

1 07 NCAC 04R .0101 is repealed as published in 31:07 NCR 529 as follows:

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3 **07 NCAC 04R .0101 STATEMENT OF PURPOSE**

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5 *History Note: Authority G.S. 150B-10;*

6 *Eff. February 1, 1985;*

7 *Amended June 1, 1989;*

8 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015;*

9 *Repealed Eff. June 1, 2017.*

1 07 NCAC 04R .0201 is amended **with changes** as published in 31:07 NCR 530 as follows:

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3 **07 NCAC 04R .0201 PURPOSE**

4 ~~(a) The State Historic Preservation Officer (SHPO) assists applicants [Applicants] Persons seeking for state State or~~
5 ~~federal funding, licenses, or permits permits, or approval in developing projects undertakings that are environmentally~~
6 ~~sound_ with respect to historic, archaeological, and architectural resources shall [seek assistance from] file an~~
7 ~~application with the HPO and OSA, as staff to the State Historic Preservation Officer (SHPO) and the North Carolina~~
8 ~~Historical Commission, pursuant to this Section. by providing comments early in the project planning to help~~
9 ~~applicants avoid project delays, and by informing them of the federal and state laws requiring their compliance.~~

10 ~~(b) The Director, Division of Archives and History, as SHPO establishes environmental review procedures pertinent~~
11 ~~to historical, archaeological (prehistoric, historic, and underwater), and architectural resources in North Carolina.~~
12 ~~When federally involved projects are reviewed, the Archaeology and Historic Preservation Section acts as the staff of~~
13 ~~the SHPO; when state involved projects are reviewed, the section acts as the staff of the North Carolina Historical~~
14 ~~Commission.~~

15 ~~(c) Projects are received through the State Clearinghouse from various federal, state, municipal and county agencies~~
16 ~~and planning boards, and directly from applicants.~~

17 ~~(d) All projects received by the SHPO are reviewed for their possible effect on historically, architecturally, or~~
18 ~~archaeologically significant structures, sites, districts, or objects. All projects affecting the submerged lands of the~~
19 ~~State of North Carolina are reviewed to determine the effect on submerged cultural resources.~~

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21 *History Note: Authority G.S. ~~113-229(e); 113A-4(2); 113A-107(d); 121-4(13); 121-8; 121-9; 121-12(a); 121-23;~~*
22 *~~136-42.1; 143B-62(1)f,(3); 143B-62; Executive Order XVI (1976); 16 U.S.C. 470; 16 U.S.C. 1451;~~*
23 *~~42 U.S.C. 4321; 54 U.S.C. 302301; 302303; 15 C.F.R. 923; 36 C.F.R. 69; 36 C.F.R. 800;~~*
24 *~~Eff. February 1, 1985;~~*
25 *~~Amended Eff. June 1, 2017; June 1, 1989;~~*
26 *~~Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26,~~*
27 *~~2015.~~*
28

07 NCAC 04R .0202 is amended **with changes** as published in 31:07 NCR 530 as follows:

07 NCAC 04R .0202 INFORMATION NEEDED FOR REVIEW DEFINITIONS

Project proposals received for review by the Archaeology and Historic Preservation Section shall include:

- (1) a description of the exact project location, location;
- (2) a map clearly indicating this location;
- (3) the project area size in acreage;
- (4) a description of the action proposed, and
- (5) the applicant's name, address and telephone number.

Applicants may also receive a questionnaire requesting information on structures presently located in the project area and previous land use practices.

The following definitions apply to this Sub-Chapter unless otherwise **indicated:** indicated within the Rules:

- (1) “Adverse Effect” is defined as in 36 C.F.R. 800.5(a)(1).
- (2) “Area of Potential Effects” is defined as in 36 C.F.R. 800.16(d).
- (3) “Effect” is defined as in 36 C.F.R. 800.16(i).
- (4) “Historic property” is defined as in 36 C.F.R. 800.16(l).
- (5) “Office of State Archaeology” (OSA) is a section of the Division of Historical Resources, North Carolina Department of Natural and Cultural Resources. The OSA **protects** is responsible for **protecting** archaeological sites in North Carolina. **The OSA includes an Underwater Archaeology Branch.**
- (6) “State Historic Preservation Office” (HPO) is a section of the Division of Historical Resources, North Carolina Department of Natural and Cultural Resources. The HPO is responsible for administering **applicable** historic preservation programs pursuant to State and federal law.
- (7) “State Historic Preservation Officer” (SHPO) is the Deputy Secretary, Office of Archives and History, North Carolina Department of Natural and Cultural Resources, and is further defined in 36 C.F.R. 800.16(v).
- (8) “Undertaking” means any project, activity, or program that can result in changes in the character or use of historic properties located in the area of potential effects. The project, activity, or program must be under the direct or indirect jurisdiction of a Federal or State agency, including those carried out by or on behalf of a Federal or State agency; those carried out with Federal or State financial assistance; and those requiring a Federal or State permit, license, or approval. Undertakings include new and continuing projects, activities, or programs and any of their elements, including changes to the project’s scope and location.
- (9) **“Underwater Archaeology Branch” (OAB) is a unit of the OSA. The OAB is responsible for identifying, studying, interpreting, and protecting archaeological resources that represent the maritime history of North Carolina.**

1 *History Note:* *Authority G.S. ~~113-229(e); 113A-42;~~ 113A-107(d); ~~121-4(13);~~ 121-8; 121-12(a); 121-23; 136-*
2 *42.1; 143B-62(1)f.(3); 143B-62; Executive Order XVI (1976); 16 U.S.C. 470; 16 U.S.C. 1451 et.*
3 *seq.; 42 U.S.C. 4321; 54 U.S.C. 302301, 302303, 306108; 45 C.F.R. 923; 36 C.F.R. 69; 36 C.F.R.*
4 *800; 36 C.F.R. 800.3-800.6, 800.16;*
5 *Eff. February 1, 1985;*
6 *Amended Eff. June 1, 2017; June 1, 1989;*
7 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26,*
8 *2015.*

07 NCAC 04R .0203 is readopted **with changes** as published in 31:07 NCR 530–531 as follows:

07 NCAC 04R .0203 ARCHAEOLOGICAL REVIEW SUBMISSIONS FOR REVIEW

~~(a) Projects are reviewed for archaeological concerns whenever ground disturbing activity is involved. Examples of ground disturbance include, but are not limited to, construction of dikes, clearing and grubbing of forests, subsurface alterations around standing structures, borrow pits, trenching for water and sewer lines, utility line construction or improvements requiring excavation; construction, widening or improvements of highways; and airport expansions, bridge replacements, housing developments, boat basins and channels, and placement of fill or spoil dirt.~~

~~(b) Evaluation of potential effects on archaeological resources is made by staff archaeologists, taking into consideration known site locations, historical maps and documents, results of previous surveys in the area or similar areas, past and present land uses, the area's topography and hydrology, predictive models of archaeological site locations, and type and extent of proposed land modification activities.~~

~~(c) After staff evaluation, recommendations are made by the SHPO within the state or federally mandated deadline for review comments:~~

~~(1) Clearance. If it is determined that the project area is unlikely to contain significant archaeological remains, the written response is no comment.~~

~~(2) Archaeological Survey Recommended. If it is determined that the project area is likely to contain significant archaeological sites and there is no record of systematic archaeological surveys in the project area, an archaeological survey is recommended prior to any ground disturbing activity to determine the presence and significance of archaeological sites that may be damaged or destroyed by the proposed action.~~

~~(3) Testing Recommended. If a known site is within the project boundaries, archaeological testing is recommended to determine its significance.~~

~~(4) Survey and Testing Recommended. If a project area contains known sites but has not been completely surveyed, testing of the sites and a survey of the remaining project area are recommended.~~

~~(5) Avoidance. If archaeological sites listed in or determined eligible for inclusion in the National Register of Historic Places are located in the project area, avoidance by adjustment of the project plans is recommended. New project locations are subject to the review process.~~

~~(d) All archaeological reports submitted to the SHPO in compliance with federal and state historic preservation legislation are reviewed by the Archaeology Branch using standards established by the Department of Cultural Resources outlined in "Guidelines for the Preparation of Reports of Archaeological Surveys and Evaluations". The guidelines:~~

~~(1) ensure compliance with pertinent legislation;~~

~~(2) ensure fulfillment of contract sponsor needs with regard to archaeology; and~~

~~(3) permit the effective and speedy review of compliance surveys and evaluation reports. Reports submitted for review which do not satisfy the requirements defined in the guidelines are considered incomplete and returned for revision and resubmission. Copies of the guidelines are available from the Archaeology and Historic Preservation Section.~~

1 ~~(e) When an archaeological survey report indicates that a site within a project's area of environmental impact is eligible~~
2 ~~for inclusion in the National Register of Historic Places, the procedures outlined at 36 CFR 800.5-6 (regulations of the~~
3 ~~Advisory Council on Historic Preservation) are followed.~~

4 ~~(a) [Proposed undertakings submitted for review to the HPO shall include:]~~ All persons proposing an undertaking as
5 defined in Rule .0202(8) of this Section shall submit a written request in writing to the HPO containing the following
6 information:

- 7 (1) a description of the project location;
- 8 (2) a description of the actions(s) proposed;
- 9 (3) the applicant's name, address, telephone number, and email address, if available;
- 10 (4) a map indicating the project's location, including named or numbered roads;
- 11 (5) the project area size in acres; and
- 12 (6) photographs of any buildings 50 years ~~old~~ or older within the area of potential effects.

13 ~~(b) Proposed undertakings [submitted for review shall]~~ be submitted in one of the following methods:

- 14 (1) by mail addressed to the HPO, Attention Environmental Review Coordinator, 4617 Mail Service Center,
15 Raleigh, NC 27601;
- 16 (2) by internal State mail to the HPO, Attention Environmental Review Coordinator, 4617 Mail Service
17 Center; or
- 18 (3) by email to environmental.review@ncdcr.gov.

19 ~~(c) [All undertakings submitted for review shall be reviewed by the HPO and OSA as staff of the SHPO for their effect~~
20 ~~on submerged cultural resources as well as historically, architecturally, or archaeologically significant structures, sites~~
21 ~~districts, or objects. When federally involved undertakings are reviewed, the HPO and the OSA act as the staff of the~~
22 ~~SHPO. When State involved undertakings are reviewed, the HPO and the OSA act as the staff of the North Carolina~~
23 ~~Historical Commission.]~~ All proposed undertaking applications shall be reviewed as either State-involved undertakings
24 or federally-involved undertakings.

25 (1) State-involved undertakings are those that require State approval or implicate State funds. State-
26 involved undertakings include any State-issued permits, State-issued grants, and State-issued licenses.
27 State-involved undertakings shall be reviewed by the HPO as staff to the Historical Commission for their
28 effect on submerged cultural resources as well as historical, architectural, or archaeological structures,
29 sites, districts, or objects. Any State-involved undertakings which may affect a property listed on the
30 National Register of Historic Places shall be reviewed according to Rule .0206 of this Section.

31 (2) Federally-involved undertakings are those that require federal approval or implicate federal funds.
32 Federally-involved undertakings shall be reviewed by the SHPO using the regulations set forth in 36
33 C.F.R 800. 36 C.F.R. 800 is hereby incorporated by reference, including subsequent amendments and
34 additions, and may be accessed at no cost at <http://www.achp.gov/regs-rev04.pdf>.

35 ~~[(d) The OSA shall review all archaeological reports, including documentary research and archaeological investigations,~~
36 ~~submitted to the SHPO for review in compliance with federal and State historic preservation law by employing the~~
37 ~~Secretary of the Interior's Standards and Guidelines for Archeological Documentation, available at~~

1 ~~https://www.nps.gov/history/local_law/arch_stnds_0.htm~~, and the Abandoned Shipwreck Act Guidelines, available at
2 ~~<https://www.nps.gov/archeology/submerged/intro.htm>~~.

3 ~~(e)~~, (d) The HPO shall issue a ~~project specific~~ response within 30 days of receipt of the submission.

