

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: All Rules Submitted in 11 NCAC 05A

DEADLINE FOR RECEIPT: Friday, December 8, 2017

NOTE WELL: *This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.*

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

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

In the Submission for Permanent Rule Form, in Box 6, please show that the Rules were published on September 1, 2017.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 27, 2017

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC .0502 - .0504

DEADLINE FOR RECEIPT: Friday, December 8, 2017

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

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

Since you are changing all forms, please put these repeals on one form. In Box 2, you may simply state "11 NCAC 05A .0502 - .0504" You do not need to include the names of the rules.

In Box 9A, please include in Box 9A that this is Legislation enacted by the General Assembly and insert a citation to SL 2017-167. You may put in parenthesis "(Rule .0504)" to make it clear that only that Rule is addressed by that Session Law.

In the Rule itself, please put the citations in numerical order.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 27, 2017

11 NCAC 05A .0502-.0504 are repealed as published in 32:05 NCR 284-285 as follows:

11 NCAC 05A .0502 QUALIFICATIONS

11 NCAC 05A .0503 ESTABLISHMENT OF FIRE DEPARTMENT

11 NCAC 05A .0504 PRIMARY PERSONNEL

History Note: Authority G.S. 58-2-40; 58-86-25; 143-166.1; 58-84-5;

Eff. September 1, 1985;

Amended Eff. February 1, 2017; October 1, 2006; July 1, 1992; July 1, 1986;

Repealed Eff. January 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 05A .0506 - .0507

DEADLINE FOR RECEIPT: Friday, December 8, 2017

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

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

Since you are changing all forms, please put these repeals on one form. In Box 2, you may simply state "11 NCAC 05A .0506 - .0507" You do not need to include the names of the rules.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 27, 2017

11 NCAC 05A .0506 - .0507 are repealed as published in 32.05 NCR 285 as follows:

11 NCAC 05A .0506 ALARM AND COMMUNICATIONS

11 NCAC 05A .0507 RECORDS AND DOCUMENTS

History Note: Authority G.S. 58-2-40; 58-79-45;

Eff. September 1, 1985;

Amended Eff. February 1, 2017; September 1, 2010; October 1, 2006; July 1, 1992;

Repealed Eff. January 1, 2018.

1 11 NCAC 05A .0509 is repealed as published in 32.05 NCR 285 as follows:

2
3 **11 NCAC 05A .0509 FIRE STATION**

4
5 *History Note: Authority G.S. 58-2-40; 58-86-25; 143-166.1;*
6 *Eff. September 1, 1985;*
7 *Repealed Eff. January 1, 2018.*
8
9
10

1 11 NCAC 05A .0512 is repealed as published in 32.05 NCR 285-286 as follows:

2

3 **11 NCAC 05A .0512 STANDARDS AND POLICIES**

4

5 *History Note: Authority G.S. 58-2-40; 58-36-10(3);*

6 *Eff. October 1, 2006;*

7 *Amended Eff. February 1, 2017;*

8 *Repealed Eff. January 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 05A .0901

DEADLINE FOR RECEIPT: Friday, December 8, 2017

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

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

In Paragraph (b), line 14, do you actually mean "of" the State, not "in" or "for"?

Line 15, what other political subdivisions are you referring to, in addition to cities or counties?

On line 17, insert quotation marks around "Eligible firefighter" or replace the term with "The term"

On line 18, haven't you already addressed county firefighters on line 16? Why do you need to repeat it here?

If the intent of Paragraph (b) is to repeat G.S. 58-86-2, then why not just give a cross-reference to the statute within the Rule?

§ 58-86-2. Definitions.

The following words and phrases as used in this Article, unless a different meaning is plainly required by the context, shall have the following meanings:

(5) "Eligible firefighter" means all persons 18 years of age or older who are firefighters of the State of North Carolina or any political subdivision thereof, including those performing such functions in the protection of life and property through firefighting within a county or city governmental unit. "Eligible firefighter" shall also mean an employee of a county whose sole duty is to act as fire marshal, deputy fire marshal, assistant fire marshal, or firefighter of the county. "Eligible firefighter" shall also mean those persons meeting the other qualifications of this Article, not exceeding 25 volunteer firefighters plus one additional volunteer firefighter per 100 population in the area served by their respective departments.

In Paragraph (c), line 19, has this NFPA been incorporated by reference pursuant to G.S. 150B-21.6 elsewhere? If not, you need to do so here. And please put the name of the standard in quotation marks.

On line 21, what are "other hazardous conditions"? Does your regulated public know?

Amanda J. Reeder
Commission Counsel

Date submitted to agency: November 27, 2017

In Paragraph (d), line 22, capitalize “State” assuming you mean North Carolina.

