

## Burgos, Alexander N

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**Subject:** FW: RFC for MH/DD/SAS - August 2026

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**From:** Ascher, Seth M <seth.ascher@oah.nc.gov>  
**Sent:** Friday, August 21, 2026 11:03 AM  
**To:** SVC\_DHHS.dmhddsasrules <dmhddsasrules@dhhs.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** Re: RFC for MH/DD/SAS - August 2026

Thank you. I was about to reach out and check on this, so you saved me an email.

I anticipate recommending approval of the revised rule at the meeting next Thursday. I will let you know if anything comes up.

**Seth Ascher**

Counsel to the North Carolina Rules Review Commission  
Office of Administrative Hearings  
(984) 236-1934

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**From:** SVC\_DHHS.dmhddsasrules <[dmhddsasrules@dhhs.nc.gov](mailto:dmhddsasrules@dhhs.nc.gov)>  
**Sent:** Friday, August 21, 2026 10:24 AM  
**To:** Ascher, Seth M <[seth.ascher@oah.nc.gov](mailto:seth.ascher@oah.nc.gov)>; SVC\_DHHS.dmhddsasrules <[dmhddsasrules@dhhs.nc.gov](mailto:dmhddsasrules@dhhs.nc.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: RFC for MH/DD/SAS - August 2026

Good morning –

Regrettably, I missed your email.

I've attached the current form along with the technical changes you requested.

Please advise if you have questions or need additional information.

Thank you,  
Denise

**W. Denise Baker, M.A., L.P.A., J.D.**  
Team Leader, Legislative and Regulatory Affairs  
Division of MH/DD/SAS  
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10A NCAC 26F .0102 is proposed for amendment without notice or hearing with changes as follows.

**10A NCAC 26F .0102 SCHEDULE I**

(a) Schedule I shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated and as specified in G.S. 90-89. Each drug or substance has been assigned the Drug Enforcement Administration controlled substances code number set forth in the Code of Federal Regulations, Title 21, Section 1308.11.

~~(b) The Commission for MH/DD/SAS may add, delete, or reschedule substances within Schedules I-VI as specified in G.S. 90-88.~~

~~(c)~~(b) As specified in G.S. 90-88, the Commission for MH/DD/SAS adds the following substance within Schedule I for Stimulants:

- (1) 2, 5 - Dimethoxy-4-(n)- propylthiophenethylamine; and DEA controlled substances code number 7348;
- (2) N-Benzylpiperazine. N-Benzylpiperazine DEA controlled substances code number 7493;
- (3) 4-chloromethcathinone (4-CMC, 1-(4-chlorophenyl)-2-(methylamino)propan-1-one) DEA controlled substances code number 1239; and
- (4) 4-fluoroamphetamine (4-FA; 1-(4-fluorophenyl) propan-2-amine; para--fluoroamphetamine). DEA controlled substances code number 1476.

~~(d)~~(c) As specified in G.S. 90-88, the Commission for MH/DD/SAS adds the following substance within Schedule I for Hallucinogenic substances:

- (1) Alpha-Methyltryptamine; Alpha-Methyltryptamine DEA controlled substances code number 7432;
- (2) 5-Methoxy-N, N-diisopropyltryptamine; N-diisopropyltryptamine DEA controlled substances code number 7439;
- (3) methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3-methylbutanoate, (FUB-AMB, MMB-FUBINACA, AMB-FUBINACA) DEA controlled substances code number 7021;
- (4) methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoate (Other names: MMB-CHMICA; AMB-CHMICA) DEA controlled substances code number 7044;
- (5) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (Other name: 5F-AB-PINACA) DEA controlled substances code number 7025;
- (6) Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (Other names: NM2201; CBL2201) DEA controlled substances code number 7221;
- (7) 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2,3-b]pyridine-3-carboxamide (Other name: 5F-CUMYL-P7AICA) DEA controlled substances code number 7085;
- (8) 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide (Other names: 4-CN-CUMYL-BUTINACA; 4-cyano-CUMYL-BUTINACA; 4-CN-CUMYL BINACA; CUMYL-4CN-BINACA; SGT-78) DEA controlled substances code number 7089;

- (9) N-ethylpentylone (Other names: ephylone, 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)pentan-1-one) DEA controlled substances code number 7543; ~~and~~
- (10) 1-(4-methoxyphenyl)-N-methylpropan-2-amine (other names: para-methoxymethamphetamine, PMMA) DEA controlled substances code number ~~1245~~; 1245; and
- (11) 3-methoxyphencyclidine (1-(1-(3-methoxyphenyl)cyclohexyl)piperidine; 3-MeO-PCP) DEA controlled substances code 7457.

