSAP must cease making any unauthorized expenditures. The voice communications service provider or PSAP may petition the 911 Board for a hearing on the question of whether the expenditures were unauthorized, and the 911 Board must grant the request within a reasonable period of time. If, after the hearing, the 911 Board concludes the expenditures were in fact unauthorized, the 911 Board may require the voice communications service provider or PSAP to refund the monies improperly spent within 90 days. Money received under this section must be credited to the 911 Fund. If a voice communications service provider or PSAP does not cease making unauthorized expenditures or refuses to refund improperly spent money, the 911 Board must suspend funding to the provider or PSAP until corrective action is taken. (2007-383, s. 1(a).)

§ 62A-50. Audit.

The State Auditor may perform audits of the 911 Board pursuant to Article 5A of Chapter 147 of the General Statutes to ensure that funds in the 911 Fund are being managed in accordance with the

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Commission Counsel
Issued December 14, 2015

provisions of this Article. The State Auditor must perform an audit of the 911 Board at least every two years. The 911 Board must reimburse the State Auditor for the cost of an audit of the 911 Board. (2007-383, s. 1(a).)

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0107

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In the Introductory Statement, this Rule was published as Rule .0105.

On line 4, please state "09 NCAC 06C ~~.0105~~ .0107"

In (a), line 6, define "detailed"

On line 8, insert a comma after "reviews"

On line 9, is this formula being adopted as a Rule?

In Paragraph (c), what is your authority for CMRS? G.S. 62A-42(a)(5) relates only to PSAPs.

In Paragraph (c), I do not read G.S. 147-64.7 to require this.

§ 147-64.7. Authority.

(a) Access to Persons and Records. -

(1) The Auditor and the Auditor's authorized representatives shall have ready access to persons and may examine and copy all books, records, reports, vouchers, correspondence, files, personnel files, investments, and any other documentation of any State agency. The review of State tax returns shall be limited to matters of official business and the Auditor's report shall not violate the confidentiality provisions of tax laws. Notwithstanding confidentiality provisions of tax laws, the Auditor may use and disclose information related to overdue tax debts in support of the Auditor's statutory mission.

(2) The Auditor and the Auditor's duly authorized representatives shall have such access to persons, records, papers, reports, vouchers, correspondence, books, and any other documentation which is in the possession of any individual, private corporation, institution, association, board, or other organization which pertain to:

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a. Amounts received pursuant to a grant or contract from the federal government, the State, or its political subdivisions.

b. Amounts received, disbursed, or otherwise handled on behalf of the federal government or the State. In order to determine that payments to providers of social and medical services are legal and proper, the providers of such services will give the Auditor, or the Auditor's authorized representatives, access to the records of recipients who receive such services.

(3) The Auditor shall, for the purpose of examination and audit authorized by this act, have the authority, and will be provided ready access, to examine and inspect all property, equipment, and facilities in the possession of any State agency or any individual, private corporation, institution, association, board, or other organization which were furnished or otherwise provided through grant, contract, or any other type of funding by the State of North Carolina, or the federal government.

(4) All contracts or grants entered into by State agencies or political subdivisions shall include, as a necessary part, a clause providing access as intended by this section.

(5) The Auditor and his authorized agents are authorized to examine all books and accounts of any individual, firm, or corporation only insofar as they relate to transactions with any agency of the State.

(b) Experts; Contracted Audits. -

(1) The Auditor may obtain the services of independent public accountants, qualified management consultants, or other professional persons and experts as he deems necessary or desirable to carry out the duties and functions assigned under the act.

(2) No State agency may enter into any contract for auditing services which may impact on the State's comprehensive annual financial report without consultation with, and the prior written approval of, the Auditor, except in instances where audits are called for by the Governor under G.S. 143C-2-1 and he shall so notify the Auditor. The Auditor shall prescribe policy and establish guidelines containing appropriate criteria for selection and use of independent public accountants, qualified management consultants, or other professional persons by State agencies and governing bodies to perform all or part of the audit function.

(c) Authority to Administer Oaths, Subpoena Witnesses and Records, and Take Depositions. -

(1) For the purposes of this Article the Auditor or his authorized representative shall have the power to subpoena witnesses, to take testimony under oath, to cause the deposition of witnesses (residing within or without the State) to be taken in a manner prescribed by law, and to assemble records and documents, by subpoena or otherwise. The subpoena power granted by this section may be exercised only at the specific written direction of the Auditor or his chief deputy.

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(2) In case any person shall refuse to obey a subpoena, the Auditor shall invoke the aid of any North Carolina court within the jurisdiction of which the investigation is carried on or where such person may be, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, contracts, agreements, and other records. Such court may issue an order requiring such person to appear before the Auditor or officers designated by the Auditor, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. (1983, c. 913, s. 2; 1999-188, s. 1; 2006-203, s. 116; 2007-484, s. 34.5.)

What portion of the statute are you referring to?

On lines 17 and 18, what are "generally accepted accounting principles"? Does your regulated public know?

On line 18, state "five" (See Rule 26 NCAC 02C .0108(9))

On line 20, delete or define "fully"

This Rule is missing a lot of language that was published. In Paragraph (c), line 20, you are eliminating a notice requirement for the inspection and that it will occur during normal business hours. Assuming this was an unintentional deletion, it needs to be restored.

On line 24, what is "without delay"?

In the History Note, please use semicolons to separate the authority, not commas.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0107 was published as 09 NCAC 06C .0107 in 29:24 NCR 2766-2783, and is adopted as 09 NCAC 06C .0107 with changes, as follows:

09 NCAC 06C .0107 HEARINGS REVIEW 911 FUNDS EXPENDITURES, DISBURSEMENTS AND REIMBURSEMENTS

(a) PSAPs shall maintain detailed books and records of 911 Funds received and use of such funds in accordance with the Local Government Budget and Fiscal Control Act G.S. 159-7 et seq. and generally accepted accounting principles.

PSAPs shall maintain these books and records to support Fund distributions, reviews or audits, in accordance with the funding formula adopted by the Board pursuant to G.S. 62A-46(a)(3). All books and records shall be available for review by the Board or its representatives, or audit by other governmental entities with such authority. If any review or audit indicates excess distributions to a PSAP, the Board shall adjust future or final distributions otherwise due. If no distributions are due and owed to a PSAP, or if the excess distribution exceeds the amount otherwise due during that fiscal year, the PSAP shall refund all amounts due to the 911 Fund as requested by the Board.

(b) PSAPs shall provide copies of any audit reports to the Board if such audit reports include receipts or expenditures for 911 systems.

(c) CMRS service providers shall maintain detailed books and records consistent with G.S. 147-64.7 related to service charges remitted, and records necessary to support requested reimbursements in accordance with applicable law and generally accepted accounting principles. CMRS service providers shall maintain these books and records for 5 years. All books and records shall be available for review by the Board or its representatives or audit by other governmental entities with such authority. CMRS service providers shall cooperate fully with any such review or audit. If any audit or review indicates excess distributions to a CMRS service provider, or subcontractor, the Board shall adjust future or final distributions otherwise due. If no distributions are due and owed to a CMRS service provider, or if the excess distribution exceeds the amount otherwise due during that fiscal year, the CMRS service provider shall refund all amounts that may be due to the 911 Fund without delay.

History Note: Authority G.S. 62A-42(a)(5), 62A-46(d), 62A-46(e), 62A-48, 62A-50;
 Eff. July 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0108

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On line 4, please state "09 NCAC 06C ~~.0106~~ .0108"

On lines 5-6, will the Board now waive the rule of its own volition? There is no method for petition for waiver by an outside individual/ agency/ provider?

Why are you removing the ability of individuals to comment on waiver requests? Is this intentional? Are (d) and (i) still applicable, since you are no longer setting forth a procedure for petition or allowing public comment?

In Item (b), what do you mean by "modified"? Amended?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0108 was published as 09 NCAC 06C .0106 in 29:24 NCR 2766-2783, and is adopted as 09 NCAC 06C .0108 **with changes**, as follows:

09 NCAC 06C .0108 **DECLARATORY RULINGS WAIVER OF RULES**

~~Upon consideration of a written request and and after publishing notice of any waiver request, the~~ The Board may waive any rule in this ~~Chapter. Chapter after receiving a written request.~~ The factors which the Board shall use in determining whether to grant a waiver are:

- (a) Whether the requested waiver is consistent with **Article 3 of** Chapter 62A or other North Carolina Statutes;
- (b) Whether any applicable Rule should be modified;
- (c) Costs to the 911 Fund if the waiver is granted;
- (d) Costs to the party requesting a waiver if the waiver is not granted;
- (e) Whether granting the waiver is consistent with the statewide 911 plan;
- (f) The benefit to the public;
- (g) Whether granting the waiver is consistent with the requirements and intent of the FCC Order;
- (h) Prior, concurrent, or similar waiver requests; and
- (i) Whether the waiver is supported or opposed by PSAPs or service providers.

History Note: Authority G.S. 62A-42; 150B-19(6);
 Eff. July, 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0109

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On line 4, please state "09 NCAC 06C ~~.0107~~ .0109"

In (a), you are now restricting this to grievances under G.S. 62A-48? Are there processes for other grievances, or is the change to reinforce the requirement in (b) that this is for 911 funds?

Does this Rule set forth an appeal process from actions the Board takes under Rule .0106?

In (b), lines 9-10, do you need "Requests filed after the 30 calendar day period shall not be considered"?

The statement in (b)(5) does not follow where it is placed. I suggest you go back to the way the Rule was published, with the text all the way to the left margin.

In (c), is the intent that the Board will review the request sent under (b) to determine if it needs additional information? If so, I believe the Rule should state that.

In (c), line 23, how are the time limits established? Is the 60 days in the Rule? If so, state that. If not, how are they established?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0109 was published as 09 NCAC 06C .0107 in 29:24 NCR 2766-2783, and is adopted as 09 NCAC 06C .0109 as follows:

09 NCAC 06C .0109 HEARINGS

(a) A PSAP or service provider aggrieved in connection with any action by the Board pursuant to G.S. 62A-48 may request a hearing before the Board.

(b) A request for a hearing shall be made in writing to the Executive Director of the Board and shall be filed within 30 calendar days after the aggrieved party knows or should have known of the facts giving rise to the request. A request for hearing is considered filed when physically received by the Executive Director. Requests filed after the 30 calendar day period shall not be considered. To expedite handling of requests, the envelope shall be labeled "911 Funds Request for Hearing." The written request shall include the following:

(1) The name and address of the party;

(2) The action of the Board;

(3) A statement of reasons for the hearing; and

(4) Supporting exhibits, evidence, or documents necessary to substantiate the party's complaint.

(5) Requests for hearing shall be sent to the Executive Director at the address listed in .0102 of this Section.

Executive Director, 911 Board

c/o NC Office of Information Technology Services

P.O. Box 17209

Raleigh, NC 27609

(c) Any additional information requested by the Board shall be submitted at the address listed in .0102 of this Section within the time periods established in order to expedite consideration of the request. Failure of the requesting party to comply expeditiously with a request for information by the Board within 60 days shall result in resolution of the request without consideration of that information.

(d) A decision on a request shall be made by the Board as expeditiously as possible within 120 days after receiving all relevant requested information.

History Note: Authority G.S. 62A-42; 62A-48;

Eff. July 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0110

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), line 4, define "relevant"

On lines 5 and 6, the highlighted language was published. You do not need to show that it is a change.

In (b), is the purpose of this Paragraph to establish the times the Board will issue a declaratory ruling? If not, then when will the Board take this action (or decline to do so)?

In (b), line 10, insert a comma after "rule"?

In (c), you define "standard" but you only use it in Rule .0111(b)(4). Why do you need it here?

Also, G.S. 150B-4 speaks to declaratory rulings for rules, law, and orders. Why are you establishing a procedure for policies? What is the authority to do so?

What is the purpose of Paragraph (d)? Are you trying to establish the "person aggrieved" for standing to request the declaratory ruling?

In (d), line 16, "Rules" should be capitalized, as it was when published.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09NCAC 06C .0110 is adopted as published in 29:24 NCR 2766-2783, with changes, as follows:

09 NCAC 06C .0110 DECLARATORY RULINGS

(a) Any request for a determination regarding the application of a relevant rule, statute or rule order established by the 911 Board to a specific factual situation ~~must~~ shall be directed to the Board Chair or Executive Director at the address in Rule .0102 of this Section. The request for a ruling ~~will~~ shall follow Rules .0108 through .0112 of this Section. A declaratory ruling proceeding may include written submissions, an oral hearing, or other procedure as may be appropriate in the circumstances of the particular ~~request as determined by the Board~~ request.

(b) Declaratory rulings pursuant to G.S. 150B-4 shall be issued by the Board only on the validity of a relevant rule or on the applicability of a relevant statute, rule or order of the Board to stipulated facts. A declaratory ruling shall not be issued on a matter requiring an evidentiary proceeding.

(c) As used in Rules .0108 through ~~.0112~~ .0112, "standard" shall refer to and include such ~~standards~~ standards, policies and procedures adopted by the Board pursuant to authority found in Article 3 of Chapter 62A of the N.C. General Statutes.

(d) ~~As a A person aggrieved, aggrieved the petitioner shall~~ must possess such an interest in the question to be ruled on that the petitioner's need to have such a ruling in order to comply with statutory requirements, ~~these~~ rules, or standards shall be apparent from the petition and shall be explained therein.

History Note: Authority G.S. 62A-4; 150B-4

Eff. July 1, 2016.

RRC STAFF OPINION

Please Note: This communication is either: 1) only the recommendation of an RRC staff attorney as to action that the attorney believes the Commission should take on the cited rule at its next meeting; or 2) an opinion of that attorney as to some matter concerning that rule. The agency and members of the public are invited to submit their own comments and recommendations (according to RRC rules) to the Commission.

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0111 - .0114

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☐ Lack of statutory authority
 - ☐ Unclear or ambiguous
 - ☐ Unnecessary
- ☒ Failure to comply with the APA
- ☐ Extend the period of review

COMMENT:

Staff recommends objection to these Rules because they were not adopted in compliance with G.S. 150B, Article 2A. The text of these Rules were not published in the NC Register and the public did not have an opportunity to comment on them.

Staff notes that the 911 Board published one rule regarding declaratory rulings in the NC Register. The text stated:

09 NCAC 06C .0108 DECLARATORY RULINGS

(a) Any request for a determination regarding the application of a relevant rule, statute or rule established by the 911 Board to a specific factual situation must be directed to the Board Chair or Executive Director at the address in Rule .0102 of this Section. The request for a ruling will follow this Rule and Rules .0109 through .0112 of this Section. A declaratory ruling proceeding may include written submissions, an oral hearing, or other procedure determined by the Board as may be appropriate in the circumstances of the particular request.

(b) Declaratory rulings pursuant to G.S. 150B-4 shall be issued by the Board only on the validity or applicability of a relevant statute, rule or order of the Board to stipulated facts. A declaratory ruling shall not be issued on a matter requiring an evidentiary proceeding.

(c) As used in this Rule and Rules .0109 through .0112, "standard" shall refer to and include such standards, policies and procedures adopted by the Board pursuant to authority found in G.S. 62A, Article 3.

(d) A person aggrieved must possess such an interest in the question to be ruled on that the petitioner's need to have such a ruling in order to comply with statutory requirements, these Rules, or standards shall be apparent from the petition and shall be explained therein.

Amanda J. Reeder
Commission Counsel

The Board adopted that Rule, with minor changes, as Rule 09 NCAC 06C .0110. However, all of the language in Rules 09 NCAC 06C .0111 through .0114 is new and details the procedure for requesting the ruling, the guidance the Board will use in determining whether to grant the request, the duration of the ruling, and that records will be kept. These Rules address details that were not published and that there was no notice would be considered by the Board.

Therefore, staff is recommending objection to these four rules for failure to comply with the APA.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0111

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (b)(1), line 6, insert a comma after "address"

In (b)(2), line 7, insert a comma after "rule" and delete the "or" before "statute"

In (b)(4), delete or define "concise"

In (c), line 11, when may the Board ask for this information?

In (c)(1), line 12, I suggest stating "... authorities that support the interpretation..." And I assume that is if there are any?

In (c)(2) and (c)(3), what is the Board's authority to request these, especially in light of G.S. 150B-19.1?

End (c)(2), line 15, with a semicolon.

Please remove the extra line space on line 19.

Is (d) necessary? It recites Rule .0110.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0111 is adopted.

09 NCAC 06C .0111 REQUESTS FOR DECLARATORY RULINGS

(a) Requests for a declaratory ruling shall be in writing and dated.