On line 23, please insert a comma after “reducing”

In Paragraph (e), line 25, please insert a comma after “municipality”

In Paragraph (g), line 28, please insert a comma after “hydrant”

In Paragraph (h), line 31, what do you mean by “relates”?

In Paragraph (i), lines 34 and 35, state “established pursuant to G.S. Chapter X or G.S. Chapter X.” Do not state “of the North Carolina General Statutes”

And why are the Chapters not in numerical order?

In Paragraph (j) line 37, what is “otherwise”? Controlled?

In Paragraph (k), Page 2, line 1, consider replacing “and is” with “whether”

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

1 11 NCAC 05A .0901 is adopted with changes as published in 32:05 NCR 286 as follows:

2
3 **CHAPTER 05 - OFFICE OF STATE FIRE MARSHAL**

4
5 **SUBCHAPTER 05A - FIRE AND RESCUE**

6
7 **SECTION .0900 – PUBLIC PROTECTION CLASSIFICATIONS FOR FIRE DISTRICTS**

8
9 **11 NCAC 05A .0901 DEFINITIONS**

10 As used in this Subchapter:

- 11 (a) “9S Inspection” means an inspection conducted by the Office of State Fire Marshal (OSFM) to
12 ensure compliance with the requirements of this Section in order to receive a public protection
13 classification rating.
- 14 (b) “Eligible Firefighter” means all persons 18 years of age or older who are firefighters of the State of
15 North Carolina or any political subdivision thereof, including those performing such functions in
16 the protection of life and property through firefighting within a county or city governmental unit.
17 Eligible firefighter shall also mean an employee of a county whose duty is to act as fire marshal,
18 deputy fire marshal, assistant fire marshal, or firefighter of the county.
- 19 (c) “Engine” means a motorized vehicle meeting the requirements of NFPA 1901, Standard for
20 Automotive Fire Apparatus, designed to transport personnel and equipment, and to support the
21 suppression of fires and mitigation of other hazardous conditions.
- 22 (d) “Fire Department” means an organization established or organized under applicable state and local
23 laws, for the purpose of limiting, reducing or preventing damage or personal injury caused by fire
24 or other emergency.
- 25 (e) “Fire Districts” or “Insurance Districts” means an area within a city, town, municipality or county
26 that is established in order to provide fire prevention and fire suppression services.
- 27 (f) “Fire Station” means a building for the housing of fire department apparatus and personnel.
- 28 (g) “Gallons Per Minute” or “GPM” means the volume of water flow from a hose, hydrant or other fire
29 suppression apparatus.
- 30 (h) “Public Protection Classification” or “PPC” means a rating given to fire districts or insurance
31 districts throughout the State that relates to their ability to provide fire prevention and fire
32 suppression services to affected areas within its jurisdictional boundaries.
- 33 (i) “Rural Fire District” means a fire district that is outside the jurisdictional boundaries of a city, town
34 or municipality and is established pursuant to Chapter 153A, Article 11 of the North Carolina
35 General Statutes or Chapter 69, Article 3A of the North Carolina General Statutes.
- 36 (j) “Structure Fire” means a condition where an actual monetary loss or physical damage has occurred
37 to a building or constructed area, due to the result of a fire, uncontrolled or otherwise.

1 (k) “Tanker” means a fire truck/engine designed to carry water to fires, and is equipped with or without
2 a pump to dispense the water.
3
4 History Note Authority G.S. 58-2-40; 58-36-10; ~~58-40-25; 58-40-25;~~
5 Eff. January 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 05A .0902

DEADLINE FOR RECEIPT: Friday, December 8, 2017

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

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

Why do you need Paragraph (a)?

Assuming you need to retain it, delete "The purpose of this Section is to establish" and replace it with "This Section establishes..."

On line 4, what is "basic"? Why do you need it here? Wouldn't "standards" suffice without the adjective?

In (b), what statutory authority are you relying upon for inspection?

On line 8, replace "are" with "shall be"

In (c), is there a range of scores? Is there a PPC 4? Is this range spelled out elsewhere? And is this assigned by the Commissioner?

In (d), line 12, delete or define "basic"

On line 13, how does "PPS 9S" tie into the definition of "9S inspection" in Rule .0901?

In (e), line 15, can you replace "more than five but within six" with "between five and six"?

Line 15, what are "road miles"? Do you mean the number of miles over existing roads?

In (f), line 19, what is the significance of a "split rating"?

In (g), line 21, insert a comma after "Section"

Line 21, what are these "certain" requirements? You need to set them out in the Rule.

You can either end the sentence on line 21 after ("NCFRS") or you can delete "in accordance with" on line 22. Please make one of these changes.