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5 *History Note:* Authority ~~G.S. 113-229(e); 113-4(2); 113A-107(d); 121-4(13); 121-8; 121-9; 121-12(a); 136-42.1;~~
6 ~~143B-62(1)f,(3); 143B-62; Executive Order XVI (1976); 16 U.S.C. 470; 16 U.S.C. 1451 et. seq.; 42~~
7 ~~U.S.C. 4321; 15 C.F.R. 923; 54 U.S.C. 302301; 302303; 36 C.F.R. 69; 36 C.F.R. 800;~~
8 ~~Eff. February 1, 1985;~~
9 ~~Amended Eff. June 1, 1989;~~
10 ~~Pursuant to G.S. 150B-21.3A, rule is necessary with substantive public interest Eff. July 26, 2015;~~
11 ~~Readopted Eff. June 1, 2017.~~
12

1 07 NCAC 04R .0204 is repealed through readoption as published in 31:07 NCR 531–532:

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3 **07 NCAC 04R .0204 UNDERWATER ARCHAEOLOGICAL REVIEW**

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5 *History Note: Authority G.S. 121-22 through 121-28; 143B-62(2)g; 16 U.S.C. 470; 36 C.F.R. 800;*

6 *Eff. February 1, 1985;*

7 *Amended Eff. June 1, 1989;*

8 *Pursuant to G.S. 150B-21.3A, rule is necessary with substantive public interest Eff. July 26, 2015;*

9 *Repealed Eff. June 1, 2017.*

10

1 07 NCAC 04R .0205 is repealed through readoption as published in 31:07 NCR 532:

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3 **07 NCAC 04R .0205 ARCHITECTURAL REVIEW**

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5 *History Note: Authority G.S. 113-229(e); 113A-4(2); 121-4(13); 136-42.1; 143B-62(1)(f)(3 16 U.S.C. 470; 36 C.F.R.*
6 *63; 36 C.F.R. 800.*

7 *Eff. February 1, 1985;*

8 *Amended Eff. June 1, 1989;*

9 *Pursuant to G.S. 150B-21.3A, rules are necessary with substantive public interest Eff. July 26, 2015;*

10 *Repealed Eff. June 1, 2017.*

11

07 NCAC 04R .0206 is readopted with changes as published in 31:07 NCR 532–533 as follows:

07 NCAC 04R .0206 ARCHITECTURAL REVIEW PROCEDURES FOR STATE UNDERTAKINGS
AFFECTING A NATIONAL REGISTER-LISTED PROPERTY

(a) State agencies [to] which own [State owned] property [is allocated or whose undertaking may affect any property, whether publicly or privately owned,] nominated to This Rule shall apply to State-involved undertakings affecting property listed in the National Register of Historic Places. [Places shall identify those] National Register-listed properties may be identified through use of the HPO’s Geographic Information System HPOWEB located at <http://gis.ncdcr.gov/hpoweb> or use of the North Carolina Listings in the National Register located at <http://www.hpo.ncdcr.gov/NR-PDFs.html>. ~~receive notification from the SHPO when the property is nominated, and a certificate when the property has been listed in the National Register. A roster of properties listed in the National Register of Historic Places from North Carolina is distributed to appropriate state agencies at least biennially.~~

(b) For purposes of this Rule, the “agency concerned” means the State agency, commission, or entity responsible for issuing the grant, funding, license, or other approval required for the undertaking. The head of any state [State] agency having direct or indirect jurisdiction over a proposed [State assisted] state-assisted undertaking, [undertaking] or the head of any state [State] department, board, commission, or independent agency having authority to build, construct, operate, license, authorize, assist, or approve any state [State] or state-assisted [State-assisted] undertaking, shall, prior to the approval of state [State] funds [or action] for the undertaking, [undertaking] take into account [consider] its effect on any district, site, building, structure, or object which is listed in the National Register of Historic Places. Undertakings include, but are not limited to:

- (1) ~~any alteration, demolition, neglect, repair, renovation, move or other change to a building owned by the State of North Carolina, or to any building in which state assistance or funds are involved;~~
- (2) ~~any state or state-assisted project which will affect buildings not owned by the State of North Carolina;~~
- ~~or~~
- (3) ~~any state or state-assisted project which will involve ground disturbance.~~

(c) Prior to the approval of any state State funds and prior to any approval, license, or authorization permit for any [State or State-assisted] State-involved undertaking covered under Paragraph (b) of this Rule, the head of the agency concerned shall:

- (1) ~~submit a statement to the Director, Division of Archives and History SHPO that the undertaking will have no adverse effect upon a property listed in the National Register of Historic Places; or~~
- (2) ~~submit a statement that the undertaking will have an adverse effect upon a property listed in the National Register of Historic Places, justify describe the proposed undertaking, and invite review and comment from the Division of Archives and History SHPO.~~

(d) ~~An~~ Based on the application and the statement submitted in subsection (c) of this Rule, the SHPO shall determine whether the undertaking creates an adverse effect requiring review by the Historical Commission. For purposes of this Rule, an undertaking shall be deemed to have an adverse effect requiring review by the Historical Commission is defined when the undertaking creates an effect which meets the definition of “adverse effect” in Rule .0202 of this Section or when

1 the undertaking includes the transfer or sale of a State-owned property listed in the National Register without [adequate]
2 conditions or restrictions regarding preservation, maintenance, or use of the National Register property as an adverse effect
3 occurring under conditions which include, but are not limited to:

4 (1) ~~destruction or alteration of all or part of a property;~~

5 (2) ~~isolation from or alteration of a property's surrounding environment;~~

6 (3) ~~introduction of visual, audible or atmospheric elements that are out of character with the property or alter~~
7 ~~its setting;~~

8 (4) ~~transfer or sale of a State-owned property listed in the National Register without adequate conditions or~~
9 ~~restrictions regarding preservation, maintenance, or use; and~~

10 (5) ~~neglect of a property resulting in its deterioration or destruction.~~

11 (e) ~~These requirements will not apply to Review by the Historical Commission [under this Rule is]~~ shall be required if
12 any ~~minor~~ repair does not comply with the Standards of Rehabilitation in 36 C.F.R. 67.7. that does not affect ~~[affects]~~ the
13 facade of a building or its structural or overall architectural integrity. ~~[Window replacement]~~ Replacement of existing
14 windows shall be subject to review under this Rule.

15 (f) ~~Upon receipt of notice that a proposed undertaking will have an effect upon a property listed in the National Register~~
16 ~~of Historic Places, the Director or his designee shall determine whether the undertaking has an effect which will require~~
17 ~~review by the North Carolina Historical Commission. Upon receipt of a notice of no effect or upon receiving information~~
18 ~~that an undertaking is taking place which might have an effect upon a property listed in the National Register of Historic~~
19 ~~Places, the Director or his designee shall determine whether the undertaking has an effect which will require review by the~~
20 ~~North Carolina Historical Commission (Commission).~~

21 (g)(f) ~~If the Director, Division of Archives and History, SHPO finds that an undertaking will have an adverse effect which~~
22 ~~requires review, review by the Historical Commission, he or she shall transmit a notice to the Chairman of the Historical~~
23 ~~Commission, who has the authority to call a meeting of the Historical Commission to discuss the undertaking with the~~
24 ~~agency head concerned or his designee. The Director, as ex officio Secretary of the Commission shall transmit a notice of~~
25 ~~the~~ next regularly scheduled meeting of the Historical Commission to the agency head. From the time of receipt of the
26 notice until the conclusion of the Historical Commission meeting, the agency shall take no action which would affect a
27 property listed in the National Register of Historic Places without the approval of the ~~Director~~ SHPO acting for and ~~in~~ on
28 behalf of the Historical Commission. Such approval shall only be granted in the case a building inspector determines the
29 National Register property poses a threat to public safety because of an unsafe or dangerous condition. of an emergency.
30 ~~[emergency threatening public health and safety.]~~ Requests for emergency approval shall be emailed to
31 environmental.review@ncdcr.gov. Emergency requests shall contain a copy of the original application as required in Rule
32 .0203 of this Section and a copy of the building inspection.

33 (h) ~~If the Commission determines that the agency involved has not adequately considered the effect of its undertaking,~~
34 ~~and the Commission needs more time to comment upon the proposed undertaking in order that the agency involved may~~
35 ~~realize all of the competing public interests involved, the Commission may order that the undertaking not take place until~~
36 ~~it has a reasonable time to comment, the reasonable time to be specified in the order.~~

1 ~~(g)~~ Members of the public who have knowledge of any undertaking ~~by a State agency which~~ that would have an adverse
2 effect upon a property listed in the National Register of Historic Places may comment in writing to the ~~Director, Division~~
3 ~~of Archives and History~~ SHPO, Department of Natural and Cultural Resources, MSC 4617, Raleigh, North Carolina ~~27611~~
4 ~~27699~~.

5 (h) The Historical Commission shall provide its recommendation(s) on the undertaking to the agency head within 30 days
6 following the Commission's meeting.

7 (i) The agency head shall respond to the Historical Commission's recommendation in writing and inform the Historical
8 Commission of what action the agency will take with regard to the historic property.

9

10 *History Note: Authority G.S. 121-12(a); ~~143B-62(1),f(3); Executive Order XVI (1976); 143B-62;~~*

11 *Eff. February 1, 1985;*

12 *Amended Eff. June 1, 1989;*

13 *Pursuant to G.S. 150B-21.3A, rule is necessary with substantive public interest Eff. July 26, 2015;*

14 *Readopted Eff. June 1, 2017.*

15

07 NCAC 04R .0301 is amended **with changes** as published in 31:07 NCR 534 as follows:

07 NCAC 04R .0301 STATE HISTORIC PRESERVATION OFFICER NATIONAL REGISTER ADVISORY COMMITTEE

~~(a) The State Historic Preservation Officer (SHPO) is the Director, Division of Archives and History.~~

~~(b) The North Carolina Historical Commission with the addition of an architect, an architectural historian, a prehistoric archaeologist, and a historic archaeologist shall serve as the State Professional Review Committee (SPRC) to fulfill the requirements of the National Park Service, Department of the Interior. The SHPO shall appoint twelve members to the National Register Advisory Committee (NRAC), which serves as the State historic preservation review board required by 54 U.S.C. 302301(2). The NRAC's membership shall include five members of the North Carolina Historical Commission and seven members of the general public. The following professions shall be represented in the membership:~~
membership, with a majority of members being professionals as required by 54 U.S.C. 300318:

- (1) architect;
- (2) architectural historian;
- (3) professional historian;
- (4) prehistoric archaeologist; and
- (5) historic archaeologist.

~~(b) The State Professional Review Committee NRAC reviews North Carolina nominations to the National Register of Historic places Places (Register) (Register) and makes The NRAC shall make a recommendation to the SHPO on whether the property nominated is eligible for the register meets the National Register criteria for nomination as set forth in 36 C.F.R. 60.4. [60.4] and whether the nomination should be signed by the SHPO and forwarded to the U.S. Department of the Interior, which maintains the National Register of Historic Places. Meetings of the committee are called by the SHPO. A majority (50 percent plus 1) of the committee constitutes [shall constitute] a quorum. Other members may be added as required or as determined appropriate.~~

(c) Mail for the NRAC shall be addressed to the HPO, Attention National Register Coordinator, 4617 Mail Service Center, Raleigh, NC 27601.

History Note: Authority G.S. 121-8(b); 143B-62(1)b,(3); 16 U.S.C. 470a(a)(1); 36 C.F.R. 60.3; 36 C.F.R. 800.1-10, 3(k); 143B-62; 54 U.S.C. 300318, 302104, 302301; 36 C.F.R. 60.3(o), 60.4, 60.6.

Eff. February 1, 1985;

Amended Eff. June 1, 2017; June 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.

1 07 NCAC 04R .0302 is repealed as published in 31:07 NCR 534 as follows:

2

3 **07 NCAC 04R .0302 PUBLIC SUGGESTIONS FOR NATIONAL REGISTER**

4

5 *History Note: Authority G.S. 121-8(b); 143B-62(1),(3);*

6 *Eff. February 1, 1985;*

7 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015;*

8 *Repealed Eff. June 1, 2017.*

9

07 NCAC 04R .0303 is amended with changes as published in 31:07 NCR 534 as follows:

07 NCAC 04R .0303 ~~NOMINATION PROCEDURES~~ **NATIONAL REGISTER STUDY LIST**

~~The process of nomination to the National Register of Historic Places (Register)~~ requires the following steps:

(a) The Study List process is a formal screening process used to determine a property’s likelihood of qualifying for the National Register. Placement on the Study List means the further study of the property’s integrity and significance is recommended to prepare a National Register nomination form as provided in Rule .0304 of this Section.

(b) Study List applications are available upon request by contacting the HPO’s Survey and National Register Branch. Contact information is available at www.hpo.ncdcr.gov/hpostaff.htm. To apply for inclusion on the Study List, an applicant shall submit a Study List application to the address in Rule .0301(c) of this Section. Applications may be submitted by HPO staff, a professional consultant, a governmental agency, the property owner, or any person. Applications for inclusion on the Study List shall include the following information and documentation:

- (1) property name;
- (2) property location;
- (3) ownership information;
- (4) applicant contact information;
- (5) reason for the request;
- (6) physical description and history of the property;
- (7) map or site plan; and
- (8) photographs of the property.

(c) Study List applications shall be reviewed at a meeting of the NRAC. The NRAC shall review Study List applications pursuant to 36 C.F.R. 60.4 and 60.6(i) and provide a recommendation to the SHPO as to whether the property should be placed on North Carolina’s Study List. The SHPO shall review the applications pursuant to 36 C.F.R. 60.4 and 60.6(k) and (l). The SHPO shall make a determination whether the property shall be placed on North Carolina’s Study List.

(d) The SHPO shall notify the site owner or, if a district, the executive officer of the municipality or affected area, by mail of his or her opinion regarding the property’s eligibility for the National Register. If the SHPO determines the property may be eligible for nomination to the National Register upon further study, the SHPO shall place the property on the Study List. The SHPO shall also notify the owner or executive officer of the effects of listing the property in the National Register in accordance with the applicable rules and statutes.

- ~~(1) — Nomination forms are prepared under the supervision of the SHPO, or by property owners, municipal agencies, federal agencies, or other constituents in compliance with state, local and federal guidelines. [Before a completed nomination to the National Register of Historic Places (Register) may be submitted for review pursuant to Paragraph (4) of this Rule, a draft of the nomination shall be submitted for review as set forth in 07 NCAC 04R .0304. Draft nominations may be prepared under the supervision of the SHPO or by property owners, municipal agencies, federal agencies, or any person, in compliance with State, local, and federal law.~~

1 ~~(2)~~ Nominations submitted for review shall submit a form in accordance with the standards set forth in the
2 National Register Bulletin, "How to Complete the National Register Form," available at
3 <https://www.nps.gov/nr/publications/bulletins/nrb16a/>.