(b) The request shall contain:

(1) The petitioner's name, address and telephone number;

(2) The rule or statute, or order referred to;

(3) A statement of facts supporting the petitioner's request for a declaratory ruling;

(4) A concise statement of the manner in which the petitioner is aggrieved by the rule, statute, or standard, or its potential application to the petitioner;

(c) The Board may request the following in addition to information required in (b) of this Rule:

(1) A statement of any legal authorities, in support of the interpretation given the statute or rule by the petitioner;

(2) A statement of the practices or procedures likely to be affected by the requested declaratory ruling and the persons likely to be affected by the ruling.

(3) A draft of the declaratory ruling sought by the petitioner, if a specified outcome is sought by the petitioner; and

(4) A statement of whether the petitioner desires to present oral argument.

(d) All requests for declaratory rulings shall be delivered to the Board at the address listed in .0102 of this Section.

History Note: Authority G.S. 62A-42; 150B-4;

Eff. July 1, 2016.

RRC STAFF OPINION

Please Note: This communication is either: 1) only the recommendation of an RRC staff attorney as to action that the attorney believes the Commission should take on the cited rule at its next meeting; or 2) an opinion of that attorney as to some matter concerning that rule. The agency and members of the public are invited to submit their own comments and recommendations (according to RRC rules) to the Commission.

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0112

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☒ Lack of statutory authority
 - ☐ Unclear or ambiguous
 - ☐ Unnecessary
 - ☐ Failure to comply with the APA
- ☐ Extend the period of review

COMMENT:

Staff recommends objecting to this Rule based upon a lack of statutory authority, in addition to a failure to comply with the APA as reflected in the earlier Staff Opinion.

In Paragraph (b), it appears that the Board is proposing to respond to persons aggrieved petitioning for a declaratory ruling under G.S. 150B-4 within 45 days. This timeline extends the timeframe set forth in the statute. The statute requires an agency to respond to such a request within 30 days to either grant or deny it. If the petition is granted, the agency has 45 days to issue the ruling after granting the petition. Here, the agency states that it will respond by granting the petition and issuing the ruling within 45 days, or it will deny the request within 45 days. Staff believes that the Board does not have statutory authority to extend the deadline to deny the petition from 30 days to 45 days.

G.S. 150B-4(a1) states:

(a1) An agency shall respond to a request for a declaratory ruling as follows:

- (1) Within 30 days of receipt of the request for a declaratory ruling, the agency shall make a written decision to grant or deny the request. If the agency fails to make a written decision to grant or deny the request within 30 days, the failure shall be deemed a decision to deny the request.

Amanda J. Reeder
Commission Counsel

(2) If the agency denies the request, the decision is immediately subject to judicial review in accordance with Article 4 of this Chapter.

(3) If the agency grants the request, the agency shall issue a written ruling on the merits within 45 days of the decision to grant the request. A declaratory ruling is subject to judicial review in accordance with Article 4 of this Chapter.

(4) If the agency fails to issue a declaratory ruling within 45 days, the failure shall be deemed a denial on the merits, and the person aggrieved may seek judicial review pursuant to Article 4 of this Chapter. Upon review of an agency's failure to issue a declaratory ruling, the court shall not consider any basis for the denial that was not presented in writing to the person aggrieved.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0112

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Subparagraphs (a)(1) and (3) are very similar. Why do you need them both?

Isn't the circumstance in (a)(2) included in (a)(5)?

In (a)(4), what is "specificity"? And will the Board not request additional information under Rule .0111 to address this?

In (b), this is not the correct timeframe under G.S. 150B-4.

On line 25, since the Board "may" take this action, when will it not? Some guidance needs to be contained in this Rule.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0112 is adopted.

09 NCAC 06C .0112 RESPONSE TO A REQUEST FOR A DECLARATORY RULING

(a) The Board shall consider the request within 30 days of receipt. The Board shall issue a ruling except:

- (1) When the Board finds that the person making the request is not a "person aggrieved," as defined in G.S. 150B-2(6);
- (2) When the Board finds, in a request concerning the validity of a rule, that the rulemaking record shows that the agency considered all factors identified by the petitioner as specific or relevant when the rule in question was adopted;
- (3) When the Board finds that the person requesting the ruling is not directly or indirectly affected substantially in his person, property, or public office or employment by the rule, statute, or order of the Board which is the subject of the request;
- (4) When the petition does not state with enough specificity the factual situation involved, or the question is presented in such a manner that the Board cannot determine what the question is, or that the Board cannot respond with a specific ruling that shall be binding on all parties;
- (5) When the Board has made a determination in a similar contested case, or where the factual context being raised for a declaratory ruling was specifically considered upon the adoption of the rule or directive being questioned, as evidenced by the rulemaking record; or
- (6) Where the subject matter of the request is involved in pending litigation or contested case in any state or federal court in North Carolina.

(b) The Board shall, not later than the 45th day after receiving such a request, deposit in the United States mail, postage prepaid, a written statement addressed to the person making the request and setting forth the ruling on the merits of the request for a declaratory ruling, or setting forth the reason the ruling was not made, as the case may be. The Board may rule at any meeting convened to consider the request, or defer the ruling until a later date, but not later than the 45th day after the request for a ruling is received. The Board may gather additional information, may give notice to other persons and may permit such other persons to submit information or arguments under such conditions as are set forth in any notice given to the requesting party.

*History Note: Authority G.S. 62A-42; 150B-4;
Eff. July 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0113

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

The name of the Rule is not subject to RRC review, so this is only a suggestion – wouldn't a better name be "Duration of a Declaratory Ruling"?

In Item (1), do you mean to include order?

In Item (2), when will this happen? When there's another petition that affects it, or just of their volition?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0113 is adopted.

09 NCAC 06C .0113 EFFECT OF A DECLARATORY RULING

For purposes of this Section, a declaratory ruling shall be deemed to be in effect until:

(1) The portion of the statute or rule interpreted by the declaratory ruling is amended or repealed;

(2) The Board changes the declaratory ruling prospectively; or

(3) Any court sets aside the ruling.

History Note: Authority G.S. 62A-42; 150B-4;

Eff. July 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0114

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Just so I understand – these will not be on the website?

On line 5, does your regulated public know what “business hours” are?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0114 is adopted.

09 NCAC 06C .0114 RECORD OF RULING

A record of all declaratory ruling proceedings shall be maintained at the Board's office and shall be available for public inspection during business hours.

History Note: Authority G.S. 62A-42; 150B-4;

Eff. July 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0201

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Again, please make sure you are reflecting all changes made to the text from what was published, including capitalization and the movement of punctuation.

I recommend making the language on lines 6-7 (a), and then (a) and (b) (a)(1) and (a)(2). Then current (c) would become (d) and (d) would become (c).

On line 6, what exactly is required by this certification?

In (d), line 17, please state "The PSAP shall provide..."

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0201 is adopted as published in 29:24 NCR 2766-2783, with changes, as follows:

SECTION .0200 – PUBLIC SAFETY ANSWERING POINTS (PSAPS)

09 NCAC 06C .0201 PSAP ELIGIBILITY

Before receiving distributions from the 911 Fund, a primary PSAP must shall meet the following criteria and certify to the same:

(a) The PSAP is separately identified in its governing agency's budget and in any audit conducted under the Local Government Budget and Fiscal Control Act.

(b) The PSAP meets the definition of primary PSAP under G.S. 62A-40. Callers must shall be able to reach the PSAP by placing a call using only the digits 911. The PSAP must shall operate an Enhanced 911 system.

(c) The PSAP equipment vendor or a ~~Service service~~ ~~Provider provider~~ operating in the PSAP's jurisdiction must shall also certify that the PSAP is capable of receiving and dispatching Phase I wireless Enhanced 911 service. If neither an equipment vendor nor a service provider is available, a city or county may use certification from a technology specialist ~~satisfactory to the Board to meet this requirement~~ who demonstrates compliance with FCC regulation 47 C.F.R. 20.18.

(d) Provide copies of all documentation evidencing agreements with other PSAPs governing the manner in which 911 Funds are used in overlapping geographic service areas, as identified by zip code or other identifier such as telephone exchange or township.

History Note: Authority G.S. 62A-46;

Eff. July 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0202

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On line 6, I recommend making the language beginning "Eligible lease, purchase, and maintenance..." Paragraph (b).

Please underline (1), (2), etc. in current (a).

Are the requirements in (a)(3) and (4) to address database provisioning per G.S. 62A-46(c)(1)a? I thought it might be addressing, but that would not make sense under the definition of "addressing" in Rule .0103(1).

In current (b), I recommend inserting the first sentence into (a) after the first sentence there. It makes it clearer from the outset how the requests are sent in.

In Paragraph (b), line 23, will the Board be revising this Rule to publish the eligible standards? If not, then how does the Board have authority to set these requirements outside of rulemaking?

Please end (a)(1) through (6) and (c)(1) through (7) the same. Either make them a list, ending with semicolons, or use periods. Either way is fine, but please be consistent.

In (c)(2), do you believe this allowance for building and remodeling for if the expenditures are directly related to providing the user access for the PSAP comports with G.S. 62A-46(c)?

(c) Use of Funds. - A PSAP that receives a distribution from the 911 Fund may not use the amount received to pay for the lease or purchase of real estate, cosmetic remodeling of emergency dispatch centers, hiring or compensating telecommunicators, or the purchase of mobile communications vehicles, ambulances, fire engines, or other emergency vehicles.

In (c)(7), who determines that the equipment is "not necessary"? Is it the Board in determining whether the cost is ineligible for reimbursement?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0202 is adopted as published in 29:24 NCR 2766-2783, with changes, as follows:

09 NCAC 06C .0202 PSAP ELIGIBLE EXPENSES

(a) Expenses that are solely incurred to enable a PSAP to receive and utilize the voice and data elements necessary for wireline 911 and wireless Phase I or Phase II compliance may be fully paid from a PSAP's 911 Fund distributions. distributions if approved by the Board. Eligible lease, purchase, and maintenance expenses for emergency telephone equipment include 911 telephone equipment/system costs.

(1) Eligible costs for necessary computer hardware include Computer Aided Dispatch (CAD) workstation computers, servers, and ancillary equipment; GIS workstation computers, servers, and ancillary equipment; and voice logging recorder computers.

(2) Eligible costs for necessary computer software include software used in conjunction with the computer hardware to provide callers with access to the PSAP by dialing 911.

(3) Database provisioning includes creation of the automatic location identification (ALI) database and the GIS base map database.

(4) GIS base map eligible expenses include mapped street centerlines, together with costs for creation and maintenance of the base map.

(5) Nonrecurring costs of establishing a wireless Enhanced 911 system include emergency generator or uninterruptible power supplies, and telecommunicator furniture necessary for 911 system operation.

(6) Rates associated with local telephone companies' charges related to the operation of the 911 system include monthly charges for delivery of 911 calls, automatic number identification (ANI), ALI, and monthly charges for telephone interpreter services.

(b) A PSAP may submit a request for approval for an expense by identifying the expense item together with an explanation of the necessity of the expense item to the Executive Director. The 911 Board ~~may create~~ shall publish and periodically revise a list of eligible expenditures. expenditures standards.

(c) Ineligible costs include:

(1) Basic termination charges incurred due to the disconnection of telephone equipment to be replaced with 911 equipment;

(2) Capital outlay expenditures, such as buildings, remodeling, communication towers and equipment not directly related to providing the user of a voice communications service connection access to a PSAP by dialing the digits 911;

(3) Mobile or base station radios, pagers, or other devices used for response to, rather than receipt of, 911 calls, including mobile data terminals (MDT) and automatic vehicle location (AVL) systems used in response vehicles;

(4) Seven-digit transfer-to-lines;

(5) Private line circuit costs;

(6) Directory listings; and

(7) Maintenance costs for radio equipment or other miscellaneous equipment not necessary to provide the user of a voice communications service connection access to a PSAP by dialing the digits 911.

History Note: Authority ~~G.S. 62A-46;~~ G.S. 62A-46(c);
Eff. July 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0203

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Again, the name of the Rule is not subject to RRC review and this is just a suggestion, but it seems a better name would be "Effect of 911 Fund Distribution Terminations and Suspensions" since this is the effect of the termination or suspension, rather than how it will occur.

In Paragraph (c), line 9, "Rules" should be capitalized.

Also in Paragraph (c), lines 9-10, are the references to "standards, policies, and procedures" to reflect the language of G.S. 62A-46(e)(5)? If not, then what are these and where are they found?

In (d), line 12, is there a timeframe for the PSAPs to provide this notice to the Board?

In (d), line 12-13, you are deleting this language. However, that language stated that the distributions would be reallocated to the consolidated PSAP upon the Board's approval. Now what will happen to the funds? Will they go back into the fund for determination under the formula in G.S. 62A-46(a)(3)?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0203 is adopted as published in 29:24 NCR 2766-2783, with changes, as follows:

09 NCAC 06C .0203 TERMINATION AND SUSPENSION OF 911 FUND DISTRIBUTIONS

(a) A primary PSAP operated by or for a local government that is not identified or included in its governing agency's budget or in any audit conducted pursuant to the Local Government Budget and Fiscal Control Act shall not be eligible for distributions from the 911 Fund.

(b) 911 Fund distributions that lapse due to termination of a primary PSAP shall be re-allocated by the Board.

(c) 911 Fund distributions that are suspended shall be maintained by the Board until such time as the PSAP entitled to such distributions complies with the requirements of applicable statutes, these rules, and the Board's standards, policies and procedures.

(d) Primary PSAPs that cease independent operation due to consolidation with other such PSAPs, or that are consolidated with newly formed PSAPs, shall give notice to the Board. Distributions for such PSAPs shall be allocated to the consolidated PSAP upon the Board's approval of such distributions.

History Note: Authority G.S. 62A-46; 62A-48;

Eff. July 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0204

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

When is this report due? The Rule no longer has a due date. Therefore, it appears the Board will accept a report whenever the PSAP wishes to send it. Is that the intent of removing the date certain from the Rule?

In (a), you deleted the opening line "Any PSAP receiving or requesting 911 Fund Distributions..." Is this because as a practical matter, all PSAPs do this?

On line 5 and elsewhere in the Rule, please do not underline and strike through the same language.

In (a), line 9, how will the Board determine what is necessary? And how will the PSAP know that information has been deemed necessary? Does the Board send notice?

In (b), line 10, please insert a comma after "expenditures"

In (c), line 16, please begin the sentence "After 60 days..."

In (d), what is the authority to require this?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0204 is adopted as published in 29:24 NCR 2766-2783, with changes, as follows:

09 NCAC 06C .0204 PSAP REPORTING

(a) ~~Any PSAP receiving or requesting 911 Fund distributions must submit~~ PSAPs shall submit information to the Board ~~submitted shall including~~ a copy of ~~its~~ the PSAP's governing agency's approved budget ~~to the Board~~ detailing the revenues and expenditures associated with the operation of its 911 system ~~by December 1 of each year or as requested by the Board~~ and a report shall be on a form provided by the Board and shall include information including installation schedules, installation expenses, anticipated 911 system changes, other system related costs-expenses and other information deemed necessary by the Board or by the PSAP to ensure funding in compliance with G.S. 62A-46.

(b) If a PSAP fails to report its revenues and expenditures ~~by January 30th of each year or as requested by the Board,~~ the Board ~~will give notice to~~ shall inform the PSAP's governing agency. ~~by certified mail.~~ The notice shall also inform the governing agency that failure to provide the requested information within 15 days ~~will shall~~ be cause for suspension of monthly PSAP fund distributions until the information is received. The notice ~~will shall~~ further inform the governing agency that continuing failure to provide the information ~~will shall~~ result in a report to the North Carolina Local Government Commission of the PSAP's failure.

(c) If after 60 days from ~~January 30th~~ September 1 of each year or the date requested by the Board ~~or the date requested by the Board under (a) above the financial information is still not received,~~ the Board ~~will shall~~ submit written notice ~~to inform~~ the North Carolina Local Government Commission ~~in writing~~ of the PSAP's failure to respond to the requested information. A copy of the notice to the North Carolina Local Government Commission ~~will shall~~ also be sent to the PSAP manager and the governing agency.

(d) Each PSAP shall submit an annual report to the Board on or before December 1 of each calendar year, or as requested by the Board, detailing all revenues and expenditures associated with 911 systems during the immediately preceding fiscal year. The report shall be on a form provided by the Board and shall include information including installation schedules, installation expenses, anticipated 911 system changes, other system related costs and other information deemed necessary by the Board or by the PSAP.

~~(e)~~ (d) Each county or municipality shall submit a list of PSAPs operating within its jurisdiction each year; or, if none are known, a statement to that effect.

History Note: Authority G.S. 62A-4; 62A-46;

Eff. July 1, 2016.

