

NORTH CAROLINA REGISTER

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July 1, 2024

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PUBLISHED BY

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For questions or concerns regarding the Administrative Procedure Act or any of its components, consult with the agencies below. The bolded headings are typical issues which the given agency can address but are not inclusive.

Rule Notices, Filings, Register, Deadlines, Copies of Proposed Rules, etc.

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NORTH CAROLINA REGISTER
Publication Schedule for January 2024 – December 2024

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 th day from publication in the Register
38:13	01/02/24	12/06/23	01/17/24	03/04/24	03/20/24	04/30/2024	05/01/24	09/28/24
38:14	01/16/24	12/19/23	01/31/24	03/18/24	03/20/24	04/30/2024	05/01/24	10/12/24
38:15	02/01/24	01/10/24	02/16/24	04/01/24	04/20/24	05/29/2024	06/01/24	10/28/24
38:16	02/15/24	01/25/24	03/01/24	04/15/24	04/20/24	05/29/2024	06/01/24	11/11/24
38:17	03/01/24	02/09/24	03/16/24	04/30/24	05/20/24	06/26/2024	07/01/24	11/26/24
38:18	03/15/24	02/23/24	03/30/24	05/14/24	05/20/24	06/26/2024	07/01/24	12/10/24
38:19	04/01/24	03/08/24	04/16/24	05/31/24	06/20/24	07/31/2024	08/01/24	12/27/24
38:20	04/15/24	03/22/24	04/30/24	06/14/24	06/20/24	07/31/2024	08/01/24	01/10/25
38:21	05/01/24	04/10/24	05/16/24	07/01/24	07/20/24	08/28/2024	09/01/24	01/26/25
38:22	05/15/24	04/24/24	05/30/24	07/15/24	07/20/24	08/28/2024	09/01/24	02/09/25
38:23	06/03/24	05/10/24	06/18/24	08/02/24	08/20/24	09/25/2024	10/01/24	02/28/25
38:24	06/17/24	05/24/24	07/02/24	08/16/24	08/20/24	09/25/2024	10/01/24	03/14/25
39:01	07/01/24	06/10/24	07/16/24	08/30/24	09/20/24	10/30/2024	11/01/24	03/28/25
39:02	07/15/24	06/21/24	07/30/24	09/13/24	09/20/24	10/30/2024	11/01/24	04/11/25
39:03	08/01/24	07/11/24	08/16/24	09/30/24	10/20/24	11/26/2024	12/01/24	04/28/25
39:04	08/15/24	07/25/24	08/30/24	10/14/24	10/20/24	11/26/2024	12/01/24	05/12/25
39:05	09/03/24	08/12/24	09/18/24	11/04/24	11/20/24	12/19/2024	01/01/25	05/31/25
39:06	09/16/24	08/23/24	10/01/24	11/15/24	11/20/24	12/19/2024	01/01/25	06/13/25
39:07	10/01/24	09/10/24	10/16/24	12/02/24	12/20/24	*01/29/2025	02/01/25	06/28/25
39:08	10/15/24	09/24/24	10/30/24	12/16/24	12/20/24	*01/29/2025	02/01/25	07/12/25
39:09	11/01/24	10/11/24	11/16/24	12/31/24	01/20/25	*02/26/2025	03/01/25	07/29/25
39:10	11/15/24	10/24/24	11/30/24	01/14/25	01/20/25	*02/26/2025	03/01/25	08/12/25
39:11	12/02/24	11/06/24	12/17/24	01/31/25	02/20/25	*03/26/2025	04/01/25	08/29/25
39:12	12/16/24	11/21/24	12/31/24	02/14/25	02/20/25	*03/26/2025	04/01/25	09/12/25

*Dates not approved by the RRC

This document is prepared by the Office of Administrative Hearings as a public service and is not to be deemed binding or controlling.

EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

GENERAL

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

- (1) temporary rules;
- (2) text of proposed rules;
- (3) text of permanent rules approved by the Rules Review Commission;
- (4) emergency rules
- (5) Executive Orders of the Governor;
- (6) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H; and
- (7) other information the Codifier of Rules determines to be helpful to the public.

COMPUTING TIME: In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.

FILING DEADLINES

ISSUE DATE: The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month after the first or fifteenth that is not a Saturday, Sunday, or holiday for State employees.

LAST DAY FOR FILING: The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.

NOTICE OF TEXT

EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days but not later than 60 days after the date a notice of the hearing is published.

END OF REQUIRED COMMENT PERIOD
An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published.

DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION: The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.



State of North Carolina

ROY COOPER
GOVERNOR

MAY 23, 2024

EXECUTIVE ORDER NO. 308

STATE TYPE I DISASTER DECLARATION FOR INDIVIDUAL ASSISTANCE FOR GASTON COUNTY AND CONTIGUOUS COUNTIES

WHEREAS, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes, authorizes the issuance of a disaster declaration for an emergency area as defined in N.C. Gen. Stat. § 166A-19.3(7) that has been impacted by a Type I, Type II, or Type III disaster as defined in N.C. Gen. Stat. § 166A-19.21(b); and

WHEREAS, on May 8, 2024, Gaston County, North Carolina, and the surrounding areas experienced a severe weather event that included two (2) EF-1 Tornadoes with winds reaching 110 mph that damaged homes and businesses and caused one death; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.22, Gaston County declared a local state of emergency on May 8, 2024; and

WHEREAS, due to the impacts of the severe weather, local, state, and federal emergency management officials conducted a joint preliminary damage assessment on May 21 and 22, 2024; and

WHEREAS, the President of the United States has not declared a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (hereinafter "Stafford Act"), as amended (42 U.S.C. § 5121-5206); and

WHEREAS, Gaston County would not qualify based on the preliminary damage assessment for Federal Individual Assistance according to the requirements of 44 C.F.R. § 206.48; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.21(b)(1), the criteria for a Type I disaster are met if: (1) the Secretary of the Department of Public Safety has provided a preliminary damage assessment to the Governor and the General Assembly; (2) Gaston County declared a local state of emergency pursuant to N.C. Gen. Stat. § 166A-19.22; (3) the preliminary damage assessment has met or exceeded the criteria established for the Small Business Disaster Loan Program pursuant to 13 C.F.R. Part 123; and (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared; and

WHEREAS, the undersigned has determined that a Type I disaster, as defined in N.C. Gen. Stat. § 166A-19.21(b)(1), exists in the State of North Carolina, specifically Gaston County and the contiguous counties of Cleveland, Lincoln, and Mecklenburg; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.41, if a disaster is declared, the undersigned may make state funds available for emergency assistance in the form of individual assistance and public assistance for recovery from those disasters for which federal assistance

under the Stafford Act is either not available or does not adequately meet the needs of residents in the emergency area.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1.

For purposes of this Executive Order only, the emergency area as defined in N.C. Gen. Stat. § 166A-19.3(7), is Gaston County and the contiguous counties of Cleveland, Lincoln, and Mecklenburg in North Carolina (“the Emergency Area”).

Section 2.

Pursuant to N.C. Gen. Stat. § 166A-19.21(b)(1), a Type I disaster is hereby declared for the Emergency Area.

Section 3.

I authorize state emergency assistance funds in the form of grants to individuals and families located within the Emergency Area that meet the terms and conditions under N.C. Gen. Stat. § 166A-19.41(b)(1).

Section 4.

I hereby order that this declaration be (a) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) promptly filed with the Secretary of the North Carolina Department of Public Safety, the North Carolina Secretary of State, and the Clerks of the Superior Court in the counties to which it applies; and (c) distributed to others as necessary to ensure proper implementation of this declaration.

Section 5.

Pursuant to N.C. Gen. Stat. § 166A-19.21(c)(1), this Type I disaster declaration shall expire sixty (60) days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of thirty (30) days each, not to exceed a total of 120 days from the date of first issuance.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 23rd day of May in the year of our Lord two thousand and twenty-four.



Roy Cooper
Governor



ATTEST:



Elaine F. Marshall
Secretary of State



State of North Carolina

ROY COOPER
GOVERNOR

May 22, 2024

EXECUTIVE ORDER NO. 307

**EXTENSION OF THE GOVERNOR'S ADVISORY COMMITTEE ON
PERFORMANCE MANAGEMENT**

WHEREAS, the undersigned issued Exec. Order No. 43, 32 N.C. Reg. 2639-2640 (June 15, 2018), on May 18, 2018, establishing the Governor's Advisory Committee on Performance Management ("Advisory Committee"); and

WHEREAS, the undersigned issued Exec. Order No. 260, 37 N.C. Reg. 6 (July 1, 2022), on May 31, 2022, extending Executive Order No. 43; and

WHEREAS, the Advisory Committee advises state agencies on performance management initiatives and evidence-based policy efforts; highlights successful efforts and promising initiatives, and offers advice on relevant legislation, rules, and policies; and

WHEREAS, Executive Order No. 260 expires on May 31, 2024, and the undersigned has determined that the Advisory Committee must be further extended to continue its important work; and

WHEREAS, pursuant to Article III § 1 of the North Carolina Constitution and N.C. Gen. Stat. §§ 143A-4 and 143B-4, the Governor is the chief executive officer of the state and is responsible for formulating and administering the policies of the executive branch of state government; and

WHEREAS, pursuant to N.C. Gen. Stat. §147-12, the Governor has the authority and the duty to supervise the official conduct of all executive and ministerial officers.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Extending Executive Order No. 260

Pursuant to N.C. Gen. Stat. § 147-16.2, Executive Order No. 260, which extended the Governor's Advisory Committee on Performance Management, is hereby extended to May 31, 2026.

Section 2. Effect and Duration

This extension of Executive Order No. 260 is effective immediately and shall remain in effect until May 31, 2026, or until rescinded or superseded by another applicable Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 22nd of May in the year of our Lord two thousand and twenty-four.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State



North Carolina License and Theft Bureau

PUBLIC NOTICE

This serves as a notice pursuant to G.S. § 20-288 of a license application submission by a manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative that has not been previously issued a license by the Division.

Applicant's Name: Tesla Inc

Applicant's Address: 2620 N Main St, High Point NC 27262

Application Date: 05/7/2024

Names and titles of any individual listed on the application as an owner, partner, member or officer of the applicant:

Emmauelle Stewart Assistant Secretary

Troy Jones VP

Elon Musk CEO

Note from the Codifier: The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept comments on the proposed rule(s) for at least 60 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. If the agency adopts a rule that differs substantially from a prior published notice, the agency must publish the text of the proposed different rule and accept comment on the proposed different rule for 60 days. Statutory reference: G.S. 150B-21.2.

TITLE 02 – DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Structural Pest Control Committee intends to amend the rules cited as 02 NCAC 34 .0101, .0302, .0309, .0313, .0327, .0604, .0703, .0803, and .0902.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.ncagr.gov/divisions/legal-affairs/legal-affairs-rules>

Proposed Effective Date: November 1, 2024

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): Any person may request a public hearing on the proposed rules by submitting a request in writing no later than July 16th, 2024 to Anna Hayworth, NCDA&CS Rule-Making coordinator, 1002 Mail Service Center, Raleigh, NC 27699 or at rulesreview@ncagr.gov.

Reason for Proposed Action: In 2017, EPA revised the Certification of Pesticide Applicators rule (40 CFR Part 171). The revisions provide assurance that certified applicators and non-certified applicators under their supervision are competent to use pesticides in a manner that will not cause unreasonable adverse effects on human health or the environment. The existing NC Structural Pest Control Rules were revised so that they meet or exceed the new minimum requirements detailed in 40 CFR Part 171. The rule revisions have been reviewed and approved by the NC Structural Pest Control Committee and the NC State Certification plan has been reviewed and final approval has been received from EPA.

Comments may be submitted to: Anna Hayworth, 1002 Mail Service Center, Raleigh, NC 27699; phone (984) 236-4509; email rulesreview@ncagr.gov

Comment period ends: August 30, 2024

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit a written objection to the Rules Review Commission. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via

email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (>= \$1,000,000)
- Approved by OSBM
- No fiscal note required

CHAPTER 34 - STRUCTURAL PEST CONTROL DIVISION

SECTION .0100 - INTRODUCTION AND DEFINITIONS

02 NCAC 34 .0101 GENERAL DUTIES

- (a) Applicable to licensees only:
 - (1) All licensed structural pest control operators shall faithfully and honestly carry out the provisions and terms of all contracts into which they enter for the control of structural pests.
 - (2) In addition to following all minimum requirements outlined in the rules and regulations herein, licensed structural pest control operators shall be responsible for obtaining satisfactory control of all insects, rodents, fungi, or other pests indicated in the control agreement(s).
 - (3) Licensed structural pest control operators shall be responsible for obtaining satisfactory control of active infestations of pests for which control agreements were entered into prior to July 1, 1955, if contracts covering said agreements are currently effective.
- (b) Applicable to both licensees and certified applicators:
 - (1) The methods and materials used in structural pest control procedures shall be in accordance with the current label registrations of federal and State of North Carolina agencies responsible for making such registrations.
 - (2) The possession, usage, application, storage, and disposal of all pesticides and all pesticide containers shall be in conformity with all federal and North Carolina State laws and regulations governing the possession, usage, application, storage, and disposal of pesticides and pesticide containers.
 - (3) Licensed structural pest control operators or their authorized agents and certified applicators

shall maintain at their business location(s) copies of current registered labels for all pesticides used. Such labels shall be made available for inspection upon request of the Division or the Committee.

(4) Requirements for direct supervision of registered technicians by licensed or certified applicators are as follows:

(A) ADOPTION BY REFERENCE: The North Carolina Structural Pest Control Committee hereby adopts by reference for all Pesticide Applicators, Part 171.201 "Supervision of Noncertified Applicators" of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart B– Certification Requirements for Applicators of Restricted Use Pesticides" including subsequent amendments. Copies of this material may be obtained at no cost from the U.S. Government Printing Office website, <http://www.gpo.gov/>.

(B) Before any registered technician may use any pesticide under the direct supervision of the licensed or certified applicator, the supervising licensed or certified applicator must ensure that the registered technician has met all of the following qualifications: the registered technician has completed training requirements under 02 NCAC 34 .0313; the registered technician has been instructed within the last 12 months in the safe operation of any equipment he or she will use for mixing, loading, transferring, or applying pesticides as required 02 NCAC 34 .0313(g); and the registered technician is at least 18 years old.

(C) Use-specific conditions that must be met in order for a registered technician to use any pesticide are outlined in this section. The licensed or certified applicator must ensure that all the following requirements in this section are met before allowing a registered technician to use any pesticide under his or her direct supervision.

(D) The licensed or certified applicator must ensure that the registered technician always has access to the applicable product labeling during its use.

(E) The licensed or certified applicator must provide the registered technician with all personal protective equipment required by the labeling of any

pesticide used and through training, documentation, or supervision, ensure that the PPE is being worn and used correctly for its intended purpose.

(F) The licensed or certified applicator must provide to each registered technician, through training, the tools needed to analyze a site prior to an application being made and understand when it is necessary to postpone an application until the supervising licensed or certified applicator be contacted for input. This training must include reading & understanding labeling directions, precautions, and requirements applicable to various sites and uses, and how the characteristics of a use site (e.g., structural pest identification, damage assessment, construction type, control/management options, as well as other factors which could impact any pesticide application decision such as surface and ground water, runoff potential, soil type, weather forecast, endangered species, local population) and the conditions of application (e.g. equipment, method of application, formulation) might increase or decrease the risk of adverse effects.

(G) The licensed or certified applicator must provide this information in a manner that the registered technician can understand.

(H) The licensed or certified applicator must, through training, documentation, or inspections, ensure that before each day of use, equipment used for mixing, loading, transferring, or applying pesticides is in proper operating condition as intended by the manufacturer and can be used without risk of reasonably foreseeable adverse effects to the registered technician, other persons, or the environment.

(I) The licensed or certified applicator must ensure that a means to immediately communicate with the licensed or certified applicator has been provided to each registered technician using any pesticide under his or her direct supervision.

(J) The licensed or certified applicator must be physically present at the use site, when required by the product labeling

(5) Before any registered technician uses any pesticide under the direct supervision of the

- licensed or certified applicator, the supervising licensed or certified applicator must ensure that the registered technician has met all the requirements and been trained in accordance with 02 NCAC 34 .0313.
- (6) All licensed or certified applicators must adhere to the following provisions of recordkeeping as outlined in the following section and subsection.
 - (A) Prior to the registered technician using any pesticide, the licensed or certified applicator must create or verify the existence of records documenting that each registered technician has met the qualifications required in Subparagraph (b)(5) of this Rule. For each registered technician, the records must contain the information as provided in Part (b)(6)(B) of this Rule.
 - (B) The record must contain all the following information: the registered technician's printed name and signature; the date that the training requirement in Subparagraph (b)(5) of this Rule was completed; the name of the person who provided the training; and the title or a description of the training provided.
 - (C) The licensed or certified applicator supervising any registered technician must have access to records documenting the information required in Part (b)(6)(A) of this Rule at the licensed applicator's principal place of business for two years from the date the registered technician uses the pesticide.

- (3) Applications to take the examination shall be either typed or printed in ink and sworn to before a notary public or some other official authorized by law to administer oaths.
- (4) A high-resolution, full-face, head, and shoulder photograph of the applicant, taken within the preceding 12 months of the date of application, and not less than two and one-half inches square, shall be attached to the application.
- (5) All applications to take the examination shall be retained by the office of the Committee secretary. All documents filed in support of an application shall be kept by the office of the Committee secretary; provided, however, that the Committee shall permit such documents to be withdrawn upon substitution of a true copy. All examinations shall remain the property of the Committee.
- (6) An applicant who fails to pass the license examination within 12 months of the approval of his or her application shall be required to provide current information concerning his or her qualifications to take the examination to ensure that the applicant is still qualified to take the examination.
- (7) An applicant who gives or receives unauthorized assistance in answering test questions from anyone who is not employed by the Division during an examination shall be dismissed from the examination and his or her markings or results shall be voided and said applicant's examination fee shall be forfeited. Such applicant shall not be permitted to take a reexamination for a period of six months from the date of the examination.
- (8) No person shall be admitted to the examination room except members of the Committee, the attorney for the Committee, the examining personnel, employees of the Structural Pest Control Division, and the applicants for licensure.
- (9) Any applicant making a score of 70 percent or more on any license examination(s) shall be issued a license in that phase(s) of structural pest control after submitting a completed application with all required fees and insurance documents therefor.
- (10) The applicant shall furnish the information required by G.S. 106-65.26 and this Rule to establish that said applicant possesses qualifications as specified in G.S. 106-65.26 of the Act for the particular license(s) which he or she seeks. The Committee or its authorized representatives may, based upon their review of the contents of an application, make such investigations as the Committee deems necessary to review an applicant's qualifications.