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

Amanda J. Reeder
Commission Counsel

Date submitted to agency: November 27, 2017

1 11 NCAC 05A .0902 is adopted as published in 32:05 NCR 286 as follows:

2
3 **11 NCAC 05A .0902 PURPOSE**

4 (a) The purpose of this Section is to establish basic standards for insurance public protection classifications for fire
5 districts throughout the State.

6 (b) Fire districts in all rural areas of the State and in cities with populations of 100,000 or fewer according to the most
7 recent annual population estimates certified by the State Budget Officer shall be inspected by the Department in
8 accordance with the requirements of this Section. All other fire districts in the State are inspected by the Insurance
9 Services Office (“ISO”) in accordance with this Section.

10 (c) A “PPC 1” is the best rating, and a “PPC 10” indicates that the fire district does not meet the minimum protection
11 requirements.

12 (d) A fire district that meets the basic certification requirements set forth in this Section shall be given a public
13 protection classification of “PPC 9S.”

14 (e) A fire district that meets the certification requirements set forth in this Section, but contains properties within its
15 jurisdictional limits that are more than five but within six road miles from a responding fire station, shall be given a
16 public protection classification rating of “PPC 9E.”

17 (f) If a fire district contains some properties within its jurisdictional limits that meet the requirements of a certain PPC
18 rating, and some properties within its jurisdictional limits that meet the requirements of another PPC rating, the fire
19 district may receive a split rating.

20 (g) To receive a public protection classification better than a “PPC 9S,” a fire district must meet the requirements of
21 this Section as well as certain requirements of the North Carolina Fire Suppression Rating Schedule (“NCFRSRS”),
22 which is incorporated by reference in accordance with 11 NCAC 05A .0101.

23
24 *History Note:* Authority G.S. 58-2-40; 58-36-10; ~~58-40-25; 58-40-25;~~

25 *Eff. January 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 05A .0903

DEADLINE FOR RECEIPT: Friday, December 8, 2017

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

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

Throughout this Rule, you have made changes to capitalization and punctuation after publication in the NC Register without showing it. For example, in the Register, you correctly published only semicolons at the end of (a)(1) through (10), but in the version submitted for review, you changed it to comas beginning with (a)5) without showing the change. In addition, in Paragraph (f), line 31, "Paragraph (a)" was capitalized. You also changed the word "Paragraph" where the term was correctly used (such as in Paragraph (g)) to the incorrect term "Subparagraph" without showing it as a change. Please use the version of the Rule you published and show all changes made to it using Rule 26 NCAC 02C .0405.

In Paragraph (a), line 4, this is receipt of the rating from OSFM?

In (a)(3), I take it that you mean incorporation set forth in G.S. 58-83-1?

Please begin (a)(4), (5), (6), and (7) with an article like "The" to be consistent with the rest of the list.

In (a)(4), what do you mean by "responsible"?

In (a)(8), delete what you have and state "Copies of any contracts with a local governmental body to provide fire protection;"

In (a)(9), line 15, the term "computer-generated" should be hyphenated.

Line 16, replace "such" with "the"

Also on line 16, I take it the individual fire department will determine whether this is applicable and not the Department?

In (a)(10), what information can this be? How will the Department determine it needs it? How will the Department communicate the request to the fire department? You need to include guidance on this within the body of the Rule.

In (c), line 20, how will OSFM set these intervals? Where will they be announced?

Amanda J. Reeder
Commission Counsel

Date submitted to agency: November 27, 2017

Line 21, is this advance notice of the impending inspection?

Also on line 21, delete or define “timely”

Line 21, you say “may” but how will you determine if OSFM will not perform a re-inspection upon receipt of information indicating noncompliance?

Line 22, who can provide this information? Anyone? And what do you mean by “indicating”?

In (e), line 23, so that I’m clear – the governing body may decide to not ask for this and the Department is going to allow them station to not have a PPC rating?

On line 23, what is the governing body? What is the membership? Is this term known to your regulated public?

On line 24, I suggest replacing the sentence with “Before OSFM will conduct the inspection, the fire department...” That way you are writing in the active voice and telling who will do what.

End (e)(1), line 25, with a semicolon (as you published it) and an “and” (which you did not publish).

In (e)(2), lines 27, delete “must be provided” as it repeats line 24.

Line 28, this is a reference to a Subparagraph and you published using the correct term. Change it back and delete “above”

In (f), line 29, I suggest deleting the first four words altogether. If you feel you need to retain it, why is “Department” capitalized, when “fire” is not?

On line 29, I suggest stating “When two or more... one fire department, OSFM shall conduct a 9S...”

On line 31, the word “Paragraph” was properly capitalized when published. Please change it back. Delete “above” as well.