RRC STAFF OPINION

Please Note: This communication is either: 1) only the recommendation of an RRC staff attorney as to action that the attorney believes the Commission should take on the cited rule at its next meeting; or 2) an opinion of that attorney as to some matter concerning that rule. The agency and members of the public are invited to submit their own comments and recommendations (according to RRC rules) to the Commission.

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0205

RECOMMENDED ACTION:

- Approve, but note staff's comment
- X Object, based on:
 - Lack of statutory authority
 - Unclear or ambiguous
 - Unnecessary
- X Failure to comply with the APA
- Extend the period of review

COMMENT:

Staff recommends objection to this Rule because Paragraph (b) was not adopted in compliance with G.S. 150B, Article 2A. It appears that the requirement for annual testing of the Comprehensive Emergency Management Plan (CEMP) contained in that Paragraph was not published in the NC Register and the public did not comment on them.

Staff notes that while this Rule was not published in the NC Register, all of the plan requirements set forth in Paragraph (a) and annual testing for each component plan set forth in Paragraph (b) of this Rule were contained in rules that the 911 Board published that mention or address the CEMP in the NC Register.

Those proposed rules were:

09 NCAC 06C .0208 (adopted by the Board as Rule 06C .0210):

(a) General.

- (1) Any Primary PSAP, Backup PSAP, and Secondary PSAP that receives 911 Funds from the NC 911 Board shall comply with all NC 911 Board Rules.
- (2) All equipment, software, and services used in the daily operation of the PSAP shall be kept in working order at all times.
- (3) The PSAP shall be provided with an alternate means of communication that is compatible with the alternate means of communication provided at the Emergency Response Facilities (ERFs).
 - (A) The alternate means of communication shall be readily available to the telecommunicator in the event of failure of the primary communications system.

Amanda J. Reeder
Commission Counsel

- (B) Telecommunicators shall be trained and capable of using the alternate means of communication in the event of failure of the primary communications system.
- (4) Each PSAP shall maintain a Backup PSAP or have an arrangement for backup provided by another PSAP. Agencies may also pool resources and create regional backup centers.
 - (A) The Backup PSAP shall be capable, when staffed, of performing the emergency functions performed at the primary PSAP.
 - (B) The Backup PSAP shall be separated geographically from the primary PSAP at a distance that ensures the survivability of the alternate center.
 - (C) Each PSAP shall develop a formal written plan to maintain and operate the Backup PSAP or if backup is provided by another PSAP a formal written plan that defines the duties and responsibilities of the alternate PSAP.
 - (i) The plan shall include the ability to reroute incoming emergency 911 call traffic to the backup center and to process and dispatch emergency 911 calls at that center.
 - (ii) The plan shall be included in the Comprehensive Emergency Management Plan (CEMP).
- (5) The PSAP shall be capable of continuous operation long enough to enable the transfer of operations to the Backup PSAP in the event of an emergency in the PSAP or in the building that houses the PSAP.
- (6) Systems that are essential to the operation of the PSAP shall be designed to accommodate peak workloads.
- (7) PSAPs shall be designed to accommodate the staffing level necessary to operate the center as required by the Rules set herein.
- (8) The design of the PSAP shall be based on the number of personnel needed to handle peak workloads as required by the Rules set herein.
- (9) Each PSAP shall have a written Comprehensive Emergency Management Plan (CEMP).
- (10) Emergency Fire Plan. There shall be a local management approved, written, dated, and annually tested emergency fire plan that is part of the CEMP.
- (11) Damage Control Plan. There shall be a local management approved, written, dated, and annually tested damage control plan that is part of the CEMP.
- (12) Backup Plan. There shall be a local management approved, written, dated, and annually tested backup PSAP plan that is part of the CEMP and approved by the NC 911 Board.
- (13) Penetrations into the PSAP shall be limited to those necessary for the operation of the center.

09 NCAC 06C .0209 (adopted by the Board as Rule 06C .0211):

(d) 911 Emergency Number Alternative Routing.

- (1) PSAPs shall maintain a written plan as part of the Comprehensive Emergency Management Plan (CEMP) for rerouting incoming calls on 911 emergency lines when the center is unable to accept such calls.
- (2) The PSAP shall practice this plan at least once annually.

The Board published other rules that addressed or required a CEMP. Those rules were:

09 NCAC 06C .0102 (Adopted by the Board as Rule 06C .0103):

(h) "Comprehensive Emergency Management Plan (CEMP)" means a disaster recovery plan that conforms to guidelines established by the Public Safety Answering Point and is designed to address natural, technological, and man-made disasters.

09 NCAC 06C .0207 (Adopted by the Board as Rule 06C .0209):

- (11) Standard operating procedures shall include but not be limited to the following:
 - (C) Procedures related to the CEMP
- (12) Every PSAP shall have a comprehensive regional emergency communications plan as part of the CEMP.

Amanda J. Reeder
Commission Counsel

Staff recognizes that the concept of a CEMP was published and that the requirements in Paragraph (a) were published in Rule 09 NCAC 06C .0208(a)(9) through (12), highlighted above. In addition, the annual testing requirement for each component required by Paragraph (b) of this Rule was published in that Rule. It also appears that Rule 09 NCAC 06C .0209 required the annual testing of the back-up rerouting procedures. (Please note, that language was not adopted by the Board in the current version of Rule 09 NCAC 06C .0209, which is now .0211.)

Therefore, staff recommends objection to this Rule for failure to comply with the APA for the annual testing requirement for the CEMP in Paragraph (b) of the Rule, which was required without any public notice.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0205

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Please amend the Submission for Permanent Rule form and Introductory Statement to reflect that portions of the Rule was published as .0208(a)(9) – (12) and .0209(d).

Please end (a)(1) and (2) with semicolons, not commas.

In (b), are the “component” plans the plans in (a)(1) through (3)? Is the term “component plan” known to your regulated public? If not, I recommend stating “The PSAP shall test the plans in Paragraph (a) and the CEMP...”

Also, on line 9, generally “at least” is not favored in rules, as rules set the minimum standard. Do you need to retain it here?

In the History Note, why are you citing to G.S. 62A-49?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0205 is adopted.

09 NCAC 06C .0205 COMPREHENSIVE EMERGENCY MANAGEMENT PLAN (CEMP)

(a) Each PSAP shall have a written Comprehensive Emergency Management Plan (CEMP) that includes:

(1) An emergency fire plan,

(2) A damage control plan, and

(3) A back-up PSAP plan that includes alternate 911 call routing conforming to 47 C.F.R. 20.18 and
G.S. 62A-49.

(b) The PSAP shall test each component plan and the CEMP at least once annually.

History Note: Authority G.S. 62A-42; 62A-46; 62A-49; 47 C.F.R. 20.18;

Eff. July 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0206

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Is the intent in the change of (a) to comply with G.S. 62A-46(e)(4a) and SL 2014-66?

(e) Compliance. - A PSAP, or the governing entity of a PSAP, must comply with all of the following in order to receive a distribution under this section:

(4a) A PSAP must have a plan and means for 911 call-taking in the event 911 calls cannot be received and processed in the primary PSAP. The plan must identify the alternative capability of taking the redirected 911 calls. This subdivision does not require a PSAP to construct an alternative facility to serve as a back-up PSAP.

SECTION 1.1. G.S. 62A-40 is amended by adding a new subdivision to read:

"(4a) Back-up PSAP. – The capability to operate as part of the 911 System and all other features of its associated primary PSAP. The term includes a back-up PSAP that receives 911 calls only when they are transferred from the primary PSAP or on an alternate routing basis when calls cannot be completed to the primary PSAP."

In (b), was there any notice that an annual testing would be required?

In (d), line 24, and (g), line 33, I believe "back-up plan" should be lowercase to be consistent with other language.

In (e), line 26, how can this be ensured?

In (f)(2), was there any notice published that this would be required in the CEMP?

In (g), define "continuous" on line 33.

On line 35, this should not be a note. (See Rule 26 NCAC 02C .0110). Part of this language closely resembles Paragraph (a) and can be moved up there.

On line 36, please insert a "the" between "entail" and "use"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

On line 36, please replace “which” with “that”

On line 36, define “temporarily”

On Page 2, line 1, what is “appropriate”? Does your regulated public know?

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

09 NCAC 06C .0206 is adopted as published in 29:24 NCR 2766-2783, with changes, as follows:

09 NCAC 06C .0206 BACK-UP PSAPS

~~(a) An alternate method for receiving and processing 911 calls is necessary when a Primary PSAP becomes inoperable due to a catastrophic failure.~~

~~(b) The Board will disburse 911 Funds for back up PSAPs to the extent eligible expenses are incurred for such PSAPs, and provided:~~

~~(1) A written determination for the need of a back up PSAP is provided to the 911 Board;~~

~~(2) A plan supporting the written determination is submitted to the 911 Board, including detailed start up costs and projected recurring expenses, and the Board approves the plan submitted;~~

~~(3) The plan includes any local agreements which may exist, or which are anticipated, which provide for the back up PSAP;~~

~~(4) Regular annual reports regarding the back up PSAP are made to the 911 Board; and~~

~~(a) Each Primary PSAP shall establish a back-up PSAP or have an arrangement for back-up provided by another PSAP. Agencies may also pool resources and create regional back-up centers.~~

~~(b) Back-up Plan. There shall be a local management approved, written, dated, and annually tested back-up PSAP plan.~~

~~(c) The Board shall disburse 911 Funds for back-up PSAPs to the extent eligible expenses are incurred for such PSAPs, and provided:~~

~~(1) A back-up PSAP plan is submitted to the 911 Board. The plan shall include start-up costs, projected recurring expenses, and any local agreements which may exist, or which are anticipated, that provide for the back-up PSAP.~~

~~(2) Any back-up PSAP plan revisions have been provided to the 911 Board staff.~~

~~(d) The Back-up PSAP shall be capable, when staffed, of performing the emergency functions performed at the primary PSAP.~~

~~(e) The Back-up PSAP shall be separated geographically from the primary PSAP at a distance that ensures the survivability of the alternate center.~~

~~(f) Each PSAP shall develop a formal written plan to maintain and operate the Back-up PSAP or if back-up is provided by another PSAP a formal written plan that defines the duties and responsibilities of the alternate PSAP.~~

~~(1) The plan shall include the ability to reroute incoming 911 call traffic to the back-up center and to process and dispatch 911 calls at that center.~~

~~(2) The plan shall be included in the Comprehensive Emergency Management Plan (CEMP).~~

~~(g) The PSAP shall be capable of continuous operation long enough to enable the transfer of operations to the Back-up PSAP in the event of an emergency in the PSAP or in the building that houses the PSAP.~~

Note: Alternate methods for receiving and processing 911 calls may include interlocal agreements among one or more PSAPs for sharing physical resources, entail use of portable equipment which could be temporarily implemented

1 wherever appropriate network connectivity is accessible, construction and maintenance of a back-up PSAP facility
2 that would only be utilized when the Primary PSAP is inoperable, or other alternative solution.

3
4 *History Note: Authority G.S. 62A-42(a);*
5 *Eff. July 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0207

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a)(2), line 10, define "complete"

Also on line 10, please insert a comma after "PSAP"

On line 11, what is the "responsible employee"? (Especially in light of the deletion of the term in (a)(1).)

In (a)(3), on line 21, what is "access controls"? Does the regulated public know? And should it be "controls" or "control"?

In (a)(5)(A), line 28, define "appropriate" Is this determined by the telecommunicator in his or her professional training and experience?

I think (a)(5)(A) should end with a period, because if the repair is made, that's the end, right? And then (a)(5)(B) is the contingency, and it could be written, "If the telecommunicator determines repair is not possible, isolate..."

On Page 2, I see that you took out (d) on Page 3, but it needs to be in order and here before (e).

In (b)(1), line 26, is this the 911 system for the state or for each PSAP?

Please end (c)(1)(A) and (B) with semicolons, not periods. And insert an "and" after (c)(1)(B).

On Page 4, Subparagraph (d)(1), line 28, does your regulated public know what you mean by "consistency and effectiveness"?

In (d)(2), does your regulated public know what is required in this analysis?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

Please confirm that the cross-reference on line 32 to Rule .0215 is correct. And if it is, please state "Rule .0215 of this Section."

In the History Note, please separate the citations with semicolons.

Also in the History Note, what is the reference to G.S. 62A-46(3) meant to be, as this is not a correct citation?

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

09 NCAC 06C .0207 is adopted as published in 29:24 NCR 2766-2783, with changes, as follows:

09 NCAC 06C .0207 PSAP OPERATIONS AND MANAGEMENT

(a) Personnel:

(1) ~~PSAP All~~ equipment and systems shall be under the ~~control oversight~~ of ~~a an~~ responsible employee or employees of the ~~PSAP served by the systems. PSAP.~~

(2) The PSAP Emergency services dispatching entities shall have trained and qualified technical assistance available for trouble analysis and repair by in-house personnel or by authorized outside contract maintenance services. Where maintenance is provided by an organization or person other than an employee of the PSAP complete written records of all installation, maintenance, test, and extension of the system shall be forwarded to the responsible employee of the PSAP. Maintenance performed by an organization or person other than an employee of the PSAP shall be by written contract that contains a guarantee of performance.

~~(3) Where maintenance is provided by an organization or person other than an employee of the PSAP complete written records of all installation, maintenance, test, and extension of the system shall be forwarded to the responsible employee of the PSAP.~~

~~(4) Maintenance performed by an organization or person other than an employee of the PSAP shall be by written contract that contains a guarantee of performance.~~

~~(5) The PSAP shall have a written local management approved access control plan.~~

~~(6) (3)~~ Maintenance personnel other than an employee of the PSAP shall be approved by the PSAP pursuant to ~~the approved its~~ access ~~control controls~~ plan as ~~offering~~ presenting no threat to the security of the facility or the employees and equipment within it.

~~(7) (4)~~ All equipment shall be accessible to the PSAP for the purpose of maintenance.

~~(8) At least one supervisor or lead with Telecommunicator certification shall be available to respond immediately at all times 24 hours per day, 7 days per week, 52 weeks per year.~~

(5) When a device monitoring the 911 system for integrity indicates that trouble has occurred, the telecommunicator shall act as follows:

(A) Take appropriate steps to repair the fault; and

(B) Isolate the fault and notify the official responsible for maintenance if repair is not possible.

(b) Telecommunicator Qualifications and Training.