Authority G.S. 106-65.29.

SECTION .0300 - LICENSING AND CERTIFICATION

02 NCAC 34 .0302 APPLICATION FOR LICENSES AND CARDS: EXAMINATION

(a) Application for licenses under the provisions of G.S. 106-65.26(a) and (c):

- (1) Application for examination shall be on a regular form prescribed by the Division. The Committee shall approve applications if a complete application was submitted to the Division and all criteria under G.S. 106-65.26 has been met.
- (2) Upon approval of the application for examination, the Committee secretary shall notify the applicant of said approval and provide the necessary form(s) for the applicant to pre-register for the examination as required in Paragraph (c) of this Rule.

(11) All applicants passing the examination(s) for licenses shall apply for said licenses within six months from the date on which the examinations were taken. If such applicants fail to make application for said licenses, within the specified period, such applicants shall be required to take and pass reexaminations covering phases of structural pest control work for which licenses were applied before said licenses are issued.

(12) If an applicant for a license fails an examination, he or she may review the examination at the next scheduled review session.

(b) Application for certified applicator's identification card under the provisions of G.S. 106-65.26(a) and (b):

(1) Applications filed pursuant to G.S. 106-65.26(a) and (b) shall be on a form prescribed by the Division.

(2) An applicant for a certified applicator's identification card in any phase of structural pest control shall furnish information as specified in G.S. 106-65.26 of the Act to establish that said applicant possesses qualifications for the particular certified applicator's identification card which he or she seeks. The Committee or its authorized representatives may, based upon their review of the contents of an application, make such investigations as it deems necessary with respect to the applicant's qualifications.

(3) All applications for certified applicator's identification cards under the provisions of G.S. 106-65.26(a) and (b) shall be retained by the office of the Committee secretary. All documents filed in support of an application shall be kept by the office of the Committee secretary; provided, however, that the Committee shall at its discretion permit such documents to be withdrawn upon substitution of a true copy. All examinations shall remain the property of the Committee.

(4) ~~Any applicant making a score of 70 percent or more on the core certification examination and on any certified applicator's examination(s) shall be issued a certified applicator's identification card in that phase of structural pest control after submitting a completed Division's Certified Applicator Card application with required fees therefor.~~
ADOPTION BY REFERENCE: The North Carolina Structural Pest Control Committee, hereby adopts by reference for all Certified Applicators, Part 171.103 (a) through (e) "Standards for certification of commercial applicators" of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart B-Certification

Requirements for Applicators of Restricted Use Pesticides" including subsequent amendments. Copies of this material may be obtained at no cost from the U.S. Government Printing Office website, <http://www.gpo.gov/>.

(A) Industrial, Institutional & Structural is the only federal category regulated under the NC Structural Pest Control Law and that category is divided into three subcategory phases. The three subcategory phases and their subsequent competency standards are detailed in this section.

(B) Household Pest Control: Applicators must demonstrate practical knowledge of household pests, pest problems and pests that are important vectors of disease, including recognizing the pests and signs of their presence, their habitats, their life cycles, biology, and behavior as it may be relevant to problem identification and control. The required knowledge also includes how to minimize damage to, and contamination of areas treated, acute and chronic exposure of people and pets, and non-target exposures.

(C) Wood-Destroying Organisms: Applicators must demonstrate a practical knowledge of wood-destroying organisms which may devour or destroy wood, wood products and other cellulose material in, on, under in contact with and around structures, including recognizing these pests and signs of their presence, their life cycles, biology, and behavior as it may be relevant to problem identification, treatment and control. The required knowledge also includes how to minimize damage to, and contamination of areas treated, acute and chronic exposure of people and pets, and non-target exposures.

(D) Fumigation (non-soil): Applicators must demonstrate practical knowledge of the pest problems and pest control practices associated with performing fumigation applications of restricted use pesticides to sites other than soil such as enclosed spaces or structures, including recognizing these pests and signs of their presence, their life cycles, biology, and behavior as it may be relevant to problem identification, treatment, and control. The required knowledge also includes how to minimize damage to, and

- contamination of areas treated, acute and chronic exposure of people and pets, and non-target exposures.
- (5) All applicants passing the examination(s) for certified applicator's identification cards shall apply for said cards within six months from the date on which the examinations were taken. If such applicants fail to make application for said certified applicator's identification cards within the specified period, such applicants shall be required to take and satisfactorily pass reexaminations covering phases of structural pest control work for which certified applicator's identification cards were applied before said cards are issued. Any applicant making a score of 70 percent or more on the core certification examination and on any certified applicator's examination(s) shall be issued a certified applicator's identification card in that phase of structural pest control after submitting a completed division's certified applicator card application with required fees therefor.
- (6) If an applicant fails to obtain a certified applicator's identification card within 12 months of passing the core examination the applicant shall take and pass a reexamination before being eligible for the card. All applicants passing the examination(s) for certified applicator's identification cards shall apply for said cards within six months from the date on which the examinations were taken. If such applicants fail to make application for said certified applicator's identification cards within the specified period, such applicants shall be required to take and satisfactorily pass reexaminations covering phases of structural pest control work for which certified applicator's identification cards were applied before said cards are issued.
- (7) Upon receipt of the application for examination, the Committee secretary shall provide the necessary exam pre-registration forms for the applicant to pre-register for the examination as required in Paragraph (c) of this Rule. If an applicant fails to obtain a certified applicator's identification card within 12 months of passing the core examination the applicant shall take and pass a reexamination before being eligible for the card.
- (8) If an applicant for a certified applicator's card fails an examination, he or she may review the examination at the next scheduled review session. Upon receipt of the application for examination, the Committee secretary shall provide the necessary exam pre-registration forms for the applicant to pre-register for the examination as required in Paragraph (c) of this Rule.

- (9) Subparagraphs (a)(2), (5), (7), and (8) of this Rule shall also apply to all applicants for certified applicator's identification cards. If an applicant for a certified applicator's card fails an examination, he or she may review the examination at the next scheduled review session.
- (10) Completion of the Registered Technician School shall be a prerequisite for the certification examination. Subparagraphs (a)(2), (5), (7), and (8) of this Rule shall also apply to all applicants for certified applicator's identification cards.
- (11) Completion of the registered technician school shall be a prerequisite for the certification examination.
- (c) Pre-registration for license and certified applicator examination applicants:
 - (1) All applicants for the license or certified applicator's examination(s) shall pre-register with the Committee secretary for said examination(s) no less than 10 days prior to the date of the examination.
 - (2) Applicants who fail to pre-register shall not be permitted to take the examination.
 - (3) Pre-registration shall include a completed application for examination.
- (d) Frequency of examination by license applicant limited:
 - (1) An applicant who fails to pass the license examination on his or her first attempt may retake the examination at any subsequent scheduled examination.
 - (2) An applicant who fails to pass the second license examination shall wait a minimum of one examination between each subsequent examination: except that, in the event of a death of a licensee the applicant intending to succeed the deceased licensee may take the examination a third time prior to the first one examination waiting period.
 - (3) No applicant shall be permitted to take the examination more than six times per year nor more than two times in consecutive months, except as provided for in Subparagraph (d)(2) of this Rule.

Authority G.S. 106-65.29.

02 NCAC 34 .0309 RECERTIFICATION

(a) Certified applicators and licensees shall be certified for a five-year period. At the end of said five year period, a certified applicator or licensee, at his or her discretion, may be recertified for another five year period by choosing one of the following options: ADOPTION BY REFERENCE: The North Carolina Structural Pest Control Committee, hereby adopts by reference for all Certified Applicators, Part 171.107 "Standards for recertification of commercial applicators" of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart B-Certification

Requirements for Applicators of Restricted Use Pesticides" including subsequent amendments. Copies of this material may be obtained at no cost from the U.S. Government Printing Office website, <http://www.gpo.gov/>.

- (1) ~~reexamination taken between January 1, prior to the expiration of the five year recertification period, and June 30;~~
- (2) ~~for recertification after July 1, 2002: earning Continuing Certification Units during the five years immediately preceding the expiration date of his certification. The number of CCUs required shall be as follows:~~

- (A) ~~recertification in any one phase: 10 CCUs total, five of which shall be solely applicable to the phase in which recertification is desired;~~
- (B) ~~recertification in any two phases: 15 CCUs total, five of which shall be solely applicable to the first phase and five solely applicable to the second phase in which recertification is desired;~~
- (C) ~~recertification in all three phases: 20 CCUs total, five of which shall be solely applicable to the first phase, five solely applicable to the second phase, and five solely applicable to the third phase in which recertification is desired;~~
- (D) ~~licensees and noncommercial certified applicators shall earn at least one of the required continuing certification units established in Subparagraph (a)(3) of this Rule in at least four years of the five year recertification period;~~
- (E) ~~commercial certified applicators shall earn at least one of the required continuing certification units established in Subparagraph (a)(3) of this Rule in at least three years of the five year recertification period;~~
- (F) ~~continuing certification units shall not be carried forward beyond the five-year recertification period.~~

(b) Licensees holding an inactive license shall be subject to the requirements of this Rule. Certified applicators and licensees shall be certified for a five-year period. At the end of said five-year period, a certified applicator or licensee, at his or her discretion, may be recertified for another five-year period by choosing one of the following options:

- (1) Reexamination taken between January 1, prior to the expiration of the five-year recertification period, and June 30; or
- (2) For recertification after July 1, 2002: earning continuing certification units during the five years immediately preceding the expiration date of his certification, and the number of CCUs required shall be as follows:

- (A) recertification in any one phase: 10 CCUs total, five of which shall be solely applicable to the phase in which recertification is desired;
- (B) recertification in any two phases: 15 CCUs total, five of which shall be solely applicable to the first phase and five solely applicable to the second phase in which recertification is desired;
- (C) recertification in all three phases: 20 CCUs total, five of which shall be solely applicable to the first phase, five solely applicable to the second phase, and five solely applicable to the third phase in which recertification is desired;
- (D) licensees and noncommercial certified applicators shall earn at least one of the required continuing certification units established in Subparagraph (b)(2) of this Rule in at least four years of the five- year recertification period;
- (E) commercial certified applicators shall earn at least one of the required continuing certification units established in Subparagraph (b)(2) of this Rule in at least three years of the five-year recertification period; and
- (F) continuing certification units shall not be carried forward beyond the five-year recertification period.

(c) Licensees holding an inactive license shall be subject to the requirements of this rule.

Authority G.S. 106-65.29.

02 NCAC 34 .0313 REGISTERED TECHNICIAN'S IDENTIFICATION CARDS/TRAINING MATERIALS

(a) A registered technician's identification card shall contain, but not be limited to, the following information:

- (1) name of registrant;
- (2) name of licensee or employer;
- (3) name of licensee's company;
- (4) address of licensee's company;
- (5) license number and phase(s) of licensee;
- (6) age, weight, height, color of hair and eyes of registrant;
- (7) job classification of card holder;
- (8) issuance date, expiration date, and license year covered by card.

(b) The registered technician's identification card and the license of the employer of the card holder shall bear the same license number and license phase(s). Each registered technician's identification card shall bear only one license number, one company name, and not more than three license phases.

(c) A licensee or noncommercial certified applicator applying for the issuance or renewal of a registered technician's identification card for his or her employee shall certify to the Division that the

employee meets all the minimum requirements as set forth in 02 NCAC 34 .0101(b)(4)(A) and has completed employee training approved by the Committee in structural pest control work.

(d) All individuals who make application for the issuance, not renewal, of registered technician's identification cards after January 1, 1999, shall complete the following training, or its equivalent, before becoming eligible for the identification card:

- (1) Introductory Training:
 - (A) Introductory training shall include completion of the workbook, Introductory Training for Registered Technicians; and
 - (B) A minimum of 24 hours of on-the-job training in applicable phases of structural pest control by the licensee, certified applicator, or registered technician having at least two years of experience.
- (2) On-the-job training involving the equipment, methods, methods and materials the employee will use in the day-to-day performance of his duties.
- (3) The North Carolina Structural Pest Control Registered Technician School. A fee of twenty-five dollars (\$25.00) shall be charged for each employee attending the Registered Technician School.

(e) Training materials and records shall be made available for inspection during regular business hours upon request by the Division and shall be retained two years beyond the last date of the individual's employment.

(f) Introductory training shall be completed before the employee is permitted to mix or apply pesticides without the on-site supervision of a registered technician, certified applicator, or licensee.

(g) Registered technicians shall complete an annual training in the safe operation of any equipment he or she will use for mixing, loading, transferring, or applying pesticides.

- (1) The person who conducts this training must meet one of the following criteria:
 - (A) Be currently licensed or certified in the phase that the technician is to be registered; or
 - (B) Be currently designated as a trainer of registered technicians by the committee or the director.

Authority G.S. 106-65.29.

02 NCAC 34 .0327 LICENSES AND CARDS NOT ISSUED TO PERSONS UNDER 18

No license certificate or certified applicator's identification card or registered technician's identification card shall be issued to any person who is less than 18 years old.

Authority G.S. 106-65.29.

SECTION .0600 - WOOD-DESTROYING ORGANISMS AGREEMENTS

02 NCAC 34 .0604 WOOD-DESTROYING ORGANISMS RECORDS

(a) A duplicate of each written agreement and waiver (if applicable) for the control or prevention of any wood-destroying organism shall be kept by the licensee for a minimum of two years beyond the expiration date of the written agreement. The duplicate of each written agreement shall contain, in addition to the information specified under 02 NCAC 34 .0605, the following:

- (1) EPA approved brand name of pesticide used;
- (2) Names of all employees who applied pesticide;
- (3) ~~Information required by EPA;~~ All record keeping requirements required by EPA under 40 CFR Part 171.303(b)(7)(vi);
- (4) For restricted use pesticides, the concentration and approximate total volume of each pesticide applied. For restricted use pesticides, this information, along with the information required by Subparagraphs (a)(1) and (2) of this Rule shall also be included on the customer's copy of the written agreement; and
- (5) In addition, for all treatments performed pursuant to 02 NCAC 34 ~~.0505~~ .0503, .0505, or .0506, the following records shall be made and maintained:
 - (A) the date of each termiticide application;
 - (B) the portion or portions of the structure treated;
 - (C) the approximate volume of termiticide applied during each treatment; and
 - (D) the concentration at which the termiticide is applied.

(b) A duplicate of each wood-destroying insect or wood-destroying organism report shall be kept by the licensee for a minimum of two years beyond the date of issuance.

(c) Noncommercial certified applicators shall maintain the following records for two years beyond the last date of treatment:

- (1) EPA approved brand name of all pesticides used;
- (2) Concentration and approximate total volume of pesticide applied;
- (3) Names of all employees that applied pesticide;
- (4) Target pest;
- (5) Site of application;
- (6) Date of application; and
- (7) ~~Information required by EPA.~~ All record keeping requirements required by EPA under 40 CFR Part 171.303(b)(7)(vi).

(d) If the pesticide used to control any wood-destroying organism requires or recommends monitoring or inspecting for the pest to be controlled, the licensee, certified applicator, or their employees shall make and maintain records of all such inspection or monitoring activities. Such records shall be made available for inspection as provided for in 02 NCAC 34 .0328.

(e) For all treatments performed pursuant to 02 NCAC 34 .0505 or .0506, the licensee shall place, or cause to be placed, a record of treatment in the permit box or, if no box exists, with the building permit on the job site. The treatment record shall be on a

form prescribed by the Division and shall include at least the following information:

- (1) Date of application(s);
- (2) Specific area(s) treated during each application;
- (3) Name of termiticide applied;
- (4) Approximate volume of termiticide applied; and
- (5) Date of final treatment.

Authority G.S. 106-65.29.

SECTION .0700 - HOUSEHOLD PESTICIDES

02 NCAC 34 .0703 WRITTEN RECORDS OF HOUSEHOLD PEST CONTROL

(a) Written records on the treatment for the control of all household pests shall be maintained by the licensee and made available for inspection at any time during regular business hours upon request from the Division. Such records shall include the following information:

- (1) Name(s) and address(es) of the property owner(s) or his or her authorized representative(s);
- (2) Name and address of company represented by the certified applicator or licensee or their authorized representatives and the license number of licensee responsible for the treatment;
- (3) Address(es) of property(ies) treated, type(s) of treatment(s), and date(s) treatment(s) performed;
- (4) Common name(s) of pest(s) to be controlled or covered by the initial agreement or any subsequent treatments;
- (5) EPA approved brand name of pesticide used;
- ~~(6) Information required by EPA;~~
- (6) All record keeping requirements required by EPA under 40 CFR Part 171 .0303(b)(7)(vi);
- (7) Name of licensee, certified applicator, or registered technician making the application; and
- (8) For "restricted use pesticides," as defined in G.S. 106-65.24(21), the information required by Subparagraphs (a)(5), (a)(6), and (a)(7) of this Rule shall also be included on the customer's copy of the written agreement or service record.

(b) Noncommercial certified applicators shall maintain and make available for inspection the following records of pesticides applied:

- (1) EPA approved brand name of all pesticides applied;
- (2) Target pest(s);
- (3) Site of application;
- (4) Date of application;
- (5) Name of certified applicator or registered technician making the application; and

~~(6) Information required by EPA. All record keeping requirements required by EPA under 40 CFR Part 171.303(b)(7)(vi).~~

(c) Records shall be retained for two years beyond the last date of treatment.

Authority G.S. 106-65.29.