(e)(d) As specified in G.S. 90-88, the Commission for MH/DD/SAS adds the following substance within Schedule I for Opiates:

- (1) para-Methoxybutyryl fentanyl (N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl)butyramide) DEA controlled substances code number 9837;
- (2) Cyclopentyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide) DEA controlled substances code number 9847;
- (3) Isobutyryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylisobutyramide) DEA controlled substances code number 9827;
- (4) para-Chloroisobutyryl fentanyl (N-(4-chlorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide) DEA controlled substances code number 9826;
- (5) Crotonyl fentanyl ((E)-N-(1-phenethylpiperidin-4-yl)-N-phenylbut-2-enamide) DEA controlled substances code number 9844;
- (6) Phenyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylbenzamide; also known as benzoyl fentanyl) DEA controlled substances code number 9841;
- (7) para-Methylfentanyl (N-(4-methylphenyl)-N-(1-phenethylpiperidin-4-yl)propionamide; also known as 4-methylfentanyl) DEA controlled substances code number 9817;
- (8) ortho-Methyl methoxyacetyl fentanyl (2-methoxy-N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide; also known as 2-methyl methoxyacetyl fentanyl) DEA controlled substances code number 9820;
- (9) ortho-Methyl acetylfentanyl (N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide; also known as 2-methyl acetylfentanyl) DEA controlled substances code number 9848;
- (10) Thiofuranyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylthiophene-2-carboxamide; also known as 2-thiofuranyl fentanyl; thiophene fentanyl) DEA controlled substances code number 9839;
- (11) beta-Methyl fentanyl (N-phenyl-N-(1-(2-phenylpropyl)piperidin-4-yl)propionamide; also known as  $\beta$ -methyl fentanyl) DEA controlled substances code number 9856;
- (12) beta'-Phenyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N,3-diphenylpropanamide; also known as  $\beta'$ -phenyl fentanyl; 3-phenylpropanoyl fentanyl) DEA controlled substances code number 9842;
- (13) 2'-Fluoro ortho-fluorofentanyl (N-(1-(2-fluorophenethyl)piperidin-4-yl)-N-(2-fluorophenyl)propionamide; also known as 2'-fluoro 2-fluorofentanyl) DEA controlled substances code number 9855;

- (14) 4'-Methyl acetyl fentanyl (N-(1-(4-methylphenethyl)piperidin-4-yl)-N-phenylacetamide) DEA controlled substances code number 9819;
- (15) ortho-Fluorobutyryl fentanyl (N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide; also known as 2-fluorobutyryl fentanyl) DEA controlled substances code number 9846;
- (16) Fentanyl carbamate (ethyl (1-phenethylpiperidin-4-yl)(phenyl)carbamate) DEA controlled substances code number 9851;
- (17) ortho-Fluoroacryl fentanyl (N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)acrylamide) DEA controlled substances code number 9852;
- (18) para-Fluoro furanyl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)furan-2-carboxamide) DEA controlled substances code number 9854; ~~and~~
- (19) ortho-Fluoroisobutyryl fentanyl (N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide) DEA controlled substances code number ~~9853~~ 9853;
- (20) para-chlorofentanyl (N-(4-chlorophenyl)-N-(1-phenethylpiperidin[1]4-yl)propionamide DEA controlled substances code number 9818;
- (21) ortho-chlorofentanyl (N-(2-chlorophenyl)-N-(1-phenethylpiperidin[1]4-yl)propionamide) DEA controlled substances code number 9828;
- (22) meta-fluorofuranyl fentanyl (n-3-fluorophenyl)n-(1-phenethylpipieridin-4-yl)furan-2carboxamide DEA controlled substances code number 9871;
- (23) ortho-methylcyclopropyl fentanyl (N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl) cyclopropanecarboxamide) DEA controlled substances code number 9849 ;
- (24) beta-methylacetyl fentanyl (N[1]phenyl-N-(1-(2-phenylpropyl)piperidin[1]4-yl)acetamide) DEA controlled substances code number 9868;
- (25) tetrahydrothiofuranyl fentanyl (N-(1-phenethylpiperidin-4-yl)-[1]phenyltetrahydrothiophene-2-carboxamide) DEA controlled substances code number 9869; ;
- (26) para-fluoro valeryl fentanyl (N-(4-fluorophenyl)-N-(1) DEA controlled substances code number 9870;
- (27) N- ethyl-2-(2-(4-isopropoxybenzyl)-5-nitro-1 H -benzimidazol-1-yl)ethan-1-amine (other name: N -desethyl isotonitazene) and 2-(4-ethoxybenzyl)-5-nitro-1-(2-(piperidin-1-yl)ethyl)-1 H -benzimidazole (other names: N -piperidinyl etonitazene; etonitazepipne) DEA controlled substances code number 9772; and
- (28) 2-(4-methoxybenzyl)-5-nitro-1-(2-(pyrrolidin-1-yl)ethyl)-1 H -benzimidazole (other names: N -pyrrolidino metonitazene or metonitazepyne) and 5-nitro-2-(4-propoxybenzyl)-1-(2-(pyrrolidin-1-yl)ethyl)-1 H -benzimidazole (other names: N- pyrrolidino protonitazene or protonitazepyne) DEA controlled substances code number 9772 .