~~(1) Telecommunicators and Supervisors shall be certified in the knowledge, skills, and abilities related to their job function.~~

~~(2) Telecommunicators and Supervisors shall have knowledge of the function of all communications equipment and systems in the PSAP.~~

~~(3) Telecommunicators and Supervisors shall know the rules and regulations that relate to equipment use, including those of the Federal Communications Commission that pertain to emergency service radio use.~~

1 ~~(4) Telecommunicators and Supervisors shall be capable of operating and testing the communications~~
2 ~~equipment they are assigned to operate.~~

3 ~~(5) Telecommunicators and Supervisors shall receive training to maintain the skill level appropriate to~~
4 ~~their positions.~~

5 ~~(6) Telecommunicators and Supervisors shall be trained in TDD/TTY procedures, with training~~
6 ~~provided at a minimum of once per year as part of the Annual Training.~~

7 ~~(e) Staffing.~~

8 ~~(1) There shall be sufficient Telecommunicators available to effect the prompt receipt and processing~~
9 ~~of emergency 911 calls needed to meet the requirements as specified herein.~~

10 ~~(2) After January 1, 2013 a minimum of two (2) Telecommunicators must be available at all times 24~~
11 ~~hours per day, 7 days per week, 52 weeks per year to immediately receive and process emergency~~
12 ~~911 calls.~~

13 ~~(3) Where communications systems, computer systems, staff, or facilities are used for both emergency~~
14 ~~and non-emergency functions, the non-emergency use shall not degrade or delay emergency use of~~
15 ~~those resources.~~

16 ~~(A) A PSAP shall handle emergency 911 calls for service and dispatching in preference to~~
17 ~~nonemergency activities.~~

18 ~~(B) The PSAP and emergency response agencies shall develop written standard operating~~
19 ~~procedures that identify when a dedicated Telecommunicator is required to be assigned to~~
20 ~~an emergency incident.~~

21 ~~(4) Telecommunicators shall not be assigned any duties prohibiting them from immediately receiving~~
22 ~~and processing emergency 911 calls for service in accordance with the time frame specified in the~~
23 ~~Operating Procedures.~~

24 ~~(e)(b) Time.~~

25 ~~(1) The clock for the main recordkeeping device in the PSAP shall be synchronized to Coordinated~~
26 ~~Universal Time, with all timekeeping devices in the 911 system.~~

27 ~~(2) All timekeeping devices in the PSAP shall be maintained within ±5 seconds of the main~~
28 ~~recordkeeping device clock.~~

29 ~~(f)(c) Recording.~~

30 ~~(1) PSAPs shall have a logging voice recorder with one channel for each of the following:~~

31 ~~(A) Each transmitted Transmitted or received emergency radio channel or talk group.~~

32 ~~(B) Each voice Voice dispatch call for service circuit.~~

33 ~~(C) Each Telecommunicator telephone that receives emergency 911 calls for service.~~

34 ~~(2) Each Telecommunicator position workstation shall have the ability to instantly recall telephone and~~
35 ~~radio recordings from that position workstation without delay.~~

36 ~~(3) Emergency 911 calls that are transmitted over the required dispatch circuit(s) shall be automatically~~
37 ~~recorded, including the dates and times of transmission.~~

1 ~~(d) Operating Procedures.~~

2 ~~(1) Ninety (90) percent of emergency 911 calls received on emergency lines shall be answered within~~
3 ~~ten (10) seconds, and ninety five (95) percent of emergency 911 calls received on emergency lines~~
4 ~~shall be answered within twenty (20) seconds. Compliance with (d).1 shall be evaluated monthly~~
5 ~~using data from the previous month.~~

6 ~~(2) The PSAP is required to provide pre arrival medical protocols as set forth by the North Carolina~~
7 ~~Office of Emergency Services, Health and Human Services in the initial call reception or by the~~
8 ~~responsible EMS provider on behalf of the primary answering point.~~

9 ~~(3) For law enforcement purposes, the PSAP shall determine time frames allowed for completion of~~
10 ~~dispatch.~~

11 ~~(4) When emergency 911 calls need to be transferred to another PSAP, the Telecommunicator will~~
12 ~~transfer the call without delay. The Telecommunicator will advise the caller: "Please do not hang~~
13 ~~up; I am connecting you with (name of the agency)." The Telecommunicator should stay on the line~~
14 ~~until the connection is complete and verified.~~

15 ~~(5) The PSAP shall transfer calls for services as follows:~~

16 ~~(A) The call for service shall be transferred directly to the Telecommunicator.~~

17 ~~(B) The transferring agency shall remain on the line until it is certain that the transfer is~~
18 ~~effected.~~

19 ~~(C) The transfer procedure shall be used on emergency 911 calls.~~

20 ~~(6) All calls for service, including requests for additional resources, shall be transmitted to the identified~~
21 ~~Emergency Response Units over the required dispatch systems.~~

22 ~~(7) An indication of the status of all Emergency Response Units shall be available to~~
23 ~~Telecommunicators at all times.~~

24 ~~(8) Records of the dispatch of Emergency Response Units to call for services shall be maintained and~~
25 ~~shall identify the following:~~

26 ~~(A) Unit designation for each Emergency Response Unit (ERU) dispatched~~

27 ~~(B) Time of dispatch acknowledgment by each ERU responding~~

28 ~~(C) Enroute time of each ERU~~

29 ~~(D) Time of arrival of each ERU at the scene~~

30 ~~(E) Time of patient contact, if applicable~~

31 ~~(F) Time each ERU is returned to service~~

32 ~~(9) All emergency response agencies shall use common terminology and integrated incident~~
33 ~~communications.~~

34 ~~(10) When the device monitoring the system for integrity indicates that trouble has occurred, the~~
35 ~~Telecommunicator shall act as follows:~~

36 ~~(A) Take appropriate steps to repair the fault.~~

37 ~~(B) Isolate the fault and notify the official responsible for maintenance if repair is not possible.~~

- (11) Standard operating procedures shall include but not be limited to the following:
- (A) All standardized procedures that the Telecommunicator is expected to perform without direct supervision.
 - (B) Implementation plan that meets the requirements of a formal plan to maintain and operate the backup PSAP.
 - (C) Procedures related to the CEMP.
 - (D) Emergency response personnel emergencies.
 - (E) Activation of an emergency distress function.
 - (F) Assignment of incident radio communications plan.
 - (G) Time limit for acknowledgment by units that have been dispatched.
- (12) Every PSAP shall have a comprehensive regional emergency communications plan as part of the CEMP.
- (A) The emergency communications plan shall provide for real time communications between organizations responding to the same emergency incident.
 - (B) This emergency communications plan shall be exercised at least once a year.
 - (C) In the event that an ERU has not acknowledged its dispatch/response within the time limits established by the PSAP, the Telecommunicator shall perform one or more of the following:
 - (i) Attempt to contact the ERU(s) by radio
 - (ii) Re-dispatch the ERU (s) using the primary dispatch system
 - (iii) Dispatch the ERU(s) using the secondary dispatch system
 - (iv) Initiate two way communication with the ERU's supervisor
- (13) The PSAP shall develop and implement standard operating procedures for responding to and processing TDD /TTY calls.
- (14) Calls received as an open line or "silent call" shall be queried as a TDD/TTY call if no acknowledgment is received by voice.

(g) (d) Quality Assurance/Improvement.

- (1) PSAPs shall establish a quality assurance/improvement program process to ensure the consistency and effectiveness of emergency 911 call processing, taking.
- (2) Statistical analysis of emergency 911 call taking and dispatch performance measurements shall be completed monthly and compiled over a one (1) year period, period and retained as operational records under Rule .0215.

*History Note: Authority G.S. 62A-42(a)(4), 62A-46(3), 62A-46(e);
Eff. July 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0208

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Please reflect in the Introductory Statement that the Rule was published as .0207(c)

You do not need to include the struck though language for Paragraph (b) here. Since this Rule is "new" with other language, you only need to include the language you've chosen to adopt.

In (a), I take it the sufficiency of staff shall be determined by the PSAP?

On line 22, the term "911" is not new language – you published it with this.

In (c), line 31, "above" is new language.

In (d), line 34, does the PSAP create and provide them? I take it the answer is "yes" due to the language in Rule .0209?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0208 was published in 09 NCAC 06C .0207 in 29:24 NCR 2766-2783, and is adopted as 09 NCAC 06C .0208 with changes, as follows:

09 NCAC 06C .0208 PUBLIC SAFETY ANSWERING POINT (PSAP) FACILITIES

TELECOMMUNICATOR QUALIFICATIONS, TRAINING AND STAFFING

(b) Telecommunicator Qualifications and Training.

~~(1) Telecommunicators and Supervisors shall be certified in the knowledge, skills, and abilities related to their job function.~~

~~(2) Telecommunicators and Supervisors shall have knowledge of the function of all communications equipment and systems in the PSAP.~~

~~(3) Telecommunicators and Supervisors shall know the rules and regulations that relate to equipment use, including those of the Federal Communications Commission that pertain to emergency service radio use.~~

~~(4) Telecommunicators and Supervisors shall be capable of operating and testing the communications equipment they are assigned to operate.~~

~~(5) Telecommunicators and Supervisors shall receive training to maintain the skill level appropriate to their positions.~~

~~(6) Telecommunicators and Supervisors shall be trained in TDD/TTY procedures, with training provided at a minimum of once per year as part of the Annual Training.~~

(a) Staffing.

~~(1)(a) There shall be sufficient Telecommunicators telecommunicators available to effect the prompt receipt and processing of emergency complete the call taking process for 911 calls calls. needed to meet the requirements as specified herein.~~

~~(2) After January 1, 2013 a minimum of two (2) Telecommunicators must be available at all times 24 hours per day, 7 days per week, 52 weeks per year to immediately receive and process emergency 911 calls.~~

~~(3)(b) Where communications systems, computer systems, staff, or facilities are used for both emergency and non-emergency functions, the non-emergency use shall not degrade or delay emergency use of those resources. resources for 911 operations.~~

~~(A)(c) A PSAP shall handle emergency 911 calls for service and completing the call taking process dispatching in preference to shall have priority above nonemergency activities.~~

~~(B)(d) The PSAP and emergency response agencies shall develop written standard operating procedures that identify when a dedicated Telecommunicator is required to be assigned to an emergency incident. The PSAP shall provide standard operating procedures to its telecommunicators.~~

~~(4)(e) Telecommunicators shall not be assigned any duties prohibiting them from immediately receiving and processing emergency 911 calls for service and completing the call taking process in accordance~~

1 with the time frame specified in Rule 06C.0209(a) and the PSAP standard Operating Procedures.
2 operating procedures.

3

4 *History Note: Authority G.S. 62A-42(a)(4);*

5 *Eff. July 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0209

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In the Introductory Statement, please state this was published as .0207(d)

In (a), please go back to the way this was published. Begin the sentence "Ninety" but make all other numbers numerals.

In (a), line 8, the sentence said, "Compliance with this Paragraph." Please use that in striking the language.

In (b), line 19, should "it is" be "he or she is"? I assume that the intent is for the telecommunicator to be sure of the transfer, correct?

In (d)(1) on Page 2, line 10, this is not a complete sentence. Do you mean "The procedures shall specify..."?

In (d)(2), line 13, I take it your regulated public knows what "fail-over operation" means?

On line 14, please state either "Rule 09 NCAC 06C .0206" or "Rule .0206 of this Section"

In (d)(3), please note that if the RRC objects to Rule .0205, this statement cannot be included in the approved Rule.

In (d)(4), what are these? Does your regulated public know?

In (d)(6), what is this? I have not seen this plan mentioned before. Does your regulated public know what this is?

In (d)(9), lines 21-22, is this supposed to be one sentence? If not, what is the sentence on line 22 supposed to say?

In (d)(12), line 25, please do not underline and strike the same language

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

Amanda J. Reeder
Commission Counsel

Date submitted to agency: November 30, 2015

09 NCAC 06C .0209 was published in 09 NCAC 06C .0207 in 29:24 NCR 2766-2783, and is adopted as 09 NCAC 06C .0209 with changes, as follows:

09 NCAC 06C .0209 TELEPHONES PSAP 911 CALL OPERATING PROCEDURES

(d) Operating Procedures.

~~(1) (a)~~ Ninety (90) percent of emergency 911 calls received on emergency lines shall be answered within ten (10) seconds, and ninety-five (95) percent of emergency 911 calls received on emergency lines shall be answered within twenty (20) seconds. Compliance with (d)-1 The PSAP and the Board shall be evaluated evaluate call answering times monthly by using data from the previous month.

~~(2)~~ The PSAP is required to provide pre-arrival medical protocols as set forth by the North Carolina Office of Emergency Services, Health and Human Services in the initial call reception or by the responsible EMS provider on behalf of the primary answering point.

~~(3)~~ For law enforcement purposes, the PSAP shall determine time frames allowed for completion of dispatch.

~~(4) (b)~~ When emergency 911 calls need to be transferred to another PSAP, the Telecommunicator telecommunicator will shall transfer the call without delay. The Telecommunicator will shall advise the caller: "Please do not hang up; I am connecting you with (name of the agency)." caller of the transfer. The Telecommunicator telecommunicator should stay on the line until shall maintain the call connection until it is certain that the transfer is complete and verified, verified by the agency receiving the call transfer.

~~(5)~~ The PSAP shall transfer calls for services as follows:

~~(A)~~ The call for service shall be transferred directly to the Telecommunicator.

~~(B)~~ The transferring agency shall remain on the line until it is certain that the transfer is effected.

~~(C)~~ The transfer procedure shall be used on emergency 911 calls.

~~(6)~~ All calls for service, including requests for additional resources, shall be transmitted to the identified Emergency Response Units over the required dispatch systems.

~~(7) (c)~~ An indication of the status of all Emergency Response Units shall be available to Telecommunicators at all times.

~~(8)~~ Records of the dispatch of Emergency Response Units to call for services shall be maintained and shall identify the following:

~~(A)~~ Unit designation for each Emergency Response Unit (ERU) dispatched

~~(B)~~ Time of dispatch acknowledgment by each ERU responding

~~(C)~~ Enroute time of each ERU

~~(D)~~ Time of arrival of each ERU at the scene

~~(E)~~ Time of patient contact, if applicable

~~(F)~~ Time each ERU is returned to service

- (9) All emergency response agencies shall use common terminology and integrated incident communications.
- (10) When the device monitoring the system for integrity indicates that trouble has occurred, the Telecommunicator shall act as follows:
- (A) Take appropriate steps to repair the fault.
 - (B) Isolate the fault and notify the official responsible for maintenance if repair is not possible.
- (11) (d) The PSAP shall establish and maintain Standard standard operating procedures shall include but not be limited to the following: including:
- (A) (1) All standardized procedures Procedures that the Telecommunicator telecommunicator is expected to perform without direct supervision. To specify operations, facilities, and communications systems that receive 911 calls from the public;
 - (B) (2) Implementation An implementation plan that meets the requirements of a formal plan to maintain and operate the backup PSAP, for testing and fail-over operation to a back-up PSAP pursuant to Rule 06C .0206;
 - (C) (3) Procedures related to the CEMP, CEMP required in Rule .0205 of this Section;
 - (D) (4) Emergency response personnel emergencies, emergencies;
 - (E) (5) Activation of an emergency distress function, function;
 - (F) (6) Assignment of incident radio communications plan, plan;
 - (G) (7) Time limit for acknowledgment by units that have been dispatched, dispatched;
- (8) Responding to and processing TDD /TTY calls or other calls from hearing impaired callers;
- (9) To provide requirements for dispatching of appropriate emergency response personnel. Communications between the PSAP and emergency response agencies;
- (10) A policy that limits access to the PSAP to authorized personnel;
- (11) Procedures for answering open-line or "silent calls"; and
- (12) Maintaining training records for each employee as required by the PSAP.
- (12) Every PSAP shall have a comprehensive regional emergency communications plan as part of the CEMP:
- (A) The emergency communications plan shall provide for real time communications between organizations responding to the same emergency incident.
 - (B) This emergency communications plan shall be exercised at least once a year.
 - (C) In the event that an ERU has not acknowledged its dispatch/response within the time limits established by the PSAP, the Telecommunicator shall perform one or more of the following:
 - (i) Attempt to contact the ERU(s) by radio
 - (ii) Re-dispatch the ERU (s) using the primary dispatch system
 - (iii) Dispatch the ERU(s) using the secondary dispatch system
 - (iv) Initiate two way communication with the ERU's supervisor.

1 ~~(13) The PSAP shall develop and implement standard operating procedures for responding to and~~
2 ~~processing TDD /TTY calls.~~

3 ~~(14) Calls received as an open line or "silent call" shall be queried as a TDD/TTY call if no~~
4 ~~acknowledgment is received by voice.~~

5

6 *History Note: Authority G.S. 62A-42(a)(4);*

7 *Eff. July 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0210

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On line 4, please state "09 NCAC 06C ~~.0208~~ .0210 Public Safety Answering Point (PSAP) Facilities."

In (a), line 10, what is "times implemented"?

In (b) in a few places, you refer to "at least" and "minimum" As explained earlier, these phrases are generally not found in rules, as the rules set the minimum standards. However, I take it you need to retain these phrases in the Rule?

In (b)(1), line 15, please delete "of which"

Also on line 15, who determines whether this is adequate? The PSAP? Or is a practical matter determined by the electrician or installer?

In (b), line 18, why are you deleting "Primary Power Source"? Given the structure of the rest of the Rule, it would read better to retain it. If you wish to delete it, then consider amending (b)(2) to state "Primary power sources shall be..."

In (b)(2)(C), line 23, was "is" intended to be struck?

In (b)(3)(A), the additional language on lines 27-28 now requires a staffer to be available or on-duty at all times to operate the secondary power source. Was this intended to clarify the requirement set forth for primary power sources?

In (b)(4)(A), line 34, please state "two" as the term was published in the NC Register.

In (b)(5), line 7, who determines this? The PSAP? The Board?

In (b)(5)(A), please note that if the Commission objects to Rule .0205, this will impact this requirement in the Rule.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

In (b)(7), who are authorized personnel? The workers at the PSAP? The hired electricians?

In (b)(8) and (9), who will determine what is essential to the operation of the PSAP?

In (b)(10), what are the "State and federal safety regulations" you are referring to? Does your regulated public know? Also, I believe "federal" should be lowercase here.

On line 24, who determines sufficiency?

For (b)(10)(B)(i) through (iii), please note that Rule 26 NCAC 02C .0206(b) states that Rules can have a maximum of three subdivisions. If this Rule is approved, you will need a waiver from the Codifier to keep this subdivision.

In (b)(10)(C), I take it as a practical matter, the sufficiency is determined by electricity?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0210 was published as 09 NCAC 06C .0208 in 29:24 NCR 2766-2783, and is adopted as 09 NCAC 06C .0210 with changes, as follows:

09 NCAC 06C .0210 ~~DISPATCHING SYTEMS~~ PUBLIC SAFETY ANSWERING POINT (PSAP) FACILITIES

(a) General.