SECTION .0800 - FUMIGATION

02 NCAC 34 .0803 WRITTEN RECORDS OF FUMIGATION

(a) Written records shall be maintained on all fumigation operations and be made available for inspection, upon request, by the enforcement agency or Committee anytime during regular business hours. Such records shall include the following information for each fumigation performed:

- (1) Name(s) and address(es) of the property owner(s) or his authorized representative(s);
- (2) Name and address of company represented by the licensee or certified applicator or their authorized representative and the license number of the licensee responsible for the treatment;
- (3) Address of property(ies) to be fumigated;
- (4) Common name(s) of pest(s) to be fumigated;
- (5) EPA approved common name of fumigant used;
- (6) EPA registration number of fumigant applied;
- (7) If a restricted use pesticide is used, ~~that information required by EPA;~~ all record keeping information required by EPA under 40 CFR Part 171.303(b)(7)(vi);
- ~~(8) Total amount of fumigant applied; Date and time of application;~~
- ~~(9) Name of licensee or certified applicator performing the fumigation; Total amount of fumigant applied;~~
- ~~(10) For restricted use pesticides, the information required by Subparagraphs (a)(5), (6), (8), and (9) of this Rule shall also be included on the customer's copy of the written agreement or service record; Name of licensee or certified applicator performing the fumigation;~~
- ~~(11) If the pest to be fumigated is a wood-destroying organism, all of 02 NCAC 34 .0605 shall be followed. For restricted use pesticides, the information required by Subparagraphs (a)(5), (6), (8), and (9) of this Rule shall also be included on the customers copy of the written agreement or service record; and~~
- (11) If the pest to be fumigated is a wood-destroying organism, all of 02 NCAC 34 .0605 shall be followed.
- (12) If the pest to be fumigated is a wood-destroying organism, all of 02 NCAC 34 .0605 shall be followed.

(b) Noncommercial certified applicators shall maintain the following records of pesticides applied:

- (1) EPA approved brand name of all fumigants applied;
- (2) EPA registration number of fumigant applied;

- (3) Total amount of fumigant applied;
- (4) Name of certified applicator performing the fumigation;
- (5) Target pest(s);
- (6) Site of application;
- (7) Date and time of application; and
- (8) ~~Any information required by EPA. All record keeping information required by EPA under 40 CFR Part 171.303(b)(7)(vi).~~

(c) Records must be retained for two years beyond the last date of treatment or the expiration of the written agreement, if applicable.

Authority G.S. 106-65.29.

SECTION .0900 - DUTIES AND RESPONSIBILITIES OF LICENSEE

02 NCAC 34 .0902 FINANCIAL RESPONSIBILITY

(a) A licensee shall obtain and maintain financial responsibility in the form of a general liability insurance policy which covers operations in progress and completed operations. The insurance policy must provide coverage for all employees that work for the licensee. If an insurance policy is issued to a structural pest control company that employs more than one licensee and the policy otherwise meets the standard set forth in this Rule, all licensees employed by the structural pest control company will be deemed to have insurance.

(b) The insurance policy required in Paragraph (a) of this Rule must provide the following minimum coverage:

- (1) Single limit
 - Property Damage \$100,000 Each Occurrence
 - Bodily Injury \$300,000 Each Occurrence
- (2) Combined single limit \$300,000 Each Occurrence

(c) Each applicant for a license in any phase of structural pest control shall show evidence of his financial ability to properly indemnify persons suffering from the use or application of pesticides in the form of a Certificate of Insurance completed by the insurance company with the Division named as a certificate holder.

(d) The Certificate of Insurance shall clearly set forth the type of coverage, limits of liability, and any exclusions of the policy and shall have attached an endorsement which indicates that the policy provides coverage for any pollution or contamination occurring as a result of the use or application of any pesticide or shall state that such an endorsement has been issued with the policy.

(e) The license applicant shall be responsible for the submission of the Certificate of Insurance to the Division as specified in Paragraphs (c) and (d) of this Rule. No license shall be issued, reissued, or renewed until said Certificate of Insurance is received by the Division.

(f) The insurance policy(s) shall be with companies licensed, or otherwise approved to do business in North Carolina, by the NC Department of Insurance. The insurance policy shall be in full force and effect during the entire period covered by the license certificate. The license shall expire upon:

- (1) reduction of the available coverage under the policy below the minimum limits set forth in Paragraph (b) of this Rule;
- (2) cancellation of the policy; or
- (3) expiration of the policy.

Such expired license shall be reinstated only upon satisfactory proof that the licensee has obtained the required financial responsibility coverage.

(g) The licensee shall give the Division at least 10 days notice prior to the occurrence of the following:

- (1) cancellation of the policy;
- (2) material change in the policy; or
- (3) reduction of the available coverage under the policy below the minimum limits set forth in Paragraph (b) of this Rule.

(h) No structural pest control license shall be issued to any person where there exists an outstanding and unpaid final judgment against said person resulting from any civil suit arising out of damages suffered by a plaintiff as the result of a misuse of a pesticide by said person. Any current and valid structural pest control license shall become null and void 180 days following the imposition of a final judgment awarding damages to any plaintiff resulting from a civil suit arising out of losses suffered as the result of a pesticide misuse by the holder of said license unless the final judgment is settled in full within said 180 days.

(i) Paragraphs (a) through (g) of this Rule shall not apply to any person holding an inactive license as defined by ~~2-NCAC 34 -0102(30)~~. 02 NCAC 34 .0102(31).

Authority G.S. 106-65.37.

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Child Care Commission intends to amend the rule cited as 10A NCAC 09 .0713.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://ncchildcare.ncdhhs.gov/Services/Child-Care-Rules-Law-and-Public-Information>

Proposed Effective Date: *November 1, 2024*

Public Hearing:

Date: *July 16, 2024*

Time: *11:30 a.m.*

Location: *By WebEx*

Reason for Proposed Action: *This rule establishes allowable staff/child ratios and capacity for child care centers. Proposed amendments to this rule align ratios and capacity for centers located in a residence with those already allowed in nonresidential child care centers for children ages 3 years and older. Specifically, proposed staff/child ratios for centers located in a residence are increased from 1/12 to 1/15 for children ages three and older. This aligns with existing staff/child ratios for child care centers who do not operate in a residential setting. This*

change applies only to centers located in a residence that have a licensed capacity of 13 to 15 children.

Comments may be submitted to: Julie Peck, NC Division of Child Development and Early Education, 2201 Mail Service Center R, Raleigh, NC 27699-2201; email julie.peck@dhhs.nc.gov

Comment period ends: August 30, 2024

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit a written objection to the Rules Review Commission. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (\geq \$1,000,000)
- Approved by OSBM
- No fiscal note required

CHAPTER 09 - CHILD CARE RULES

SECTION .0700 - STAFF QUALIFICATIONS

10A NCAC 09 .0713 STAFF/CHILD RATIOS FOR CENTERS

(a) The staff/child ratios and group sizes for single-age groups of children in centers shall be as follows:

Age of Children	Ratio Staff/Children	Maximum Group Size
0 to 12 Months	1/5	10
12 to 24 Months	1/6	12
2 to 3 Years	1/10	20
3 to 4 Years	1/15	25
4 to 5 Years	1/20	25
5 Years and Older	1/25	25

- (1) when combining age groups, the staff/child ratio for the youngest child in the group shall be maintained for the entire group;

- (2) children of all ages may be cared for together in groups for the first and last operating hour of the day, provided the staff/child ratio for the youngest child in the group is maintained;
- (3) a child two years of age and older may be placed with children under one year of age when a physician certifies that the developmental age of the child makes this placement appropriate;
- (4) when determined to be developmentally appropriate by the operator and parent, a child age two or older may be placed one age level above his or her chronological age without affecting the staff/child ratio for that group. This provision shall be limited to one child per group;
- (5) except as provided in Subparagraphs (2) and (3) of this Paragraph, children under one year of age shall be kept separate from children two years of age and over;
- (6) except as provided in Subparagraph (2) of this Paragraph, children between the ages of 12 months and 24 months shall not be grouped with older children unless all children in the group are less than three years of age;
- (7) when only one caregiver is required to meet the staff/child ratio and no children under two years of age are in care, that caregiver may concurrently perform food preparation or other duties that are not direct child care responsibilities as long as supervision of the children as specified in 10A NCAC 09 .1801 is maintained;
- (8) except as provided in Subparagraph (7) of this Paragraph, staff members and child care administrators who are counted in meeting the staff/child ratios as stated in this Rule shall not concurrently perform food preparation or other duties that are not direct child care responsibilities; and
- (9) when only one caregiver is required to meet the staff/child ratio, the operator shall select one of the following options for emergency relief:
 - (A) the center shall post the name, address, and telephone number of an adult who has agreed in writing to be available to provide emergency relief; or
 - (B) there shall be a second adult on the premises who is available to provide emergency relief.
- (10) the staff/child ratio applicable to a classroom as described in this Paragraph shall be posted in that classroom in an area that parents are able to view at all times.

(b) The staff/child ratios for a center located in a residence ~~with a licensed capacity of 3 to 12 children when any preschool age child is enrolled, or with a licensed capacity of 3 to 15 children when only school age children are enrolled,~~ are as follows:

PROPOSED RULES

Age of Children	Ratio Staff/Children	Maximum Group Size
0 to 12 Months	1/5 pre school children plus three additional school-age children	10
12 to 24 Months	1/6 preschool children plus two additional school-age children	12
2 to 13 Years	1/10	15
3 to 13 Years	1/42 15	15
All school-age	1/15	

(c) The staff/child ratios for a center located in a residence with a licensed capacity of 3 to 12 children are as follows:

Age of Children	Ratio Staff/Children
0 to 12 Months	1/5 preschool children plus three additional school-age children
12 to 24 Months	1/6 preschool children plus two additional school-age children
2 to 13 Years	1/10
3 to 13 Years	1/12

~~(d)~~(d) The staff/child ratio applicable to a classroom for a center located in a residence as described in Paragraph (b) of this Rule shall be posted in that classroom in an area that parents are able to view at all times.

~~(e)~~(e) When only one caregiver is required to meet the staff/child ratio for a center located in a residence, as described in Paragraph (b) of this Rule and children under two years of age are in care, that person shall not concurrently perform food preparation or other duties that are not direct child care responsibilities.

~~(f)~~(f) When only one caregiver is required to meet the staff/child ratio for a center located in a residence, as described in Paragraph (b) of this Rule the operator shall select one of the following options for emergency relief:

- (1) the center shall post the name, address, and telephone number of an adult who has agreed in writing to be available to provide emergency relief and who can respond within a reasonable period of time; or
- (2) there shall be a second adult on the premises who is available to provide emergency relief.

~~(g)~~(g) Upon the Division's receipt of a written request, a center may choose to group children in multi-age groups rather than single-aged groups. The staff/child ratios and group sizes for multi-age groups of children in centers shall be as follows:

Age of Children	Ratio Staff/Childr en	Maximum Group Size
0 to 36 months	1/4	8
12 months to 36 months	1/5	10
24 months to 47 months	1/6	10
4 years of age to 6 years of age	1/9	18
6 years of age through 12 years of age	1/19	25

- (1) Before meeting the ratios outlined in this Paragraph or before changing from multi-age group ratios to single-age group ratios, the Division must be notified in writing;
- (2) Paragraphs (a) through (e) of this Rule do not apply to centers that choose to meet the ratios outlined in this Paragraph, with the exception of Subparagraphs (a)(7), (8) and (9) of this Rule;
- (3) Children 36 months through 47 months may remain in the classroom with infants provided there is an agreed upon transition plan between the child care facility, the child's parents or legal guardian, and local partners if the plan includes future care outside of the center. Transition plans must be initiated at least six months prior to a child's third birthday, maintained in each child's file, and be available for review by the Division; and
- (4) The staff/child ratio applicable for a multi-age group as described in this Paragraph shall be posted in that classroom in an area that parents are able to view at all times.

Authority G.S. 110-85; 110-91(7); 143B-168.3.

TITLE 13 – DEPARTMENT OF LABOR

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Labor intends to amend the rules cited as 13 NCAC 13 .0101, .0103, .0202, .0203, .0207, .0208, .0210, .0211, .0213, .0214, .0301-.0305, .0401, .0405, .0409, .0411, .0413 and .0420-.0423.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.labor.nc.gov/rules-and-regulations>

Proposed Effective Date: November 1, 2024

Public Hearing:

Date: July 24, 2024

Time: 10:00 a.m.

Location: 4 West Edenton Street, Raleigh, NC 27601

Reason for Proposed Action:

13 NCAC 13 .0101 DEFINITIONS: Amendments will harmonize with statutory amendments pursuant to Senate Bill 542, ratified May 23, 2024.

<https://www.ncleg.gov/Sessions/2023/Bills/Senate/PDF/S542v4.pdf> Additional amendment will harmonize addition of user to "owner or user" throughout the rules.

13 NCAC 13 .0103 INCORPORATED - STANDARDS: Correcting the address of the State Fire Marshal.

13 NCAC 13 .0202 INSPECTOR QUALIFICATION: This amendment reinforces the Bureau's position that a State inspector must have a National Board Commission. Currently, this is specified in the NC Department of Labor's hiring documentation, but this will establish this requirement in the rules.

13 NCAC 13 .0203 NORTH CAROLINA COMMISSION: The NC Dept of Labor no longer issues an actual commission card, so there is nothing to “return” to the agency. This change also strengthens the requirement to notify the agency of a termination of a commissioned inspector.

13 NCAC 13 .0207 INSPECTION REPORTS: New subparagraph (4) establishes a requirement for what is currently only an implied requirement that inspection reports must contain comments pertaining to the inspection. Removes the specifications for notification of the Chief so that any means of contact is acceptable. The importance of the notification is in the immediacy.

13 NCAC 13 .0208 INSURANCE COMPANIES TO NOTIFY CHIEF INSPECTOR: (a) All notifications are now made electronically and occur instantly; there is no longer a need to establish a maximum of 30 days. (b) Conforming amendment to (a). (c) Notifications are done electronically through the NCDOL Boiler inspection database, but this change allows for another method should it be needed.

13 NCAC 13 .0210 SHOP INSPECTIONS AND NATIONAL BOARD "R" CERTIFICATE QUALIFICATION REVIEWS: There is a current requirement that the Chief Inspector (or designee) conducts the qualification reviews for issuance or renewal of the National Board "R" certificate of authorization. There also exists the alternative that the National Board take over responsibilities if the Chief or designee are unable to. This amendment puts that alternative into the rules.

13 NCAC 13 .0211 CERTIFICATE INSPECTIONS: (a) This amendment establishes the requirement that is currently only an implied requirement that the inspector be on-site and performs the inspection in-person. (d) and (e) clarifying amendments put in new (e), which were previously included in (d) to make the rule less confusing. (f) There is no “season” so this language was removed to indicate this happens throughout the year. Inspections should be IAW the NB Code. (p) Puts into writing the currently implied requirement of prior approval from the Chief.

13 NCAC 13 .0213 CERTIFICATE AND INSPECTION FEES: (a) Harmonizing amendment to add User; second portion of amendment allows the NC Department of Labor the option of directly charging the insurance company for inspections that they perform, instead of the owner.

(b) Harmonizing amendment to add user. (c) and (d) amendments to correct errors.

13 NCAC 13 .0214 EXTENDED PRESSURE EQUIPMENT OPERATING CERTIFICATES: Corrected terms throughout this Rule, as this Rule applies to both boilers and pressure vessels; and adds harmonizing amendment to include user.

13 NCAC 13 .0301 INSPECTION DOCUMENTATION: (a) This amendment establishes the requirement that is currently only an implied requirement that inspection reports require comments pertaining to the inspection. (b) and (c) amends to include gender neutral pronoun when referring to the Chief. (d)(g) This allows the NC Department of Labor the option of directly charging the insurance company for inspections that they perform, instead of the owner.

13 NCAC 13 .0302 CERTIFICATE ISSUANCE: Harmonizing amendment to add User.

13 NCAC 13 .0303 INSPECTIONS REVEALING DEFICIENCIES: Harmonizing amendment to add User.

13 NCAC 13 .0304 APPEALS: (a) and (b) amends to include gender neutral pronoun when referring to the Chief. (c) Removes the specifications for verbal notification of the Chief so that any means of contact is acceptable. The importance of the notification is in the immediacy.

13 NCAC 13 .0305 MENACE TO PUBLIC SAFETY NOTICE: (a) Amends to include gender neutral pronoun when referring to the Chief. (a)(2) removes the specifications for verbal notification of the Chief so that any means of contact is acceptable. The importance of the notification is in the immediacy.

13 NCAC 13 .0401 DESIGN AND CONSTRUCTION STANDARDS: Updates terminology for noted reports.

13 NCAC 13 .0405 PRESSURE RELIEF DEVICES: (a) – (l) All revisions in this Rule harmonize with current ASME & NB Codes, and the NC Department of Labor’s Boiler and Pressure Vessel Bureau’s Policy Notices. (p) Amendment ensures the source of pressure is under control of the owner or user of the equipment.

13 NCAC 13 .0409 AUTOMATIC LOW-WATER FUEL CUTOFF CONTROLS AND WATER- FEEDING DEVICES: Amendments harmonize this rule with current ASME & NB Codes.

13 NCAC 13 .0411 VALVES, DRAINS, AND BOTTOM BLOWOFFS: (a) – (c) Amendments harmonize this rule with current ASME & NB Codes. (d)(2) correction. (k) addition harmonizes with current codes and industry practices.

13 NCAC 13 .0413 CLEARANCES: All amendments harmonize this rule with current codes and industry practices. It also simplifies this Rule, making it easier to understand and enforce.

13 NCAC 13 .0420 FIRING MECHANISM CONTROLS: New terminology and added guidance for other types of installations, which is in harmony with current codes.

13 NCAC 13 .0421 NORTH CAROLINA SPECIAL: Harmonizing amendment to add User.

13 NCAC 13 .0422 EXHIBITION BOILERS: Harmonizing amendment to add User.

13 NCAC 13 .0423 MODEL HOBBY BOILERS: Added guidance for owners, from good industry practice and the NCDOL Boiler and Pressure Vessel Bureau’s standard operating procedure.

Comments may be submitted to: Jill F. Cramer, 1101 Mail Service Center, Raleigh, NC 27699-1101; email dol.rules@labor.nc.gov

Comment period ends: August 30, 2024

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit a written objection to the Rules Review Commission. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission,

please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (>= \$1,000,000)
- Approved by OSBM
- No fiscal note required

CHAPTER 13 – BOILER AND PRESSURE VESSEL

SECTION .0100 - DEFINITIONS

13 NCAC 13 .0101 DEFINITIONS

The following definitions shall apply throughout the rules in this Chapter and shall be construed as controlling in case of any conflict with the definitions contained in ANSI/NB-23 National Board Inspection Code Parts 2, 3, and 4, The American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code, or The North Carolina State Building Code:

- (1) "Accepted Design and Construction Code" means the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers (ASME Code), or a comparable code with standards that the Chief Inspector determines to be equivalent to the ASME Code.
- (2) "Appurtenance" means any control, fitting, appliance, or device attached to or working in conjunction with the boiler proper or pressure vessel.
- (3) "ASME Code" means the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers.
- (4) "Audit" means activities, other than certificate inspections, conducted by the Chief Inspector or his or her designee. Audits include the following:
 - (a) reviews for ASME and National Board certificate issuance and renewal;
 - (b) audits conducted of an authorized inspector at the location of a manufacturer or repair organization as may be required by the ASME Code, National Board Inspection Code, or National Board Rules for Commissioned Inspectors; and
 - (c) audits pursuant to evaluation for the issuance of North Carolina Specials.
- (5) "Automatically fired boiler" means a boiler that cycles in response to a control system and that does not require a constant attendant for the purpose of introducing fuel into the combustion chamber or to control electrical input. Electricity shall be considered a fuel for electrically fired boilers.