4 ~~(2)~~ ~~(3)~~ Notice is provided of the intent to nominate the property and written comments are solicited by the SHPO
5 in accord with federal regulations. Owners may object to the listing of private property in a written and
6 notarized statement. ~~[The HPO shall provide notice of the intent to nominate a property will in~~
7 ~~accordance with 36 CFR 60.6. Owners may object to the listing of private property by submitting a~~
8 ~~written and notarized statement in accordance with 36 C.F.R. 60.6(g). Statements of objection on the~~
9 ~~part of owners of private property which the SHPO finds to meet objection criteria set forth in 36 C.F.R.~~
10 ~~60.6(g) will be forwarded within ten (10) business days of SHPO receipt for consideration by the Keeper~~
11 ~~of the National Register.]~~

12 ~~(3)~~ ~~(4)~~ Completed nomination forms are ~~[shall be]~~ submitted to the SPRC ~~[National Register Advisory~~
13 ~~Committee (NRAC)]~~ for approval prior to submission to the National Register. ~~[review pursuant to 36~~
14 ~~C.F.R. 60.6(j).]~~

15 ~~(4)~~ ~~(5)~~ Nomination forms approved by the SPRC are signed by the SHPO. ~~[Individuals, local governments, or~~
16 ~~local government entities such as historic preservation commissions or historic landmark commissions~~
17 ~~created under the authority of G.S. 160A-400.7 may provide comments on a proposed nomination to the~~
18 ~~SHPO in advance of the NRAC meeting. Following NRAC review of nominations, the SHPO reviews~~
19 ~~the nominations and may submit nominations to the Keeper of the National Register pursuant to 36~~
20 ~~C.F.R. 60.6(k) and (l).]~~

21 ~~(5)~~ ~~(6)~~ The SHPO submits the completed nomination and comments concerning the significance of the property
22 to the Keeper of the National Register, Department of the Interior, National Park Service, Washington,
23 D.C. 20240. ~~[Notification letters to property owners and proponents shall be prepared and sent to~~
24 ~~confirm the action taken by the NRAC and SHPO in regards to the nomination. Deferral or denial letters~~
25 ~~shall be accompanied by an explanation of why the action was deferred or denied and what steps might~~
26 ~~be taken to make a valid re-submission of the nomination, if any.]~~

27 ~~(6)~~ Notice is provided in the Federal Register that the nominated property is being considered for listing in the National
28 Register of Historic Places; comments are solicited concerning the significance of the property; and 15 days are allowed
29 for further owner objection or comment.

30 ~~(7)~~ Nominations must be reviewed by the National Register within 45 days from the date of receipt by the National Register
31 Office.

32 ~~(8)~~ Owners and interested parties may petition the Keeper, either in support of or in opposition to the nomination. The
33 petitioner must state the grounds of the petition and request in writing that the Keeper substantively review the nomination.
34 The petition must be received before the property is listed.

36 *History Note:* Authority G.S. 121-8(b); 143B-62; 143B-62(1)g,(3); 16 U.S.C. 470a; 36 C.F.R. 60.2-6; 54 U.S.C.
37 302104; 36 C.F.R. 60.5, 60.6, 60.9;

1 *Eff. February 1, 1985;*
2 *Amended Eff. June 1, 2017; June 1, 1989;*
3 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.*
4

1 07 NCAC 04R .0304 is readopted with changes as published in 31:07 NCR 535 as follows:

2
3 **07 NCAC 04R .0304 REVIEW AND PROCESSING NATIONAL REGISTER NOMINATIONS**

4 The following steps assure that North Carolina's procedures for nomination to the National Register of Historic Places are
5 in compliance with the federal requirements:

6 (a) An applicant who wishes to have a property nominated to the National Register shall submit a draft nomination in
7 writing by mail to the address in Rule .0301(c) of this Section. Nomination forms are available at
8 www.nps.gov/nr/publications/forms.htm. Forms 10-900, 10-900a, and 10-900b are hereby incorporated by reference,
9 including subsequent amendments and editions. The forms are available online at no cost.

10 (1) (a) Requests for consideration by the SPRC [National Register Advisory Committee (NRAC) of a property's eligibility
11 for the National Register] may originate with a staff member, SPRC NRAC member, governmental agency, property
12 owner, or any interested citizen. The report [request] must [shall] be in written form and include a slide of the property.
13 [the following:

- 14 (1) the property name;
- 15 (2) property location;
- 16 (3) ownership information;
- 17 (4) applicant contact information;
- 18 (5) reason for the request;
- 19 (6) physical description and brief history of the property;
- 20 (7) a map or site plan; and
- 21 (8) photographs.]

22 (2) Staff begins a file on the site or property, including the information supplied, initial staff opinion concerning the
23 property's eligibility under National Register criteria and any other pertinent material.

24 (3) The SHPO and appropriate (b) HPO staff [shall] present information on the site or property to the SPRC NRAC for
25 review and recommendation as to whether the site or property appears to be potentially eligible for the National Register
26 and should be placed on a list for study.

27 [(c) The NRAC shall make a recommendation to the SHPO as to whether the site or property should be placed on a list
28 for study.]

29 (4) [(d)] The SHPO notifies [shall notify] the site owner or, if a district, the executive officer of the municipality or affected
30 area, by mail of his intent to study the property. The owner is advised of the effects of listing to the property. The owner
31 is encouraged to submit written questions and comments. The owner is urged to send any relevant information concerning
32 the property's significance for use in study of the property. [The owner or executive officer shall be advised of the effects
33 of listing the property. The owner or executive officer may submit written questions, comments, and other relevant
34 information concerning the property's significance for use in studying the property.]

35 (5) Work is done by staff [(e)]

36 (b) Upon request, the HPO [staff] shall provide nomination applicants [proponents] with an electronic copy of the National
37 Register Bulletin "How to Apply the National Register Criteria for Evaluation," available at

1 <https://www.nps.gov/nr/publications/bulletins/nrb15/> and the National Register Bulletin “How to Complete the National
2 Register Form” available at www.nps.gov/nr/publications/bulletins/nrb16a/. Both Bulletins are hereby incorporated by
3 reference, including subsequent amendments and editions. The Bulletins are available online at no cost. Applicants shall
4 use the Bulletins as a guide when completing the National Register nomination form. ~~to complete a nomination or to [and
5 shall] review a completed nomination. [nomination drafts.]~~

6 (c) The HPO shall review draft nomination forms using the standards in the Bulletins incorporated in subsection (b) of
7 this Rule. The HPO shall provide written guidance to the applicant on necessary revisions to ensure the nomination meets
8 the standards set forth in the Bulletins.

9 (d) When the HPO determines the nomination form is complete and in compliance with the Bulletins incorporated in
10 subsection (b) of this Rule, the HPO shall send the application to the NRAC for consideration.

11 (e) The HPO shall provide written notice to the owner or owners of the nominated property in accordance with 36 C.F.R.
12 60.6. The HPO shall notify owners listed in the official land recordation records or tax records. The owner or owners
13 shall have the opportunity to object to the nomination by submitting a written and notarized statement in accordance with
14 36 C.F.R. 60.6(g) to the address in Rule .0301(c) of this Section. If a majority of the owners of private property submit
15 objections to its nomination, the SHPO shall follow the procedure set forth in 36 C.F.R. 60.6(n).

16 (f) Individuals and local government entities may provide comments on a proposed nomination as provided in 36 C.F.R.
17 60.6(g).

18 (g) The NRAC shall review nominations pursuant to 36 C.F.R. 60.4 and 60.6(j). The NRAC shall provide a
19 recommendation to the SHPO as to whether the property meets the National Register Criteria for Evaluation in 36 C.F.R.
20 60.4 and should be forwarded to the Keeper of the National Register for listing in the National Register.

21 (6) — Not less than 30 nor more than 75 days prior to the SPRC meeting at which the property or district will be
22 reviewed, the SHPO sends a letter, the criteria for evaluating property to be nominated to the National Register, and a
23 statement of the effects of listing in the National Register of Historic Places to the property owner. The text of the letter
24 must be approved by the National Register Office. The chief executive officer of the local governmental unit is also notified
25 by mail of the intent to nominate, as are local historic properties commissions. The letter will notify the person when the
26 SPRC meeting is to be held and will solicit written comments. The owner is also advised that he may object to the
27 nomination of the property to the National Register. In the case of a historic district, each owner must be notified by mail
28 if there are fewer than 50 property owners within the district. If there are more than 50 owners in the district, the SHPO
29 provides legal notice in a local newspaper worded in accordance with a notice provided by the National Register of Historic
30 Places. If a property owner objects to the nomination of his property, or if a majority of owners within a proposed historic
31 district object to the nomination, the SPRC and the SHPO may decide to send the nomination to the National Register of
32 Historic Places for a determination of eligibility.

33 (7) — SPRC meets and nominations are considered for approval. A majority of the committee must be present, and a
34 majority of the entire committee must vote to approve.

35 (8) — SHPO signs nomination forms approved by the SPRC.

1 ~~(9) SHPO submits the nominations and written comments received concerning the significance of a property to the~~
2 ~~Keeper of the National Register of Historic Places, National Park Service, Department of the Interior, Washington, D.C.~~
3 ~~20240.~~

4 (h) The SHPO shall review the nomination and the NRAC's recommendation along with any public comments. The
5 SHPO may, in his or her discretion, submit the nomination and comments to the Keeper of the National Register,
6 Department of the Interior, National Park Service, Washington, D.C. 20240. The SHPO shall notify the property owner
7 or owners and applicant of his or her final decision regarding the nomination.

8 ~~(10)(f)~~ (i) Following review by the Keeper of the National Register, Register and receipt by the SHPO from that office
9 of notice of approval or rejection of the nomination, the SHPO ~~sends~~ shall send to the property owner and chief executive
10 officer of the local governmental unit notification of the disposition of the ~~nomination~~, nomination and, if approved, a
11 certificate signed by the SHPO stating that the property is listed in the National Register of Historic Places.

12
13 *History Note: Authority G.S. 121-8(b); ~~143B-62(1)g,(3); 143B-62; 16 U.S.C. 470a; 36 C.F.R. 60.6, 60.11;~~*

14 *Eff. February 1, 1985;*

15 *Amended Eff. June 1, 1989;*

16 *Pursuant to G.S. 150B-21.3A, rule is necessary with substantive public interest Eff. July 26, 2015;*

17 *Readopted Eff. June 1, 2017.*

1 07 NCAC 04R .0305 is repealed as published in 31:07 NCR 536 as follows:

2

3 **07 NCAC 04R .0305 NATIONAL REGISTER NOMINATION PRIORITIES**

4

5 *History Note: Authority G.S. 121-8(b); 143B-62(3); 36 C.F.R. 60.11;*

6 *Eff. February 1, 1985;*

7 *Amended Eff. June 1, 1989;*

8 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015;*

9 *Repealed Eff. June 1, 2017.*

10

1 07 NCAC 04R .0501 is amended **with changes** as published in 31:07 NCR 536 as follows:

2
3 **SECTION .0500 – ~~HISTORIC PROPERTIES AND HISTORIC DISTRICTS COMMISSIONS~~ HISTORIC**
4 **PRESERVATION COMMISSIONS**

5
6 **07 NCAC 04R .0501 REVIEW OF COMMISSION REPORTS**

7 ~~(a) Historic properties and historic district commissions are required to submit reports on the proposed designation of~~
8 ~~historic properties and historic districts, and on proposed changes in the boundaries of existing historic districts, to the~~
9 ~~Department of Cultural Resources for review. The Department review is intended to provide technical assistance and~~
10 ~~ongoing support for the work of historic properties and historic district commissions.~~

11 (b) ~~Historic properties or historic district~~ **Local governments and local preservation, historic district, or landmark**
12 **governments, municipal governing boards, local preservation commissions, historic district commissions, and landmark**
13 **commissions** ~~(“commissions”)~~ shall submit requests for review of reports pursuant to G.S. 160A-400.4(b) and 160A-
14 400.6(2)-(3) to the ~~Director, Division of Archives and History, State Historic Preservation Officer (SHPO) in care of the~~
15 ~~State Historic Preservation Office (HPO), North Carolina Department of Natural and Cultural Resources, Resources, 4617~~
16 ~~MSC, Raleigh, NC 27699 or emailed to the HPO’s Local Government Coordinator. The Local Government Coordinator’s~~
17 **contact information is available at www.hpo.ncdcr.gov/hpostaff.htm.** ~~The review may be made by an employee of the~~
18 ~~Division designated by the Secretary of the North Carolina Historical Commission. The Division submits its comments~~
19 ~~to the historic properties or historic district commission within 30 days.~~

20
21 *History Note: Authority G.S. 160A-395(1); 160A-399.5(2); 121-8(e); 160A-400.4(b)(2); 160A-400.6 (2,3);*
22 *Eff. February 1, 1985;*
23 *Amended Eff. June 1, 2017; June 1, 1989.*
24 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.*
25

1 07 NCAC 04R .0502 is amended with changes as published in 31:07 NCR 536 as follows:

2
3 **07 NCAC 04R .0502 REVIEW OF APPEALS CERTIFICATES OF APPROPRIATENESS**

4 The State of North Carolina [and its agencies] may appeal decisions of local historic district [preservation] commissions
5 to the North Carolina Historical Commission. [Agencies shall submit requests] Requests for appeals by the state are
6 submitted to the Chairman, North Carolina Historical Commission, [Commission] e/o Division of Archives and History
7 [State Historic Preservation Office,] North Carolina Department of [Natural and] Cultural Resources. [Resources, 4617
8 MSC, Raleigh, NC 27699.] The Chairman calls a meeting of the Commission, at which the Commission considers the
9 appeal of the state agency. The Commission renders its decision within 30 days of receiving the notice of appeal from the
10 State agency. [Agencies shall submit a copy of the record and decision from the local preservation commission as well as
11 a brief explanation of the grounds for appeal.] The Commission may reverse, sustain, or modify the decision of the local
12 commission.