*History Note: Authority G.S. 90-88; 90-89; 143B-147;  
Eff. June 30, 1978;*

1                   *Amended Eff. November 1, 2005; July 1, 1995; November 1, 1994; April 1, 1994; January 1, 1994;*  
2                   *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2,*  
3                   *2016;*  
4                   *Amended Eff. December 1, ~~2021~~ July 1, 2026.*

# SUBMISSION FOR PERMANENT RULE

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1. Rule-Making Agency:</b> Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>2. Rule citation &amp; name (name not required for repeal):</b> 10A NCAC 26F .0102, Schedule I                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>3. Action:</b><br><input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTION <input type="checkbox"/> REPEAL through READOPTION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>4. Rule exempt from RRC review?</b><br><input type="checkbox"/> Yes. Cite authority:<br><input checked="" type="checkbox"/> No                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>5. Rule automatically subject to legislative review?</b><br><input type="checkbox"/> Yes. Cite authority:<br><input checked="" type="checkbox"/> No                                                                                                                                                                                                                                                                                                                                                                            |
| <b>6. Notice for Proposed Rule:</b><br><br><input type="checkbox"/> Notice Required<br>Notice of Text published on:<br>Link to Agency notice:<br>Hearing on:<br><input type="checkbox"/> The requirements listed in G.S. 150B-19.1(c)(1)-(5) were posted on the agency's Web site no later than the publication date of the notice of text in the N.C. Register.<br>Adoption by Agency on:<br><input checked="" type="checkbox"/> Notice not required under G.S.: 90-88(d)<br>Adoption by Agency on: May 28, 2026                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>7. Rule establishes or increases a fee? (See G.S. 12-3.1)</b><br><br><input type="checkbox"/> Yes<br>Agency submitted request for consultation on:<br>Consultation not required. Cite authority:<br><br><input checked="" type="checkbox"/> No                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>8. Fiscal impact. Check all that apply.</b><br><br><input type="checkbox"/> This Rule was part of a combined analysis.<br><input type="checkbox"/> State funds affected<br><input type="checkbox"/> Local funds affected<br><input type="checkbox"/> Substantial economic impact (≥\$1,000,000)<br><input type="checkbox"/> Approved by OSBM<br><input checked="" type="checkbox"/> No fiscal note required                                                                                                                    |
| <b>9. REASON FOR ACTION</b><br><b>9A. What prompted this action? Check all that apply:</b><br><div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <input checked="" type="checkbox"/> Agency<br/> <input type="checkbox"/> Court order / cite:<br/> <input type="checkbox"/> Federal statute / cite:<br/> <input checked="" type="checkbox"/> Federal regulation / cite: 21 C.F.R. §1308.11           </div> <div style="width: 48%;"> <input type="checkbox"/> Legislation enacted by the General Assembly<br/>                 Cite Session Law:<br/> <input type="checkbox"/> Petition for rule-making<br/> <input type="checkbox"/> Other:           </div> </div> <b>9B. Explain:</b> This amendment is necessary to correspond to additions in the Federal Controlled Substances Schedule. Pursuant to GS 90-88(d), the Commission for MH/DD/SAS has the authority to schedule drugs in compliance with federal regulations without formal rulemaking procedures. The Commission proposes to adopt language to parallel the Federal Controlled Substances Schedule, as set forth in 21 C.F.R. §1308.11. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>10. Rulemaking Coordinator: Denise Baker</b><br><br><b>Phone:</b> 984-236-5272<br><b>E-Mail:</b> : <a href="mailto:dmhddsasrules@dhhs.nc.gov">dmhddsasrules@dhhs.nc.gov</a><br><br><b>Additional agency contact, if any:</b><br><br><b>Phone:</b><br><b>E-Mail:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>11. Signature of Agency Head* or Rule-making Coordinator:</b><br><div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;">             Digitally signed by: <u>Denise Baker</u> </div> <b>By signing, I have verified that the information contained on this form is true and accurate to the best of my knowledge.</b><br><br><b>*If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.</b><br><br><b>Typed Name:</b><br><b>Title:</b> |
| <b>RRC AND OAH USE ONLY</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Action taken:</b><br><input type="checkbox"/> RRC extended period of review:<br><input type="checkbox"/> RRC determined substantial changes:<br><input type="checkbox"/> Withdrawn by agency<br><input type="checkbox"/> Subject to Legislative Review<br><input type="checkbox"/> Other:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

## **Burgos, Alexander N**

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**From:** Ascher, Seth M  
**Sent:** Tuesday, August 4, 2026 12:42 PM  
**To:** SVC\_DHHS.dmhddsasrules  
**Cc:** Burgos, Alexander N  
**Subject:** RFC for MH/DD/SAS - August 2026  
**Attachments:** Commission for MH, DD, SAS RFC August 2026.docx

Good afternoon,

I'm the attorney who reviewed the Rules submitted by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services for the August 2026 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, August 27, 2026, at 10:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an invite should be sent to you as we get close to the meeting. If there are any other representatives from your agency who want to attend virtually, let me know prior to the meeting, and we will get invites out to them as well.

Attached is my initial Request for Changes Pursuant to G.S. 150B-21.10. Please submit your responses, the revised Rules, and forms to me via email, no later than 5 p.m. on August 17, 2026.

Please let me know if you have any questions or concerns.

### **Seth Ascher**

Counsel to the North Carolina Rules Review Commission  
Office of Administrative Hearings  
(984) 236-1934

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