~~(1) Any Primary PSAP, Backup PSAP, and Secondary PSAP that receives 911 Funds from the NC 911 Board shall comply with all NC 911 Board Rules.~~

~~(2) (a) All 911 system equipment, software, and services used in the daily operation of the PSAP shall be kept in working order at all times. times implemented and maintained to ensure continuity of 911 call taking.~~

~~(3) The PSAP shall be provided with an alternate means of communication that is compatible with the alternate means of communication provided at the Emergency Response Facilities (ERFs).~~

~~(A) The alternate means of communication shall be readily available to the telecommunicator in the event of failure of the primary communications system.~~

~~(B) Telecommunicators shall be trained and capable of using the alternate means of communication in the event of failure of the primary communications system.~~

~~(4) Each PSAP shall maintain a Backup PSAP or have an arrangement for backup provided by another PSAP. Agencies may also pool resources and create regional backup centers.~~

~~(A) The Backup PSAP shall be capable, when staffed, of performing the emergency functions performed at the primary PSAP.~~

~~(B) The Backup PSAP shall be separated geographically from the primary PSAP at a distance that ensures the survivability of the alternate center.~~

~~(C) Each PSAP shall develop a formal written plan to maintain and operate the Backup PSAP or if backup is provided by another PSAP a formal written plan that defines the duties and responsibilities of the alternate PSAP.~~

~~(i) The plan shall include the ability to reroute incoming emergency 911 call traffic to the backup center and to process and dispatch emergency 911 calls at that center.~~

~~(ii) The plan shall be included in the Comprehensive Emergency Management Plan (CEMP).~~

~~(5) The PSAP shall be capable of continuous operation long enough to enable the transfer of operations to the Backup PSAP in the event of an emergency in the PSAP or in the building that houses the PSAP.~~

~~(6) (1) Systems that are essential to the operation of the PSAP shall be designed to accommodate peak workloads.~~

~~(7)~~ (2) PSAPs shall be designed to accommodate the staffing level necessary to ~~operate the center as~~
required by the Rules set herein; ~~accommodate peak workloads.~~

~~(8)~~ The design of the PSAP shall be based on the number of personnel needed to handle peak workloads
as required by the Rules set herein.

~~(9)~~ Each PSAP shall have a written Comprehensive Emergency Management Plan (CEMP).

~~(10)~~ Emergency Fire Plan. There shall be a local management approved, written, dated, and annually
tested emergency fire plan that is part of the CEMP.

~~(11)~~ Damage Control Plan. There shall be a local management approved, written, dated, and annually
tested damage control plan that is part of the CEMP.

~~(12)~~ Backup Plan. There shall be a local management approved, written, dated, and annually tested
backup PSAP plan that is part of the CEMP and approved by the NC 911 Board.

~~(13)~~ Penetrations into the PSAP shall be limited to those necessary for the operation of the center.

(b) Power.

(1) At least two independent and reliable power sources ~~shall be provided~~, one primary and one
~~secondary; secondary, shall be provided.~~ ~~each~~ ~~Each~~ of which shall be of adequate capacity for
operation of the PSAP.

(2) Power sources shall be monitored for integrity, with annunciation provided in the operations room.

~~(3)~~ Primary Power Source. One of the following shall supply primary power:

(A) A feed from a commercial utility distribution system;

(B) An engine-driven generator installation or equivalent designed for continuous operation,
~~where~~ with a person specifically trained in its operation ~~is~~ on duty at all times; or

(C) An engine-driven generator installation or equivalent arranged for cogeneration with
commercial light and power, ~~where with~~ a person specifically trained in its operation ~~is~~ on
duty or available at all times.

~~(4)~~ (3) Secondary Power Source.

(A) The secondary power source shall consist of one or more standby engine-driven generators.
~~The PSAP shall ensure that a person specifically trained in its operation is on duty or~~
~~available at all times.~~

(B) Upon failure of primary power, transfer to the standby source shall be automatic.

~~(10)~~ (4) Engine-driven generators shall be sized to supply power for the operation of all functions of the
PSAP.

(A) When installed indoors, engine-driven generators shall be located in a ventilated and
secured area that is separated from the PSAP by fire barriers having a fire resistance rating
of at least 2 hours.

(B) When installed outdoors, engine-driven generators shall be located in a secure enclosure.

(C) The area that houses an engine-driven generator shall not be used for storage other than
spare parts or equipment related to the generator system.

- (D) Fuel to operate the engine-driven generator for a minimum of 24 hours at full load shall be available on site.
- (E) Equipment essential to the operation of the generator shall be supplied with standby power from the generator.
- (F) Generators shall not use the public water supply for engine cooling.
- (5) A Stored Emergency Power Supply System (SEPSS) shall be provided for telecommunications equipment, two-way radio systems, computer systems, and other electronic equipment determined to be essential to the operation of the PSAP.
- (A) The SEPSS shall be of a class that is able to maintain essential operations long enough to implement the formal Comprehensive Emergency Management Plan.
- (B) The instrumentation required to monitor power shall be remotely annunciated in the operations room.
- (6) Power circuits shall include their associated motors, generators, rectifiers, transformers, fuses, and controlling devices.
- (7) The power circuit disconnecting means shall be installed so that it is accessible only to authorized personnel.
- (8) Surge Arresters otherwise known as Transient Voltage Surge Suppression (TVSS) shall be provided for protection of telecommunications equipment, two-way radio systems, computers, and other electronic equipment ~~determined to be~~ essential to the operation of the PSAP.
- (9) Isolated Grounding System. Telecommunications equipment, two-way radio systems, computers, and other electronic equipment ~~determined to be~~ essential to the operation of the PSAP shall be connected to an isolated grounding system.
- ~~(11)~~ (10) Uninterruptible Power Supply (UPS) and Battery Systems. A UPS and battery system shall be installed in accordance with local, State, and the Federal safety regulations and be sufficient to prevent power surges from damaging equipment in the PSAP as well as provide power for all essential 911 Emergency Center operations until the backup power source can be fully activated.
- (A) Each UPS shall be provided with a bypass switch that maintains the power connection during switch over and that is capable of isolating all UPS components while allowing power to flow from the source to the load.
- (B) The following UPS conditions shall be annunciated in the operations room:
- (i) Source power failure, overvoltage, and under-voltage;
- (ii) High and low battery voltage; and
- (iii) UPS in bypass mode.
- (C) The UPS and Battery Systems shall be capable of providing power for the PSAP when the Primary Power Source is not functioning but the duration of the outage is not sufficient to activate the Secondary Power Source.

- 1 History Note: Authority G.S. 62A-42;
- 2 Eff. July 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0211

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On line 4, please state "09 NCAC 06C ~~.0209~~ .0211 Telephones"

In (a)(1)(A), line 10, I take it you need to retain "minimum" here? And "at least" on line 12?

In (a)(1)(A), what does the second sentence mean? Isn't this addressed by the first sentence?

In (a)(1)(B) and (C), I take it the PSAP determines this?

In (a)(3), I assume the PSAP will be monitoring these for integrity?

In (a)(4), do you mean to change "hunt" to "route" like you did for (a)(3), line 21?

In (a)(5), line 25, I believe the correct cross-reference is "Rule .0209(b) of this Section"

In (a)(5), you are now requiring call data to be transferred at all times, rather than "when possible." Is this due to technological advances?

On line 27, I do not see that you published "data" here

On line 29, this was not published as (A). Please delete it as a solid block of text in the Subparagraph.

In (a)(6), line 32, did you mean to delete "emergency" as you have elsewhere?

In (b)(3), Page 2, line 4, the "%" was published as "percent" Please state that instead.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0211 was published as 09 NCAC 06C .0209 in 29:24 NCR 2766-2783, and is adopted as 09 NCAC 06C .0211 with changes, as follows:

09 NCAC 06C .0211 COMPUTER-AIDED DISPATCHING (CAD) SYSTEMS TELEPHONES

~~(a) Telephone Receiving Equipment.~~ The provisions of this Rule shall apply to facilities and equipment that receive emergency 911 calls transmitted by means of any voice communications service.

~~(b)~~ (a) Equipment and Operations.

(1) PSAPS shall be equipped with Telephone telephone lines and telephone devices shall be provided as follows:

(A) A minimum of two 911 emergency telephone lines and 911 emergency telephone devices shall be assigned exclusively for receipt of emergency 911 calls. These lines shall appear on at least two telephone devices within the PSAP.

(B) Additional 911 emergency telephone lines and 911 emergency telephone devices shall be provided as required necessary for the volume of calls handled, handled by the PSAP.

(C) Additional telephone lines shall be provided for the normal business (non-emergency) use as needed.

(D) At least one outgoing-only line and telephone device shall be provided.

(2) 911 emergency lines and 911 emergency telephone devices will shall be answered prior to non-emergency telephone lines and non-emergency telephone devices.

(3) When all 911 emergency telephone lines and 911 emergency telephone devices are in use, emergency 911 calls shall hunt be routed to other predetermined telephone lines and telephone devices that shall be monitored for integrity, and that are approved by the PSAP.

(4) Calls to the business number shall not hunt to the designated emergency lines.

(5) When a PSAP receives an emergency 911 call for a location or an agency that is not in its jurisdiction, When transferring a 911 call pursuant to Rule .0209(c) the PSAP shall transfer the call directly data to the responsible designated PSAP. PSAP when possible. When possible the call data will be transferred with the emergency 911 call. If the call data transfer method is not possible, call information data shall be relayed by the telecommunicator.

(A) The telecommunicator shall remain on the line until it is certain that the transfer has been made and the originating telecommunicator verifies the transfer has been successfully completed by hearing both parties speaking to each other.

(6) All 911 emergency 911 calls shall be recorded.

~~(e)~~ (b) Circuits/Trunks.

(1) At PSAPS shall have at least two 911 call delivery paths with diverse routes arranged so that no single incident interrupts both routes shall be provided to each PSAP, routes.

1 (2) Where multiple PSAPs that serve a jurisdiction are not located in a common facility, at least two
2 circuits with diverse routes, arranged so that no singular incident interrupts both routes, shall be
3 provided between PSAPs.

4 (3) The PSAP shall have sufficient 911 emergency trunk capacity to receive 99.9% of all calls during
5 the busiest hour of the average week of the busiest month of the year.

6 (d) 911 Emergency Number Alternative Routing.

7 (1) PSAPs shall maintain a written plan as part of the Comprehensive Emergency Management Plan
8 (CEMP) for rerouting incoming calls on 911 emergency lines when the center is unable to accept
9 such calls.

10 (2) The PSAP shall practice this plan at least once annually.

11 (3) Where overflow calls to 911 emergency telephone lines and emergency telephone devices are routed
12 to alternative telephone lines and alternative telephone devices within the PSAP, the alternative
13 telephone lines and alternative telephone devices shall be monitored for integrity and recorded as
14 required by these Rules, and by the Board's standards, policies and procedures.

15
16 History Note: Authority G.S. 62A-42;

17 Eff. July 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0212

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On line 4, please state "09 NCAC 06C ~~.0210~~ .0212 Dispatching Systems"

In (b), I take it your regulated public knows what is required for "redundant means"?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0212 was published as 09 NCAC 06C .0210 in 29:24 NCR 2766-2783, and is adopted as 09 NCAC 06C .0212 with changes, as follows:

09 NCAC 06C .0212 TESTING-DISPATCHING SYSTEMS

(a) Fundamental Requirements of Emergency 911 call Dispatching Systems.

~~(1) (a)~~ An emergency A 911 call dispatching system shall be designed, installed, operated, and maintained to provide for the receipt and retransmission of calls.

~~(2) (b)~~ Telecommunicators who receive emergency 911 calls shall have redundant means within the PSAP premises to dispatch calls.

~~(3) (c)~~ The failure of any system component of or one dispatching means shall not affect the operation of the alternative another dispatching means and vice versa. means.

(b) Primary dispatch paths and devices upon which transmission and receipt of emergency 911 calls depend shall be monitored constantly for integrity to provide prompt warning of trouble that impacts operation.

~~(1)~~ Trouble signals shall actuate an audible device and a visual signal located at a constantly attended location.

~~(2)~~ The audible alert trouble signals from the fault and failure monitoring mechanism shall be distinct from the audible alert emergency alarm signals.

~~(3)~~ The audible trouble signal shall be permitted to be common to several monitored circuits and devices.

~~(4)~~ A switch for silencing the audible trouble signal shall be permitted if the visual signal continues to operate until the silencing switch is restored to the designated normal position.

~~(5)~~ Where dispatch systems use computer diagnostic software, monitoring of the primary dispatch circuit components shall be routed to a dedicated terminal(s) that meets the following requirements:

~~(A)~~ It shall be located within the communications center; and

~~(B)~~ It shall not be used for routine dispatch activities.

(c) The radio communications system shall be monitored in the following ways:

~~(1)~~ Monitoring for integrity shall detect faults and failures in the radio communications system; and

~~(2)~~ Detected faults and failures in the radio communications system shall cause audible or visual indications to be provided within the PSAP.

History Note: Authority G.S. 62A-42;

Eff. July 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0213

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On line 4, please state "09 NCAC 06C ~~.0214~~ .0213 Computer Aided Dispatching (CAD) Systems"

In (a)(1), line 13, later analysis by whom? The PSAP? The Board?

In (a)(2), line 17, who will determine whether this is needed?

In (a)(3)(D) and (E), lines 25 and 28, "systems" should be lowercase to be consistent with the rest of the Rule.

In (a)(3)(E), line 30, define "continually"

In (a)(4), line 34, define "continuously"

Also in (a)(4), I take it your regulated public knows what "time-outs" means?

In (a)(4), Page 2, line 2, what are "appropriate" messages? Those that detail the fault or failure in the system?

On line 5, the log must be maintained for how long?

Please delete the blank line space on line 8.

In (b), line 10, the PSAPs must maintain a secondary what? I think you meant to retain "CAD method" or insert something else here.

In (e), lines 28 - 29, isn't the language "and between the CAD system and other systems" redundant with what was on lines 27-28?

In (f), Page 3, line 8, since you've already stated that CAD is Computer Aided Dispatch, why not just state "CAD configurations shall include:"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

So that I understand, the CAD shall: 1) recommend units; 2) detect and report errors; and 3) include power-fail recovery.

If so, then why not state in (f)(1) "Recommending... calls by:" And then end (f)(1)(A) and (B) with semicolons and ending (f)(2) with an "and" (assuming you mean all three). Then begin (f)(1)(C) with "having the ability..."

Isn't (f)(2) addressed in (a)(4) on Page 2?

So that I understand – (f)(3) is not addressed in (a)(3)?

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

09 NCAC 06C .0213 was published as 09 NCAC 06C .0211 in 29:24 NCR 2766-2783, and is adopted as 09 NCAC 06C .0213 with changes, as follows:

09 NCAC 06C .0213 RECORDS-COMPUTER AIDED DISPATCHING (CAD) SYSTEMS

(a) General.

~~(1)~~ PSAPs shall use Computer-aided computer-aided dispatching (CAD) systems. These systems shall conform to the Rules in this Section.

~~(2)~~ The CAD system shall contain all hardware and software components necessary for interface with the 911 system.

(1) The CAD system shall include data entry; resource recommendations, notification, and tracking; store records relating to all 911 calls and all other calls for service and status changes; and track those resources before, during, and after emergency calls, preserving records of those 911 calls and status changes for later analysis.

(g) Backup.

~~(1)~~ (2) The CAD system shall include a data backup system, utilizing either removable media or independent disk storage arrays dedicated to the backup ~~task.~~ task and additional equipment as needed.

(h) Redundancy.

~~(1)~~ (3) The failure of any single component shall not disable the entire system.

(A) The CAD system shall provide automatic switchover in case of failure of the required system component(s).

(B) Manual intervention by telecommunicators or others shall not be required.

(C) Notwithstanding automatic switchover, the CAD system shall provide the capability to manually initiate switchover.

(D) CAD Systems that utilize server and workstation configuration shall accomplish automatic switchover by having a duplicate server available with access to all the data necessary and required to restart at the point where the primary server stopped.

(E) CAD Systems that utilize distributed processing, with workstations in the operations room also providing the call processing functions, shall be considered to meet the requirements of automatic switchover, as long as all such workstations are continually sharing data and all data necessary to pick up at the point where the failed workstation stopped are available to all other designated dispatch workstations.

~~(2)~~ Monitoring for Integrity.

~~(A)~~ (4) The system shall continuously monitor the CAD interfaces for equipment failures, device exceptions, and time-outs.