13 (a) Local preservation commissions, in their discretion, may seek the advice of the Department of Natural and Cultural
14 Resources when reviewing applications for Certificates of Appropriateness pursuant to G.S. 160A-400.9. Local
15 preservation commissions shall submit such requests in writing to the HPO, North Carolina Department of Natural and
16 Cultural Resources, 4617 MSC, Raleigh, NC 27699, or by email to the HPO's Local Government Coordinator. The Local
17 Government Coordinator's contact information is available at www.hpo.ncdcr.gov/hpostaff.htm. The review will be
18 completed within 30 days of receipt. Comments in response to the request will be conveyed in writing to the commission
19 requesting the review.

20 (b) Requests for review of applications for Certificates of Appropriateness shall include a copy of the Certificate of
21 Appropriateness application.

22 (c) Local preservation commission decisions regarding Certificates of Appropriateness may be appealed as provided in
23 Rule .0503 of this Section.

24
25 *History Note:* Authority G.S. [143B-62; 160A-400.9(f); 160A-398.1; 121-8(e); 160A-400.9(d);

26 Eff. February 1, 1985;

27 Amended Eff. June 1, 2017; June 1, 1989;

28 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.

1 07 NCAC 04R .0503 is amended with changes as published in 31:07 NCR 536–537 as follows:

2
3 **07 NCAC 04R .0503 CERTIFICATES OF APPROPRIATENESS REVIEW OF APPEALS**

4 (a) ~~Historic properties and historic district commissions may seek the advice of the Department of Cultural Resources as~~
5 ~~they consider applications for certificates of appropriateness. The advice offered by the Department is intended to provide~~
6 ~~technical assistance and ongoing support for the work of historic properties and historic district commissions.~~

7 (b) ~~[Local preservation commissions seeking the advice of the Department of Natural and Cultural Resources for and]~~
8 ~~Requests for [requesting] review of applications for certificates of appropriateness by the Department of Cultural~~
9 ~~Resources are submitted [shall submit such requests in writing] to the Director, Division [Office] of Archives and History,~~
10 ~~[in care of the State Historic Preservation Office (HPO),] North Carolina Department of [Natural and] Cultural Resources.~~
11 ~~[Resources, 4617 MSC, Raleigh, NC 27699, or by email to the Local Government Coordinator.] The review may be made~~
12 ~~by the director Director or [HPO staff as] his the [Director's] designee. The review will be completed within a reasonable~~
13 ~~period of time [30 days of receipt] and conveyed in writing to the Commission requesting the review.~~

14 ~~[(b) Requests for review of applications for certificates of appropriateness shall include a copy of the certificate of~~
15 ~~appropriateness application.]~~

16 The State of North Carolina and its agencies may appeal decisions of local preservation commissions to the North Carolina
17 Historical Commission. Agencies shall submit requests for appeals to the Chairman, North Carolina Historical
18 Commission c/o HPO, North Carolina Department of Natural and Cultural Resources, 4617 MSC, Raleigh, NC 27699.
19 Agencies shall submit a copy of the record and decision from the local preservation commission as well as an explanation
20 of the grounds for appeal. The Historical Commission shall consider appeals according to the standards set forth in G.S.
21 160A-400.9. The Historical Commission may reverse, sustain, or modify the decision of the local preservation
22 commission.

23
24 *History Note:* Authority G.S. [~~121-8(e); 160A-400.9(d); 160A-397; 160A-399.6; 143B-62; 160A-400.9(f);~~

25 *Eff. February 1, 1985;*

26 *Amended Eff. June 1, 2017; June 1, 1989;*

27 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.*

1 07 NCAC 04R .0504 is repealed as published in 31:07 NCR 537 as follows:

2

3 **07 NCAC 04R .0504 ADEQUATE INFORMATION**

4

5 *History Note: Authority G.S. 160A-395(2); 160A-397; 160A-398.1; 160A-399.5(2); 160A-399.6.*

6 *Eff. February 1, 1985;*

7 *Amended Eff. June 1, 1989;*

8 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015;*

9 *Repealed Eff. June 1, 2017.*

10

1 07 NCAC 04R .0601 is amended was proposed for amendment as published in 31:07 NCR 537 and is now being repealed
2 as follows:

3

4 **SECTION .0600 – DESIGNATION OF HISTORIC PROPERTIES UNDER THE STATE BUILDING CODE**

5

6 **07 NCAC 04R .0601 STATEMENT OF PURPOSE**

7

8 *History Note: Authority G.S. 121-8; Building Code Authority Chapter 10, Sec. 1009.1(a)(1), 1010.1(a)(1);*
9 *Eff. February 1, 1985;*

10 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015;*

11 *Repealed Eff. June 1, 2017.*

12

1 07 NCAC 04R .0602 is amended with changes as published in 31:07 NCR 537 as follows:

2
3 **07 NCAC 04R .0602 GENERAL APPLICATION PROCESS PROCESS; CRITERIA FOR DESIGNATION**

4 (a) Applications for designation of buildings as “historic buildings” as provided in 2012 North Carolina Rehab Code, Sec.
5 1.33 and 2015 North Carolina Existing Building Code, Chapter 2, Sec. 202 historic properties for building code purposes
6 may be obtained from the Director, Division of Archives and History State Historic Preservation Officer (SHPO), Attention
7 Preservation Planner Survey and National Register Branch, State Historic Preservation Office (HPO), North Carolina
8 Department of Natural and Cultural Resources, 409 East Jones Street 4617 MSC, Raleigh, N. C. 27614, 27699, or by email
9 to the Supervisor of the Survey and National Register Branch of the Historic Preservation Office. The Supervisor’s contact
10 information is available at www.hpo.ncdcr.gov/hpostaff.htm. Applications shall include the contents required by Rule
11 .0605 of this Section. Applications are submitted to the Director (SHPO) and are reviewed by him or his designee, and
12 division professional staff.

13 (b) The SHPO or his designee shall sign the application form, indicating whether or not the property is determined
14 historic. The SHPO forwards the application to the Engineering Division, North Carolina Department of Insurance, with
15 copies to the local building inspector and the property owner, deeming the property historic for the purposes of either the
16 North Carolina Rehab Code or the 2015 North Carolina Existing Building Code if it meets one or more of the following
17 criteria:

- 18 (1) It is listed in the North Carolina or National Registers of Historic Places either individually or as a
19 contributing building to a historic district;
- 20 (2) It has been issued a Determination of Eligibility pursuant to 36 C.F.R. part 63 by the Keeper of the
21 National Register of Historic Places;
- 22 (3) It is identified as a contributing building to a local historic district under 36 C.F.R. 67.5; [which has been
23 certified by the Keeper of the National Register as substantially meeting the National Register Criteria
24 under 36 C.F.R. 67.9;] or
- 25 (4) It is certified by the State Historic Preservation Officer using criteria set forth in 36 C.F.R. 60.4, as
26 eligible to be listed on the National Register of Historic Places either individually or as a contributing
27 building to a historic district. Properties “eligible to be listed on the National Register” include properties
28 listed on the National Register Study list as provided in Rule .0303 of this Subchapter. [district; property
29 included in the “list for study” under 07 NCAC 04R .0304 qualifies under this category.]

30 ~~[(5)]~~ (c) The SHPO shall forward the application with a determination of whether the property has been deemed historic
31 to the property owner, with copies to the local building inspector and the HPO’s Restoration Branch.

32 ~~[(b)]~~ (d) Any building determined by the SHPO to be individually eligible for listing in the National Register of Historic
33 Places pursuant to Paragraph (a)(4) of this Rule shall be presented for addition to the State Study List at the next meeting
34 of the National Register Advisory committee as provided in Rules .0301–.0304 of this Subchapter. [State Professional
35 Review Committee.]

36 ~~[(c)]~~ The SHPO’s determination of whether the property is designated historic for purposes of the building codes is a final
37 agency decision.]

1
2 *History Note:* *Authority G.S. 121-8; ~~Building Code Authority Chapter 10, Sec. 1009.1(a)(1), 1010.1(a)(1);~~ 2012 North*
3 *Carolina Rehab Code, Sec. 1.33; 2015 North Carolina Existing Building Code, Chapter 2, Sec. 202;*
4 *54 U.S.C. 302303;*
5 *Eff. February 1, 1985;*
6 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015;*
7 *Amended Eff. June 1, 2017.*

1 07 NCAC 04R .0603-.0604 are repealed as published in 31:07 NCR 537–538 as follows:

2

3 **07 NCAC 04R .0603 CRITERIA FOR DESIGNATION**

4 **07 NCAC 04R .0604 DESIGNATING BUILDINGS AS HISTORIC FOR BUILDING CODE PURPOSES**

5

6 *History Note:* Authority G.S. 121-8(a),(c), and (f); Building Code Authority Chapter 1009.1(a)(1),

7 1010.1(a)(1);

8 *Eff. February 1, 1985;*

9 *Amended Eff. June 1, 1989;*

10 *Pursuant to G.S. 150B-21.3A, rules are necessary without substantive public interest Eff. July 26, 2015;*

11 *Repealed Eff. June 1, 2017.*

12

07 NCAC 04R .0605 is amended with changes as published in 31:07 NCR 538 as follows:

07 NCAC 04R .0605 DOCUMENTATION REQUIRED

Applicants for “historic building” determinations shall include the following information and documentation in addition to the applicant’s contact information. ~~The following documentation must accompany applications for historic designation for building code purposes:~~ In addition to the application required by Rule .0602 of this Section, the following documentation shall be submitted for historic designations for purposes of the 2015 North Carolina Existing Building Code:

- (1) An application for ~~For buildings~~ a building individually listed in the National Register or the National Register Study List shall include the following: ~~Register, the applicant must [shall] submit~~
 - (A) a photograph of the building; and
 - (B) ~~ete~~ a citation to the National Register nomination by name and county.
- (2) An application for ~~For buildings~~ a building individually designated locally by local historic properties commissions ~~[commissions, the applicant] must shall submit include the following:~~
 - (A) a photograph of the building;
 - (B) _____ a copy of the local designation report; and
 - (C) a letter from the local designating authority certifying that the property is [locally] listed ~~designated as a local historic landmark or is in a local historic district.~~
- (3) An application for ~~For buildings on~~ a building in a historic district that is listed in the National Register, Register or listed on the State Study List, or in [that is] in a locally designated historic district, districts, the applicant must shall include the following: ~~provide [provide:] the name of the district and indicate whether it is National Register, Study List, or local level; a photograph of the building; the address of the building; a brief statement of its significance as a contributing or pivotal building in the district a map of the district showing the location of the building. For buildings in local districts, the applicant must also provide a copy of the ordinance designating the district and the material under Subparagraphs (1) and (2) of this Rule relating to the specific property. However, the certification letter from the local designating authority under Subparagraph (2) of this Rule must certify that the property lies within the boundary of a locally designated district.~~
 - (a) _____ the name of the district and shall indicate whether the building is designated in the National Register, on the State Study List, or locally;
 - (b) _____ a photograph of the building;
 - (c) _____ the address of the building;
 - (d) a [brief] statement of the building’s significance as a contributing [or pivotal] building in the district, pursuant to 36 C.F.R. [60.4] 60.4, 36 C.F.R. 67.5, [or] G.S. 160A-400.4 or 160A-400.5;
 - ~~[(e) _____ whether the building is contributing to the National Register district;]~~
 - ~~[(f)](e) _____ a map of the district showing the location of the building; and~~

1 ~~(g)~~(f) for a building in a locally designated district, the applicant shall also provide a copy of the
2 ordinance designating the district and the material required by Items (1) and (2) of this Rule
3 relating to the property. The certification letter from the local designating authority required
4 by Item (2) of this Rule shall certify that the property lies within the boundary of a locally
5 designated district.

6 (4) An application for For buildings a building not falling into any of the above categories in this Rule, the
7 applicant must shall include the following: submit

8 (A) photographs of the building (including significant interior features);

9 (B) a statement of the historical associations and significance of the building;

10 (C) an architectural description of the building; and

11 (D) a statement of which the National Register criteria under 36 C.F.R. 60.4 it meets and why.how.

12
13 *History Note:* Authority ~~G.S. 121-8(a), (c), and (f); Building Code Authority Chapter 1009.1(a)(1), 1010.1(a)(1);~~
14 ~~121-8; 2012 North Carolina Rehab Code, Sec. 1.33; 2015 North Carolina Existing Building Code,~~
15 ~~Chapter 2, Sec. 202; 54 U.S.C. 302303;~~
16 *Eff. February 1, 1985;*
17 *Amended Eff. June 1, 2017; June 1, 1989;*
18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.*
19

1 07 NCAC 04R .0606 is repealed as published in 31:07 NCR 538–539 as follows:

2

3 **07 NCAC 04R .0606 APPEALS PROCEDURE**

4

5 *History Note: Authority G.S. 121-8(a),(c), and (f); 143B-62; Building Code Authority Chapter 1009.1(a)(1),*
6 *1010.1(a)(1);*

7 *Eff. February 1, 1985;*

8 *Amended Eff. June 1, 1989;*

9 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015;*

10 *Repealed Eff. June 1, 2017.*

11

1 07 NCAC 04R .0801 is readopted as a repeal as published in 31:07 NCR 539 as follows:

2

3 **07 NCAC 04R .0801 OPERATING HOURS**

4

5 *History Note: Authority G.S. 121-5(b); 121-8(b),(f);*

6 *Eff. February 1, 1985;*

7 *Amended Eff. April 1, 2001;*

8 *Repealed Eff. June 1, 2017.*

07 NCAC 04R .0802 is readopted with changes as published in 31:07 NCR 539 as follows:

07 NCAC 04R .0802 DISPOSITION OF ARTIFACTS; LOANS

(a) Accessioned archaeological artifacts shall not be deaccessioned unless they have been certified by the North Carolina Historical Commission to have no further value for scientific research and reference purposes. The Commission must consider:

- (1) whether the artifacts possess any new or undiscovered historical or archaeological information to add to the scientific community; and
- (2) whether other comparable artifacts exist, so that there is no ~~legitimate~~ reason to retain the artifacts for future scientific research and reference purpose.