- (6) "Authorized Inspection Agency" means an organization employing commissioned inspectors, including the following:
 - (a) the Bureau, as defined in Item (11) of this Rule.
 - (b) an inspection agency of an insurance company licensed to write boiler and pressure vessel insurance; or
 - (c) an owner-user inspection organization that is accredited by the National Board.
- (7) "Authorized inspector" means an employee of an Authorized Inspection Agency who is commissioned by the National Board and this State, holds an endorsement on his or her National Board Commission appropriate for the work to be performed, and inspects as the third party inspector in ASME Code manufacturing facilities.
- (8) "Boiler," as defined in G.S. 95-69.9(b), includes the following types of boilers:
 - (a) "Exhibition boiler" means a historical or antique boiler that generates steam or hot water for the purposes of entertaining or educating the public or is used for demonstrations, tourist transportation, or exhibitions. This term includes boilers used in steam tractors, threshers, steam powered sawmills, and similar uses;
 - (b) "High pressure boiler" means a boiler in which steam or other vapor is generated at a pressure of more than 15 psig or water is heated to a temperature greater than 250°F and a pressure greater than 160 psig for use external to itself. High pressure boilers include the following:
 - (i) Electric boilers;
 - (ii) Miniature boilers;
 - (iii) High temperature water boilers; and
 - (iv) High temperature liquid boilers (other than water);
 - (c) "Low pressure boiler" means a boiler in which steam or other vapor is generated at a pressure of not more than 15 psig or water is heated to a temperature not greater than 250°F and a pressure not greater than 160 psig, including the following:
 - (i) "Hot water heating boiler" means a low pressure boiler that supplies heated water that is returned to the boiler from a piping system and is used normally for building heat applications (hydronic boiler);

- (ii) "Hot water supply boiler" means a low pressure boiler that furnishes hot water to be used externally to itself; and
- (iii) "Steam heating boiler" means a low pressure boiler that generates steam to be used normally for building heat applications;
- (d) "Model hobby boiler" means a boiler that generates steam, whether stationary or mobile, and is used for the purpose of entertainment or exhibiting steam technology, where the boiler does not exceed:
 - (i) 20 square feet of heating surface;
 - (ii) a shell diameter of 16 inches;
 - (iii) a volume of 5 cubic feet; and
 - (iv) a pressure of 150 psig;
- (e) "Water heater" means a closed vessel in which water is heated by the combustion of fuel, by electricity, or by any other source, and withdrawn for potable use external to the system at pressures not exceeding 160 psig and temperatures not exceeding 210°F.
- (9) "Boiler blowoff" means the system associated with the rapid draining of boiler water to remove concentrated solids that have accumulated as a result of steam generation. This term also applies to the blowoff for other boiler appurtenances, such as the low-water fuel cutoff.
- (10) "Boiler proper" or "pressure vessel" means the internal mechanism, shell, and heads of a boiler or pressure vessel terminating at:
 - (a) the first circumferential joint for welded end connections;
 - (b) the face of the first flange in bolted flange connections; or
 - (c) the first threaded joint in threaded connections.
- (11) "Bureau" means the Boiler Safety Bureau of the North Carolina Department of Labor.
- (12) "Certificate inspection" means an inspection, the report of which is used by the Chief Inspector as justification for issuing, withholding, or revoking the inspection certificate. The term "certificate inspection" also applies to the external inspection conducted in accordance with this Chapter whether or not a certificate is intended to be issued as a result of the inspection.
- (13) "Condemned boiler or pressure vessel" means a boiler or pressure vessel:
 - (a) that has been found not to comply with G.S. Chapter 95, Article 7A, or this Chapter;
 - (b) that constitutes a menace to public safety; and
 - (c) that cannot be repaired or altered so as to comply with G.S. Chapter 95, Article 7A, and this Chapter.
- (14) "Coil type watertube boiler" means a boiler having no steam space, such as a steam drum, whereby the heat transfer portion of the water-containing space consists only of a coil of pipe or tubing.
- (15) "Commissioned inspector" means an employee of an Authorized Inspection Agency who is commissioned by the National Board and this State, holds an endorsement on his or her National Board Commission appropriate for the work to be performed, and who is charged with conducting in-service inspections of pressure equipment and inspecting repairs or alterations to that equipment.
- (16) "Defect" means any deterioration to the pressure equipment affecting the integrity of the pressure boundary or its supports. Defects may be cracks, corrosion, erosion, bags, bulges, blisters, leaks, broken parts integral to the pressure boundary such as stays, or other flaws identified by NDE or visual inspection.
- (17) "Deficiency" means any violation of the Uniform Boiler and Pressure Vessel Act, rules of this Chapter, or identified defects.
- (18) "Design criteria" means design and construction code requirements relating to the mode of design and construction of a boiler or pressure vessel.
- (19) "Equipment" means any boiler or pressure vessel subject to inspection by the Bureau.
- (20) "External inspection" means an inspection of the external surfaces and appurtenances of a boiler or pressure vessel. An external inspection may entail "shutting down" a boiler or pressure vessel while it is in operation, including inspection of internal surfaces, if the inspector determines this action is warranted.
- (21) "Hydropneumatic storage tank" means a pressure vessel used for storage of water at ambient a temperature not to exceed ~~120°F~~ 110°F and where a cushion of air is contained within the vessel.
- (22) "Imminent danger" means any condition or practice in any location that a boiler or pressure vessel is being operated such that a danger exists that could be expected to cause death or serious physical harm if the condition is not abated.
- (23) "Insurance inspector" means the special inspector employed by an insurance company,

- and holding a valid North Carolina Commission and National Board Commission.
- (24) "Internal inspection" means as complete an examination as can be made of the internal and external surfaces and appurtenances of a boiler or pressure vessel while it is shut down.
- (25) "Maximum allowable working pressure" or "MAWP" means the maximum gauge pressure as determined by employing the stress values, design rules, and dimensions designated by the accepted design and construction code or as determined by the Chief Inspector in accordance with this Chapter.
- (26) "Menace to public safety" means a boiler or pressure vessel that cannot be operated without a risk of injury to persons and property.
- (27) "Miniature boiler" means a boiler that does not exceed any of the following:
- (a) 16 inch inside shell diameter;
 - (b) 20 square feet of heating surface (does not apply to electrically fired boilers);
 - (c) 5 cubic feet volume; and
 - (d) 100 psig maximum allowable working pressure.
- (28) "National Board Commission" means the commission issued by the National Board to those individuals who have passed the National Board commissioning examination and have fulfilled the requirements of the National Board Rules for Commissioned Inspectors.
- (29) "National Board Inspection Code" or "NBIC" means the ANSI/NB-23 standard published by the National Board, as incorporated by reference under Rule .0103 of this Chapter.
- (30) "Nondestructive examination" or "NDE" means examination methods used to verify the integrity of materials and welds in a component without damaging its structure or altering its mechanical properties. NDE may involve surface, subsurface, and volumetric examination. Visual inspection, x-rays, and ultrasound are examples of NDE.
- (31) "Nonstandard boiler or pressure vessels" means:
- (a) high pressure boilers contracted for or installed before December 7, 1935;
 - (b) heating boilers contracted for or installed before January 1, 1951;
 - (c) pressure vessels contracted for or installed before January 1, 1976;
 - (d) hydropneumatic storage tanks contracted for or installed before January 1, 1986; and
 - (e) boilers or pressure vessels to which the ASME Code is not intended to apply, other than those boilers and pressure vessels to which the term North Carolina Special applies.
- (32) "Normal working hours" means between the hours of 6:00 AM and 6:00 PM, Monday through Friday, except for State recognized holidays established in 25 NCAC 01E .0901.
- (33) "North Carolina Commission" means the commission issued by the Commissioner to those individuals who have passed the examination administered by the Chief Inspector relating to the Uniform Boiler and Pressure Vessel Act and the rules of this Chapter, and who also hold a National Board Commission, authorizing them to conduct inspections in this State.
- (34) "North Carolina Special" means a boiler or pressure vessel that is not constructed in compliance with the Accepted Design and Construction Code as defined in Item (1) of this Rule and for which the owner or ~~operator~~ user shall apply for a special inspection certificate with the Chief Inspector.
- (35) "NPS" means nominal pipe size.
- (36) "Nuclear component" means the items in a nuclear power plant such as pressure vessels, piping systems, pumps, valves, and component supports.
- (37) "Nuclear system" means a system comprised of nuclear components that serve the purpose of producing and controlling an output of thermal energy from nuclear fuel and includes those associated systems essential to the function and overall safety of the power system.
- (38) "Operating pressure" means the pressure at which a boiler or pressure vessel operates. It shall not exceed the MAWP except as shown in Section I of the ASME Code for forced-flow steam generators.
- (39) "Owner or user" means any person or legal entity responsible for the operation of any boiler or pressure vessel installed in this State. This term also applies to a contractor, installer, or agent of the owner or user.
- (40) "Owner-user inspector" means an individual who holds a valid North Carolina Commission and National Board Commission and is employed by a company operating pressure vessels for its own use and not for resale and maintaining an inspection program that meets the requirements of the National Board for periodic inspection of pressure vessels owned or used by that company.
- (41) "Pressure piping" means piping, including welded piping, external to high pressure boilers from the boiler proper to the required valve(s).
- (42) "Pressure relief devices" mean the devices on boilers and pressure vessels set to open and relieve the pressure in the event of an over-pressurization event, and include the following:
- (a) "Non-reclosing pressure relief device" means a pressure relief device

- designed to remain open after operation; and
- (b) "Pressure relief valve" means a pressure relief device that is designed to reclose and prevent the further flow of fluid after normal conditions have been restored. These devices include:
 - (i) "Relief valve" means an automatic pressure relief valve that is actuated by static pressure upstream of the valve that opens further with the increase in pressure over the opening pressure;
 - (ii) "Safety relief valve" means an automatic pressure relief valve that is actuated by static pressure upstream of the valve and characterized by full opening pop action or by opening in proportion to the increase in pressure over the opening pressure; and
 - (iii) "Safety valve" means an automatic pressure relief valve that is actuated by static pressure upstream of the valve and characterized by full opening pop action.
- (43) "PSIG" means pounds per square inch gauge.
- (44) "Reinspection or Follow-Up Inspection" means an examination necessary to verify that any repair or corrective action required as a result of a certificate inspection is completed.
- (45) "Service vehicle" means a vehicle mounted with an air storage tank that services vehicles and equipment in the field away from the owner's shop.
- (46) "Shop inspection" means an inspection conducted by an Authorized Inspector or a Commissioned Inspector pursuant to an inspection service agreement whereby the fabrication process or the repair or alteration of a boiler or pressure vessel is observed to ensure compliance with the ASME Code and the NBIC.
- (47) "Special inspection" means any inspection conducted by a Deputy Inspector other than a regularly scheduled inspection, including the performance of an inspection by a Deputy Inspector that requires that the inspector make a special trip to meet the needs of the individual or organization requesting the inspection, conducting certificate inspections during hours other than normal working hours, and inspection of field repairs and alterations. A special inspection may be considered any inspection or activity not otherwise described in these Rules.

- (48) "Special inspector" means a National Board commissioned inspector employed by an insurance company authorized to write boiler and pressure vessel insurance in the State of North Carolina.
- (49) "Violation" means the failure to comply with the requirements of the Uniform Boiler and Pressure Vessel Act or this Chapter.

Authority G.S. 95-69.11; 95-69.14.

13 NCAC 13 .0103 INCORPORATED - STANDARDS

(a) The following standards are incorporated by reference, including subsequent amendments and editions of the standards:

- (1) The ANSI/NB-23 National Board Inspection Code (NBIC) Parts 2, 3, and 4. Copies of the ANSI/NB-23 National Board Inspection Code Parts 2, 3, and 4 are available for inspection at the offices of the Bureau and may also be obtained from the National Board of Boiler and Pressure Vessel Inspectors, via U.S. Mail at 1055 Crupper Avenue, Columbus, Ohio 43229, via telephone at (614) 888-8320, or via the internet at www.nationalboard.org. The costs, which does not include shipping and handling, are as follows:
 - (A) Complete Set (printed ~~or PDF~~), Parts 1-4: \$325.00;
 - (B) Individual (printed), Part 2: \$150.00;
 - (C) Individual (printed), Part 3: \$150.00;
 - (D) Individual (printed), Part 4: \$115.00; or
 - (E) Bundled Set (printed and PDF), Parts 1-4: \$435.00.
- (2) The American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code. Copies of the complete set of the ASME Code are available for inspection at the offices of the Bureau and may also be obtained from the American Society of Mechanical Engineers, via U.S. Mail at 150 Clove Road, 6th Floor, Little Falls, New Jersey 07424-2139, via telephone at (800) 843-2763, via facsimile at (973) 882-1717 or (800) 843-2763, via email at customer-care@asme.org, or via the internet at www.asme.org. The cost is ~~seventeen thousand nine hundred and forty five dollars (\$17,945)~~ twenty thousand one hundred ninety dollars (\$20,190) for the complete 2021 edition of the code.
- (3) The North Carolina State Building Code. Copies of the North Carolina State Building Code are available for inspection at the offices of the Bureau and may also be obtained from the North Carolina Department of Insurance, Office of the State Fire Marshal, Engineering & Codes, ~~325 North Salisbury Street, Raleigh, North Carolina, 27603~~ 1429 Rock Quarry Road, Raleigh, North Carolina, 27610. The cost

of a North Carolina State Building Code, ~~2018 edition~~, is one hundred twenty nine dollars (\$129.00) for walk-in clients; prices differ for digital versions, when ordering online, and for members of the International Code Council. The codes may be ordered via the internet at <https://www.ncosfm.gov/codes>.

(b) The rules of this Chapter shall control when any conflict between these Rules and the standards cited in Subparagraphs (a)(1) and (2) of this Rule exists. In the event that a conflict between these Rules and the North Carolina State Building Code exists, the more stringent standard prevails and shall be adhered to.

Authority G.S. 95-69.11; 95-69.14.

SECTION .0200 - ADMINISTRATION

13 NCAC 13 .0202 INSPECTOR QUALIFICATION

(a) ~~Deputy Inspectors conducting certificate inspections shall be in possession of a valid North Carolina Commission. Deputy Inspectors, Special Inspectors and Owner-User Inspectors conducting in-service inspections shall be in possession of a valid National Board In-Service Commission and a valid North Carolina Commission.~~

(b) A North Carolina Commission shall be issued to an inspector who:

- (1) has attained a passing grade of 70 percent or higher on an examination administered by the Chief Inspector relating to the Uniform Boiler and Pressure Vessel Act and the rules of this Chapter; and
- (2) meets all other criteria as set forth in the Uniform Boiler and Pressure Vessel Act and this Chapter.

(c) If a North Carolina Commissioned inspector does not conduct at least one certificate inspection in North Carolina per calendar year, the inspector must retake and pass this examination before becoming commissioned again in this State. A certificate inspection shall be an inspection as described in Rule .0211 of this Chapter.

(d) National Board examinations are administered by the National Board of Boiler and Pressure Vessel Inspectors. Information on the examinations may be found on the National Board web site at www.nationalboard.org or by telephone at (614) 888-8320.

(e) The National Board Inservice Inspector examination covers the installation, operation, and inspection of boilers and pressure vessels and their appurtenances. A grade of 70 percent or higher must be attained to achieve a passing grade on the examination.

Authority G.S. 95-69.11; 95-69.15.

13 NCAC 13 .0203 NORTH CAROLINA COMMISSION

(a) When requested by the employer and upon presentation of a completed Application for Commission as an Inspector of Boilers and Pressure Vessels, a North Carolina Commission, bearing the signature of the Commissioner or Chief Inspector, shall be issued

by the Chief Inspector to persons holding a valid National Board Commission who have taken and passed the examination specified in 13 NCAC 13 .0202(b).

(b) Applications for a North Carolina Commission shall be processed upon proof of a National Board Commission and payment of a thirty-five dollar (\$35.00) fee to the Department of Labor.

(c) North Carolina Commissions shall be valid on an annual basis through December 31, at which time the inspector's employer shall submit a renewal request letter and a thirty-five dollar (\$35.00) fee to the Department of Labor.

(d) ~~The North Carolina Commission shall be returned by the employing company shall immediately notify the Chief Inspector of the termination of any employee in possession of a North Carolina Commission, with notification of termination date to the Bureau within 30 days of termination of employment.~~

(e) A North Carolina Commission may be suspended or revoked by the Commissioner in accordance with G.S. 95-69.11(20). Failure to conduct inspections in accordance with this Chapter shall constitute incompetence. Falsification of any statement in an application or inspection report, including a failure to inspect, shall constitute dishonesty. Suspension or revocation of a North Carolina Commission shall be based on evidence of incompetence or dishonesty.

(f) The Commissioner shall give notice of the commencement of proceedings for suspension or revocation of a commission pursuant to G.S. 150B-23. A North Carolina Commission may be suspended prior to the hearing if the Chief Inspector determines that, as a result of an inspector incompetence or dishonesty, the public health, safety, or welfare, is put at risk, the proceedings shall be promptly commenced and determined in accordance with G.S. 150B-3. The Commissioner's decision regarding the competency of an inspector shall be determined after comparing the inspector's knowledge, skill, and care taken during inspections with that possessed and employed by boiler and pressure vessel inspection personnel in good standing. Industry custom and practice shall be considered but are not determinative. The Commissioner shall give the inspector opportunity to show that he or she is conducting his or her duties in a competent manner and that suspension or revocation is unwarranted. If the inspector believes that the decision of the Commissioner is not warranted, the inspector may take exception to the determination, in which event the inspector may appeal the final determination of the action pursuant to G.S. 150B.

Authority G.S. 95-69.11; 95-69.15.