1 ~~(B)~~ The system shall, upon Upon detection of faults or failures, the system shall send an
2 appropriate message consisting of visual and audible indications, indications to personnel
3 designated by the PSAP.

4 ~~(3)~~ The system shall provide A a log of system messages and transactions, transactions shall be
5 generated and maintained.

6 ~~(4)~~ A spare display screen, pointing device, and keyboard shall be available in the PSAP for immediate
7 change-out.

8

9 ~~(b) Secondary Method.~~

10 ~~(4)(b)~~ A PSAPS shall maintain a secondary CAD method shall be provided and shall be available for use
11 in the event of a failure of the CAD system.

12 ~~(e) Security.~~

13 ~~(1)~~ CAD systems shall utilize different levels of security to restrict unauthorized access to sensitive and
14 critical information, programs, and operating system functions.

15 ~~(2)~~ The PSAP shall have the ability to control user and supervisor access to the various security levels.

16 ~~(3)~~ Physical access to the CAD system hardware shall be limited to authorized personnel as determined
17 by the PSAP.

18 ~~(4)(c)~~ Operation of the CAD system software shall be limited to authorized personnel by log-on/password
19 control, workstation limitations, or other means as required by the PSAP.

20 ~~(5)(d)~~ The PSAP shall provide network isolation necessary to preserve bandwidth capacity for the efficient
21 operation of the CAD system and processing of emergency 911 calls.

22 ~~(A)~~ The CAD system shall provide measures to prevent denial of service attacks and any other
23 undesired access to the CAD portion of the network.

24 ~~(B)~~ The CAD system shall employ antivirus software where necessary to protect the system
25 from infection.

26 ~~(d) Emergency 911 call Data Exchange.~~

27 ~~(4)(e)~~ The CAD system should shall have the capability to allow emergency 911 call data exchange
28 between the CAD system and other CAD systems, systems, and between the CAD system and other
29 systems.

30 ~~(2)~~ The CAD system should have the capability to allow data exchange between the CAD system and
31 other systems.

32 ~~(e) CAD Capabilities.~~

33 ~~(1)~~ The installation of a CAD system in emergency service dispatching shall not negate the
34 requirements for a secondary dispatch circuit.

35 ~~(2)~~ The PSAP shall provide software that is for or part of the CAD system that will provide data entry;
36 resource recommendations, notification, and tracking; store records relating to all emergency 911
37 calls and all other calls for service and status changes; and track those resources before, during, and

1 after emergency calls, preserving records of those emergency 911 calls and status changes for later
2 analysis.

3 (A) The PSAP shall put in place safeguards to preserve the operation, sustainability, and
4 maintainability of all elements of the CAD system in the event of the demise or default of
5 the CAD supplier.

6 (B) The system applications shall function under the overall control of a standard operating
7 system that includes support functions and features as required by the PSAP.

8 (f) Computer Aided Dispatch (CAD) Performance configurations shall include:

9 (1) The CAD system shall recommend Recommending units for assignment to calls.

10 (A) The CAD system shall ensure Ensuring that the optimum response units are selected.

11 (B) The CAD system shall allow Allowing the telecommunicator to override the CAD
12 recommendation for unit assignment.

13 (C) The CAD system shall have the ability to prioritize all system processes so that emergency
14 operations take precedence.

15 (2) The CAD system shall detect Detecting and reporting errors, faults or failures.

16 (A) The CAD system shall automatically perform all required reconfiguration as a result of
17 errors, faults or failures.

18 (B) The CAD system shall queue a notification message to the supervisor and any designated
19 telecommunicator positions.

20 (3) Under all conditions, the CAD system response time shall not exceed 2 seconds, measured from the
21 time a telecommunicator completes a keyboard entry to the time of full display of the system
22 response at any position where a response is required.

23 (4) The CAD system shall be available and fully functional 99.95 percent of the time, excluding planned
24 maintenance.

25 (5) (3) The CAD system shall include automatic power-fail recovery capability.

26
27 History Note: Authority G.S. 62A-42;

28 Eff. July 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0214

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On line 4, please state "09 NCAC 06C ~~.0212~~ .0214."

In (a), on line 8, why are you citing to Rule .0208?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0214 was published as 09 NCAC 06C .0212 in 29:24 NCR 2766-2783, and is adopted as 09 NCAC 06C .0214 with changes, as follows:

09 NCAC 06C .0214 TESTING

(a) General:

~~(1)~~ Tests and inspections of all systems necessary for receiving 911 calls and completing the call taking process shall be made at the regular intervals, intervals specified in a PSAP standard operating procedures conforming to Rules .0207, .0208, .0209, and .0210 of this Section.

~~(2)(b)~~ All equipment shall be restored to operating condition after each test or emergency 911 call for which the equipment functioned.

~~(3)(c)~~ When tests indicate that trouble has occurred detect failure or poor performance anywhere on the system, one of the following shall be required: the PSAP shall

~~(A)~~ The telecommunicator shall take appropriate steps within their scope of training to repair the fault. fault or isolate the failure or poor performance fault and to notify the person(s) responsible for repair/maintenance.

~~(B)~~ If repair is not possible, action shall be taken to isolate the fault and to notify the person(s) responsible for repair/maintenance.

~~(4)~~ Procedures that are required by other parties and that exceed the requirements of these rules shall be permitted.

~~(5)~~ The requirements of this Section shall apply to both new and existing systems.

(b) Acceptance Testing:

~~(1)~~ New equipment shall be provided with operation manuals that cover all operations and testing procedures.

~~(2)(d)~~ All functions of new equipment shall be tested in accordance with the manufacturers' specifications and accepted PSAP practices before being placed in service. PSAPs shall provide equipment operation manuals for operations and testing procedures to PSAP personnel.

(c) Power:

~~(1)~~ Emergency and standby power systems shall be tested in accordance with the manufacturer's specifications and accepted business practices.

History Note: Authority G.S. 62A-42;

Eff. July 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0215

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On line 4, please state "09 NCAC 06C ~~.0213~~ .0215"

In (a), line 7, do you need to retain "at least" here?

Also on line 7, you did not publish (5). Just state "five" as you published.

In (b), line 8, what are "acceptance tests"? I take it your regulated public knows?

So that I am clear, (b)(2) refers to the manuals required by Rule .0214?

In (c), line 15, please be sure to correctly show changes and underline new language.

In (d), what is the difference between call and dispatch "statistics" (line 22), "performance measurement" (line 23) and "signals" (line 29)?

On line 22, please do not underline and strike the same language.

In (e)(2), this was published as one Subparagraph and needs to remain as one. Please go back to the language as published for formatting purposes.

In (e)(2), line 36, what is meant by "affiliation"?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0215 was published as 09 NCAC 06C .0213 in 29:24 NCR 2766-2783, and is adopted as 09 NCAC 06C .0215 with changes, as follows:

09 NCAC 06C .0215 RECORDS

(a) ~~General.~~

~~(1) Complete PSAPs shall maintain records~~ to ensure operational capability of all system functions for at least five ~~(5)~~ years.

~~(b) Acceptance Test Records and As-Built Drawings.~~ After completion of acceptance tests, the ~~following shall be provided:~~ PSAP shall retain:

- ~~(1) A set of reproducible, as-built installation drawings;~~
- ~~(2) Operation and maintenance manuals;~~
- ~~(3) Written sequence of operation; and~~
- ~~(4) Results of all operational tests and values at the time of installation.~~

(c) ~~Electronic Records.~~

~~(1) PSAPS shall have For software-based systems, access to site-specific software for software-based systems. shall be provided to the PSAP.~~

~~(2) The PSAP shall be responsible for maintaining the records for the life of the system.~~

~~(3) Paper or electronic media shall be permitted.~~

(d) ~~Training Records.~~

~~(1) Training records shall be maintained for each employee as required by the PSAP.~~

(e) (d) Operational Records.

~~(1) Call and dispatch performance statistics shall be compiled and maintained.~~ maintained by the PSAP.

~~(2) Statistical analysis for call and dispatch performance measurement shall be done monthly and compiled over a one (1) year period.~~

~~(i) A management information system (MIS) program shall track incoming emergency-911 calls and dispatched emergency 911 calls and provide real-time information and strategic management reports.~~

~~(3) Records of the following, including the corresponding dates and times, shall be kept:~~

- ~~(i) Test, emergency 911 call, and dispatch signals;~~
- ~~(ii) Circuit interruptions and observations or reports of equipment failures; and~~
- ~~(iii) Abnormal or defective circuit conditions indicated by test or inspection.~~

(e) Maintenance Records.

~~(1) Records of maintenance, both routine and emergency, shall be kept for all emergency 911 call receiving equipment and emergency 911 call dispatching equipment.~~

~~(2) All maintenance records shall include the date, time, nature of maintenance, and repairer's name and affiliation.~~

- 1 History Note: Authority G.S. 62A-42;
- 2 Eff. July 1, 2016.

RRC STAFF OPINION

Please Note: This communication is either: 1) only the recommendation of an RRC staff attorney as to action that the attorney believes the Commission should take on the cited rule at its next meeting; or 2) an opinion of that attorney as to some matter concerning that rule. The agency and members of the public are invited to submit their own comments and recommendations (according to RRC rules) to the Commission.

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0216

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☐ Lack of statutory authority
 - ☒ Unclear or ambiguous
 - ☐ Unnecessary
 - ☒ Failure to comply with the APA
 - ☐ Extend the period of review

COMMENT:

Staff recommends objecting to this Rule for failure to comply with the APA, as it was not published in the NC Register and the public was not given an opportunity to comment on the Rule. Staff is not aware that the agency published any notice that it would conduct these reviews in the rules published in the NC Register.

In addition, staff believes as written, the Rule is ambiguous. The Board will conduct reviews of PSAP operations, but it does not state when the reviews will occur, if notice will be given prior to that review, what will happen if the PSAP fails to correct the deficiency, or the timeframe the PSAP will have to do so.

Amanda J. Reeder
Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0216

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), line 5, and (b), line 7, "Rules" should be capitalized.

When will this review take place? In response to a complaint, on a schedule, or whenever the Board determines to do it? Will there be notice?

So that I understand, this assessment will only occur for ensuring compliance with the rules in Section .0200?

What will the report include? Deficiencies and the remedy? If so, why not combine (b) and (c)?

In the History Note, please correct the citation to "62A-46(a)(4); 62A-46(a)(5)"

In the History Note, why are you citing to G.S. 62A-42(a)(5)? That part of the statute states:

§ 62A-42. Powers and duties of the 911 Board.

(a) Duties. - The 911 Board has the following powers and duties:

(5) To investigate the revenues and expenditures associated with the operation of a PSAP to ensure compliance with restrictions on the use of amounts distributed from the 911 Fund.

Is this to address the financial report required by Rule .0204?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0216 is adopted.

09 NCAC 06C .0216 ASSESSING PSAP OPERATIONS

(a) The Board shall conduct reviews of PSAP operations to determine whether a PSAP meets Section .0200 of these rules.

(b) A written report shall be provided to a PSAP within seven calendar days of the date of review. The report shall state any deficiencies that identify a failure to fulfill Section .0200 of these rules.

(c) The report shall include procedures to remediate deficiencies.

History Note: Authority G.S. 62A-42(A)(4), (5);

Eff. July 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0301

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), line 6, why are you spelling out "commercial mobile radio service" rather than stating "CMRS"? Also, consider stating, "CMRS service providers or resellers of any CMRS that receive authority..."

Just so I understand, who gives the authority referred to here? The Utilities Commission? Someone other than the 911 Board?

In (a), line 7, and (c), lines 18 and 19, you published "30" Therefore, you are not making any changes by saying "30" here.

On line 7, please state "shall Register with the Board within..."

On line 8, is it 30 days from whichever is later?

In (b)(1) and (3), please begin the phrases with "The"

In Paragraph (c), line 18, replace "above-listed information" with "information required by Paragraph (b) of this Rule"

On line 19, you published the sentence with "providing notice"

In the History Note, to what in G.S. 62A-42 are you citing? Subsection (a)(9)?

Why are you citing to G.S. 62A-45? Because the CMRS must register to be eligible for the fund distribution?

To what CFRs within 47 are you referring? Did you mean to cite to the FCC Order instead?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0301 is adopted as published in 29:24 NCR 2766-2783, with changes, as follows:

SECTION .0300 – COMMERCIAL MOBILE RADIO SERVICE (CMRS) PROVIDERS

09 NCAC 06C .0301 REGISTRATION OF CMRS SERVICE PROVIDERS

(a) CMRS Service Providers, service providers, or any reseller of any commercial mobile radio service, which receive authority to serve any area within the State of North Carolina, shall register within thirty (30) 30 calendar days of receiving authority to operate, or of beginning operations, in North Carolina.

(b) Such registration shall be filed with the Commission's Executive Secretary and shall include the following information:

(1) Legal name of CMRS Service Provider; service provider;

(2) All business names used by the CMRS Service Provider service provider in North Carolina;

(3) Name, title, mailing address, telephone number, fax number, and email address (if available) of the person to be contacted regarding 911 matters;

(4) A listing of all areas in which the CMRS Service Provider service provider is authorized to serve any portion of North Carolina; and

(5) The FCC filer ID and FCC Registration Number of the CMRS service provider.

(c) Changes to any of the above-listed information shall be filed with the Board's Executive Director within thirty (30) 30 calendar days of the effective date of such change(s). This filing requirement includes providing notice to the Board's Executive Director of any and all mergers, divestitures, acquisitions, or other similar actions affecting North Carolina service areas.

History note: Authority: G.S. 62A-42; 62A-45; Title 47 Code of Federal Regulations;

Eff. July 1, 2016.

RRC STAFF OPINION

Please Note: This communication is either: 1) only the recommendation of an RRC staff attorney as to action that the attorney believes the Commission should take on the cited rule at its next meeting; or 2) an opinion of that attorney as to some matter concerning that rule. The agency and members of the public are invited to submit their own comments and recommendations (according to RRC rules) to the Commission.

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0302 - .0304

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☒ Lack of statutory authority
 - ☐ Unclear or ambiguous
 - ☐ Unnecessary
 - ☐ Failure to comply with the APA
- ☐ Extend the period of review

COMMENT:

Staff recommends objecting to these Rule because the agency lacks statutory authority to require that CMRS providers submit Cost Recovery Plans in order to qualify for any reimbursement from the Board.

In Rules 09 NCAC 06C .0302, .0303, and .0304, the Board is requiring CMRS providers who desire to seek reimbursement to submit Cost Recovery Plans that include estimates of the service charges the CMRS will be submitting on the date of the first sworn invoice. The language in these Rules appear to create a pre-approval process for CMRS providers in order for them to then seek reimbursement under the statute. Staff is not aware of any authority the Board has to require this of providers who are seeking reimbursement.

G.S. 62A-45 governs reimbursement to CMRS providers. That statute states:

§ 62A-45. Fund distribution to CMRS providers.

- (a) Distribution. - CMRS providers are eligible for reimbursement from the 911 Fund for the actual costs incurred by the CMRS providers in complying with the requirements of enhanced 911 service. Costs of complying include costs incurred for designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining all necessary data, hardware, and software required to provide service as well as the

recurring and nonrecurring costs of providing the service. To obtain reimbursement, a CMRS provider must comply with all of the following:

- (1) Invoices must be sworn.
- (2) All costs and expenses must be commercially reasonable.
- (3) All invoices for reimbursement must be related to compliance with the requirements of enhanced 911 service.
- (4) Prior approval must be obtained from the 911 Board for all invoices for payment of costs that exceed the lesser of:
 - a. One hundred percent (100%) of the eligible costs allowed under this section.
 - b. One hundred twenty-five percent (125%) of the service charges remitted to the 911 Board by the CMRS provider.

G.S. 62A-45 states that in order to seek reimbursement as a CMRS provider: 1) the provider must submit a sworn invoice; 2) that the costs must be commercially reasonable; and 3) the invoices must be related to the requirements for enhanced 911 services. The proposed Cost Recovery Plan does not require an invoice, because it is prospective, rather than a reimbursement of costs incurred.

Staff further notes that the only provision within the statute for prior approval is when the CMRS provider meets the requirements of (a)(4). However, these Rules are not limited to those exceptions, and instead appear to apply to all reimbursement requests, regardless of the cost.

Rule 09 NCAC 06C .0303(e) also limits all pre-approvals contained in the Plan to one year. After that time, a CMRS provider is required to submit the plan for re-approval. Again, this is all prospective approval for expenses that the statute contemplates as reimbursements.