~~(a)~~ (b) Artifacts possessed by the Division of Archives and History in the custody of the Office of State Archaeology shall not be loaned for uses other than be loaned only for:

- (1) museum purposes, or research purposes, purposes; ~~or~~
- (2) non-museum public display by local, state, or federal ~~agencies or~~ agencies; or
- (3) to institutions where the use is intended for the purpose of public education.

~~(b)~~ (c) Loaned artifacts, specimens, documents, and records shall remain be maintained in the condition in which they were delivered. The borrower shall insure the articles against loss or damage for two times the amount of its fair market value as of the ~~date of loss.~~ date the artifact was delivered. The artifacts ~~must be protectively packaged~~ shall be packaged in a manner that protects them from damage.

(d) The ~~artifacts~~ artifacts, specimens, documents, and records shall remain the property of the ~~Division of Archives and History~~ State of North Carolina and can may be ~~withdrawn~~ removed by the State with 45 10 days' written notice upon presentation of a written communication by the lender or its duly authorized representative. to the borrower. An item may be removed if the item has been damaged in any way or if there is a threat of theft or damage to the item. Notwithstanding any other provision of this Rule, an item may be immediately removed if requested by the borrower in writing to the State Archaeologist.

~~(e)~~ (e) Written authorization ~~must~~ may be issued by the Office of State Archaeology to permit photography or duplication of any artifact of any kind. Requests shall be made in writing to the State Archaeologist and include: the name, address, and telephone number of the requestor, a description of the item being photographed or duplicated, and a statement describing the need for photographing or duplicating the items. An acknowledgment credit shall identify each artifact image with the Office of State Archaeology, North Carolina Division of Archives and History. The Office of State Archaeology may deny authorization if:

- (1) photography or duplication would degrade the quality of the item, such a fading or cracking from overexposure to light, air or moisture; or
- (2) handling of the item during photography or duplication would increase risk of damage to the item, such as accidental dropping, theft, or vandalism.

~~(d)~~ (e) (f) All requests for loans of artifacts shall be submitted in writing to the State Archaeologist at least 30 days in advance before of the requested loan period. All requests shall include:

- (1) the requestor's name and address;

- 1 (2) a statement describing the purpose for the loan, such as an exhibit, study, conservation;
- 2 (3) a description of the requested object(s); and
- 3 (4) the proposed loan period.

4 Requests shall be submitted to State Archaeologist, North Carolina Office State Archaeology, 4619 Mail Service Center,
5 Raleigh NC 27699.

6 (ⓔ) (ⓕ) (g) A written contract between the borrower and the Division of Archives and History containing the period and
7 conditions of the loan shall be signed prior to the lending of any artifact.

8
9 *History Note:* Authority G.S. [~~70-18;~~] 121-2(8); 121-4(12); [~~121-5(d);~~] 121-5(b); 121-7; [~~121-8;~~] 121-8(c); 143B-62;
10 Eff. February 1, 1985;
11 Amended Eff. April 1, 2001; June 1, 1989;
12 Readopted Eff. June 1, 2017.

07 NCAC 04R .0803 is readopted with changes as published in 31:07 NCR 539-540 as follows:

07 NCAC 04R .0803 CURATION OF ARCHAEOLOGICAL COLLECTIONS

(a) All requests to temporarily or permanently store archaeological, archival, and photographic collections at OSA curation facilities shall be submitted in writing to the State Archaeologist. All requests shall include:

- (1) a declaration or statement of ownership of the collection;
- (2) the name, address, phone number, and email address of the person or agency submitting the collection;
- (3) the provenience information for the collection;
- (4) the storage size of the collection in cubic feet or by archival boxes measuring 12 x 15 x 10 inches or 6 x 15 x 10 inches; and
- (5) the number of items to be stored.

Requests shall be submitted to State Archaeologist, North Carolina Office State Archaeology, 4619 Mail Service Center, Raleigh NC 27699.

(b) Decisions on ~~the acceptance of collections will~~ storage requests shall be made in provided in writing by the State Archaeologist, in consultation with the ~~division director~~ Director of the Office of Archives and History, North Carolina Department of Natural and Cultural Resources, based on [factors such as:] and other ~~division staff members.~~ the following factors

- (1) confirmation of the information submitted in the request under Paragraph (a);
- (2) the condition of the materials contained in the [collection; and] collection, such as fragility, rarity, or other conservation needs; and
- (3) [the payment of applicable fees;] the availability of storage space.

~~(c) Requests may be approved or denied, depending on available storage space, the condition of the materials, payment of applicable fees.~~

~~(c)~~ (c) Fees may be charged for curation and conservation services in the amount of two hundred dollars (\$200.00) per cubic foot of materials, materials, and the revenue arising from these services shall be used to support the activities of the OSA's curation facilities. Fees may be increased on a biennial basis, adjusted pursuant to the rate of inflation established by the Consumer Price Index.

~~(e) Charges for the conservation, stabilization, analysis, inventory, repackaging, or other treatment of materials may be negotiated on a case by case basis, and set forth in service contracts mutually agreed upon between the OSA and a requesting party, if materials exceed the two hundred dollar (\$200.00) per cubic foot curation fee.~~

History Note: Authority G.S. 70-11; 121-4(8), (9), (13), (14); 121-4(14); [121-8(b),(f)]; 121-8(b),(c),(f); 143B-62; Eff. February 1, 1985; Amended Eff. April 1, 2001; June 1, 1989; Readopted Eff. June 1, 2017.

1 07 NCAC 04R .0804 is readopted as a repeal as published in 31:07 NCR 540 as follows:

2

3 **07 NCAC 04R .0804 DEACCESSIONS**

4

5 *History Note: Authority G.S. 121-8(b),(f); 132-1(a); 132-3(a);*

6 *Eff. February 1, 1985;*

7 *Amended Eff. April 1, 2001; June 1, 1989;*

8 *Repealed Eff. June 1, 2017.*

1 07 NCAC 04R .0805 - .0806 are readopted as a repeal as published in 31:07 NCR 540 as follows:

2

3 **07 NCAC 04R .0805 ACCESS TO ARCHAEOLOGICAL COLLECTIONS**

4 **07 NCAC 04R .0806 ARCHAEOLOGICAL SITE FILES**

5

6 *History Note: Authority G.S. 70-18; 121-8(b),(d),(e),(f); 132-1(a); 132-2; 132-9;*

7 *Eff. February 1, 1985;*

8 *Amended Eff. April 1, 2001; June 1, 1989;*

9 *Repealed Eff. June 1, 2017.*

1 07 NCAC 04R .0807 is readopted as a repeal as published in 31:07 NCR 540 as follows:

2

3 **07 NCAC 04R .0807 PUBLIC ACCESS TO EXCAVATIONS**

4

5 *History Note: Authority G.S. 121-4(9); 143B-62(2)d;*

6 *Eff. February 1, 1985;*

7 *Amended Eff. April 1, 2001; June 1, 1989;*

8 *Repealed Eff. June 1, 2017.*

1 07 NCAC 04R .0808 is readopted as a repeal as published in 31:07 NCR 540 as follows:

2

3 **07 NCAC 04R .0808 ARCHAEOLOGICAL SURVEY AND EVALUATION REPORT GUIDELINES**

4

5 *History Note: Authority G.S. 143B-62(2)(g);*

6 *Eff. February 1, 1985;*

7 *Repealed Eff. June 1, 2017.*

1 07 NCAC 04R .1002 - .1003 are proposed for readoption as a repeal as published in 31:07 NCR 540-541 as follows:

2

3 **07 NCAC 04R .1002 DEFINITIONS**

4 **07 NCAC 04R .1003 DEPARTMENT AUTHORIZED TO GRANT PERMITS AND LICENSES**

5

6 *History Note: Authority G.S. 121-22; 121-23; 121-25;*

7 *Eff. February 1, 1985;*

8 *Amended Eff. June 1, 1989;*

9 *Repealed Eff. June 1, 2017.*

1 07 NCAC 04R .1004 is readopted as a repeal as published in 31:07 NCR 541 as follows:

2

3 **07 NCAC 04R .1004 EXCEPTIONS**

4

5 *History Note: Authority G.S. 121-24;*

6 *Eff. February 1, 1985;*

7 *Repealed Eff. June 1, 2017.*

1 07 NCAC 04R .1005 - .1012 are readopted as a repeal as published in 31:07 NCR 541-542 as follows:

2

3 **07 NCAC 04R .1005 PERMIT FOR EXPLORATION: RECOVERY OR SALVAGE**

4 **07 NCAC 04R .1006 TERMS AND CONDITIONS OF PERMITS**

5 **07 NCAC 04R .1007 APPEALS RELATING TO PERMITS**

6 **07 NCAC 04R .1008 OWNERSHIP AND DIVISION OF RECOVERED ITEMS**

7 **07 NCAC 04R .1009 PROTECTED AREAS**

8 **07 NCAC 04R .1010 SPECIAL AREAS FOR SPORT AND HOBBY OPERATIONS**

9 **07 NCAC 04R .1011 REPORTING REQUIREMENTS**

10 **07 NCAC 04R .1012 REPORT REVIEW**

11

12 *History Note: Authority G.S. 121-23; 121-25; 150B;*

13 *Eff. February 1, 1985;*

14 *Amended Eff. June 1, 1989;*

15 *Repealed Eff. June 1, 2017.*

1 07 NCAC 04R .1013 is readopted as a repeal as published in 31:07 NCR 542 as follows:

2

3 **07 NCAC 04R .1013 TERMINATION OF PERMIT**

4

5 *History Note: Authority G.S. 121-23; 121-25;*

6 *Eff. February 1, 1985;*

7 *Repealed Eff. June 1, 2017.*

1 07 NCAC 04R .1501 is readopted as a repeal as published in 31:07 NCR 542-543 as follows:

2

3 **07 NCAC 04R .1501 OPERATING HOURS**

4

5 *History Note: Authority G.S. 121-4; 121-8(b),(c),(f); 143B-62(2d); 150B-2(8a);*

6 *Eff. April 1, 2001;*

7 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26,*

8 *2015;*

9 *Repealed Eff. June 1, 2017.*

1 07 NCAC 04R .1502 is readopted as a repeal as published in 31:07 NCR 543 as follows:

2

3 **07 NCAC 04R .1502 HISTORIC STRUCTURE SITE FILES AND MAPS**

4

5 *History Note: Authority G.S. 70-18; 121-2(8); 121-4(13),(14); 121-4.1(a); 121-5(d); 121-8(b),(c),(f); 143B-62(2b);*
6 *Eff. April 1, 2001;*

7 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015;*

8 *Repealed Eff. June 1, 2017.*

1 07 NCAC 04R .1503 is amended with changes as published in 31:07 NCR 543 as follows:

2
3 **07 NCAC 04R .1503 VISITATION POLICY**

4 (a) The Survey and National Registry Branch is the repository of photographs, field notes, research reports, drawings,
5 National Register of Historic Places nominations, maps, computer databases, and other materials related to the North
6 Carolina inventory of historic structures. Visitors seeking access to **the** Survey and ~~Planning~~ National Register Branch
7 ~~maps and~~ files shall make an appointment through the branch supervisor or his or her designee at least 24 hours in advance
8 of the time of the proposed **visit appointment.** Information on how to contact the Survey and National Register Branch
9 may be found at <http://www.hpo.dcr.state.nc.us/spbranch.htm>.

10 ~~(b) Appointments for the map collection and the file collection shall be made separately.~~

11 ~~(c)~~ (b) When multiple visitors seek access to the ~~maps or~~ files on the same day, the branch supervisor or his or her designee
12 may limit duration of visits and limit the number of visitors using the ~~map collection and~~ file collection. The branch
13 supervisor or his or her designee may limit access ~~to the files if:~~ **based upon the following factors:**

14 (1) the files are in use by the ~~Agency;~~ **Department;**

15 (2) space is unavailable to view the files;

16 (3) the files would be damaged or harmed by exposure to environmental elements, such as air, light, or
17 moisture; and

18 (4) any other circumstances that will ensure the preservation of the files, as determined by the branch
19 supervisor or his or her designee. **“Other circumstances” include those that may result in theft or damage**
20 **during use.**

21 ~~(d)~~ (c) Visitors shall switch off cell phones, pagers, and other electronic ~~communication~~ devices in the office area.

22 ~~(e)~~ (d) Survey and ~~Planning~~ National Register Branch staff shall have priority ~~for~~ in using the copy machine usage.