13 NCAC 13 .0207 INSPECTION REPORTS

(a) Inspectors shall file inspection reports with the Chief Inspector:

- (1) within 10 working days after the date each inspection is performed;
- (2) immediately for all conditions of imminent danger, or any condition that would result in the insurance company's refusal to issue or continue an insurance policy on the boiler or pressure vessel; ~~and~~

- (3) shall include the insurance policy identifier covering any equipment inspected by a special ~~inspector~~; inspector; and
- (4) shall include comments or indications as to the condition of items inspected and the results of any testing performed.

(b) Inspectors shall notify the Chief Inspector ~~in person or by electronic means~~; immediately upon becoming aware of an accident which renders a boiler or pressure vessel inoperative or causes damage to property, personal injury, or death.

(c) Should the inspector, during the course of making an inspection, find a condition of imminent danger, ~~he~~ they shall immediately notify the Chief Inspector, ~~in person or by electronic means~~, so that steps might be taken to remove the device from service.

Authority G.S. 95-69.11; 95-69.14.

13 NCAC 13 .0208 INSURANCE COMPANIES TO NOTIFY CHIEF INSPECTOR

(a) All insurance companies shall notify the Chief Inspector within ~~30~~ 10 working days if any of the following actions are taken concerning boiler or pressure vessels:

- (1) the issuance of a policy;
- (2) the cancellation of a policy; or
- (3) removal of a boiler or pressure vessel from service.

(b) All insurance companies shall notify the Chief Inspector within 10 working days regarding the non-renewal or suspension of a policy because of unsafe conditions.

(c) Notification for items listed under Paragraph (a) of this Rule shall be made by using the National Board form NB-4, or a ~~form~~ method determined by the Chief Inspector to be equivalent to the National Board form. Notifications under Paragraph (b) of this Rule shall be made by telephone at (919) 707-7918, email at boiler.safety@labor.nc.gov or overnight mail to 1101 Mail Service Center, Raleigh, NC 27699-1101 or package delivery service to the Boiler Safety Bureau, 4 West Edenton Street, Raleigh, NC 27601. All notifications shall include reference to the following:

- (1) Object, date of service and effective date;
- (2) Owner's number;
- (3) Jurisdiction number;
- (4) National Board number;
- (5) Name of manufacturer;
- (6) Name of owner including county;
- (7) Location of object including county;
- (8) User of object;
- (9) Date of last inspection for certificate;
- (10) Whether or not a certificate of inspection was issued; and
- (11) Reason for discontinuance or cancellation.

Authority G.S. 95-69.11; 95-69.14.

13 NCAC 13 .0210 SHOP INSPECTIONS AND NATIONAL BOARD "R" CERTIFICATE QUALIFICATION REVIEWS

(a) Shop Inspections.

(1) Manufacturers or repair firms seeking to employ the Boiler Safety Bureau to act as their Authorized Inspection Agency pursuant to the ASME Code or National Board Inspection Code, shall enter into a written agreement with the North Carolina Department of Labor, Boiler Safety Bureau for this purpose.

(2) An audit of the Deputy Inspector serving as the Authorized Inspector pursuant to Subparagraph (a)(1) of this Rule, and the contracting company in which he or she is working shall be conducted on an annual basis. The contracting company shall pay the audit fees required in Rule .0213 of this Section.

(b) National Board "R" Certificate Qualification Reviews

(1) The Chief Inspector, or the Chief Inspector's designee, shall conduct the qualification reviews for issuance or renewal of the National Board "R" certificate of authorization pursuant to the National Board Inspection Code as adopted, except as provided in Subparagraph (b)(2) of this Rule. In the event the Chief Inspector or their designee is unable to conduct qualification reviews, the National Board will take over such responsibilities.

(2) The Chief Inspector or his designee shall not conduct the qualification reviews of those companies for which the Boiler Safety Bureau provides inspection services, or those companies which specifically request the review be conducted by the National Board.

(3) A review to be conducted by the Boiler Safety Bureau shall be scheduled upon receipt of request by the National Board.

Authority G.S. 95-69.11; 95-69.14.

13 NCAC 13 .0211 CERTIFICATE INSPECTIONS

(a) A commissioned inspector shall ~~inspect~~ perform a direct in-person inspection all boilers and pressure vessels at the time of installation and at regular intervals thereafter, as provided in this Rule.

(b) Subject to the exceptions in Paragraphs (c) and (d) of this Rule, and after seven days' notice is given to the owner or user, an inspector shall conduct an internal inspection of a high pressure boiler at the time of installation and annually thereafter. An external inspection shall be conducted a minimum of once every 12 months while the boiler is in operation. The inspector shall ensure that the safety controls are operating as required. Issuance of the inspection certificate shall be based on the results of the internal inspection; however, if the inspector determines during the external inspection that an imminent danger exists, the inspector shall notify the Chief Inspector pursuant to 13 NCAC 13 .0301(d).

(c) In place of the first internal inspection of a new high pressure boiler, an inspector may conduct an external inspection if the inspector determines that data sufficient to determine compliance with the rules of this Chapter can be gathered from an external

inspection. This shall not apply to relocated used boilers or those for which extended inspection certificates are being requested.

~~(d) Miniature boilers, boilers and coil-type watertube boilers, boilers and boilers heating a fluid other than water which do not produce steam or vapor operating as high pressure boilers shall undergo an external inspection annually, annually while in operation. Miniature boilers, boilers and coil-type watertube boilers, boilers and boilers heating a fluid other than water operating as heating boilers shall undergo an external inspection biennially, biennially while in operation. Hobby boilers, locomotive boilers, and exhibition boilers shall be inspected annually, at the beginning of the season when they are anticipated to be operated.~~

(e) Boilers heating a fluid other than water that do not produce steam or vapor operating as high pressure boilers, shall undergo an external inspection annually while in operation. Boilers heating a fluid other than water operating as heating boilers, shall undergo an external inspection biennially while in operation.

(f) Hobby boilers, locomotive boilers, and exhibition boilers shall be inspected annually, at the beginning of the season when they are anticipated to be operated, in accordance with the requirements of the National Board Inspection Code, as applicable.

~~(g)~~ (g) Low pressure boilers and pressure vessels, except hydropneumatic storage tanks, shall undergo an external inspection biennially while in operation.

~~(h)~~ (h) Owner-user inspectors shall conduct inspections for pressure vessels as prescribed in this Rule.

~~(i)~~ (i) Inspectors may order coverings removed, internal inspections, external inspections, removal of internal parts, testing or calibration of controls, indicating and safety devices and pressure tests whenever conditions warrant further evaluation of the pressure equipment. The inspector may also require the boiler to be started to verify the operating controls.

~~(j)~~ (j) Hydropneumatic storage tanks shall undergo an external inspection every four years while in operation.

~~(k)~~ (k) When the inspector or Chief Inspector determines that a certificate cannot be issued as a result of an inspection, the boiler or pressure vessel shall be reinspected after the necessary repairs are made.

~~(l)~~ (l) Inspections shall be conducted in accordance with the National Board Inspection Code. The inspector may require controls, indicating, and safety devices to be disassembled, tested, checked, or calibrated as necessary to ensure their proper operation.

~~(m)~~ (m) The Chief Inspector may extend an existing inspection certificate for a high pressure boiler for a period not exceeding 90 days beyond the certificate expiration date. The owner or user shall submit a written request to extend an existing inspection certificate, providing justification for an extension. The request shall include a report from a commissioned inspector of an external inspection which shall have been conducted no earlier than 60 days before the certificate expiration date, and the inspection report shall include a recommendation from the inspector for an extension to the inspection certificate.

~~(n)~~ (n) The inspection frequency established by this Rule may be modified by the Chief Inspector for individual boilers and pressure vessels if the Chief Inspector determines the frequency established herein is not appropriate, and that the safety attained by the normal inspection frequency will be otherwise obtained. Requirements for extended certificates for pressure equipment are detailed in Rule .0214 of this Chapter. ~~Pressure vessels in "Locked High Radiation" areas may be certified for up to five years and may be inspected in accordance with Paragraph (m) of this Rule.~~

(o) Pressure vessels in "Locked High Radiation" areas may be certified for up to five years and may be inspected in accordance with Paragraph (p) of this Rule.

~~(m)~~ (p) With prior approval from the Chief Inspector, pressure retaining items which contain highly hazardous chemicals or biological elements that require level B personal protective equipment, or are in highly hazardous areas or pressure retaining items containing radioactive materials causing the pressure equipment to be classified as "Locked High Radiation," may be inspected remotely by live video provided:

- (1) there is a listing of all the items under this criterion at the site. The list shall be kept current by the owner/user and any additions or deletions shall be kept current. Prior to inspection the inspector shall review the last inspection certificate, the ASME data report, any National Board ("NB") repair/alteration forms and any records of testing performed during the certificate period;
- (2) each item shall be inspected by means of live video feed that is monitored by the inspector. The inspector shall remain in radio contact with the individual operating the video equipment;
- (3) the inspector shall be in proximity to the item and shall witness the video equipment operator enter the location of the item;
- (4) a scan as complete as possible (within the limitations of the equipment) of all the pressure boundaries shall be witnessed by the inspector;
- (5) the ASME nameplate shall be viewed as well as the ASME/NB nameplate on any pressure relieving device on the item;
- (6) follow up inspections to verify the correction of deficiencies can be performed with a video inspection using the items outlined herein by the inspector;
- (7) the inspector shall submit an inspection report for each pressure retaining item at intervals specified in this Rule and the report shall be annotated indicating that the item was inspected pursuant to this Paragraph; and
- (8) any incident that renders the item inoperative shall be reported to the Bureau by the owner/user or the inspector within 24 hours.

Authority G.S. 95-69.11; 95-69.14; 95-69.17.

13 NCAC 13 .0213 CERTIFICATE AND INSPECTION FEES

(a) An owner or user, or insurance company, shall pay a fifty dollar (\$50.00) certificate and processing fee to the North Carolina Department of Labor for each ~~boiler or pressure vessel inspected~~ certificate inspection performed by an Insurance Inspector ~~and found to be in compliance with the rules in this Chapter.~~

(b) An owner or user shall pay an inspection and certificate fee to the North Carolina Department of Labor for each boiler or pressure vessel inspected by a Deputy Inspector as follows:

Boilers - An inspection of a boiler where the heating surface is:	External	Internal
Less than 500 sq. ft.	\$50.00	\$85.00
500 or more sq. ft. but less than 5000 sq. ft.	\$120.00	\$235.00
5000 or more sq. ft.	\$330.00	\$600.00
Cast iron boilers	\$50.00	\$80.00
Locomotive boilers (Antique Exhibition/Show)	N/A	\$150.00
Exhibition boilers (Antique Exhibition/Show)	N/A	\$50.00
Hobby boilers	N/A	\$50.00
Pressure Vessels - An inspection of a pressure vessel, other than a heat exchanger, where the product of measurement in feet of the diameter or width, multiplied by its length is:	External	Internal
Less than 50	\$50.00	\$60.00
50 or more but less than 70	\$85.00	\$135.00
70 or more	\$135.00	\$190.00
Heat Exchangers - An inspection of a heat exchanger, where the heating surface is:	External	
500 or more sq. ft. but less than 1000 sq. ft.	\$60.00	
Less than 500 sq. ft.	\$50.00	
1000 or more sq. ft. but less than 2000 sq. ft.	\$90.00	
2000 or more sq. ft. but less than 3000 sq. ft.	\$130.00	
3000 or more sq. ft.	\$180.00	

(c) In addition to the fees established in Paragraph (b) herein, a fee of ninety dollars (\$90.00) per hour, including travel time, plus each expense allowed by G.S. 138-6 and 138-7 and the standards and criteria established thereto by the Office of State Budget and Management's State Budget Director, at the applicable state rate shall be paid to the North Carolina Department of Labor for each special inspection as defined by 13 NCAC 13 ~~.0101(46)~~ .0101(47) and for all inspections performed outside of normal working hours as defined by 13 NCAC 13 ~~.0101(31)~~ .0101(32).

(d) A fee of three-hundred fifty dollars (\$350.00) per one-half day (four hours) or any part of one-half day or five-hundred sixty-dollars (\$560.00) for one day (four to eight hours) plus, in either case, each expense allowed by G.S. 138-6 and 138-7 and the standards and criteria established thereto by the Office of State Budget and Management's State Budget Director, at the applicable state rate shall be paid to the North Carolina Department of Labor for each shop inspection as defined by 13 NCAC 13 ~~.0101(45)~~ .0101(46).

(e) A fee of four hundred fifty dollars (\$450.00) per one-half day (four hours) or any part of one-half day or six hundred ninety dollars (\$690.00) for one day (four to eight hours), plus, in either case, each expense allowed by G.S. 138-6 and 138-7 and the standards and criteria established thereto by the Office of State Budget and Management's State Budget Director, at the applicable state rate shall be paid to the North Carolina Department of Labor for audits as defined by 13 NCAC 13 .0101(4).

Authority G.S. 95-69.11.

13 NCAC 13 .0214 EXTENDED PRESSURE EQUIPMENT OPERATING CERTIFICATES

(a) G.S. 95-69.16 and 13 NCAC 13 ~~.0214(4)~~ .0211(m) of this Chapter allows the Commissioner, as delegated to the Chief Inspector, to modify the inspection frequency for individual pressure equipment if it is determined that the new frequency will provide for the safety attained by the normal inspection frequency as defined in this Chapter. Maintenance programs, the condition of the pressure equipment, and a baseline inspection help to determine if the equipment is eligible for extended certification. The Chief Inspector may allow certificate renewal frequencies of up to three years. Companies wishing to have their pressure equipment given an extended certification must apply by letter to the Chief Inspector requesting extended certification.

(b) For a first time extended inspection frequency, the following shall apply to both new and existing equipment:

- (1) Base Line Inspections: At the outset of an extended inspection frequency, a base line inspection must be conducted of all inside and outside accessible pressure boundaries. The inspected area shall be examined visually by a North Carolina Department of Labor, Boiler Safety Bureau Inspector Supervisor along with a Deputy Inspector for evidence of cracking, discoloration, wear, pitting, bulging, blistering, corrosion and erosion, arc strikes, gouges, dents, and other signs of surface irregularities. Areas that are suspect shall be non-destructively examined, as defined in this Chapter, by a method acceptable to the

Inspector Supervisor and Deputy Inspector. For areas that are still suspect after such examination, a more thorough supplemental examination and engineering evaluation of the discontinuities shall be conducted and discussed with the Chief Inspector or designee;

- (2) Inspection Mapping and Records: An inspection grid map shall be constructed for each pressure component detailing the areas found suspect. The grid shall not exceed four inch square. Suspect area shall be described in detail and photographs of such areas shall be taken. These records shall be kept and made available to the Deputy Inspector prior to the next required inspection;
- (3) Base Line Inspection of ~~Boiler~~ Tubes: The ~~boiler~~ tubes shall be examined by nondestructive examination. Tubes shall be examined for wear, corrosion, erosion, thinning, bulging, blistering, dents, discoloration, cracking and any other surface irregularities. Areas that are suspect shall be noted and discussed with the Inspector Supervisor and Deputy Inspector; and
- (4) ~~Boiler~~ Tube Inspection Mapping and Record: Where suspect tubes are identified, the ~~boiler~~ tubes shall be numbered in a logical sequence and the location of any suspect area shall be precisely defined and described in detail. Photographs of such areas shall be taken. These records shall be kept and made available to the Inspector Supervisor and Deputy Inspector prior to the next required inspection.

(c) Scheduling of Inspections for Extended Certificate: Approximately two months prior to a scheduled outage in which the boiler pressure equipment can be inspected, and prior to the current certificate expiration, the owner or user shall do the following in order to initiate the inspection process:

- (1) Send a letter addressed to the Chief Inspector requesting the extended certificate;
- (2) Contact the North Carolina Department of Labor, Boiler Safety Bureau at 919-707-7918 and request to speak with an Inspector Supervisor for the purpose of scheduling the inspections required for extending the ~~boiler~~ inspection certificate expiration for to up to 36 months; and
- (3) Agree with the Inspector Supervisor and Deputy Inspector on a date to meet for the external inspection of the boiler pressure equipment and to review reports. The boiler pressure equipment must be operating when the external inspection is done. Heat recovery boilers with less than one percent capacity factor per year may be excluded from the need to operate during the external inspection but a letter requesting the exclusion must be sent to the Chief Inspector stating the capacity factor

for the year before such an exclusion request can be granted.

(d) External Inspection: All report forms may be obtained from either NBIC or ASME. The following reports must be available to the Inspector Supervisor and Deputy Inspector at the external inspection:

- (1) NBIC ~~R1 forms~~ Form R Reports for the past five years for initial inspections and since the previous inspection for renewals;
- (2) A list of alterations scheduled, and those alterations done since the last internal inspection with the NBIC ~~R2~~ R-2 forms;
- (3) Safety valve testing and repair reports for the past five years for initial inspections and since the previous inspection for renewals;
- (4) Fitness for Service reports for headers for the past five years for initial inspections and since the previous inspection for renewals. All Fitness for Service reports shall be documented on the National Board Form NB-403 or other created form that includes all information required on the Form NB-403;
- (5) Side elevation drawing of the boiler pressure equipment (8 ½ inches by 11 inches);
- (6) Steam & Mud drums - Original drum thickness, drawings, and manufacturer's data reports if available;
- (7) Copy of the last operating certificate and copies of the last three years of inspection reports;
- (8) Reports of annual external inspections by ~~owner's~~ the owner or user's insurance company or a Boiler Safety Bureau Deputy Inspector.

(e) Equipment inspection requirements during outage or shut-down:

- (1) An operational test for all safety valves shall be conducted after the equipment has been restarted. After the operational test, the organization performing the test shall affix an updated inspection tag to the valve. The Deputy Inspector shall verify the updated inspection tag and review any associated test report. In lieu of operational tests, it is acceptable to replace safety valves with new valves or valves reworked by a National Board "VR" or "NVR" authorized company;
- (2) Inspect the pressure equipment internally; and
- (3) Inspect the drums and shells using the following methods:
 - (A) Examine penetrations into the drum or shell wall for cracking: if the nozzles are visible from inside the drum or shell, then a visual examination is satisfactory; otherwise ultrasonically examine the nozzles, from the outside surface, of at least 20 percent of the pressure equipment nozzles;
 - (B) Visually examine inside the heads; and

(C) When access permits, crawl through the drum or shell for a visual examination.