End (f)(1) through (3) with semicolons, not commas. Insert a “and” at the end of (f)(3) on line 34. I also recommend beginning (f)(1) through (4) with articles, such as “The”

In (f)(1), line 32, why is “Fire Chief” capitalized? Who is this?

In (f)(2), line 33, who are the “President” or “Chairman of the Board”? Is this the same as the governing body you referred to on line 23?

In (f)(4), line 35, why is “Contracts” capitalized?

On line 35, and elsewhere this term is used, what is “automatic aid”?

In (g), Page 2, lines 1-2, please note my question in Rule .0902 regarding “road miles”

In (h), line 3, I am merely inquiring, can you replace “more than five but within six” with “between five and six”?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 27, 2017

And so that I'm clear, if the fire district does comply with Paragraph (h), it can only have a rating of PPC 9E, pursuant to Rule .0902(e)?

On line 4, the correct term is "Paragraph" and is what you published. Please change it back.

In (h)(1), line 6, what other contracts? Who will the parties be to those contracts?

Line 7, replace "requires, among other things," with "requires"

On line 8, generally the term "minimum" is disfavored in rules, as rules set the minimum. But I am assuming you need to retain the term here, both places?

In (h)(2), line 10, what are these protocols? What will be contained in them?

Line 11, what is the "communication center"?

Line 12, who is the "department chief"? Is this same person as the "Fire Chief" in (f)(1)?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 27, 2017

11 NCAC 05A .0903 is amended as published in 32:05 NCR 286-287 as follows:

11 NCAC 05A .0903 RATING OF FIRE DISTRICTS

(a) To receive a PPC rating, a fire department shall submit a written request to OSFM containing the following information:

- (1) The name of the fire district;
- (2) The name of the entity that operates the fire district (e.g., city, town, county);
- (3) Whether the fire department is incorporated;
- (4) The name and title of the person responsible for the operation of the fire department;
- (5) Physical address of the location of every fire station utilized by the fire department;
- (6) Mailing address of the fire department;
- (7) Federal (FEIN) Tax ID number of the fire department;
- (8) If any contracts are with a local governmental body to provide fire protection, copies of any such contracts;
- (9) A Geographic Information System ("GIS") computer generated map of the fire district, and documentation of the approval of the local governing body of such map, if applicable; and
- (10) Any other information OSFM requests.

(b) A fire department may contract with more than one unit of government to provide fire protection. In addition, a local unit of government may contract with more than one fire department to provide fire protection.

(c) 9S Re-Inspections. Fire departments shall be re-inspected at intervals set by OSFM, and shall be notified by OSFM of such 9S re-inspection in a timely manner. In addition, OSFM may perform unannounced re-inspections of fire departments upon receipt of information indicating noncompliance with this Section.

(e) New Station Inspection. The governing body of a fire department may request a certification inspection for any new station. Before the inspection will be conducted, the fire department must provide the following:

- (1) Proof of Certificate of Occupancy
- (2) If the fire department is adding to their rated insurance district with an additional station or making any changes to the insurance district lines, new maps and approvals must be provided in accordance with paragraph (a)(9), above.

(f) Merging of fire Departments. When two or more fire departments merge into one fire department, a 9S inspection will be conducted. Before the inspection will be conducted, the fire departments must provide, in addition to the requirements of paragraph (a), above, the following:

- (1) Name of the Fire Chief of the resulting organization,
- (2) Name of the President or Chairman of the Board of the resulting organization,
- (3) Verification of the roster and workers' compensation requirements of 11 NCAC 05A .0906.
- (4) Verification of all Contracts, including automatic aid, updated to reflect coverage/participation by the resulting merged organization.

1 (g) Unless otherwise approved pursuant to subparagraph (h) of this Rule, a fire district may not extend more than five
2 road miles from a responding fire station.

3 (h) A rural fire district may extend its boundaries to more than five road miles but within six road miles from a
4 responding fire department if, in addition to the requirements of subparagraph (a) of this Rule, it meets the following
5 requirements:

6 (1) Unless already specified in another contract, the fire department shall enter a written automatic aid
7 contract with another jurisdiction that requires, among other things, the responding party to respond
8 with a minimum of one piece of fire apparatus capable of carrying a minimum of 1,000 gallons of
9 water; and

10 (2) The fire department shall establish automatic aid protocols. These protocols shall be maintained at
11 the communication center, shall be used on all alarms involving reported structure fires, and shall
12 include the signature of each department chief and the effective date.

13
14 *History Note:* *Authority G.S. 58-2-40; 58-36-10; 58-40-25; ~~58-83-1~~; 58-83-1;*
15 *Eff. January 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 05A .0904

DEADLINE FOR RECEIPT: Friday, December 8, 2017

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

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

In (a), line 4, who determines suitability?