23
24 *History Note: Authority G.S. 121-4(13); 121-8(b),(c),(f); 143B-62(3);*

25 *Eff. April 1, 2001;*

26 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015;*

27 *Amended Eff. June 1, 2017.*

07 NCAC 04R .1601 is adopted with changes as published in 31:07 NCR 543-544 as follows:

07 NCAC 04R .1601 DEFINITIONS

The following definitions, as well as the definitions set forth in G.S. 70-12, shall apply to Section .0800 and Section .1600 of this Subchapter, unless otherwise indicated:

- (1) "Abandoned shipwrecks" means sunken vessels, ships, boats, and other watercraft and their associated cargoes, tackle, and materials to ~~which that the owner has relinquished ownership rights with no retention,~~ have remained unclaimed for 10 years as set forth in G.S. 121-22.
- (2) "Applicant" means a person or entity applying for a permit or license to conduct any archaeological investigations on State lands or archeological sites, or any type of exploration, recovery, or salvage operations of any part of an Abandoned shipwreck or its contents.
- (3) "Emergency archaeological investigation" means any surface collection, subsurface test, excavation, or other activity that results in the disturbance or removal of archaeological resources occurring on State lands or Abandoned shipwrecks undertaken because of:
 - (a) the accidental discovery of archaeological resources during construction or other ground disturbing activities; or
 - (b) threat of damage or destruction to archaeological resources caused by events including including, but not limited to, vandalism, fire, erosion, land clearing, road construction, dredging, flood, or hazardous contamination.
- (4) "Ground disturbance" means any activity that compacts or disturbs the ground ~~including including, but not limited to,~~ ground disturbance upon State lands or Abandoned shipwrecks related to the construction, alteration, trenching or expansion of dikes, borrow pits, utility lines, airports, bridges, housing developments, boat basins and channels, and the placement of fill or spoil dirt.
- (5) "Land controlling agency" means the State agency with management responsibilities for State land.
- (6) "Permit" means written authorization ~~under law in accordance with these Rules to conduct archaeological investigation on state lands.~~ State lands or Abandoned shipwrecks.
- (7) "Protected Area" means an area identified by the Department of Natural and Cultural Resources as having scientific, archaeological, or historical value, as evaluated by criteria set forth in 36 C.F.R. 60.4.
- (8) ~~"Qualified archaeologist"~~ "Principal Investigator Archaeologist" means a person possessing the following:
 - (a) a postgraduate degree or equivalent training and experience in archaeology, anthropology, history, or another related field with a specialization in archaeology;
 - (b) a minimum of one year's experience in conducting archaeological field research; and
 - (c) a minimum of five years' experience in theoretical and methodological design and in collecting, handling, analyzing, evaluating, and reporting archaeological data.
- (9) "Risk of harm" means any disclosure of the nature or location of any archaeological resource that results or may result in the loss or destruction of archaeological context or information or the loss of historical,

1 scientific, environmental, monetary, or religious attributes and values attributable to in archeological
2 sites and artifacts.

3 (10) "State Archaeologist" means the head of the Office of State Archaeology (Archaeology Section),
4 Division of Historical Resources, Office of Archives and History, Department of Natural and Cultural
5 Resources.

6 (11) "State lands" shall mean "land" as defined in G.S. ~~146-64~~, 70-12.

7 (12) "Archaeological artifacts" means those materials showing human workmanship or modification or
8 having been used or intended to be used or consumed by humans, including relics, monuments, tools
9 and fittings, utensils, instruments, weapons, ammunition, and treasure trove and precious materials
10 including gold, silver, bullion, pottery, ceramic, and similar or related materials.

11

12 *History Note:* Authority G.S. 70-12; 70-13; 70-14; 121-4; 121-22; 121-23; 143B-62(1)(h);

13 *Eff. June 1, 2017.*

1 07 NCAC 04R .1602 is adopted with changes as published in 31:07 NCR 544 as follows:

2
3 **07 NCAC 04R .1602 ARCHAEOLOGICAL INVESTIGATIONS ON STATE LANDS**

4 (a) Any person conducting archeological investigations on State lands or Abandoned shipwrecks shall obtain a
5 permit. Upon consultation with the Department of Administration and subject to the criteria and discretion set forth in this
6 Section, Article 2 of G.S. 70 and Article 3 of G.S. 121, the State Archaeologist, as designee of the Secretary of the
7 Department of Natural and Cultural Resources, may grant permits to any person wishing to conduct terrestrial or
8 underwater archaeological investigations on State lands, the exploration, recovery, or salvage of abandoned shipwrecks,
9 and of underwater archaeological artifacts of state-owned bottoms in navigable waters.

10 ~~(b) No person, firm, corporation, institution, or agency shall conduct any archaeological investigation. No archaeological~~
11 ~~investigation, exploration, recovery, or salvage operations shall be conducted on ~~terrestrial~~ State lands, lands or Abandoned~~
12 ~~shipwrecks State-owned bottoms of navigable waters during which abandoned shipwrecks or underwater archaeological~~
13 ~~artifacts may be removed, displaced, or destroyed, without having first received a permit from the Department of Natural~~
14 ~~and Cultural Resources.~~

15 (c) After issuance, no permit or any part thereof shall be assigned or sublet.

16 ~~(b)~~ (d) Permits shall be either General or Specific, as follows:

- 17 (1) General Permits shall be issued to those land controlling agencies that employ ~~qualified archaeologists~~
18 Principal Investigator Archaeologists on a full time permanent basis to conduct archaeological
19 investigations on ~~state~~ State lands or Abandoned shipwrecks ~~directly~~ under the agency's ~~control~~; control
20 in accordance with the Rules in this Section; and
21 (2) ~~All other permits shall be Specific Permits.~~ Specific Permits shall be issued to Principal Investigator
22 Archaeologists and shall include all permits other than General Permits.

23 ~~(e)~~ (e) No permit ~~is~~ shall be required for employees of the Department of Natural and Cultural Resources to conduct
24 investigations being conducted as part of the Department's ~~official~~ responsibilities.

25
26 *History Note: Authority G.S. 70-13; 70-14; 121-23; 121-25; 143B-10; 143B-62(1)(h);*
27 *Eff. June 1, 2017.*

07 NCAC 04R .1603 is adopted with changes as published in 31:07 NCR 544-545 as follow:

07 NCAC 04R .1603 APPLICATION FOR ARCHAEOLOGICAL PERMITS

(a) General Permit. ~~A General Permit may be issued to a land controlling agency to conduct archaeological investigations and emergency archaeological investigations on land directly controlled by that agency. Each General Permit application~~ Applications for a land controlling agency shall include the following information:

- (1) a written description of the lands controlled by the agency, including the county and township;
- (2) a ~~general~~ description of the nature and objectives of the investigation(s);
- (3) the name, address, telephone number, and qualifications of the principal investigator archaeologist;
- (4) evidence that the requirements of Rule .1604 of this Section are met;
- (5) ~~written protocols and procedures, for access to records and artifacts, of the facility where such records and artifacts are to be curated; the facility for curation of all artifacts, records, data, photographs, and other documents or information resulting from the investigations;~~ written protocols and procedures for access to records and artifacts of the facility where such records and artifacts are to be curated;
- (6) ~~the facility identified for curation of all artifacts, records, data, photographs, and other documents or information resulting from the investigations;~~ written protocols and procedures for access to records and artifacts of the facility where such records and artifacts are to be curated;
- (7) facilities and plans for stabilization and preservation of perishable or unstable artifacts;
- (8) the person or position in the institution or agency with responsibility for curation of artifacts ~~and, and records,~~ records and other documentation or information as to who shall determine access to this material; and
- (9) the principal ~~investigator's~~ investigator archaeologist's plans, if any, for dissemination of the results of the investigation in addition to the reporting requirements of Rule .1611 of this Section.

(b) Specific Permit. Applicants for Specific Permits shall submit applications to the State Archaeologist at least 30 days prior to the proposed start date of the archaeological investigations. Each Specific Permit application shall include:

- (1) a written description of the location of the proposed investigation, including the county and township;
- (2) a 1: 24,000 or larger scale map depicting the location of the proposed investigation;
- (3) a description of the nature, objectives and scope of the proposed investigation, including the methods to be employed and the requirements for clearing of vegetation;
- (4) the schedule for the investigation, including hours of the day and days of the week, as well as beginning and completion dates. The schedule shall include 60 days for review and comment of the draft report by the State Archaeologist and the land-controlling agency and a maximum of 30 days for response, revisions, and submittal of the final report by the applicant;
- (5) the name, address, telephone number, institutional affiliation, and qualifications of the principal investigator archaeologist;
- (6) the name, address, telephone number, and qualifications of the field director, if different from the principal investigator;

- 1 (7) the approximate number of people proposed to carry out the investigation;
- 2 (8) evidence of the applicant's capability to initiate, conduct, and complete the proposed ~~investigation;~~
3 investigations, such as prior training or participation in the type of investigation proposed in the
4 application;
- 5 (9) written criteria for evaluation of requests for access to records and artifacts at the facility where the
6 records and artifacts are to be curated;
- 7 (10) the facility identified for curation of all artifacts, records, data, photographs, and other documents or
8 information resulting from the investigation;
- 9 (11) written concurrence from the land-controlling agency regarding the applicant's proposed curatorial
10 arrangements;
- 11 (12) facilities and plans for stabilization and preservation of perishable or unstable artifacts;
- 12 (13) the person or position in the institution or agency with responsibility for curation of artifacts and records,
13 and other documentation or information as to who will determine access to this material;
- 14 (14) a description of the type and timing of all access needs on State property, vehicular or otherwise, required
15 to conduct the investigations;
- 16 (15) a description of how the project will be coordinated with the site-specific land manager, including the
17 applicant's documentation that initial contact has been made and the name of the person contacted;
- 18 (16) a description of the provisions to be made to secure the permit area to assure the safety of non-project
19 personnel who may visit the permit area during and after project hours;
- 20 (17) an indication of the length of time each excavation unit will be open and a schedule for reclaiming all
21 areas disturbed by any aspect of the archaeological investigations; and
- 22 (18) the applicant's plans, if any, for dissemination of the results of the investigations in addition to the
23 reporting requirements noted in Rule .1612 of this Section.

24 (c) Applications shall be sent to the State Archaeologist, Office of State Archaeology, 4619 MSC, Raleigh, NC 27699-
25 4619, via U.S. Mail.

26
27 *History Note:* Authority G.S. 70-13; 70-14; 121-4(13); 121-23; 121-25; 143B-10; 143B-62(1)(h)
28 *Eff. June 1, 2017.*

07 NCAC 04R .1604 is adopted with changes as published in 31:07 NCR 545-546 as follows:

07 NCAC 04R .1604 REQUIREMENTS FOR AND ISSUANCE OF PERMITS

(a) Applicants for permits to conduct archaeological investigations ~~shall~~ shall certify on the application that they:

- (1) have a postgraduate degree, or equivalent training and experience, in archaeology, anthropology, history, or another related field with a specialization in archaeology;
- (2) have a minimum of one year's experience in conducting archaeological field research;
- (3) have obtained and submitted for review by the State Archaeologist a criminal record check by the State Bureau of Investigation as set forth in G.S. 70-13.1 and G.S. 121-25.1;
- (4) have funds, equipment, and facilities to undertake and complete the operation, provide supervision of all phases of the operation, and demonstrate the ability to carry out acceptable investigations that meet current professional standards, ~~including those promulgated by the National Park Service, Society for American Archaeology, and other professional archaeology organizations;~~ like those established by the Society for Historical Archaeology, the Conference on Underwater Archaeology, or the American Museum Association;
- (5) will undertake the proposed activity for the purpose of furthering archaeological knowledge;
- (6) will employ accepted techniques of survey, excavation, recovery, recording, preservation, and analysis used in ~~investigations;~~ investigations as follows: including those promulgated by the National Park Service, Society for American Archaeology, and other professional archaeology organizations;
 - (A) for investigations on State lands, the Secretary of Interior's Standards for Archaeology and Historic Preservation which is incorporated by reference, including subsequent amendments and editions, available for free at https://www.nps.gov/history/local-law/arch_stnds_0.htm, and available for inspection at no cost in the Office of State Archaeology; and
 - (B) for Abandoned shipwrecks, applicants shall use the Abandoned Shipwreck Act Guidelines which is incorporated by reference, including subsequent amendments and editions, available for free at https://www.nps.gov/history/local-law/arch_stnds_0.htm, and available for inspection at no cost in the Office of State Archaeology; and
- (7) will conserve the archaeological artifacts recovered during the proposed project and ensure that those artifacts and all original archaeological records and data associated with the undertaking shall be conserved and curated in ~~an acceptable manner; at a minimum, artifacts and associated records are conserved and maintained in accordance with professionally accepted curation standards or in the absence of such standards by the National Park Service~~ accordance with the National Park Service Standards as set forth in 36 CFR 79; and CFR.
- ~~(8) any other qualification deemed necessary by the State Archaeologist as dictated by the particular project, such as documented expertise in subfields of archaeology (prehistory, history, maritime, forensic),~~

1 ~~professional publications, and evidence of successful completion of similar investigations in North~~
2 ~~Carolina or in the southeastern United States.~~

3 (b) General Permits shall be issued or denied to a land-controlling agency within 90 days following submission of the
4 completed ~~Application~~ application provided the terms and requirements of the rules in this Section pertaining to General
5 Permits are fulfilled.

6 (c) The Specific Permit shall be issued or denied within 90 days ~~after~~ following submission of the completed ~~application.~~
7 application provided the terms and requirements of the rules in this Section pertaining to Specific Permits are fulfilled.
8 ~~The reason for the denial shall be specified in the denial notice.~~

9 (d) ~~Specific Permits shall not be issued to any person or entity who has conducted emergency archaeological investigations~~
10 ~~until the State Archaeologist receives and accepts a final report pursuant to Rule .1612 of this Section. A Specific Permit~~
11 shall not be issued to any person or entity conducting an Emergency archaeological investigation until the State
12 Archaeologist receives and accepts a final report in accordance with Rules .1611 and .1612 of this Section.