(f) Setting the Certificate Interval: If the requirements of this Rule are met, the Deputy Inspector shall submit an inspection report to the Chief Inspector with the recommendation for the extended certificate.

(g) Follow-up and Interim Inspections: External inspections of high pressure boilers are required six months after the certificate renewal, and then annually thereafter. The external inspections may be performed by the Boiler Safety Bureau Deputy Inspectors or by the ~~owner's~~ owner or user's insurance inspector. The results of the inspection shall be documented on an inspection report and submitted to the Chief Inspector, North Carolina Department of Labor, Boiler Safety Bureau.

Authority G.S. 95-69.11; 95-69.14; 95-69.16.

SECTION .0300 - ENFORCEMENT OF STANDARDS

13 NCAC 13 .0301 INSPECTION DOCUMENTATION

(a) The inspector shall document the condition of the pressure equipment, items inspected, and the results of the inspection on a written inspection report or in an electronic format recognized by the Chief Inspector.

(b) If the inspector finds that the boiler or pressure vessel is in compliance with the rules in this Chapter, ~~he~~ they shall indicate on the report that the boiler or pressure vessel is satisfactory.

(c) If the inspector finds the boiler or pressure vessel is not in compliance with the rules in this Chapter, ~~he~~ they shall specify on the inspection report the deficiencies and the required repairs or corrective action.

(d) The inspector shall determine if the deficiency is such that operation of the boiler or pressure vessel creates a condition of imminent danger. If a condition of imminent danger exists, the inspector shall state on the inspection report that operation of the boiler or pressure vessel is to cease until completion of the necessary repairs or corrective action. The inspector shall notify the Chief Inspector upon discovery of any condition of imminent danger.

(e) If the condition of the boiler or pressure vessel is such that repairs or corrective action cannot bring the boiler or pressure vessel into compliance, the inspector shall recommend to the Chief Inspector that the boiler or pressure vessel be condemned from further use.

(f) For inspections revealing deficiencies, the inspector shall provide the owner/user contact with specific information regarding the violation. The Bureau shall generate a Notice of Violation letter and send to the owner/user. The Notice of Violation shall outline the violation(s), the required corrective action, and the date by which the corrective action shall be completed.

(g) The Bureau shall issue an invoice to the owner or ~~user~~ user, or their insurance company, for the inspections made and for issuance of the inspection certificate. The owner or user or insurance company, shall remit payment as indicated on the invoice within 30 days to the North Carolina Department of Labor.

Authority G.S. 95-69.11; 95-69.16.

13 NCAC 13 .0302 CERTIFICATE ISSUANCE

(a) The Chief Inspector shall issue an inspection certificate to the owner/user, upon receipt of payment, when the boiler or pressure vessel is found to be in compliance with this Chapter.

(b) The owner or user shall post the inspection certificate under protective cover in a prominent place visible to the operator while reading the pressure, or if a pressure gauge is not required to be installed, while observing operation of the boiler or pressure vessel, unless environmental conditions or proprietary reasons make it impracticable. The certificate shall be maintained in a readily retrievable location if the conditions make it impracticable to post.

(c) If the Chief Inspector determines that a boiler or pressure vessel is exposing the public to an unsafe condition likely to result in serious personal injury or property damage, the Chief Inspector may refuse to issue or renew or may revoke, suspend or amend an inspection certificate; provided, however, that whenever any action is taken under this Paragraph, the affected party shall be given notice of the availability of an administrative hearing and of judicial review in accordance with Chapter 150B of the N.C. General Statutes.

Authority G.S. 95-69.11; 95-69.17.

13 NCAC 13 .0303 INSPECTIONS REVEALING DEFICIENCIES

(a) After a violation or deficiency has been reported by a Commissioned Inspector, the owner or user shall complete any required repairs or corrective action and request a reinspection or follow-up inspection as defined in this Chapter within 60 calendar days of the inspection, except in cases where the boiler or pressure vessel is removed from service, in which case the owner or user shall send in written confirmation, signed by the owner or user, that use of the boiler or pressure vessel has been discontinued and that the boiler or pressure vessel has been removed from the source of energy.

(b) Upon notification by the inspector of a boiler or pressure vessel for which continued operation creates a condition of imminent danger as defined in this Chapter, the Chief Inspector shall notify the owner or user by written notification within 15 calendar days stating that the use of the boiler or pressure vessel shall be discontinued.

(c) The owner or user may continue operation of the boiler or pressure vessel, including those boilers or pressure vessels that are condemned, during the 60 calendar day period noted in Paragraph (a) of this Rule, except that this provision shall not apply to boilers and pressure vessels after notification by the Chief Inspector to the owner or user that a condition of imminent danger exists as noted in Paragraph (b) of this Rule.

(d) After completion of any required repairs or corrective action, the boiler or pressure vessel shall be reinspected to the extent necessary to verify satisfactory completion of the required repairs or corrective action.

(e) An owner or user shall pay a fee of fifty dollars (\$50.00) to the North Carolina Department of Labor for each reinspection or follow-up inspection conducted by Deputy Inspectors.

Authority G.S. 95-69.11.

13 NCAC 13 .0304 APPEALS

- (a) If the owner or user believes that the recommendations of the inspector are not warranted, ~~he~~ they may request a review by the Chief Inspector within 15 days of the inspection. The Chief Inspector shall notify the owner or user of ~~his~~ the decision in writing within 15 days of receipt of a request for a decision.
- (b) If the owner or user believes that the decision of the Chief Inspector is not warranted ~~he~~ they may file for a contested case hearing pursuant to Article 3 of Chapter 150B of the N.C. General Statutes.
- (c) After ~~verbal~~ notification from the Chief Inspector that a condition of imminent danger exists, the owner or user shall not operate the boiler or pressure vessel, however, the owner or user may file for a contested case hearing pursuant to Article 3 of Chapter 150B of the N.C. General Statutes.

Authority G.S. 95-69.11; 95-69.17.

13 NCAC 13 .0305 MENACE TO PUBLIC SAFETY NOTICE

- (a) The Chief Inspector or ~~his~~ designee may post a menace to public safety notice on the boiler or pressure vessel:
- (1) if the owner or user fails to request a reinspection within 60 days of an inspection during which deficiencies were noted;
 - (2) upon ~~verbal~~ notification by the Chief Inspector regarding an inspection whereby the inspector identified a condition of imminent danger; or
 - (3) within 15 days after the Chief Inspector renders a decision regarding an appealed decision.
- (b) The notice described in this Rule shall be posted on the boiler or pressure vessel and in the establishment where the boiler or pressure vessel is being used so that it may be easily read by members of the public and employees.
- (c) The menace to public safety notice shall not be removed, rendered illegible or inaccessible, or otherwise obliterated except with the approval of the Chief Inspector.
- (d) The Chief Inspector shall notify the Commissioner of Labor regarding action pursuant to G.S. 95-69.19.

Authority G.S. 95-69.11; 95-69.17.

SECTION .0400 – GENERAL REQUIREMENTS

13 NCAC 13 .0401 DESIGN AND CONSTRUCTION STANDARDS

- (a) The design, construction, installation, inspection, stamping, certification, and operation of all boilers and pressure vessels shall conform to the rules in this Chapter and the Accepted Design and Construction Code as defined in this Chapter.
- (b) Repairs and alterations to boilers and pressure vessels shall conform to the requirements of the National Board Inspection Code, except as provided in Paragraph (g) of this Rule.
- (c) The rules of this Chapter shall control when any conflict is found to exist between the Rules and the accepted design and construction code or the National Board Inspection Code.

- (d) Welded repairs and alterations shall be made only by an individual or organization in possession of a valid certificate of authorization for use of the National Board "R" symbol stamp, except as provided in Paragraph (g) of this Rule. Repairs and alterations shall be reported on National Board Form R Reports "R1" and "R2" reports respectively, as required by the NBIC. These reports are available through the National Board of Boiler and Pressure Vessel Inspectors. The reports, along with supplements used, shall be submitted to the Chief Inspector within 60 days of the completion of the work conducted. Repair and alteration reports shall be annotated with the NC identification number for the pressure equipment repaired.
- (e) In such cases where removal of a defect in a pressure-retaining item is not practical at the time of discovery, the repair shall be conducted in compliance with the NBIC, Part 3 Repairs and Alterations, Repair of Pressure-Retaining Items Without Complete Removal of Defects. The Chief Inspector shall be contacted for approval of the use of this repair method.
- (f) Repairs of safety valves or safety relief valves shall be made by an individual or organization in possession of a valid certificate of authorization for use of the National Board "VR" symbol stamp.
- (g) Welded repairs and alterations to exhibition (historical) boilers of riveted or welded construction may be conducted by a welder who has been qualified in accordance with the ASME Boiler and Pressure Vessel Code, Section IX, Welding and Brazing Qualifications.

Authority G.S. 95-69.11.

13 NCAC 13 .0405 PRESSURE RELIEF DEVICES

- (a) Boilers and pressure vessels shall be protected from overpressurization by a pressure relief device. All pressure relief devices installed on any boiler or pressure vessel shall be constructed and stamped in accordance with the Accepted Design and Construction Code as defined in Rule .0101 of this Chapter.
- (b) All pressure relief devices shall be stamped and capacity certified by the manufacturer indicating compliance with the National Board. The stamping shall include the set pressure and the relieving capacity.
- (c) High pressure boilers with over 500 square feet of heating surface and electrically fired boilers having an input in excess of 1100 kW shall be provided with a minimum of two safety valves. For high pressure boilers with a combined bare tube and extended water-heating surface area exceeding 500 square feet, one safety valve is required if the design steam generating capacity of the boiler is less than 4,000 pounds of steam per hour.
- (d) Safety valves and safety relief valves for heating boilers shall have a seat diameter of not less than ½ inch, and not more than 4 ½ inches.
- (e) Pressure relief devices shall have a set pressure and relieving capacity in accordance with the requirements of the Accepted Design and Construction Code for the type of equipment on which the pressure relief device is installed. At least one pressure relief device shall have the set pressure set at not greater than the maximum allowable working pressure of the boiler or pressure vessel. The relieving capacity shall not be less than the minimum required relieving capacity indicated on the manufacturer's name plate or stamping, or as otherwise required by the Accepted

Design and Construction Code. Safety relief valves installed on tank-type potable water heaters or hot water storage vessels shall be of the combination temperature and pressure relieving ~~type,~~ type. Instantaneous and coil-type water heaters and hot water supply boilers shall be equipped with a safety relief valve of the combination temperature and pressure relieving type, or as otherwise permitted by the Accepted Design and Construction Code. Code for modular water heaters.

(f) All safety valves installed on high pressure boilers shall be installed on top of the boiler, or in the case of watertube boilers on top of the upper drum, with the spindle in the vertical position. All safety valves and safety relief valves installed on heating boilers shall be on top of the boiler or on an opening at the highest practicable part, as determined by industry standards, of the side of the boiler, but in no case shall the safety valve be installed below the normal operating level for a steam boiler. Safety valves and safety relief valves installed on hot water heating boilers, hot water supply boilers, and steam heating boilers shall be installed with the spindles mounted in the vertical position. Safety relief valves for water heaters may be installed with the spindles mounted in either the vertical or horizontal position. In no case may pressure relief devices be mounted on appurtenances, unless permitted by the Accepted Design and Construction Code. Code for modular heaters.

(g) The distance between the pressure relief device outlet nozzle on the boiler and the pressure relief device inlet shall be kept to a minimum consistent with the size of the pressure relief device and the pipe sizes required. In no case shall any valves or stops be installed in the inlet piping to the pressure relief device or in the discharge piping from the pressure relief device. The boiler outlet and the piping between the boiler outlet and the pressure relief device shall have a cross sectional area of not less than the cross sectional area of the pressure relief device inlet.

(h) Discharge piping from the pressure relief device outlet shall be the same size, or larger, than the outlet pipe connection on the pressure relief device and shall be extended full size to a safe location. A safe location shall be interpreted to mean a location within six inches of the finished floor of the mechanical room, to a location outside the building terminating a safe distance above the building roof or to a location outside the building within six inches above the finished grade. For vessels such as organic fluid heaters where the medium presents a hazard, the discharge shall be to a containment vessel large enough to hold all anticipated pressure relief discharges. ~~When pressure relief device discharge piping is routed vertically, piped drainage shall be provided by the use of drip pan elbows installed on the outlet of each pressure relief device served.~~ Discharge piping shall be designed to facilitate drainage or be fitted with drains to prevent liquid from lodging or collecting in the discharge side of the pressure relief device, and such piping shall lead to a safe location of discharge.

(i) Multiple pressure relief devices may be piped to the point of discharge using a common discharge header pipe. The header pipe size shall have a diameter sufficient to provide an equivalent cross-sectional area equal to or larger than the sum of the cross-sectional areas of the pressure relief device outlets to which it is connected.

(j) Pressure relief devices on pressure vessels may be installed with the spindle in the vertical or horizontal position. The pressure relief device inlet, discharge piping, and the requirement for

piping the discharge to a safe location shall be the same as noted for boilers. The requirement for discharge piping is optional for pressure vessels used to store compressed air, inert ~~gasses~~ gases, water, or other fluids no more hazardous than water.

(k) Pressure relief devices for ~~direct fired~~ pressure vessels ~~and for those used as air compressor storage tanks~~ shall be installed directly on the pressure vessel ~~with no intervening valves.~~ ~~Pressure relief devices for all other pressure vessels may be installed directly on the pressure vessel or in the piping system~~ unless the source of pressure is external to the vessel, and is under such direct positive control by the owner or user that the pressure cannot exceed the maximum overpressure permitted by the Accepted Design and Construction Code, and the pressure relief device cannot be isolated from the vessel, except as permitted by Paragraph (l) of this Rule.

(l) A full area stop valve that does not reduce the discharge capacity of the pressure relief device, may be installed between a pressure vessel and the pressure relief device if one of the following is satisfied:

- (1) the stop valve is normally locked or sealed in the open position, and may only be closed when there is an attendant stationed at all times at the stop valve when it is in the closed position for ~~testing~~ inspection, testing, or repair purposes; or
- (2) isolating the pressure relief device from the pressure vessel by closing the stop valve also isolates the pressure vessel from the source of pressure.

(m) Pressure relief devices shall be sealed to prevent the valve from being taken apart without breaking the seal. Pressure relief devices for boilers and pressure vessels containing air, water, or steam shall be provided with a test lever, pull test ring or other mechanism that may be used to test the operation of the valve. Pressure relief devices which are required to be provided with a testing mechanism shall be readily accessible for testing from the work platform or other means, such as a pull chain, shall be provided so that the pressure relief device can be tested from the work platform.

(n) When a hot water supply boiler or storage vessel is heated indirectly by steam or hot water in a coil or pipe, the pressure relief device capacity shall be determined by the heating surface available for heat transfer, and the pressure relief device shall not be less than 1 inch diameter.

(o) A person shall not:

- (1) attempt to remove, tamper, alter or conduct any work on any pressure relief device while the boiler or pressure vessel is in operation, except as permitted by the Accepted Design and Construction Code or the National Board Inspection Code;
- (2) load a pressure relief device in any manner to maintain a working pressure in excess of the maximum allowable working pressure as stated on the inspection certificate;
- (3) operate any boiler or pressure vessel without the safety appliances as described in this Chapter, the Accepted Design and Construction Code, and the National Board Inspection Code;

- (4) use a pressure relief device required by this Chapter as an operating pressure control; or
- (5) remove the seal and attempt to adjust or otherwise work on a pressure relief device unless the person or company removing the seal is an authorized holder of a National Board "VR" stamp.

(p) If an owner or user can demonstrate that a pressure vessel is operating in a system of such design that the maximum allowable working pressure cannot be exceeded, the Chief Inspector shall waive the requirement for installation of a pressure relief device if the pressure vessel meets the safety requirements greater than or equal to the level of protection afforded by this Chapter and the Accepted Design and Construction Code, and does not pose a danger to persons or property. This waiver shall only be granted when the source of pressure is under direct positive control of the owner or user of the pressure vessel.

(q) Pressure relief device piping shall be supported so that the piping is supported with no additional force being applied to the pressure relief device.

(r) Hydropneumatic storage tanks shall be provided with a relief valve of not less than ¾ inch NPS and rated in standard cubic feet per minute (SCFM). The relief valve shall be installed on top of the tank. This rule applies to any equipment or relief valves installed after January 1, 2009.

(s) Dead weight safety valves are prohibited from use on any boiler or pressure vessel regulated by this Chapter.

(t) When the minimum safety valve relieving capacity is not found on the data plate, the table in this Paragraph may be used to determine the required safety valve capacity for steam boilers. The factor noted in the table shall be multiplied by the heating surface of the boiler to determine required safety valve relieving capacity. When the table in this Paragraph is used for calculations, the additional requirements found in NBIC Part 4, Section 2 for calculating heating surface shall be utilized.

Table-0405 Guide for Estimating Steaming Capacity Based on Heating Surface		
	Firetube Boilers	Watertube Boilers
Boiler heating surface:		
Hand-fired	5	6
Stoker-fired	7	8
Oil, gas, or pulverized fuel	8	10
Waterwall heating surface:		
Hand-fired	8	8
Stoker-fired	10	12
Oil, gas, or pulverized fuel	14	16
Copper-finned watertube		
Hand-fired	N/A	4
Stoker-fired	N/A	5
Oil, gas, or pulverized fuel-fired	N/A	6

Authority G.S. 95-69.11; 95-69.14.

13 NCAC 13 .0409 AUTOMATIC LOW-WATER FUEL CUTOFF CONTROLS AND WATER-FEEDING DEVICES

(a) Each automatically fired steam or vapor boiler, except miniature boilers, shall meet the following criteria:

- (1) Have at least two automatic low-water fuel cutoff devices;
- (2) One of the low-water fuel cutoff devices may also be used to regulate the normal water level;
- (3) Each cutoff device shall be installed to prevent startup and to shut down the boiler fuel or energy supply automatically when the surface of the water falls to a level not lower than the lowest visible part of the gauge glass;
- (4) One control shall be set to function ahead of the other. The lower fuel cutoff device shall be equipped with a manual reset which shall prevent the boiler from being fired after the low water limit has been reached until the operator resets the switch manually; and
- (5) The low-water fuel cutoffs shall be attached to the boiler or to the water column with no stops

or valves. For float type low-water fuel cutoffs installed external to the boiler, each device shall be installed in individual chambers which shall be attached to the boiler by separate pipe connections below the waterline. If the low-water fuel cutoff is connected to the boiler by pipe and fittings, no shut off valves of any type shall be placed in such pipe. A cross or equivalent fitting shall be placed at every right angle turn to facilitate cleaning. Piping from the boiler shall be not less than 1 inch NPS. Low-water fuel cutoff designs embodying a float and float bowl shall have a vertical straightaway valved drain pipe of not less than ¾ inch NPS at the lowest point in the water-equalizing pipe connections by which the bowl and the equalizing pipe can be flushed and the device tested.