In (b), I am just checking - if the stations are within 10 miles of each other, won't they be in different districts, unless they are given a waiver pursuant to Rule .0903(h)?

On line 5, replace "cannot" with "shall not"

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 27, 2017

1 11 NCAC 05A .0904 is adopted as published in 32:05 NCR 287 as follows:

2
3 **11 NCAC 05A .0904 FACILITIES**

4 (a) A fire station shall be provided with suitable heating for all-weather protection of apparatus.

5 (b) If a fire department has multiple fire stations, each fire station cannot be more than 10 road miles from another
6 fire station within the fire district.

7
8 *History Note:* Authority G.S. 58-2-40; 58-36-10; ~~58-40-25; 58-40-25;~~

9 *Eff. January 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 05A .0905

DEADLINE FOR RECEIPT: Friday, December 8, 2017

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

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

As mentioned above, the use of "minimum" and "at least" is generally discouraged in rules, as rules set the minimum requirements. However, throughout this Rule, I take it you need to retain "at least" and "minimum"?

In (a), line 4, I suggest you either replace "meets the requirements below" with "is."

In (a)(1), is this in compliance with standards at least equivalent to those used by the Insurance Services Office, Inc., or any successor organization, as referenced in G.S. 58-36-10 and 58-40-25? Does your regulated public know what they are?

In (a)(2), please properly incorporate this outside standard by reference, as required by G.S. 150B-21.6.

End (a)(2), line 6 with an "and"

In (a)(3)(A) through (U), you published this list ending with periods in the Register, but you changed it in (a)(3)(A) and (B) without showing it. I note that this list and the one in (b)(1) through (4) also ends in periods and begins most of the Parts with capital letters. But (c) has a list with lowercase letters and ending in semicolons. Please be consistent here. I prefer the lowercase letters and semicolons, but you can make the change you prefer.

In (a)(3)(A), I take it "PSI" is "Pressure Per Square Inch"? Does your regulated public know what this means?

In (a)(3)(C), line 10, please insert a comma after "1 ¾ inches"

In (a)(3)(D), I take it necessity is determined by the size of the engine and can be determined using the NFPA 1901?

Where used in the Rule, shouldn't the term "NFPA approved" be hyphenated?

In (a)(3)(E), how is this "NPFA approved"? Is in the NFPA 1901?

Line 16, insert a comma after "regulators"

Amanda J. Reeder
Commission Counsel

Date submitted to agency: November 27, 2017

Also on line 16, how will applicability be determined? Is it that NFPA approved SCBA don't need to have accessories?

Line 17, define "regularly" and "operational"

In (a)(3)(K), please note that this begins with a lowercase letter, while the rest begin with capitalized letters.

In (a)(3)(N), what is "suitable for use"? Will this be governed by the NFPA 1901 standard?

In (b), line 34, when will this be applicable? Only if they have a tanker?

I suggest ending line 34 after "shall:" or state "shall be:" and change (b)(4) to state "equipped with one traffic..."

In (b)(2), who determines necessity? Based upon what? Is it the manufacturer's recommendation?

In (b)(3), Page 2, line 1, is this the NFPA standard in (a)(2)? If so, why are you spelling out "National Fire Protection Association" here, rather than in (a)(2)?

In line 4, insert a comma after "clothing" and end the sentence "including:" and delete "the following:"

In (d), line 11, is "apparatus equipment" solely what is contained in Paragraph (a)? If not, what is the definition of this term?

Also on line 11, what do you mean by "verification"?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 27, 2017

11 NCAC 05A .0905 is adopted as published in 32:05 NCR 287-288 as follows:

11 NCAC 05A .0905 APPARATUS SPECIFICATIONS AND EQUIPMENT

(a) Engines. All stations shall have at least one engine that meets the requirements below:

- (1) Certified by Underwriters Laboratories, Inc. or National Bureau of Fire Underwriters;
- (2) Constructed in accordance with NFPA 1901, Standard for Automotive Fire Apparatus;
- (3) Equipped with the following:
 - (A) A pump rated at not less than 750 GPM at 150 PSI net pump pressure;
 - (B) A tank with at least a 300-gallon capacity;
 - (C) Two 200-foot pre-connected hose lines, with a diameter of 1 ½ inches, 1 ¾ inches or 2 inches, with nozzles that have a minimum flow of 95 GPM.
 - (D) At least 20 feet of hard-suction hose in a size necessary to flow the capacity of the engine, or at least 15 feet of soft-suction hose with a diameter of at least four inches.
 - (E) Four NFPA approved self-contained breathing apparatus (SCBA) in proper working condition. A SCBA shall be considered in proper working condition if the facepiece, back frame and harness, cylinder, hoses, low air alarms, regulators and accessories (if applicable) are regularly tested and operational.
 - (F) Four spare SCBA cylinders.
 - (G) One roof ladder at least 12 feet long.
 - (H) One extension ladder at least 24 feet long.
 - (I) One folding ladder.
 - (J) One pike-head axe.
 - (K) one flat-head axe.
 - (L) One forcible entry tool.
 - (M) One pike pole or plaster hook at least 6 feet long.
 - (N) Two portable, rechargeable hand lights suitable for use in hazardous conditions.
 - (O) 100 feet of utility rope, at least ½ inch in diameter.
 - (P) Two 20 pound, class BC portable extinguishers.
 - (Q) One 2½-gallon water extinguisher.
 - (R) One first aid kit.
 - (S) One bolt cutter at least 14 inches long.
 - (T) One two-way radio assigned to the apparatus.
 - (U) One traffic vest for each riding position.