13 (e) No General or Specific Permit shall be considered valid until a signed and dated original copy is returned to the State
14 Archaeologist by the permittee.

15
16 *History Note:* Authority G.S. 70-11; 70-13; 70-13.1; 121-4(13); 121-23; 121-25; 121-25.1; 143B-10; 143B-62(1)(h);
17 *Eff. June 1, 2017.*

1 07 NCAC 04R .1605 is adopted with changes as published in 31:07 NCR 546 as follows:

2
3 **07 NCAC 04R .1605 DURATION, EXTENSION, AND RENEWAL OF PERMITS**

4 (a) ~~Permits shall be renewed or extended pursuant to the procedures set forth in Rule .1604 of this Section. A Permit issued~~
5 under this Section shall be extended or renewed in accordance with this Rule. Requests to extend or renew a Permit shall
6 be submitted in writing to the State Archaeologist. The requests shall include:

- 7 (1) the permittee's name, address, and telephone number;
8 (2) a copy of the original permit;
9 (3) whether the request is for an extension or renewal;
10 (4) the time limit requested for an extension, not to exceed six months;
11 (5) a statement describing the need for the extension or renewal; and
12 (6) a statement certifying compliance with Rule .1604 of this Section.

13 (b) ~~General Permits shall be valid for a period of five years from the date of issuance. General Permits may be renewed~~
14 ~~for a period of five years, after review of extension requests or renewal applications and evaluation of the past performance~~
15 ~~of the applicant. General Permits shall be valid for a period of five years from the date of issuance. General Permits may~~
16 be extended for up to six months as requested by the permittee or renewed for five additional years. General Permits shall
17 be extended only once, but may be renewed any number of times.

18 (c) ~~Specific Permits shall be issued for a period not to exceed three years. Specific Permits shall be valid for a period of~~
19 three years from the date of issuance. Specific Permits may be extended for up to six months as requested by the permittee
20 or renewed for ~~up to~~ three additional years. Specific Permits may be extended only once, but may be renewed any number
21 of times.

22 (d) ~~No General or Specific Permit shall be considered valid until a signed and dated original copy is returned to the State~~
23 ~~Archaeologist by the Principal Investigator Archaeologist or other designated permit applicant. Requests shall be approved~~
24 or denied by the State Archaeologist based on:

- 25 (1) the information submitted in the request under Paragraph (a); and
26 (2) evaluation of past performance under the permit, such as compliance with the terms and conditions under
27 the Permit and the progress of work completed under the Permit.

28
29 *History Note:* Authority G.S. G.S. 70-13; 70-14; 121-23; 121-25; 143B-62(1)(h);
30 Eff. February 1, 2017. June 1, 2017.

1 07 NCAC 04R .1606 is adopted with changes as published in 31:07 NCR 546 as follows:

2
3 **07 NCAC 04R .1606 TERMS AND CONDITIONS OF PERMITS**

4 (a) All permits shall specify:

- 5 (1) the nature and extent of the investigations allowed under the permit, including the time, duration, scope,
6 location, and purpose of the investigations;
- 7 (2) the name of the individual responsible for conducting the investigations and, if different, the name of the
8 individual responsible for carrying out the terms and conditions of the permit;
- 9 (3) the name of the land-controlling agency, university, museum, or other scientific or educational institution
10 in which any collected materials and data will be deposited; and
- 11 (4) the reporting requirements and ~~schedule~~: schedule as set forth in Rules .1611 and .1612; and
- 12 (5) other terms and conditions as determined by the Department to be necessary to ensure public safety,
13 protect natural and cultural resources, safeguard land uses, and limit activities to investigations
14 authorized under the permit.

15 ~~(b) All permits shall specify terms and conditions necessary to ensure public safety, protect natural and cultural resources,~~
16 ~~safeguard legitimate land uses, and limit activities incidental to investigations authorized under the permit.~~

17 ~~(c) (b) Any agency involved in consultation or approval of a permit under this Section may make inspections at the location~~
18 ~~specified in the permit as necessary. Inspections may occur at the archeological investigation site to ensure that the terms~~
19 ~~and conditions of the permit are being met.~~

20 ~~(d) (c) The permittee shall secure the project area and shall hold the State harmless from all claims arising out of the~~
21 ~~project, including any claims of trespass or damage to adjacent private property caused by the permittee related to the~~
22 ~~permit. The permittee shall also:~~

- 23 (1) ~~sign a waiver of claims against the State;~~
- 24 (2) ~~be held responsible for damage to State property resulting from the permitted investigations; and~~
- 25 (3) ~~submit evidence of liability insurance upon acceptance of the terms and conditions of a permit.~~

26 The permittee shall obtain and submit evidence of liability insurance upon acceptance of the terms and conditions of the
27 permit.

28 ~~(e) (d) Archaeological investigations conducted under a permit shall comply with all applicable state, federal, and local~~
29 ~~regulations and the rules and regulations of the land-controlling agency, including its management plans and operation~~
30 ~~practices. regulations.~~

31 ~~(f) (e) All access to State-owned lands during permitted investigations shall be controlled by and coordinated with the land-~~
32 ~~controlling agency and the site-specific land manager. manager, such as superintendents, wardens, or facilities managers.~~

33 ~~(g) (f) Applicants shall restore all project lands to their pre-project condition by the conclusion of the field investigations.~~

34 (g) The land-controlling agency shall report in writing to the Secretary of the Department of Administration and State
35 Archaeologist any change the Principal Investigator Archaeologist named in a General Permit within 10 days of that
36 change.

1 *History Note:* Authority G.S. 70-13; 70-14; 121-23; 121-25; 143B-62(1)(h);
2 *Eff. June 1, 2017.*

1 07 NCAC 04R .1607 is adopted with changes as published in 31:07 NCR 546-547 as follows:

2
3 **07 NCAC 04R .1607 PERMIT DENIAL, SUSPENSION AND REVOCATION**

4 (a) A permit may be denied if the State ~~Archaeologist, in consultation with the Department of Administration, Archeologist~~
5 finds that:

- 6 (1) the proposed investigations would represent an adverse ~~effect~~ effect, as defined in 36 C.F.R. 800.5(a)(1),
7 to a unique or fragile natural resource; resource, such as endangered plant or animal species;
8 (2) the proposed investigations would interfere with the operation and management of an area;
9 (3) the proposed investigations would pose a threat to public safety;
10 (4) the applicant has not completed the terms and conditions of a previous permit; or
11 (5) the results of the required criminal record check reveal one or more convictions listed in G.S. 70-13.1 or
12 G.S. 125-25.1.

13 (b) A permit may be suspended or revoked if the State Archaeologist, in consultation with the Department of
14 Administration, finds that:

- 15 (1) the terms and conditions of the permit have been or are being violated;
16 (2) the permit applicant is convicted of a crime enumerated in G.S. 70-13.1 or G.S. 125-25.1;
17 (3) the permit holder fails to comply with the rules in this Section or applicable State or federal laws; or
18 (4) ~~the confidentiality of information relating to the nature and location of the archaeological resources is~~
19 ~~not maintained in accordance with G.S. 70-18.~~ disclosure of information that the Department has
20 determined would create a risk of harm in accordance with G.S. 70-18.

21
22 *History Note:* Authority G.S. 70-13; 70-14; 121-23; 121-24; 121-25; 143B-10; 143B-62(1)(h);
23 *Eff. June 1, 2017.*

1 07 NCAC 04R .1609 is adopted with changes as published in 31:07 NCR 547 as follows:

2

3 **07 NCAC 04R .1609 EMERGENCY ARCHAEOLOGICAL INVESTIGATIONS**

4 (a) Emergency archaeological investigations on State lands or Abandoned shipwrecks ~~do~~ shall not require a Permit.
5 ~~Specific Permit if the person conducting the investigation meets the qualifications of Rule .1604 of this Section and the~~
6 ~~land controlling agency has notified the Department of Administration and the State Archaeologist of the emergency~~
7 ~~investigation.~~ Emergency archaeological investigations shall include any unforeseen discovery of artifacts or records found
8 during any land disturbing activity, whether or not through a permit issued under this Section, conducted on State lands or
9 Abandoned shipwrecks.

10 (b) Upon discovery or the need for an Emergency archaeological investigation, the State Archaeologist shall be notified.
11 The State Archaeologist shall oversee the administration of Emergency archaeological investigations. The State
12 Archaeologist shall designate a Principal investigator archaeologist to lead the investigation. Reporting requirements for
13 emergency archaeological investigations ~~are~~ shall be those set forth in Rule 1611 and .1612.

14 ~~(b)~~ (c) All artifacts and associated records recovered during emergency archaeological investigations shall remain the
15 property of the State of North Carolina and shall be maintained in a repository approved by the State Archaeologist.
16 Facilities where State-owned collections are maintained ~~must~~ shall comply federal curation standards as set forth at 36
17 C.F.R. 79.

18

19 *History Note: Authority G.S. 70-13; 70-14; 121-23; 123-25; 143B-10; 143B-62(1)(h);*
20 *Eff. June 1, 2017.*

1 07 NCAC 04R .1611 is adopted with changes as published in 31:07 NCR 547 as follows:

2
3 **07 NCAC 04R .1611 REPORTING REQUIREMENTS FOR GENERAL PERMITS; REVIEW**

4 (a) Reports of archaeological investigations conducted under the terms of a General Permit shall be submitted to the State
5 ~~Archaeologist.~~ Archaeologist (OSA).

6 ~~(b) The principal investigator archaeologist shall submit a summary of the results of all archaeological investigations as~~
7 ~~part of the report(s) required by the permit.~~

8 ~~(c) The land controlling agency shall report in writing to the Secretary of the Department of Administration and State~~
9 ~~Archaeologist any change in either the principal investigator archaeologist or the field director named in a General Permit~~
10 ~~within 10 days of that change.~~

11 ~~(d) (b) Final reports concerning archaeological investigations and emergency archaeological investigations shall be~~
12 ~~submitted by the end of the calendar year that immediately follows the year in which the archaeological investigations~~
13 ~~were conducted.~~ completed.

14 ~~(e) (c) The principal investigator archaeologist, in consultation with the State Archaeologist, shall delay the submission~~
15 ~~of a final report, under circumstances described in this Paragraph, until an agreed upon date is determined with the land-~~
16 ~~controlling agency. Delays shall be considered for events including environmental changes, changes in project~~
17 ~~specifications by the project sponsor, or unforeseen discoveries of complex or fragile archaeological materials, including~~
18 ~~human remains. The principal investigator archaeologist may request to extend the submission of the final report as set~~
19 ~~forth in Paragraph (d) of this Rule. The request shall be in writing to the State Archaeologist and include a copy of the~~
20 ~~permit. The State Archaeologist may extend the date to submit the final report based on the following factors:~~

21 (1) environmental changes;

22 (2) changes in the project specifications by the project sponsor; or

23 (3) unforeseen discoveries of complex or fragile archaeological materials, including human remains.

24 ~~(f) (d)~~ (d) The principal investigator archaeologist shall provide in the report to OSA:

25 (1) information concerning the ~~permanent~~ physical location of artifacts, records, and all other documentation
26 for all archaeological investigations;

27 (2) itemized list of all recovered archaeological resources by type, variety, material, or other description and
28 a list of accession numbers or other ~~permanent~~ identifiers applied to the recovered resources; ~~and~~

29 (3) an itemized list of records, photographs, and other documents and a list of accession numbers or other
30 ~~permanent~~ identifiers applied to the records and ~~data.~~ data; and

31 (4) a summary of the results of all archaeological investigations as part of the report(s) required by the
32 permit.

33 ~~(g) (e)~~ (e) The State ~~Archaeologist, Archaeologist and in consultation with the Department of Administration and~~ head of the
34 land-controlling agency ~~or designee~~, shall review at least once a year the permittee's performance under any General Permit
35 issued for a period greater than one year. The State Archaeologist shall review the final reports for General Permits to
36 ensure that the reports meet the federal Secretary of the Interior's Standards for ~~Archaeological Documentation~~
37 Archaeology and Historic Preservation and may requests revisions of the final report if said standards are not met.

1 ~~(h)~~ (f) The State Archaeologist shall have 60 days following receipt of any report to review and return written comments
2 on the report to the land-controlling agency and the principal investigator archaeologist.
3 ~~(i)~~ (g) ~~Taking into account the State Archaeologist's written comments, the~~ The principal investigator shall revise and
4 submit the final ~~report~~ report, in accordance with the State Archaeologist written comments, within 30 days of receipt of
5 review and comments by the State Archaeologist.

6
7 *History Note: Authority G.S. 70-13; 70-14; 121-4; 121-23; 121-25; 143-10; 143B-62(1)(h);*
8 *Eff. June 1, 2017.*

1 07 NCAC 04R .1612 is adopted with changes as published in 31:07 NCR 547-548 as follows:

2
3 **07 NCAC 04R .1612 REPORTING REQUIREMENTS FOR SPECIFIC PERMITS; REVIEW**

4 (a) Permittees shall prepare and submit to the State Archaeologist and the head of the land-controlling agency reports for
5 all archaeological investigations conducted under Specific ~~Permits.~~ Permits in accordance with this Rule.

6 (b) The permittee shall maintain a daily log of all project activities, including the types of equipment used and site
7 ~~conditions, conditions, and provide copies to the State Archaeologist upon request.~~ The permittee shall provide copies of
8 the daily log to the State Archaeologist upon request.