(b) Each automatically fired hot water heating boiler with heat input greater than 400,000 Btu/hr (117 kW) shall meet the following criteria:

- (1) Be protected by a low-water fuel cutoff intended for hot water service;

- (2) The fuel cutoff device shall be installed to prevent startup and to shut down the boiler fuel or energy supply automatically when the surface of the water falls to a level not lower than the lowest safe permissible water level established by the boiler manufacturer;
- (3) The fuel cutoff device shall be equipped with a manual reset that shall prevent the boiler from being fired after the lowest water level has been reached until the operator resets the switch manually;
- (4) The low-water fuel cutoff installed in a hot water heating boiler system may be installed anywhere in the system above the lowest safe permissible water level established by the boiler manufacturer ~~so long as there is no isolation valve installed between the device and the boiler. Connections to the system shall be not less than 1 inch NPS;~~ manufacturer; and
- (5) Testing the operation of the low-water fuel cutoff on a hot water heating boiler system shall be provided without resorting to draining the entire system. Such testing shall not render the device inoperable, except as follows:
 - (A) The device is temporarily inoperative during the testing;
 - (B) The device automatically returns to operating condition;
 - (C) The connection may be so arranged that the device cannot be isolated from the boiler except by a cock placed at the device and provided with a tee or lever handle arranged to be parallel to the piping in which it is located when the cock is open.

(c) As permitted by the Accepted Design and Construction Code, Coil coil type boilers or watertube boilers requiring forced circulation to prevent overheating of the coils or tubes may have a ~~flow sensing~~ flow and/or temperature sensing device installed at or near the boiler proper, in lieu of a low-water fuel cutoff, to automatically cut off the fuel supply when the circulation of flow is interrupted. The flow and/or temperature sensing device shall be independent of all other controls and may be automatically reset when adequate flow is restored. If there is a definitive water line, a low-water fuel cutoff complying with Paragraph (a) or (b) of this Rule, as applicable, shall be provided in addition to the flow-sensing device.

(d) Electric boilers where uncovering of the electrical element can lead to a risk of damage to the boiler shall be equipped with a low-water fuel cutoff device. In the case of electrode type boilers, where the reduction in water level provides a self-limiting control on heat input, a low-water cutoff control is not required.

(e) Automatically fired boilers shall be provided with a system to automatically maintain a constant water level so that the water level cannot fall below the lowest safe water line. This constant water level system requirement shall not apply to hot water heating boilers used in closed-loop radiant floor heating systems when installed in accordance with the manufacturer's instructions.

(f) Low water fuel cutoff devices embodying a float and float bowl shall be installed so that the boiler feedwater or makeup water cannot be introduced through the float chamber.

Authority G.S. 95-69.14.

13 NCAC 13 .0411 VALVES, DRAINS, AND BOTTOM BLOWOFFS

(a) High pressure boilers operating in excess of 100 psig must be provided with two stop valves for boiler blowoff and drain outlets. Any boiler having a common steam connection with another boiler, and having a manhole opening, shall be provided with two steam outlet stop valves with an ample free-blow drain or vent between the two stop valves. The discharge of this drain shall be visible to the operator while operating the valve.

(b) All boilers, except for coil-type water tube boilers, shall be provided with a drain outlet and stop valve of not less than 3/4 inch NPS at the lowest water containing space, except that if the boiler is provided with a blowoff outlet at the lowest water containing space, an additional drain outlet is not required.

(c) High pressure boilers shall be provided with a bottom blowoff outlet and valve of not less than 1 inch NPS nor more than 2 1/2 inches NPS, except as modified below:

- (1) Miniature high pressure boilers shall have a blowoff outlet of not less than ~~3/4~~ 1/2 inch NPS;
- (2) Electric high pressure boilers not greater than 200kW shall have a blowoff outlet of not less than 3/4 inch NPS;
- (3) High pressure boilers having a heating surface of 20 square feet or less shall have a blowoff of not less than a 1/2 inch;
- ~~(3)~~(4) High pressure boilers having a heating surface greater than 20 square feet and not greater than 100 square feet shall have a blowoff outlet of not less than 3/4 inch NPS; and
- ~~(4)~~(5) All other high pressure boilers shall have a blowoff outlet of not less than 1 inch NPS.

(d) Steam heating boilers shall be provided with a bottom blowoff outlet and valve of not less than 1 inch NPS nor more than 2 1/2 inches NPS, except as modified below:

- (1) Steam heating boilers having a minimum safety valve relieving capacity not exceeding 500 pounds of steam per hour shall have a blowoff outlet of not less than 3/4 inch NPS;
- (2) Steam heating boilers having a minimum safety valve relieving capacity greater than ~~4205~~ 1250 pounds of steam per hour but not greater than 2500 pounds of steam per hour shall have a blowoff outlet of not less than 1 1/4 inches NPS;
- (3) Steam heating boilers having a minimum safety valve relieving capacity greater than 2500 pounds of steam per hour but not greater than 6000 pounds of steam per hour shall have a blowoff outlet of not less than 1 1/2 inches NPS;
- (4) Steam heating boilers having a minimum safety valve relieving capacity greater than 6000

pounds of steam per hour shall have a blowoff outlet of not less than 2 inches NPS; and

- (5) All other steam heating boilers shall have a blowoff outlet of not less than 1 inch NPS.

(e) All blowoff from boilers shall discharge into a blowdown tank suitable for separating steam and water or shall be piped to prevent injury. Discharge directly to a sewer is prohibited.

(f) Valves for high pressure boilers shall be designed and constructed in accordance with the requirements of ASME Section I, and shall be stamped or embossed with the pressure/temperature rating of the valve.

(g) Valves for heating boilers shall be suitable for the operating pressure and temperature of the boiler.

(h) Pressure reducing valves shall be installed in the makeup water line where inlet supply water pressure is more than 75 percent of the maximum allowable working pressure of the boiler or pressure vessel.

(i) A shutoff valve shall be provided in the makeup water line next to each boiler and shall meet the following specifications:

- (1) Each steam heating boiler and hot water heating boiler shall be provided with a shutoff valve and a check valve. The shutoff valve shall be installed either upstream or downstream of the check valve;
- (2) Each high pressure boiler, except for high temperature water boilers, shall be provided with a shutoff valve and a check valve. The shutoff valve shall be installed between the check valve and the boiler; and
- (3) When two or more high pressure boilers are fed from a common source, there shall also be a globe or regulating valve in the branch to each boiler located between the check valve and the source of the supply.

(j) Pressure vessels subject to corrosion shall be equipped with a drain valve installed at the lowest point of the pressure vessel or by installation of an internal drain pipe installed not more than 1/4 inch above the lowest internal surface.

(k) Automatic drain and blowoff valves for boilers may be installed when permitted by the Accepted Design and Construction Code, and shall be in accordance with the boiler manufacturer's recommendations and instructions.

Authority G.S. 95-69.11; 95-69.14.

13 NCAC 13 .0413 CLEARANCES

(a) All boilers and pressure vessels shall be located so that adequate space is provided for proper operation, including visibility of all gauges, for the inspection of all surfaces, tubes, waterwalls, economizers, piping, valves and other equipment, and for maintenance and repair, including replacement of tubes. Boiler clearances shall remain free of all items, including temporarily stored items, other than boiler piping and trim. Boiler piping and trim shall not impede access to the boiler.

(b) Adequate clearance for ~~boilers and~~ pressure vessels ~~installed prior to January 1, 2009~~ shall not be less than the following: following, or as recommended by the manufacturer:

- (1) ~~Three feet~~ For the top and sides, of a minimum unobstructed clearance ~~shall~~ of 18 inches shall

~~be provided provided. Clearance for the bottom shall conform to Paragraph (a) of this Rule. between the boiler or pressure vessel on all service sides, and clearances as recommended by the manufacturer on all other sides. Service side shall be interpreted as any side, including the top, of a boiler or pressure vessel on which clearance is necessary to access operating controls, safety devices, drain and blowoff valves, or inspection openings.~~

- ~~(2) Cabinet mounted boilers, such as those used primarily for process or cooking, and having a maximum input of 400,000 Btu/hr need only be provided with the unobstructed clearances recommended by the manufacturer.~~

(c) Adequate clearance for boilers and pressure vessels installed ~~after January 1, 2009~~ shall not be less than the following: following, or as recommended by the manufacturer:

- (1) ~~High pressure steam boilers~~ Boilers, except water heaters that exceed 5,000,000 Btu/hr input (1465 kW), 5,000 pounds of steam per hour capacity or a 1,000 square foot heating surface shall have a minimum unobstructed clearance of seven feet 36 inches from the top and sides of the boiler boiler, to the ceiling. Clearance for the bottom shall conform to Paragraph (a) of this Rule.
- (2) ~~The following types of boilers and pressure vessels shall have a minimum unobstructed clearance of three feet from the top of the boiler to the ceiling: Water heaters shall have a minimum unobstructed clearance of 18 inches from the top and sides of the boiler. Clearance for the bottom shall conform to Paragraph (a) of this Rule.~~
 - ~~(A) Steam heating boilers and hot water heating boilers that exceed 5,000,000 Btu/hr input (1465 kW), 5,000 pounds of steam per hour capacity or a 1,000-square foot heating surface;~~
 - ~~(B) High pressure steam boilers that do not exceed 5,000,000 Btu/hr input (1465 kW), 5,000 pounds of steam per hour capacity or a 1,000 square foot heating surface; and~~
 - ~~(C) All boilers with manholes on top of the boiler.~~
- (3) ~~Package Modular boilers and water heaters that require individual units to be set side by side, front to back, or by stacking, steam heating boilers and hot water heating boilers without manholes on top of the shell that do not exceed 5,000,000 Btu/hr input (1465 kW), 5,000 pounds of steam per hour capacity or a 1,000-square foot heating surface shall have a minimum unobstructed clearance clearances of two feet from the ceiling, as recommended by the manufacturer.~~

(d) ~~When~~ To facilitate entrance of a person during an inspection, boilers or pressure vessels ~~are installed or replaced with a manway manway, unobstructed clearance shall be provided to allow access for inspection, maintenance and repair. Passageways around all sides of boilers and pressure vessels shall have an unobstructed width clearance of not less than 18 84 inches, inches from the manway, unless otherwise recommended by manufacturer's installation instructions.~~

Authority G.S. 95-69.11; 95-69.14.

13 NCAC 13 .0420 FIRING MECHANISM CONTROLS

- (a) Automatically fired boilers and pressure vessels shall be provided with firing mechanism controls.
- (b) Oil, gas-fired, and electrically heated boilers shall be equipped with primary flame safeguard safety controls, safety limit switches, and burners or electric elements that conform to the North Carolina Building Code in effect at the time of installation.
- (c) Automatically fired boilers installed after January 1, 2007, shall be provided with a remote emergency ~~fuel shut-off shutdown~~ switch marked for identification. The remote ~~shut-off shutdown~~ switch shall be located outside each door of the room in which the boiler is located. Alternatively, the ~~shut-off shutdown~~ switch may be located just inside the entrance door(s) where the equipment is located. If there is more than one door to the boiler room, there shall be a switch located at each door designed for primary emergency egress from the boiler room. Boilers that bear the ASME "HLW" designator are not required to be provided with a remote emergency ~~fuel shut-off shutdown~~ switch. For boilers not installed in a boiler or equipment room, such as outdoors, on a roof top, or in an open indoor space, the remote emergency shutdown switch shall be accessible and located at a safe distance from the boiler.

Authority G.S. 95-69.11; 95-69.14.

13 NCAC 13 .0421 NORTH CAROLINA SPECIAL

- (a) The North Carolina Department of Labor may issue an inspection certificate for a boiler or pressure vessel constructed under standards equivalent to those established in the ASME Code if an application for permission to construct and install a North Carolina Special is submitted to and approved by the Chief Inspector prior to commencing construction. The Chief Inspector may approve a request for an inspection certificate if the application is complete and if the information contained in the application demonstrates that the boiler or pressure vessel is as safe as a similar boiler or pressure vessel constructed to the requirements of the ASME Code. The application, which may be in the form of a letter, shall contain relevant data proving that its construction is equivalent to ASME standards. The Chief Inspector or his designee may elect to visit, at the expense of the ~~owner, user~~ owner or user, or manufacturer, the facility where the boiler or pressure vessel is under construction in order to audit the manufacturer's construction techniques, personnel qualifications, and quality control program.
- (b) The North Carolina Department of Labor may issue an inspection certificate for a boiler or pressure vessel which has operated in another state even if the ASME construction and

stamping requirements otherwise contained in the North Carolina Rules are not satisfied if the following requirements are satisfied:

- (1) the state in which the boiler or pressure vessel was operated enforces ASME Code requirements for similar boilers and pressure vessels;
 - (2) the boiler or pressure vessel was inspected during construction by an inspector commissioned by the state in which the item was installed or manufactured; and
 - (3) the report from the last certificate inspection conducted in the state in which the boiler or pressure vessel was previously installed is made available to the Chief Inspector, and the inspection resulted in the applicable authorization for operation.
- (c) The applicant shall submit a design specification, certified by a professional engineer, to the Chief Inspector to verify that the boiler or pressure vessel meets the ASME Code as far as is practicable. The following documentation shall be included as a minimum:
- (1) design calculations and drawings;
 - (2) material test reports or their equivalent, and for material not allowed by ASME, an evaluation of the materials in comparison to the most similar material approved for ASME construction;
 - (3) a record of welding qualifications as required by Section IX of the ASME Welding and Brazing Qualifications Code; and
 - (4) satisfactory results of any additional examination or test deemed necessary by the Chief Inspector.
- (d) Design calculations for pressure vessels to be operated in excess of 3,000 psig shall include a fatigue analysis as described in ASME Section VIII, Division 2 or 3, to determine the operating lifetime of the pressure vessel, and a proposal for operation that details the ~~owner's~~ owner or user's monitoring program to verify compliance with the fatigue analysis.
- (e) The maximum allowable working pressure for the boiler or pressure vessel as established in the calculations shall be consistent with what is required by the ASME Code for similar boilers or pressure vessels.
- (f) Boilers and pressure vessels operating as North Carolina State Specials shall meet all installation, alteration, inspection, repair, and operation requirements of this Chapter.
- (g) The Chief Inspector may approve operation of boilers and pressure vessels which were constructed to the requirements of a department of the federal government which enforces requirements equivalent to the ASME Code, provided an application as otherwise required by this Chapter is submitted to the Chief Inspector and found acceptable.

Authority G.S. 95-69.11; 95-69.14.

13 NCAC 13 .0422 EXHIBITION BOILERS

- Exhibition boilers shall meet the following requirements:
- (1) Exhibition boilers that are not built to the ASME Code shall not be operated above 125

psig without written approval by the Chief Inspector, who shall base such approval on documentation and calculations submitted by the ~~owner~~, owner or user. The documents and calculations, with an inspection, must provide evidence to support the exhibition boiler operating at higher pressure ratings.

- (2) Safety relief valves shall not exceed the maximum allowed working pressure of the boiler and shall be ASME/NB certified valves.
- (3) Each boiler shall have:
 - (a) an operating pressure gauge which shall be approximately double the pressure to which the safety relief valve is set but in no case shall it be less than 1 1/2 times the set pressure;
 - (b) a safety relief valve which shall be capable of protecting the boiler from over pressurization; and
 - (c) a water gauge glass.
- (4) When fusible plugs are used, they shall conform to NBIC Part 2 as applicable.
- (5) A hydrostatic test may be required by the inspector if it is necessary to prove the integrity of the pressure boundary. The hydrostatic test shall not exceed 125 percent of the maximum allowed working pressure of the vessel or the set pressure of the safety valve, whichever is greater.
- (6) Upon completion of the inspection and payment of the applicable fees referenced in this Chapter, the Chief Inspector shall issue a Certificate of Inspection valid for one year.

Authority G.S. 95-69.11; 95-69.14.

13 NCAC 13 .0423 MODEL HOBBY BOILERS

Model hobby boilers shall meet the following requirements:

- (1) Each boiler shall have:
 - (a) an operating pressure gauge that shall not be less than 1 1/2 times nor more than four times the operating pressure of the boiler;
 - (b) two safety relief valves each of which shall be capable of protecting the boiler from over pressurization. Requirements for ASME/NB certification are waived. If an ASME/NB safety relief valve is utilized, only one safety relief valve is required;
 - (c) an accessible mud-ring valve;
 - (d) a water gauge glass; and
 - (e) if constructed of copper, a fusible plug in the top of the crown sheet.
- (2) The construction requirements established by the Department of Labor shall not apply to Model Hobby Boilers when the following requirements are met:

- (a) Documentation to verify the design and construction specifications have been reviewed and accepted by the Chief Inspector; and
- (b) The boiler and associated components have been constructed using material rated for the intended service.

~~(2)~~(3) Upon completion of the inspection and payment of the applicable fees referenced in this Chapter, the Chief Inspector shall issue a Certificate of Inspection valid for one year.

Authority G.S. 95-69.11; 95-69.14.

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to adopt the rule cited as 15A NCAC 02Q .0529.

Link to agency website pursuant to G.S. 150B-19.1(c): <http://deq.nc.gov/about/divisions/air-quality/air-quality-rules/rules-hearing-process>

Proposed Effective Date: January 1, 2025

Public Hearing:

Date: August 20, 2024

Time: 6:00 p.m.