Rule 09 NCAC 06C .0304 further states that only costs that are in the Cost Recovery Plan will be recoverable. Staff does not believe the Board has authority to abrogate the language of G.S. 62A-45(a)(1) through (3) to state this. Further, in Paragraph (a), the Board is requiring the retention of records to demonstrate the costs were incurred as invoiced. The statute only requires an invoice; staff is not aware of any authority for the Board to require additional documentation for reimbursement.

Therefore, staff recommends objection to Rules 09 NCAC 06C .0302, .0303, and .0304 for creating a prospective Cost Recovery Plan that exceeds the requirements of G.S. 62A-45.

§ 62A-45. Fund distribution to CMRS providers.

(a) **Distribution.** - CMRS providers are eligible for reimbursement from the 911 Fund for the actual costs incurred by the CMRS providers in complying with the requirements of enhanced 911 service. Costs of complying include costs incurred for designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining all necessary data, hardware, and software required to provide service as well as the recurring and nonrecurring costs of providing the service. To obtain reimbursement, a CMRS provider must comply with all of the following:

- (1) Invoices must be sworn.
- (2) All costs and expenses must be commercially reasonable.
- (3) All invoices for reimbursement must be related to compliance with the requirements of enhanced 911 service.
- (4) Prior approval must be obtained from the 911 Board for all invoices for payment of costs that exceed the lesser of:
 - a. One hundred percent (100%) of the eligible costs allowed under this section.
 - b. One hundred twenty-five percent (125%) of the service charges remitted to the 911 Board by the CMRS provider.

(b) **Payment Carryforward.** - If the total amount of invoices submitted to the 911 Board and approved for payment in a month exceeds the amount available from the 911 Fund for reimbursements to CMRS providers, the amount payable to each CMRS provider is reduced proportionately so that the amount paid does not exceed the amount available for payment. The balance of the payment is deferred to the following month. A deferred payment accrues interest at a rate equal to the rate earned by the 911 Fund until it is paid.

(c) **Grant Reallocation.** - If the amount of reimbursements to CMRS providers approved by the 911 Board for a fiscal year is less than the amount of funds allocated for reimbursements to CMRS providers for that fiscal year, the 911 Board may reallocate part of the excess amount to the PSAP Grant and Statewide 911 Projects Account established under G.S. 62A-47. The 911 Board may reallocate funds under this subsection only once each calendar year and may do so only within the three-month period that follows the end of the fiscal year. If the 911 Board reallocates more than a total of three million dollars (\$3,000,000) to the PSAP Grant and Statewide 911 Projects Account in a calendar year, it must consider reducing the amount of the service charge in G.S. 62A-44 to reflect more accurately the underlying costs of providing 911 system services.

The 911 Board must make the following findings before it reallocates funds to the PSAP Grant and Statewide 911 Projects Account:

- (1) There is a critical need for additional funding for PSAPs in rural or high-cost areas to ensure that enhanced 911 service is deployed throughout the State.

- (2) The reallocation will not impair cost recovery by CMRS providers.
- (3) The reallocation will not result in the insolvency of the 911 Fund. (2007-383, s. 1(a); 2010-158, s. 6.)

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0302

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), line 5, what is the "detailed cost recovery plan"? Is it the "Cost Recovery Plan" in (b), line 15? If so, why isn't it called the same thing? Is this the same as the "implementation plan" in (a)(1), line 9? Is the "Plan" in (a)(2) the same thing? Please be consistent with phrasing and capitalization if you are referring to the same thing.

In (a), lines 6-7, do you need to retain "To provide the Board... decision,"?

In (a)(1), the changes on line 9 and 10 are not changes to the published language in the Register. Please use what you published in the Register, (including saying "Paragraph (b) of this Rule") and do not show it as changed.

On line 6, I believe you deleted the phrase "Confidential information shall not be publicly disclosed." because you were relying upon G.S. 62A-52. Do you need to retain the "excluding confidential information" language in (a)(2), line 12?

In (b)(1), I take it your regulated public is familiar with the terms "SS7 solutions, LEC solution, and third party service bureau?"

In (b)(3) and (4), please capitalize "State" on line 22 and 25.

In (c), Page 2, line 1, please revert to the published language and state "15"

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0302 is adopted as published in 29:24 NCR 2766-2783, with changes, as follows:

09 NCAC 06C .0302 CMRS SERVICE PROVIDER REIMBURSEMENT PLANS

(a) Any CMRS service provider desiring reimbursement of eligible expenses from the 911 Fund shall prepare and submit a detailed cost recovery plan to the Board. Plans shall be reviewed by Board staff and any committee established by the Board for such purpose. Confidential information shall not be publicly disclosed. To provide the Board adequate information to make an its decision, CMRS service providers seeking reimbursement shall:

- (1) Upon receipt of a request for wireless E911 Enhanced 911 service from a primary PSAP, the CMRS service provider will shall develop an implementation plan (the Plan, as described set forth in paragraph b) Paragraph (b) below for that PSAP, or the appropriate service area if the CMRS service provider serves more than one PSAP; and
- (2) The relevant portions of the Plan, excluding confidential information, will shall be presented to the requesting PSAP. Upon acceptance of the Plan by the PSAP, the CMRS service provider will shall present the Plan to the Board for approval.

(b) The Cost Recovery Plan shall:

- (1) Describe the chosen technology or technologies used for delivery of calls to the PSAP (SS7 solutions, LEC solution, third party service bureau, etc.);
- (2) Describe the architecture to implement the chosen technology(s) in areas or for PSAPs that have requested wireless or enhanced wireless 911 services, within the CMRS Service Provider's service provider's service areas, or statewide, as may be appropriate and relevant to the cost recovery plan. plan:
- (3) Indicate all counties and/or and municipalities of the state in which the CMRS Service Provider service provider provides wireless E911 Enhanced 911 service and where deployment is expected. expected:
- (4) Indicate areas of the state, if any, where deployment has already occurred;
- ~~(3)~~ (5) List the known cost elements for the deployment, including non-recurring and recurring charges;
- (6) Provide statewide costs, if possible;
- ~~(4)~~ (7) Describe personnel costs (estimated number of hours and rates) and actual or proposed third party service rates, if any; and
- ~~(5)~~ If cost recovery is proposed on a monthly "per subscriber" rate, indicate the amount and describe the manner in which the rate was calculated.
- ~~(5)~~ (8) Include an accounting of the estimated total of service charges that the CMRS Service Provider service provider expects to remit to the Board as of the anticipated date of the first sworn invoice. Include an estimate of the anticipated monthly service charge remittances for the subsequent 12 months and the anticipated sworn invoices for the same period.

(c) If any CMRS service provider believes that it can justify an exception to these CMRS Service Provider 911 Recovery Procedures or to any decision of the 911 Board pursuant to these procedures, this Rule, it may submit its

1 request and documentation supporting its request to the Board at least fifteen days prior to the Board's next scheduled
2 meeting. The Board ~~will~~ shall consider the exception request at its next scheduled meeting and shall convey its
3 decision in writing to the requesting CMRS service provider.

4 ~~Note: A list of one time and recurring costs include: Trunk costs comprising Trunking and Connection fee to 911~~
5 ~~Selective Router (per DSO): engineering and network costs comprising facilities; T-1s selective router ports; routing~~
6 ~~charges; operations; engineering; switch upgrades; research and development; network design; test plan development;~~
7 ~~and database costs comprising P-ANI administration; database management and reporting/software.~~

8
9 *History note: Authority G.S. 62A-45; 62A-52;*

10 *Eff. July 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0303

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Please capitalize the name of the Rule on line 3.

Please insert page numbers.

Throughout this Rule, should "cost recovery plan" be capitalized?

In (a), do you mean "shall" instead of "may"? If not, then won't the Board do this?

What is the name of this committee? In (a), it's "committee"; in (b)(1), it's "Cost Recovery committee"; and in (e), it's "Cost Recovery subcommittee." Assuming this is the same thing, please call it the same term. (Please also note (b)(3), lines 14 and 17.)

In (b), line 5, should "Chairperson" be capitalized?

In (b)(1), will the Board be creating and revising the list in rule? If not, then what is your authority to do this outside of rulemaking?

In (b)(3), line 15, I recommend stating "If the recommendation is to reject the plan, ..."

In (c), given the deletions to Rule .0302, do you need to retain the language on lines 20-21 regarding confidential information?

In (c), line 23, you published "five" and please revert to that. In addition, please change "working" to "business"

In (c), line 24, will the documented reasons be in writing? Should the language here parallel the language in (b)(3)?

In (e), Page 2, line 5, since the Board "may" require this, when will it do so? In response to a complaint?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

On line 7, when will the Board or committee require this? What will be factors in this decision?

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

09 NCAC 6C .0303 is adopted as published in 29:24 NCR 2766-2783, with changes, as follows:

09 NCAC 06C .0303 Cost Recovery Plan Review

(a) The Board may establish a committee to review CMRS Service Providers' service providers' cost recovery plans.

(b) Any committee will shall include the Board's Executive Director, chairperson (or his or her designee), the Board's auditor or financial advisor, and one or more Board members who are familiar with the technical aspects of Enhanced 911 Systems. Board members representing CMRS Service Providers service providers cannot be members of this committee.

(1) The initial plan presented to the Cost Recovery committee is intended to allow for the recovery of a CMRS service provider's cost on a one-time basis and/or or recurring (monthly) basis. The Board may create and periodically revise a list of permitted expenditures consistent with G.S. 62A-45.

(2) The committee will shall review the proposed cost recovery plan to determine whether the cost and expense items are commercially reasonable.

(3) The committee will shall refer the proposed cost recovery plan to the Board with a recommendation that it either be approved or rejected. If the recommendation is for rejection, the committee will shall provide the reason, in writing, to both the Board and the CMRS Service Provider service provider. The subcommittee shall indicate whether the Plan complies with the limitations of G.S. 62A-45(a).

(c) After review by the committee, the CMRS service provider will shall present the plan to the Board at its next regular meeting. Information deemed confidential or proprietary by a CMRS service provider as described in G.S. 62A-52 shall not be presented in a public meeting. The Board will shall not approve reimbursement of any amount in excess of the actual cost of the CMRS service provider in providing Enhanced 911. The Board will shall vote on the plan and provide the CMRS service provider, in writing and within 5 working days, either approval or denial. If rejected, the Board will shall provide documented reasons. The CMRS service provider may revise and resubmit its plan at subsequent meetings.

(d) Once a cost recovery plan is approved, the CMRS service provider may file claims for reimbursement. One-time costs, if any, will shall be reimbursed upon submission of sworn invoices. Reimbursements shall be made in accordance with the approved plan. The amount of reimbursement that the CMRS Service Provider is entitled to receive on a recurring costs basis may be calculated as follows, or by other method approved by the Board upon request of a CMRS Service Provider:

(1) by multiplying the number of CMRS subscribers receiving wireless Enhanced 911 service as reported by the CMRS Service Provider prior to its request for reimbursement, by the amount authorized per subscriber for cost recovery by the Board. CMRS Service Providers will be required to report their subscriber counts no less than once per quarter. The dollar amount paid to the CMRS Service Provider will vary based on total number of subscribers reported by the CMRS Service Provider or

1 ~~(2) by submission of the actual or estimated recurring costs incurred by the CMRS Service Provider~~
2 ~~and approved by the board. If the estimated costs are submitted, these costs must be corrected by~~
3 ~~comparison with actual costs not less than annually; or,~~

4 ~~(3) by a combination of the methods above.~~

5 (e) The Board may require periodic review and approval of a CMRS service provider's plan, but no more often than
6 once per calendar year. After the initial one-year approval period has expired, presentation of a plan for re-approval
7 may be in writing or in person if the Cost Recovery Subcommittee or Board requires.

8 (f) Once a plan is approved, changes to the plan ~~must~~ shall be submitted in writing and approved by the Board. A
9 CMRS service provider may request an adjustment of the reimbursement rate at any time upon written notice to the
10 Board. ~~Proper justification will be required.~~

11
12 History Note: Authority G.S. 62A-45;

13 Eff. July 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0304

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In this Rule, please be sure to show all changes made after publication, including making capitalized terms lower case.

In (a), line 6, what is the "approved rate per subscriber... count"? I note you are not adopting the language in Rule .0303(d)(1), so what is this? How does your regulated public know?

On line 8, I take it your regulated public knows what "true up" means?

On line 8, how long must the records be retained? And what is the authority to require this, when the statute only requires submission of invoices?

On line 10, define "reasonable"

In (b), line 12, what is an "Enhanced 911 solution"?

On line 13, here you refer to the "Board Chair" and in Rule .0303(b), it was "chairperson." Which is correct? Please be consistent with the term.

On line 15, please capitalize "Board"

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0304 is adopted as published in 29:24 NCR 2766-2783, with changes, as follows:

09 NCAC 6C .0304 CMRS SERVICE PROVIDER REIMBURSEMENT

- (a) Sworn invoices ~~must~~ shall be attested to by ~~an authorized agent of~~ a person having authority to represent the CMRS service provider. Only costs which comport with an approved Plan are eligible for cost recovery. Costs may be the actual incurred costs of the CMRS service provider, an estimate of the incurred costs, or the approved rate per subscriber multiplied by the actual subscriber count. If estimated costs are used, CMRS service provider ~~must~~ shall annually true up its costs to ensure that over-recovery does not occur. CMRS service providers shall maintain records to demonstrate that costs were actually incurred as invoiced. Internal costs (engineering time, facilities, proportionate share of software, etc.) shall be supported by reasonable documentation. All costs are subject to audit by the Board.
- (b) A CMRS service provider may be reimbursed for actual one-time costs incurred for their selected ~~E914~~ Enhanced 911 solution prior to the Board's approval of a CMRS service provider's Cost Recovery Plan upon authorization of the Board's Chair and Executive Director. As a condition of such reimbursement, the CMRS service provider shall sign an agreement stating that if a mistake in reimbursement is made, the CMRS service provider ~~will~~ shall refund any amounts determined by the board to be mistakenly distributed.
- (c) CMRS service providers shall not be reimbursed in excess of actual and approved costs.

History note: Authority G.S. 62A-45;

Eff. July 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0305

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On line 4, please state "09 NCAC 06C ~~.0306~~ .0305 Remittance of Service Charges"

In (b), are the transaction processing requirements set by someone other than the Board (i.e. a financial institution)? And your regulated public will know it?

So that I am clear, you intend to exclude prepaid wireless providers from this Rule, correct? Those providers are addressed by Rule .0306 of the Section?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0305 was published as 09 NCAC 06C .0306 in 29:24 NCR 2766-2783, and is adopted as 09 NCAC 06C .0305 with changes, as follows:

09 NCAC 06C .0305 ~~CMRS SERVICE PROVIDER REPORTING~~ REMITTANCE OF SERVICE CHARGES

(a) Service providers shall remit service charges to the 911 Board at the address listed in Rule .0102 of this Subchapter.

911 Board

Information Technology Services

P.O. Box 17209

Raleigh, NC 27619-7209

(b) Service providers may remit funds by check payable to the Board, or by electronic funds transfer upon satisfaction of transaction processing requirements.

(c) Voice communications service providers that assess the service charge to resellers of their services shall remit such service charges to the Board.

(d) The Office of Information Technology Services (ITS) Fiscal Services ~~will~~ shall act as the receiving agent for the ~~Service Providers'~~ service providers' monthly reimbursements and as the administrator of the 911 Fund.

~~(e) Funds shall be deposited in accordance with the State Cash Management Plan.~~

*History note: Authority G.S. 62A-43; 147-86.11;
 Eff. July 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0306

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On line 4, please state "09 NCAC 06C ~~.0307~~ .0306 Prepaid Wireless Service"

Do you need (a)? Isn't the law clear that the Department of Revenue will remit the funds to the 911 Fund?

In (b), you are excluding the sellers from reimbursement for CMRS providers. Is this because the provider is not a CMRS? And because it shouldn't be incurring reimbursable costs under G.S. 62A-45?

In (c), line 17, state "Rules .0109 through .0114 of this Chapter" and please note, if the Commission objects to Rules .0111 through .0114, this will be impacted.

Also, I assume the language in Paragraph (c) is because the 911 Board would not be the proper authority, and DOR will be?

In (d), when you refer to "non-public information" are you contemplating G.S. 62A-51?

In the History Note, why are you citing to G.S. 62A-44 here? Why not in other Rules?