(b) Tankers. Where applicable, tankers shall meet the requirements below:

- (1) Be equipped with at least 1,000 gallons of water.
- (2) Be equipped with the necessary hose and equipment for filling the tank and transferring water to the engine.

1 (3) Be properly baffled in accordance with the National Fire Protection Association Standard 1901.

2 (4) One traffic vest for each riding position.

3 (c) Protective Clothing. Each eligible firefighter shall be provided NFPA approved (at the time of purchase) protective
4 clothing including the following:

5 (1) helmet;

6 (2) coat;

7 (3) pants;

8 (4) boots;

9 (5) gloves; and

10 (6) hoods.

11 (d) A fire station shall inspect all apparatus equipment inventory monthly, and document verification of the inspection.

12
13 History Note: Authority G.S. 58-2-40; 58-36-10; ~~58-40-25~~; 58-40-25;

14 Eff. January 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 05A .0906

DEADLINE FOR RECEIPT: Friday, December 8, 2017

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

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

In the Submission for Permanent Rule Form, since you are revising it anyway, please include in Box 9A that this is Legislation enacted by the General Assembly and insert a citation to SL 2017-167.

So that I am clear, do you all believe that this is the mandate required by SL 2017-167? Setting a minimum of 15 eligible firefighters, rather than establishing a waiver for primary personnel based upon call volume?

In (a), what is a "primary" station?

In (a)(2), line 8, I believe you mean "Subparagraph" If you mean the entire Section, Section .0900, please be sure to capitalize it.

In (a)(4), what is a junior firefighter?

On line 11, who will not count these individuals?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 27, 2017

1 11 NCAC 05A .0906 is adopted as published in 32:05 NCR 288 as follows:

2
3 **11 NCAC 05A .0906 STAFFING LEVELS**

4 (a) Primary Station.

5 (1) Each fire department shall maintain a minimum of 15 eligible firefighters on its roster.

6 (2) Each fire department shall provide a roster containing the names and date of birth of all eligible
7 firefighters. A report submitted to the North Carolina State Firefighters' Association pursuant to
8 G.S. 58-86-25 constitutes compliance with this section.

9 (3) Each fire department shall provide current workers compensation insurance certifications for all of
10 its eligible firefighters.

11 (4) Junior firefighters or firefighters under the age of 18 will not be counted for purposes of meeting
12 the requirements of this Rule.

13 (b) Additional Stations: Fire departments that operate more than one station shall have four additional personnel for
14 each additional station.

15
16 *History Note:* Authority G.S. 58-2-30; 58-36-10; 58-40-25; ~~S.L. 2017-167;~~ ~~S.L. 2017-167;~~
17 Eff. January 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 05A .0907

DEADLINE FOR RECEIPT: Friday, December 8, 2017

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

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

In (a), line 4, what is "fire prevention" and "fire suppression"? Does your regulated public know?

On line 5, is medical training part of "protection of life"? And what is medical training? Does your regulated public know?

In (c), line 8, what is the "chief officer"?

Also on line 8, what is "basic management"?

On line 9, how is this approved? How does one find about the training?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 27, 2017

1 11 NCAC 05A .0907 is adopted as published in 32:05 NCR 288 as follows:

2
3 **11 NCAC 05A .0907 TRAINING**

4 (a) Eligible firefighters shall attend at least 36 hours of training annually in the area of fire prevention, fire suppression,
5 or protection of life and property. No more than 12 hours of medical training may be counted toward the 36-hour
6 training requirement.

7 (b) Fire departments shall provide at least four hours of training per month, for a total of 48 hours of training per year.

8 (c) The chief officer of each fire department shall complete a class on basic management of fire department operations
9 and records approved by the State Fire and Rescue Commission within one year of appointment.

10 (d) Fire departments shall maintain training records in accordance with 11 NCAC 05A .0911.