9 (c) The permittee shall submit a ~~preliminary field report~~ letter to the State Archaeologist within 60 days after completion
10 of the on-site archaeological ~~investigation.~~ investigation describing the activities conducted under the investigation.
11 ~~Preliminary field reports of from emergency archaeological investigations~~ The letter to the State Archaeologist shall
12 specify include the date for submission of the draft ~~report.~~ report as required by Paragraph (d) of this Rule.

13 (d) The permittee shall submit draft reports according to the schedule established in the permit or, in the case of emergency
14 archaeological investigations, by the date specified in the ~~preliminary field report.~~ in the letter as required in Paragraph (c)
15 of this Rule. Draft reports submitted for emergency archaeological investigations shall include information on storage and
16 curation of artifacts, records, and other data in accordance with the specifications in Rule .1603(b)(9) through (13) of this
17 Section.

18 (e) The permittee shall submit final reports no later than 90 days after submission of the draft report.

19 (f) If the specified submission date for a draft report of emergency archaeological investigations extends beyond one year
20 from the date of submission ~~of the preliminary field report, progress reports~~ a letter, as set forth in Paragraph (c) of this
21 Rule, shall be submitted annually, a year from the issuance date of the permit.

22 (g) ~~Upon request by the State Archaeologist, the~~ The permittee or, in the case of an emergency archaeological investigation,
23 the ~~principal investigator~~ the Principal Investigator Archaeologist, shall provide in the final report the following
24 information:

- 25 (1) the ~~permanent~~ physical location of artifacts, records, and all other documentation;
26 (2) an itemized list of all recovered archaeological resources by type, variety, material, or other description
27 and a list of accession numbers or other ~~permanent~~ identifiers applied to the recovered resources; and
28 (3) an itemized list of records, photographs, and other documents and a list of accession numbers or other
29 ~~permanent~~ identifiers applied to the records and data.

30 (h) The permittee ~~is~~ shall be responsible for the accuracy and validity of the data contained in the final report submitted
31 to the Department of Natural and Cultural Resources.

32 (i) ~~For any Specific Permit issued for a period greater than one year, the State Archaeologist, in consultation with the~~
33 ~~Department of Administration and head of the land-controlling agency or designee, shall review at least once a year the~~
34 ~~permittee's performance through interim reports submitted by the permittee or compliance inspections conducted at the~~
35 ~~investigation location.~~ Permits issued for a period greater than one year shall be reviewed at least once a year through
36 interim reports submitted by the permittee and by compliance inspections conducted at the investigation location. The
37 review shall be conducted with the State Archaeologist and the head of the land-controlling agency or his or her designee.

1 The interim report shall include: the name of the permittee, the location where the investigation is being conducted, the
2 permit number, the name of the Principal Investigator Archaeologist, a description of the project goals, a description of the
3 methods of research, all archaeological findings, and the project schedule.

4 (j) The State Archaeologist and the land-controlling agency shall review all draft and final reports for ~~Specific~~ Permits to
5 ensure that the investigations serve the public interest and the reports meet the federal ~~Secretary of the Interior's Standards~~
6 ~~for Archaeological Documentation~~, Secretary of Interior's Standards for Archaeology and Historic Preservation which are
7 incorporated by reference, including subsequent amendments and editions, for free at [https://www.nps.gov/history/local-](https://www.nps.gov/history/local-law/arch_stnds_0.htm)
8 law/arch_stnds_0.htm, and available for inspection at no cost at the Office of State Archaeology. The State Archaeologist
9 may request revisions of the draft or final reports. Terms and conditions of a ~~Specific~~ Permit shall be considered satisfied
10 only after report ~~revisions~~, revisions ~~if requested by the State Archaeologist~~, have been completed and the report has been
11 accepted by the State Archaeologist.

12 (k) The State Archaeologist and the land-controlling agency have 60 days after receipt to review and comment on draft
13 reports and return written comments to the permittee.

14 ~~Taking into account the State Archaeologist's written comments, the permittee shall revise and submit the final report~~
15 ~~within 30 days of receipt of review and comments by the State Archaeologist.~~ The Principal Investigator Archaeologist
16 shall revise and submit the final report, in accordance with the State Archaeologist written comments, within 30 days of
17 receipt of review and comments by the State Archaeologist.

18
19 *History Note: Authority G.S. 70-13; 70-14; 121-4; 121-23; 121-25; 143B-10; 143B-62(h);*
20 *Eff. June 1, 2017.*

1 07 NCAC 04R .1613 is adopted with changes as published in 31:07 NCR 548 as follows:

2
3 **07 NCAC 04R .1613 CUSTODY OF RESOURCES UNDER TERMS OF PERMITS**

4 (a) The archaeological resources ~~which~~ that are collected, excavated, or removed from State lands or Abandoned
5 shipwrecks and related records and data shall remain the property of the State of North Carolina.

6 ~~(b) All abandoned shipwrecks and underwater archaeological artifacts recovered in the waters of the State of North~~
7 ~~Carolina shall remain the property of the State of North Carolina.~~

8 ~~(c)~~ (b) The location of all records, artifacts, or other materials shall not be changed from that approved in the permit
9 without prior approval of the State Archaeologist and, in the case of Specific Permits, the land-controlling agency. This
10 restriction ~~does~~ shall not apply to the temporary removal and relocation of artifacts or records for the purposes of scientific,
11 historical, or educational research ~~nor~~ or for purposes of public display or education, so long as the artifacts or records
12 remain:

13 (1) In the case of General Permits, under the ~~direct~~ custody or control of the ~~principal investigator~~
14 ~~archaeologist~~ Principal Investigator Archaeologist or the land-controlling agency; or

15 (2) In the case of Specific Permits, under the custody or control of the museum, university, or
16 scientific or educational institution approved in the permit.

17 ~~(c)~~ (c) ~~Transfers or loans~~ of records and artifacts between universities, museums, and scientific or educational institutions
18 shall be approved by the State ~~Archaeologist~~ Archaeologist, and ~~shall be preceded with written affirmation from the~~
19 ~~principal investigator or permittee that the receiving institution conforms to the conditions set forth in this Rule. In~~
20 ~~addition, the permittee shall provide the State Archaeologist with information outlined in Rule .1603(a) of this Section for~~
21 ~~General Permits and in Rule .1603(b) of this Section for Specific Permits. However, in In~~ the case of General Permits this
22 Paragraph shall not apply to the movement of artifacts in the custody of a land-controlling agency so long as the artifacts
23 remain under the control of the ~~principal investigator archaeologist~~ Principal Investigator Archaeologist and the land-
24 controlling agency.

25 (d) All requests to relocate or transfer records, artifacts, or other materials related to a permit issued under this Section
26 shall be in writing to the State Archaeologist. The requests shall include:

27 (1) the permittee's name, address, and telephone number;

28 (2) a copy of the permit;

29 (3) a statement specifying whether the request is for relocation or transfer;

30 (4) a description of items being relocated or transferred;

31 (5) a statement describing the reason needed for the relocation or transfer;

32 (6) the name, address, and telephone number of the institution where the items will be relocated or
33 transferred; and

34 (7) a letter from the permittee certifying that the receiving institution meets the qualifications for curation
35 and preservation of the items as set forth in 36 C.F.R. 79

36 (e) ~~All records and artifacts shall be accessible for scientific, historical, or educational research if such access does not~~
37 ~~compromise the confidentiality of the nature and location of any archaeological resources or pose a risk of harm to the~~

1 ~~resources or site. The principal investigator archaeologist, in consultation with the State Archaeologist, shall determine~~
2 ~~when items under this section can be accessed.~~ Following a review of the application materials, the State Archaeologist
3 shall notify the permittee in writing of its decision to approve or deny the request. Requests for relocation or transfer may
4 be denied by the State Archaeologist if it:

- 5 (1) would harm the safety of the item, such as by theft, vandalism, or risk of accidental damage; or
- 6 (2) result in damage to the item, such as fading, breaking or, cracking due to overexposure from light, air,
7 moisture, or additional movement.

8

9 *History Note:* Authority G.S. 70-13; 70-14; 121-23; 121-25; 143B-10; 143B-62(1)(h)
10 *Eff. June 1, 2017.*

1 07 NCAC 04T .0104 is amended with changes as published in 31:07 NCR 548-549 as follows:

2
3 **07 NCAC 04T .0104 CRITERIA**

4 (a) All highway historical markers shall designate ~~places~~ places, events, or persons of statewide historical significance.
5 Historical Significance shall mean any person, place, or event of the past that has been recorded, documented, or
6 recognized in a primary or secondary source, such as in books, diaries, journals, newspaper articles, speeches,
7 documentaries, textbooks, artifacts, or other items, as having a lasting contribution to North Carolina history. ~~Subjects~~
8 ~~of local or regional importance shall not be approved for highway historical markers. No highway historical markers~~
9 ~~markers will be approved for subjects of local or regional importance.~~ Statewide historical significance must be
10 documented by the ~~presenter.~~ applicant. Applications shall be submitted to determine historical significance as set
11 forth in this Rule.

12 (b) Applications shall be requested from and submitted in writing to the Historical Research Office of the Division
13 of Archives and History, 4610 Mail Service Center, Raleigh, North Carolina 27699-4610, and include the following:

- 14 (1) the subject to be marked;
- 15 (2) the location associated with the subject;
- 16 (3) a detailed statement describing the subject's significance and its impact on the North Carolina's
17 history; and
- 18 (4) copies of primary and secondary sources detailing the subject's historical significance to North
19 Carolina.

20 ~~(b) (c)~~ An individual [is] shall be eligible for consideration of a historical marker [only after a waiting period of] twenty-five
21 years following [that individual's] his or her death. ~~No marker will be erected for an individual within 25 years of his~~
22 ~~death.~~

23 ~~(e) (d)~~ Markers for representatives in the [U.S.] Congress shall not be approved automatically; [automatically. The
24 nominee must have served at least two terms, or served as a chairman of a standing committee or sponsored key legislation, or have been
25 recognized as having served with distinction elsewhere, such as in the military, as an ambassador, as a member or volunteer in a social,
26 civic or political organization.] in addition to serving in Congress the individual must have served with distinction
27 elsewhere. Statewide historical significance shall be determined by the Highway Historical Marker Advisory
28 Committee based on the following factors:

- 29 (1) the relationship of the subject to North Carolina's history;
- 30 (2) the relationship of the subject to existing markers, such as whether the subject is included on an
31 existing marker;
- 32 (3) the subject's contributions to North Carolina; and
- 33 (4) consequence of the subject on North Carolina's history.

34 (d) [Houses of worship are primarily of local importance. For the marking of Protestant churches, the date of establishment is key to
35 consideration: in the East congregations established prior to 1776; in the Piedmont prior to 1800; and in the West prior to 1820. African
36 American churches and Roman Catholic churches shall be judged by dates that are relevant to the development of the denomination. The
37 age of a congregation alone does not mean that the committee will approve a marker. Other evidence of significance must be presented,

1 such as notable ministers or other worship leaders, important events, and the age and architectural importance of the religious building.
2 The same criteria shall apply to brush arbors and religious campgrounds.] Brush arbors, religious campgrounds, schools, and
3 academies will not be considered unless established prior to the following dates: coastal plains 1776; piedmont—
4 1800; mountain region 1820. Churches established after the dates set out in this Paragraph generally do not have
5 statewide historical significance.

6 ~~(e) [Cemeteries shall not] Markers for cemeteries will not be approved [for a historical marker] unless a number of persons
7 of statewide historical significance are buried there.~~

8 ~~(f) Markers will not be approved for [The committee shall not approve markers for cities or towns,] former county seats,
9 abandoned courthouses, jails, jail sites, post offices, former building sites, colleges or universities unless [they are]
10 of statewide historical significance.~~

11 ~~(g) Stagecoach roads, king's highways, stagecoach stops, plank roads, old brick roads, baggage roads, Indian trails,
12 trails, ferries, and military routes will not be marked unless of statewide historical significance.~~

13 ~~(h) Visits to a site by George Washington, the Marquis de Lafayette, Nathanael Greene, Lord Cornwallis, William
14 T. Sherman, George Stoneman, Francis Asbury, Griffith Rutherford, or other historical figures will not [automatically]
15 make the site eligible for a marker.~~

16 ~~(i) Markers will not be erected to mark a town or solely to list its date of incorporation.~~

17 ~~(j) [Public schools, of local importance, shall not approved for state markers. Private schools and academies shall
18 be judged based on the date of establishment, length of operation, employment of prominent teachers, enrollment of
19 prominent graduates, and if the region served is of statewide historical significance.] No marker will be approved for
20 individual sites within a historical complex which has its own marker system.~~

21 ~~(k) Marker requests will shall be rejected where it is impossible to authenticate or verify the documentation to the
22 satisfaction of the committee. "Firsts" [and other superlatives] will [shall] not be [automatically approved.] marked
23 unless there is sufficient documentary evidence to establish unquestionable authenticity.~~

24 ~~(l) [The committee shall not single out individuals to mark when many persons have shared equally in an event of
25 historical importance.] Individuals will not be singled out for marking if they were part of a group involved in a
26 historical event.~~

27 ~~(m) [If an individual appears on an existing North Carolina Highway Historical Marker, that individual shall not
28 be considered for a second marker.] An individual will not be marked a second time if his birthplace has been marked,
29 except in cases of statewide historical significance.~~

30 ~~(n) (e) If a person is cited on one marker, no individual marker will be approved except in cases of special historical
31 significance. If a person is named in the text of a marker, that individual will not be approved as the subject of a
32 separate marker.~~

34 *History Note: Authority G.S. 100-8; 121-4(7);*

35 *Eff. June 1, 1989;*

36 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26,*

37 *2015;*