Please cite to G.S. 62A-52 in the History Note.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0306 was published as 09 NCAC 06C .0307 in 29:24 NCR 2766-2783, and is adopted as 09 NCAC 06C .0306 with changes, as follows:

09 NCAC 06C 0306 REMITTANCE OF SERVICE CHARGES PREPAID WIRELESS SERVICE

(a) ~~A Reseller of wireless services voice communications service provider of prepaid wireless service is not responsible for collecting and remitting the service charge if such Reseller's voice communication service supplier remits the appropriate service charges for the wireless services resold by such Reseller to the Board for deposit in the 911 Fund.~~

~~(b) A Reseller of wireless services shall give notice to the Board if the service charges will be remitted to the Board by such Reseller's voice communication service supplier(s). Notice shall include the identity of the voice communication service supplier(s), the contract(s) or other document(s) together with information as may be necessary or proper to calculate the appropriate service charge, and such other information as may be required by the Board.~~

~~(b) A voice communications service provider of prepaid wireless service is not eligible for reimbursements to CMRS providers.~~

~~(c) A Reseller of wireless services that does not remit service charges is not eligible for reimbursement under G.S. 62A-45.~~

~~(c) Rules .0109 and .0110 through .0114 governing hearings and declaratory rulings shall not apply to a voice communications service provider of prepaid wireless service for issues arising under the administration authority of the Department of Revenue.~~

~~(d) Contract or other information submitted to the Board by a voice communications service provider of prepaid wireless service may be proprietary under G.S. 62A-52. Service providers shall mark any proprietary or other non-public information as such before sending to the Board. Any confidential information shall be marked accordingly prior to delivery to the Board.~~

History Note: Authority G.S. 62A-43; 62A-44; 62A-54;
Eff. July 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0401

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

My reading of G.S. 62A-47 says that the Board is required to give grants to rural and high cost PSAPs and funding projects for statewide benefits. However, the Rule makes it sound as if the Board will advertise the use of grants for specific purposes. How is this comporting with the statute?

In (a), the Board doesn't establish "Grant Accounts" – G.S. 62A-47(a) established this. Do you mean when there are funds available, it will be advertised? Are you referring to the notices of availability required by G.S. 62A-47(c)? If so, please state that.

On line 6, please give a cross-reference to Rule .0101 or .0102, both of which contain your website address.

In (a) and (b), you are allowing PSAPs or governing entities to apply, but G.S. 62A-47(b) states that PSAPs may apply. How will this work with governing entities applying instead of the PSAP?

In (c), what are the contents of the application? Are they set forth in another Rule or law?

So that I am clear – the applicant can get the application from the Board's website or from the physical office?

In (c), line 10, replace "which" with "that"

In (d), when will the Board exercise this discretion? When the funds are available and the application satisfies the statute? Are these the only times?

On line 17, why is "Grant" capitalized?

I assume the purpose of Paragraph (e) is to ensure compliance with G.S. 62A-47(b)(1) and (2)?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

In (e), line 20, please capitalize "State"

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0401 is adopted as published in 29:24 NCR 2766-2783, with changes, as follows:

SECTION .0400 – GRANT FUND

09 NCAC 06C .0401 PSAP GRANTS

(a) After establishing a Grant Account, the Board shall publish a notice on its website of grant availability to primary PSAPs and governing entities operating primary PSAPs.

(b) Any primary PSAP or the governing entity operating a primary PSAP may apply for a grant.

(c) Each applicant applying for grant funds shall complete and submit an application, in the form prescribed by the Board, which is incorporated herein by reference and application which may be obtained from the Board office at the following address listed in 06C .0102.

e/o NC Office of Information Technology Services

P.O. Box 17209

Raleigh, NC 27609

(d) The Board shall accept grant applications as stated in the Board's published notice of grant availability. Grant applications submitted that do not conform to the Board's published requirements may be considered at the discretion of the Board, provided that Grant funds are not exhausted by conforming grant applications and non-conforming grant applications satisfy G.S. 62A-47.

(e) Applications for grants for each item over \$25,000 shall be accompanied by at least three written competitive quotes. The Board shall compare the three quotes to any existing state contract in order to determine appropriate funding.

History note: Authority G.S. 62A-47;

Eff. July 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0402

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

What is the purpose of (a)? If you need to retain it, I believe that it can be simplified and combined. (a)(2) substantially repeats (a)(1).

On line 7, should "be" be "meets"?

In (a)(2), line 8, do you mean "Section" or do you mean "Rule"? I think you mean Rule.

In (a)(2), if you wish to keep the title "Grants for Construction" does it need to be updated to reflect renovations?

In (b)(2), I take it this is to ensure that if the PSAP shares a building, it uses the funds only for the PSAP?

In (b)(5), line 21, who determines if the equipment is essential? The PSAP?

In (c)(3), what are "notification appliances"?

In (d)(2), isn't this requirement addressed by Rule 06C .0209(a)(10)?

In (d)(3), please ensure you are making changes to the language as it was published in the NC Register.

Also in (d)(3), Page 2, line 1, please define "continuous"

In (d)(5), I assume you need to retain "minimum" here?

In (d)(5)(B), please incorporate this standard by reference as set forth in G.S. 150B-21.6. I found the standard at this website: <http://ulstandards.ul.com/standard/?id=752>, and you may wish to use it in the Rule.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

Please combine (d)(6) and (7). You could state (d)(6) and then “Alternatively, unauthorized vehicles...”

In (e)(2), will this not be addressed by the requirement for a backup power source in Rule 06C .0210(b)?

In (e)(3), who will determine if this is sufficient? The PSAP?

In (h), Page 3, line 12, I take it your regulated public knows how to protect the cables and wires?

In (i)(1) and (3), lines 15 and 18, please insert “Wiring at” at the beginning of the sentence.

In (i)(4)(B), accessible to whom?

In (j)(1), line 26, accessible to whom?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0402 is adopted as published in 29:24 NCR 2766-2783, with changes, as follows:

09 NCAC 06C .0402 GRANTS FOR CONSTRUCTION OR RENOVATION

(a) General.

(1) As a condition for receipt of a grant from the North Carolina 911 Board for any type of new construction or for a renovation of an existing structure and/or or facility incorporated into the construction agreement(s) shall be the following requirements.

(2) The requirements in this Section, PSAP Grants for Construction, shall apply only to new construction and construction renovations funded by the North Carolina 911 Board. Existing PSAP facilities are encouraged to meet these rules, but are not required to meet these rules.

(b) HVAC.

(1) HVAC systems shall be designed to maintain temperature and relative humidity within limits specified by the manufacturer of the equipment critical to the operation of the PSAP.

(2) HVAC systems shall be independent systems that serve only the PSAP.

(3) HVAC system intakes for fresh air shall be arranged to minimize smoke intake from a fire inside or outside the building and to resist intentional introduction of irritating, noxious, toxic, or poisonous substances into the HVAC system.

(4) HVAC emergency controls shall be provided in the operations room to permit closing of outside air intakes.

(5) Backup-Back-up HVAC systems shall be provided for the operations room and other spaces housing electronic equipment essential to the operation of the PSAP.

(6) HVAC systems shall be designed so that the PSAP is capable of uninterrupted operation with the largest single HVAC unit or component out of service.

(c) Fire Protection.

(1) The PSAP and spaces adjoining the PSAP shall be provided with an automatic fire detection, alarm, and notification system.

(2) The alarm system shall be monitored in the operations room.

(3) Operation of notification appliances shall not interfere with communications operations.

(4) Electronic computer and data processing equipment shall be protected in accordance with the manufacturer's recommended specifications, and common business practices.

(d) Security.

(1) The PSAP and other buildings that house essential operating equipment shall be protected against damage from vandalism, terrorism, and civil disturbances.

(2) Entry to the PSAP shall be restricted to authorized persons.

(3) Exterior Entryways entryways to the PSAP that lead directly from the exterior shall be protected by have a security vestibule. vestibule "Security Vestibule" means comprising a compartment provided

1 with two or more doors to prevent continuous and unobstructed passage by allowing the release of
2 only one door at a time.

3 (4) Door openings shall be protected by listed, self-closing fire doors that have a fire resistance rating
4 of not less than 1 hour.

5 (5) Where a PSAP has windows, the following requirements shall apply:

6 (A) Windows shall be a minimum of 4 ft (1.2 m) above floor level.

7 (B) Windows shall be rated for bullet resistance to Level 4 as defined in UL 752, Standard for
8 Safety Bullet-Resistant Equipment.

9 (C) Windows that are not bullet resistant shall be permitted provided that they face an area that
10 cannot be accessed or viewed by the general public.

11 (D) Windows that are required to be bullet resistant shall be configured so that they cannot be
12 opened.

13 (E) Walls with bullet-resistant windows shall be required to provide the same level of
14 protection as the window.

15 (6) Means shall be provided to prevent unauthorized vehicles from approaching the building housing
16 the PSAP to a distance of no less than 82 ft (25 m).

17 (7) As an alternative to prevent unauthorized vehicles, unauthorized vehicles shall be permitted to
18 approach closer than 82 ft (25 m) if the building has been designed to be blast resistant.

19 (e) Lighting.

20 (1) Artificial lighting shall be provided to enable personnel to perform their assigned duties.

21 (2) Emergency Lighting. The PSAP shall be equipped with emergency lighting that shall illuminate
22 automatically immediately upon failure of normal lighting power.

23 (3) Illumination levels shall be sufficient to allow all essential operations.

24 (f) Circuit Construction and Arrangement.

25 (1) As-built drawings shall be provided.

26 (2) Circuits shall not pass over, pass under, pass through, or be attached to buildings or property that
27 are not owned by, or under the control of, the PSAP or the entity that is responsible for maintaining
28 the system.

29 (3) Emergency 911 call instruments installed in buildings not under control of the PSAP shall be on
30 separate dedicated circuits.

31 (4) The combination of public emergency services communication and signaling (C&S) circuits in the
32 same cable with other circuits shall comply with the following:

33 (A) Other municipally controlled C&S circuits shall be permitted; or

34 (B) Circuits of private signaling organizations shall be permitted only by permission of the
35 PSAP.

36 (g) Underground Cables.

- (1) Underground communication and signal cables shall be brought above ground only at points where the PSAP has determined there is no potential for mechanical damage or damage from fires in adjacent buildings.
- (2) All cables that are installed in manholes, vaults, and other enclosures intended for personnel entry shall be racked and marked for identification.
- (3) Cable splices, taps, and terminal connections shall be located only where accessible for maintenance and inspection and where no potential for damage to the cable due to falling structures or building operations exists.
- (4) Cable splices, taps, and terminal connections shall be made to provide and maintain levels of conductivity, insulation, and protection that are at least equivalent to those afforded by the cables that are joined.
- (h) Aerial Cables and Wires. Protection shall be provided where cables and wires pass through trees, under bridges, and over railroads, and at other locations where damage or deterioration is possible.
- (i) Wiring Inside Buildings.
- (1) ~~Wiring at~~ At the PSAP shall extend to the operations room in conduits, ducts, shafts, raceways, or overhead racks and troughs of a construction type that protects against fire and mechanical damage.
- (2) Cables or wiring exposed to fire hazards shall be protected from the ~~hazard, hazards.~~
- (3) ~~Wiring at~~ At the PSAP, cable terminals and cross connecting facilities shall be located either in or adjacent to the operations room.
- (4) All wired dispatch circuit devices and instruments whose failure can adversely affect the operation of the system shall be mounted in accordance with the following:
- (A) On noncombustible bases, pedestals, switchboards, panels, or cabinets; and
- (B) With mounting designed and constructed so that all components are readily accessible.
- (j) Circuit Protection.
- ~~(1) All surge arresters shall be connected to earth ground.~~
- ~~(2)~~ (1) All protective devices shall be accessible for maintenance and inspection.
- ~~(3)~~ (2) Wired surge arresters shall be designed and listed for the specific application.
- ~~(4)~~ (3) Each conductor that enters a PSAP from a partial or entirely aerial line shall be protected by a surge arrester.
- (k) Grounding.
- (1) Sensitive electronic equipment determined by the PSAP to be essential to the operation of telecommunications and dispatching systems shall be grounded.
- (2) Listed isolated ground receptacles shall be provided for all cord-and-plug-connected essential and sensitive electronic equipment.
- (3) Unused wire or cable pairs shall be grounded.
- (4) Ground connection for surge suppressors shall be made to the isolated grounding system.
- (5) All surge arresters shall be connected to earth ground.

1 (l) Access. All equipment shall be accessible to authorized personnel for the purpose of maintenance.

2

3 History Note: Authority G.S. 62A-42; 62A-47;

4 Eff. July 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0403

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (b), what will be the determination because of the grant application? That the project cannot be completed in one year?

In (c), I take it you are including a reference to the specific laws within the The Local Government Budget and Fiscal Control Act due to the definition of "public authority" within G.S. 159-7 and the requirements of G.S. 62A-46?

§ 62A-46. Fund distribution to PSAPs.

(e) Compliance. - A PSAP, or the governing entity of a PSAP, must comply with all of the following in order to receive a distribution under this section:

(3) A PSAP must be included in its governing entity's annual audit required under the Local Government Budget and Fiscal Control Act. The Local Government Commission must provide a copy of each audit of a local government entity with a participating PSAP to the 911 Board.

In the History Note, should the reference to G.S. 143-6-22 and 23 be deleted?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0403 is adopted as published in 29:24 NCR 2766-2783, with changes, as follows:

09 NCAC 06C .0403 GRANT AGREEMENTS

(a) Grant agreements shall comply with requirements of N.C.G.S. 143C and administrative rules N.C.G.S. 62A-47.

(b) Unless otherwise determined by the Board, Board based upon the grant application, grant agreements will have shall be for a term not to exceed one year, and will begin on July 1 of the year awarded. year.

(c) Grant agreements shall include terms ensuring compliance with N.C.G.S. 159-26, 159-28, and 159-34.

History note: Authority G.S. 62A-42; 62A-47; 143C-6-22,-23;

Eff. July 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0404

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On line 4, please state "09 NCAC 06C ~~.0405~~ .0404 Grant Fund"

You do not need to show the language on lines 5-7. The agency decided to not adopt the Rule published as Rule .0404, so it doesn't need to be part of it.

In (a), line 8, who will deposit the funds? The grantee or the Board?

On line 8, please do not underline and strike the same language.

On line 11, should "a" after "unless" be "the"?

In (b), line 15, what is meant by "pro-rata" basis? The amount due back because of depreciation? Or is this the repayment term?

In the History Note, please correct the year of the effective date.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0404 was published as 09 NCAC 06C .0405 in 29:24 NCR 2766-2783, and is adopted as 09 NCAC 06C .0404 with changes, as follows:

09 NCAC 06C .0404 GRANT APPLICATION APPROVAL-GRANT FUNDS

~~(a) The Board will approve grants for leased equipment only if the applicant can demonstrate that a lease agreement would be financially beneficial to the grant program.~~

~~(b) Priorities for awarding of grants will be determined by the Board.~~

~~(a) Grant funds shall be deposited in a bank account maintained by the applicant, grantee and each grant shall be assigned the grantee shall assign each grant a unique accounting code designation for deposits, disbursements, and expenditures. All Grant grant funds in the account shall be accounted for separately from other grantee funds. Grant funds may be used only between the beginning and ending dates of the grant, unless a an extension is requested and authorized by the Board. grantee requests an extension and it is granted by the Board.~~

~~(b) Grant funds are not transferable to any other entity. If equipment purchased using grant funds is sold or transferred within three (3) years of the end of the grant period, the grantee must shall return the grant funds to the Board on a pro-rata basis.~~

History note: Authority G.S. 62A-47;

Eff. July 1, 2106.

REQUEST FOR TECHNICAL CHANGE

AGENCY: 911 Board

RULE CITATION: 09 NCAC 06C .0405

DEADLINE FOR RECEIPT: Friday, December 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On line 4, please state "09 NCAC 06C ~~.0406~~ .0405"

In (b), why is "Grant Agreement" capitalized? It is not in Rule .0403.

In (b), why not just state "... reports are due 15 days after September 30, December 31..."?

In the History Note, should the reference to G.S. 143-6-22 and 23 be deleted?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 30, 2015

09 NCAC 06C .0405 was published as 09 NCAC 06C .0406 in 29:24 NCR 2766-2783, and is adopted as 09 NCAC 06C .0405 **with changes**, as follows:

09 NCAC 06C .0405 GRANT FUNDS GRANTEE REPORTS

(a) Grantees **must shall** submit reports to the Board summarizing expenditures of the grant funds and the activities supported by the grant funds.

(b) Unless otherwise stated in a Grant Agreement, the reports are due 15 days after the end of the reporting periods, which end September 30, December 31, March 31, and June 30.

(c) A final report **must shall** be submitted to the Board no more than 45 days after completion of the grant, detailing the activities, expenditures of the funds, and the ways in which the needs identified in the grant application were met. The final report **must shall** be accompanied by supporting documentation for all expenditures of the grant funds.

History Note: Authority G.S. 62A-47; 143C-6-22; 143C-6-23

Eff. July 1, 2016.