11
12 *History Note: Authority G.S. 58-2-40; 58-36-10; ~~58-40-25~~; ~~58-40-25~~;*

13 *Eff. January 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 05A .0908

DEADLINE FOR RECEIPT: Friday, December 8, 2017

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

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

In (a), what are "communications facilities"? Does your regulated public know? Is this different from the "communication center" in Rule .0903(h)(2)?

On line 5, how is "notification of firefighters" different from "dispatching"?

In (b), line 6, what are "fire emergencies"? Rather, are there fires that aren't emergencies? Does your regulated public understand this?

In (c), line 9, just so I'm clear – the term is "firefighters" and not "eligible firefighters"?

In (d), line 11, delete "credible" or replace it with "acceptable"

In (e), line 12, what is this AVL? Does your regulated public know?

On line 13, insert a comma after "dispatched"

Also on line 13, recommended by whom?

Line 14, I'm not sure I understand this cross-reference. Do you mean .0903(h)(1)?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 27, 2017

1 11 NCAC 05A .0908 is adopted as published in 32:05 NCR 288 as follows:

2
3 **11 NCAC 05A .0908 COMMUNICATIONS AND ALARMS**

4 (a) Communications facilities shall be provided for the receipt of reported emergencies, dispatching, documentation
5 of responding fire apparatus, and notification of firefighters.

6 (b) The communications system shall provide facilities for dispatching assistance to fire emergencies 24 hours a day,
7 seven days a week.

8 (c) The communications facility shall have the capability of activating all types of systems utilized to dispatch the
9 fire apparatus and notify all firefighters of an emergency.

10 (d) The alert may be provided by pagers, portable radios with alerting capabilities, or station alerting devices with
11 paid personnel. Text paging or phone paging by a third party shall not be a credible means of notification.

12 (e) In jurisdictions utilizing Automatic Vehicle Location (AVL), the fire department that is responsible for the fire
13 district shall be dispatched along with the closest unit recommendation of the AVL. In accordance with 11 NCAC
14 05A .0903(h), if a jurisdiction is utilizing AVL for unit dispatch, it shall ensure that an apparatus with a minimum of
15 1,000 gallons of water is dispatched as required by the automatic aid protocols.

16
17 *History Note: Authority G.S. 58-2-40; 58-36-10; ~~58-40-25; 58-40-25;~~*

18 *Eff. January 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 05A .0909

DEADLINE FOR RECEIPT: Friday, December 8, 2017

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

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

In (a), lines 4 and 5, why are you referring to "members"? Is this different from eligible firefighters?

Line 5, how will the fire department know if there is fire damage before they arrive on the scene? It looks like the fire department will be told there is a call and they need to know in advance of arrival that there is fire damage and send four people. Is the intent that they arrive, determine whether there is in fact fire damage, and then send for more people? If so, I'm not sure that the Rule says that as currently written.

On line 5, who is the "chief"? Is it the "Fire Chief" in Rule .0903(f)(1) or the "department chief" in Rule .0903(h)(2)?

In (b), is this plan created beforehand, as a protocol, or onsite?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 27, 2017

1 11 NCAC 05A .0909 is adopted as published in 32:05 NCR 288 as follows:

2
3 **11 NCAC 05A .0909 RESPONSE TO STRUCTURE FIRES**

4 (a) Each fire department shall ensure the response of at least four of its members and one engine to all structure fires
5 and fire alarms in structures where there is fire damage. The chief may be one of the four responding members.

6 (b) The fire department responding to a structure fire shall have a plan to provide a minimum flow of 200 GPM for
7 20 minutes within five minutes of the first arriving engine.

8
9 *History Note:* Authority G.S. 58-2-40; 58-36-10; ~~58-40-25; 58-40-25;~~

10 *Eff. January 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 05A .0910

DEADLINE FOR RECEIPT: Friday, December 8, 2017

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

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

In (a), line 4, is the "chief" the chief of the department, as set forth in G.S. 58-79-45?

Also on line 4, is the "cause to be completed" intending to address delegation?

On lines 5 and 7, I take it this is the NFRIS as incorporated by Rule 11 NCAC 05A .0101? Is "current" known to your regulated public?

In (b), line 6, please insert a comma after "times"

In (d), line 10, is this the county fire marshal?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 27, 2017

1 11 NCAC 05A .0910 is adopted as published in 32:05 NCR 288-289 as follows:

2
3 **11 NCAC 05A .0910 INCIDENT REPORTING**

4 (a) When a fire department responds to a fire, the chief shall complete or cause to be completed a fire incident
5 report on the current version of the National Fire Incident Reporting System (NFIRS).

6 (b) A fire department shall keep records on dates, times and locations of all fires on the current version of the
7 NFIRS.

8 (c) All reports shall be submitted to OSFM within 120 days of incident occurrence.

9 (d) When a fire department responds to a fire involving fatalities, an initial report shall be filed by the district fire
10 chief or fire marshal within 48 hours of the incident to the Office of State Fire Marshal.

11
12 *History Note:* Authority G.S. 58-2-40; 58-36-10; 58-40-25; 58-79-1; ~~58-79-45; 58-79-45;~~

13 *Eff. January 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 05A .0911

DEADLINE FOR RECEIPT: Friday, December 8, 2017

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

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

In (a), line 4, delete "Annually."

On line 4, I take it your regulated public knows what a "pump service test" is?

On line 4, replace "has been" with "was"

On line 5, are you referring specifically to 11 NCAC 05A .0905(a)(1)?

On line 5, replace "will" with "shall"

In (b), line 8, delete "Monthly."

Also in (b), how long will these records be maintained?

In (b)(3), line 12, can you state "Training records for all eligible firefighters" so that you are not state "Eligible firefighter" twice within a few words?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 27, 2017

1 11 NCAC 05A .0911 is adopted as published in 32:05 NCR 289 as follows:

2
3 **11 NCAC 05A .0911 RECORDS**

4 (a) Annually. A fire department shall perform a pump service test on all engines annually. If the engine has been
5 purchased within the previous 12 months, the certification required by 11 NCAC 05A .0905 will satisfy this
6 requirement. A fire department shall maintain a record of the pump service test for each engine since the date of the
7 fire department's last rating inspection.

8 (b) Monthly. A fire department shall maintain the following monthly records:

9 (1) Apparatus maintenance logs for in service engines and tankers.

10 (2) Apparatus equipment inventory checks in accordance with 11 NCAC 05A .0905 for all in service
11 engines and tankers.

12 (3) Eligible firefighter training records for all eligible firefighters in accordance with 11 NCAC 05A
13 .0907.

14
15 *History Note:* *Authority G.S. 58-2-40; 58-36-10; ~~58-40-25~~; 58-40-25;*
16 *Eff. January 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 05A .0912

DEADLINE FOR RECEIPT: Friday, December 8, 2017

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

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

In (a), line 4, who is the fire chief?

On line 5, who is the "chief's designee"? Is this entirely up to the chief to designate?

Line 6, considered by whom to be non-compliant? The Commissioner of Insurance?

In (b), line 7, why are you saying "that is considered"? Why not just state "A non-compliant fire department..."

Once the fire department submits the corrective action plan, what does OSFM do with it? Is it reviewed, approved, or both? Is notice sent to the fire department?

On line 11, consider rewriting this as "If the fire department remains non-compliant after the expiration of the six-month corrective action period, OSFM..."

If you want to keep it as written, I think you need to insert "end" or "expires"

And who will determine if the fire department is non-compliant? OSFM? How? By inspection?

On line 11, replace "will" with "shall"

On line 12, what is the governing body?

On line 12, how will OSFM determine how long the probation will be? I see that you are saying up to six months, but what guidance with OSFM use to determine if three months is appropriate? You don't have to state every scenario, but you need to include some guidance in this Rule regarding how will make this determination. You can say it will be on a case-by-case basis and give factors.

On line 13, replace "will" with "shall"

Also on line 13, compliance with what? The rules in this Section?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 27, 2017

*On line 14, you state "department" twice but elsewhere in this Rule, the term is "fire department"
Should the same term be used here?*

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 27, 2017

1 11 NCAC 05A .0912 is adopted as published in 32:05 NCR 289 as follows:

2
3 **11 NCAC 05A .0912 NON-COMPLIANCE**

4 (a) Upon completion of an inspection, the OSFM inspector will review the inspection results with the fire chief or the
5 chief's designee. Any fire department that fails to meet any of the standards set forth in this Section shall be considered
6 non-compliant for the purpose of determining Fire Insurance District Rating Classifications.

7 (b) A fire department that is considered non-compliant shall have a period of 30 days from the date of the inspection
8 to submit a written corrective action plan to OSFM. The corrective action plan shall address each deficiency found in
9 the inspection and the corrective action the fire department will take in response to the deficiency. Upon receipt of
10 approval of the corrective action plan from OSFM, the fire department shall have six months to become compliant.
11 If, after the six-month corrective action period the fire department remains non-compliant, OSFM will consult with
12 the governing body of the fire department and place the fire department on probation for a period not to exceed six
13 months. Upon completion of the probationary period, OSFM will re-inspect the fire department for compliance. If
14 the department remains non-compliant, OSFM shall designate the department as a "PPC10" (non-certified).

15
16 *History Note:* Authority G.S. 58-2-40; 58-36-10; ~~58-40-25~~; **58-40-25;**
17 **Eff. January 1, 2018.**