Location: 1st Floor Training Room (#1210), DEQ Green Square Office Building, 217 West Jones Street, Raleigh, NC 27603, or virtually using Cisco WebEx, Digital Hearing Web Address: <https://tinyurl.com/28jh2j2a>
Meeting Password: NCDAAQ

Audio conference: To receive a call back, provide your phone number when you join the event, or call the number below and enter the access code. US TOLL +1-415-655-0003, Access code: 2430 067 3066

If you wish to speak at the digital public hearing, you must register, provide the required information, and follow instructions on ways to join the public hearing. Registration must be completed by 4:00 p.m. on August 20, 2024. To register, please click the following web address: <https://forms.office.com/g/ejnqpk7EWQ>

**For instructions on ways to join the public hearing, please refer to the following web address: <https://www.deq.nc.gov/about/boards-and-commissions/how-attend-webex-meeting-0>*

**If you have technical difficulties, the following automated voicemail has been set up to receive your verbal comments: 919-707-8430*

Reason for Proposed Action: *To receive comments on the proposed adoption of 15A NCAC 02Q .0529 and accompanying regulatory impact analysis. The initiation of this rule was the requirement under Section 12.11.(d) of Session Law (S.L) 2023-134 for the Environmental Management Commission (EMC) to*

create an exemption from Title V permitting for research and development (R&D) activities to clarify flexibility. On May 9, 2024, the EMC approved proceeding to public comment on the proposed adoption. The text of the rules and regulatory impact analysis are available on the DAQ website: <http://deq.nc.gov/about/divisions/air-quality/air-quality-rules/rules-hearing-process>

Comments may be submitted to: Katherine Quinlan, 217 West Jones St., 1641 Mail Service Center, Raleigh, NC 27699-1641; phone (919) 707-8702; email daq.publiccomments@deq.nc.gov (Please type "R&D Rule Adoption" in the subject line)

Comment period ends: August 30, 2024

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit a written objection to the Rules Review Commission. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (>= \$1,000,000)
- Approved by OSBM
- No fiscal note required

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02Q - AIR QUALITY PERMITS PROCEDURES

SECTION .0500 - TITLE V PROCEDURES

15A NCAC 02Q .0529 TITLE V INSIGNIFICANT RESEARCH AND DEVELOPMENT ACTIVITIES EXEMPTION

(a) For the purposes of this Rule, "research and development activities" or "R&D activities" means the following:

- (1) activities conducted to test more efficient production processes or methods for preventing or reducing adverse environmental impacts, provided that the activities do not include or contribute to the production of an intermediate

or final product for sale or exchange for commercial profit; and
(2) activities conducted at a research or laboratory facility that is operated under the close supervision of technically trained personnel the primary purpose of which is to conduct research and development into new processes and products and that is not engaged in or contributing to the manufacture of products for sale or exchange for commercial profit.

(b) Notwithstanding the definition of "insignificant activities because of size or production rate" in 15A NCAC 02Q .0503(8), R&D activities that meet the definition in Paragraph (a) of this Rule and are located at a major facility shall qualify as an insignificant activity because of size or production rate if the R&D activities meet the requirements of this Paragraph:

- (1) Emissions from the R&D activities would not violate any applicable emissions standard;
- (2) Actual emissions of particulate matter, sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide from the R&D activities, before air pollution control devices, are each no more than five tons per year;
- (3) Actual emissions of each hazardous air pollutant from the R&D activities, before air pollution control devices, are below 1,000 pounds per year; and
- (4) Potential emissions from the R&D activities are less than the major source emission thresholds specified in 40 CFR 70.2.

(c) Pursuant to 15A NCAC 02Q .0507(b), the owner or operator of a new major facility shall include in the Title V permit application R&D activities that qualify as an insignificant activity because of size or production rate pursuant to Paragraph (b) of this Rule. For an existing major facility with new R&D activities that qualify as an insignificant activity pursuant to Paragraph (b) of this Rule, the owner or operator shall provide notification of the R&D activities to the Division no less than seven days prior to commencing the R&D activity. The owner or operator of insignificant R&D activities pursuant to Paragraph (b) of this Rule shall also keep records demonstrating compliance with this Rule and provide those records to the Division upon request.

Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(10); 143-215.108.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 32 - NORTH CAROLINA MEDICAL BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the Medical Board intends to amend the rules cited as 21 NCAC 32M .0110; and 32S .0213.

Link to agency website pursuant to G.S. 150B-19.1(c): www.ncmedboard.org/about_the_board/rule_changes

Proposed Effective Date: November 1, 2024

Public Hearing:

Date: August 21, 2024

Time: 2:00 p.m.

Location: The joint public hearing with the NC Board of Nursing will be held at their offices, located at 4516 Lake Boone Trail, Raleigh, NC 27607. The North Carolina Medical Board will be having a public hearing for their rules via teleconference beginning at 3PM. Telephone Number: 919-518-9840; Conference ID: 953 062 010#

Reason for Proposed Action: To amend rules to clarify that physicians may delegate to physician assistants and nurse practitioners the authority to issue do not resuscitate orders and pronounce death. Additionally, to clarify that physicians may also delegate to registered nurses and licensed practical nurses the determination and pronouncement of death pursuant to site-specific policies and procedures.

Comments may be submitted to: Leigh Anne Satterwhite, 3127 Smoketree Court, Raleigh, NC 27604; phone (919) 326-1109; email rules@ncmedboard.org

Comment period ends: August 30, 2024

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit a written objection to the Rules Review Commission. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
Local funds affected
Substantial economic impact (>= \$1,000,000)
Approved by OSBM
No fiscal note required

SUBCHAPTER 32M - APPROVAL OF NURSE PRACTITIONERS

21 NCAC 32M .0110 QUALITY ASSURANCE STANDARDS FOR A COLLABORATIVE PRACTICE AGREEMENT

The following are the quality assurance standards for a collaborative practice agreement:

- (1) Availability: The primary or back-up supervising physician(s) and the nurse practitioner shall be continuously available to each other for consultation by direct communication or telecommunication.
(2) Collaborative Practice Agreement:
(a) shall be agreed upon, signed, and dated by both the primary supervising physician and the nurse practitioner, and maintained in each practice site;
(b) shall be reviewed at least yearly. This review shall be acknowledged by a dated signature sheet, signed by both the primary supervising physician and the nurse practitioner, appended to the collaborative practice agreement, and available for inspection by either Board;
(c) shall include the drugs, devices, medical treatments, tests, and procedures that may be prescribed, ordered, and performed by the nurse practitioner consistent with Rule .0109 of this Subchapter; and Subchapter and may include issuing do not resuscitate orders as outlined in G.S. 90-21.17(b) and determining and pronouncing death pursuant to G.S. 90-323 so long as all applicable requirements are met and doing so is permitted by and consistent with practice-site-specific policies and procedures; and
(d) shall include a pre-determined plan for emergency services.
(3) The nurse practitioner shall demonstrate the ability to perform medical acts as outlined in the collaborative practice agreement upon request by members or agents of either Board.
(4) Quality Improvement Process:
(a) The primary supervising physician and the nurse practitioner shall develop a process for the ongoing review of the care provided in each practice site, including a written plan for evaluating the quality of care provided for one or more frequently encountered clinical problems.
(b) This plan shall include a description of the clinical problem(s), an evaluation of the current treatment interventions, and if needed, a plan for improving outcomes within an identified time frame.

- (c) The quality improvement process shall include scheduled meetings between the primary supervising physician and the nurse practitioner for a minimum of every six months. Documentation for each meeting shall:
 - (i) identify clinical problems discussed, including progress toward improving outcomes as stated in Sub-Item (4)(b) of this Rule, and recommendations, if any, for changes in treatment plan(s);
 - (ii) be signed and dated by those who attended; and
 - (iii) be available for review by either Board for the previous five calendar years and be retained by both the nurse practitioner and primary supervising physician.
- (5) Nurse Practitioner-Physician Consultation. The following requirements establish the minimum standards for consultation between the nurse practitioner and primary supervising physician(s):
 - (a) During the first six months of a collaborative practice agreement between a nurse practitioner and the primary supervising physician, there shall be monthly meetings to discuss practice-relevant clinical issues and quality improvement measures.
 - (b) Documentation of the meetings shall:
 - (i) identify clinical issues discussed and actions taken;
 - (ii) be signed and dated by those who attended; and
 - (iii) be available for review by either Board for the previous five calendar years and be retained by both the nurse practitioner and primary supervising physician.

(b) A physician assistant may perform medical acts, tasks, or functions only under the supervision of a physician. Supervision shall be continuous but, except as otherwise provided in the rules of this Subchapter, shall not be construed as requiring the physical presence of the supervising physician at the time and place that the services are rendered.

(c) Each team of physician(s) and physician assistant(s) shall ensure:

- (1) the physician assistant's scope of practice is identified;
- (2) delegation of medical tasks is appropriate to the skills of the supervising physician(s) as well as the physician assistant's level of ~~competence~~; competence and may include issuing do not resuscitate orders pursuant to G.S. 90-21.17(b) and determining and pronouncing death pursuant to G.S. 90-323 so long as all other requirements are met and doing so is permitted by and consistent with practice site-specific policies and procedures; and
- (3) the relationship of, and access to, each supervising physician is defined; and
- (4) a process for evaluation of the physician assistant's performance is established.

(d) Each supervising physician and physician assistant shall sign a statement, as defined in Rule .0201(9) of this Subchapter, that describes the supervisory arrangements in all settings. The physician assistant shall maintain written prescribing instructions at each site. This statement shall be kept on file at all practice sites, and shall be available upon request by the Board.

(e) A primary supervising physician and a physician assistant in a new practice arrangement shall meet monthly for the first six months to discuss practice relevant clinical issues and quality improvement measures. Thereafter, the primary supervising physician and the physician assistant shall meet at least once every six months. A written record of these meetings shall be signed and dated by both the supervising physician and the physician assistant, and shall be available upon request by the Board. The written record shall include a description of the relevant clinical issues discussed and the quality improvement measures taken.

(f) Physician assistants enrolled and participating in a postgraduate training program shall designate on their intent to practice form as required by Rule .0203 of this Subchapter a single physician as their primary supervising physician as determined by the postgraduate training program. For purposes of this Rule, a postgraduate training program shall mean a professional development program of at least 12 months sponsored or co-sponsored by a licensed hospital and healthcare system in which the participants rotate through at least three or more distinct medical specialties. As the participants rotate through the program's various specialties, all other supervising physicians shall be designated as Back-Up Supervising Physicians.

Authority G.S. 90-9.3; 90-18(c)(13); 90-18.1.

Authority G.S. 90-5.1(a)(3); 90-8.1; 90-8.2; 90-18(c)(14); 90-18.2; 90-171.23(b)(14).

SUBCHAPTER 32S - PHYSICIAN ASSISTANTS

SECTION .0200 – PHYSICIAN ASSISTANT REGISTRATION

21 NCAC 32S .0213 PHYSICIAN SUPERVISION OF PHYSICIAN ASSISTANTS

(a) A physician wishing to serve as a primary supervising physician shall exercise supervision of the physician assistant in accordance with rules adopted by the Board.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Medical Board intends to amend the rule cited as 21 NCAC 32N .0107.

Link to agency website pursuant to G.S. 150B-19.1(c): www.ncmedboard.org/about_the_board/rule_changes

Proposed Effective Date: November 1, 2024

Public Hearing:

Date: August 30, 2024

Time: 11:00 a.m.

Location: The public hearing will be held remotely via teleconference.

Telephone Number: 919-518-9840;

Conference ID: 258 156 448#

Reason for Proposed Action: To add substance and clarification to the requirement in G.S. 90-14(1) which requires the Board to notify a licensee if an investigation will take longer than six (6) months.

Comments may be submitted to: Leigh Anne Satterwhite, 3127 Smoketree Court, Raleigh, NC 27604; phone (919) 326-1109; email rules@ncmedboard.org

Comment period ends: August 30, 2024

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit a written objection to the Rules Review Commission. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
Local funds affected
Substantial economic impact (>= \$1,000,000)
Approved by OSBM
No fiscal note required

SUBCHAPTER 32N - FORMAL AND INFORMAL PROCEEDINGS

21 NCAC 32N .0107 INVESTIGATIONS AND COMPLAINTS

(a) At the time of first oral or written communication from the Board or staff or agent of the Board to a licensee regarding a complaint or investigation, the Board shall provide the notices set forth in G.S. 90-14(i), except as provided in Paragraph (e) of this Rule.

(b) A licensee shall submit a written response to a complaint received by the Board within 45 days from the date of a written request by Board staff. The Board shall grant up to an additional 30 days for the response where the licensee demonstrates good cause for the extension of time. The response shall contain accurate and complete information. Where a licensee fails to respond in the time and manner provided herein, the Board may treat that as a failure to respond to a Board inquiry in a reasonable time and manner as required by G.S. 90-14(a)(14).

(c) The licensee's written response to a complaint submitted to the Board in accordance with Paragraph (b) of this Rule shall be provided to the complainant upon written request as permitted in G.S. 90-16(e1), except that the response shall not be provided where the Board determines that the complainant has misused the Board's complaint process or that the release of the response would be harmful to the physical or mental health of the complainant who was a patient of the responding licensee.

(d) A licensee shall submit to an interview within 30 days from the date of an oral or written request from Board staff. The Board may grant up to an additional 15 days for the interview where the licensee demonstrates good cause for the extension of time. The responses to the questions and requests for information, including documents, during the interview shall be complete and accurate. Where respondent fails to respond in the time and manner provided herein, the Board may treat that as a failure to respond to a Board inquiry in a reasonable time and manner as required by G.S. 90-14(a)(14).

(e) The licensee who is the subject of a Board inquiry may retain and consult with legal counsel of his or her choosing in responding to the inquiries as set out in G.S. 90-14(i).

(f) For purposes of G.S. 90-14(l) an investigation shall be deemed complete when the Board's Chief Investigative Officer, or his or her designee, approves an investigative report for submission to the Board's Disciplinary Committee. Once approved, subsequent consideration of the report by the Disciplinary Committee and any follow-up investigation requested by the Disciplinary Committee shall not be considered part of the six-month period contained in G.S. 90-14(l). An e-mail from Board staff explaining the reasons for extending an investigation that is sent to the licensee or the licensee's attorney at his or her last known email address as provided to the Board shall be deemed compliant with the written notification requirement contained in G.S. 90-14(l) so long as the email is sent within the six-month period.

(g) Should a licensee not receive a written explanation of the circumstances or reasons for extending an investigation within the applicable six-month period, the licensee, or his or her attorney, may request a written explanation from the Board as to the reasons why the investigation has not yet been completed. The Board shall respond to the request within 15 days from the date of receipt of the request. In the response the Board shall provide the reasons for extending the investigation along with an estimate as to when the investigation may be completed.

Authority G.S. 90-5.1(a)(3); 90-14(a)(14); ~~90-14(i)~~; 90-14(a)(i) and (l); 90-16(e1).

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 36 – BOARD OF NURSING

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Nursing intends to adopt the rule cited as 21 NCAC 36 .0229, and amend the rule cited as 21 NCAC 36 .0810.

Link to agency website pursuant to G.S. 150B-19.1(c): www.ncbon.com

Proposed Effective Date: November 1, 2024

Public Hearing:

Date: August 21, 2024

Time: 2:00 p.m.

Location: 4516 Lake Boone Trail, Raleigh NC 27607

Reason for Proposed Action: On April 23, 2024, Duke University Health System and Atrium Health ("Petitioners") filed two petitions requesting the Board proceed with permanent rulemaking pursuant to 21 NCAC 36 .0121(a). Both petitions meet all foundational requirements of this Rule detailing the reasoning for the request. Petitioners also filed a proposed amendment in 21 NCAC 36 .0810(2)(c), which relates to NP practice, with the NC Medical Board for their consideration. The proposed language for adoption and amendment were also attached with each petition. NC General Statutes specify that a physician may issue a portable do not resuscitate ("DNR") order and determine a person's death. See NCGS §90-21.17(b) and §90-323. However, practice and other statutory provisions imply that these two medical tasks may be performed under the supervision of or delegated by a physician. The effect of both rules would be to clarify that these acts may be delegated to NPs and licensed nurses to promote and improve access to end-of-life care.

On May 23, 2024, Petitioner's request and proposed rule language were presented to the Board. In 21 NCAC 36 .0810(c)(2), the Board voted to amend the language of this Rule to clarify the NP's authority to issue DNR orders and pronounce death pursuant to the terms of a Collaborative Practice Agreement ("CPA"). The additional language in the proposed amendment specifies that DNR orders and pronouncement of death may be performed by an NP under the supervision of a physician by way of a CPA. The Board also voted to proceed with rulemaking of a new rule, 21 NCAC 36 .0229 Determination and Pronouncement of Death, for specific language that expressly permits physicians to delegate this act to RNs and LPNs. The language of this new rule is consistent with the Board's position statement on Death and Resuscitation and would provide legal authority for this medical act to be delegated to RNs and LPNs as a responsibility that the nurse can safely accept.

Comments may be submitted to: Angela Ellis, PO Box 2129, Raleigh, NC 27609-2129; email lawsrules@ncbon.com

Comment period ends: August 30, 2024

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit a written objection to the Rules Review Commission. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
Local funds affected
Substantial economic impact (>= \$1,000,000)
Approved by OSBM
No fiscal note required

SECTION .0200 – LICENSURE

21 NCAC 36 .0229 DETERMINATION AND PRONOUNCEMENT OF DEATH

Determination and pronouncement of death is an act that can be delegated to a registered nurse or a licensed practical nurse, provided that:

- (1) The registered nurse or licensed practical nurse has the requisite qualifications and experience to assess, interpret, and formulate this determination and pronouncement; and
(2) This delegation is consistent with the registered nurse's or licensed practical nurse's site-specific policies and procedures.

Authority G.S. 90-171.20(7) and (8); 90-171.23(b).

SECTION .0800 - APPROVAL AND PRACTICE PARAMETERS FOR NURSE PRACTITIONERS

21 NCAC 36 .0810 QUALITY ASSURANCE STANDARDS FOR A COLLABORATIVE PRACTICE AGREEMENT

The following are the quality assurance standards for a collaborative practice agreement:

- (1) Availability: The primary or back-up supervising physician(s) and the nurse practitioner shall be continuously available to

- each other for consultation by direct communication or telecommunication.
- (2) Collaborative Practice Agreement:
- (a) shall be agreed upon, signed, and dated by both the primary supervising physician and the nurse practitioner, and maintained in each practice site;
 - (b) shall be reviewed at least yearly. This review shall be acknowledged by a dated signature sheet, signed by both the primary supervising physician and the nurse practitioner, appended to the collaborative practice agreement, and available for inspection by either Board;
 - (c) shall include the drugs, devices, medical treatments, tests, and procedures that may be prescribed, ordered, and performed by the nurse practitioner consistent with Rule .0809 of this ~~Section~~; and Section and may include issuing do not resuscitate orders as outlined in G.S. 90-21.17(b) and determining and pronouncing death pursuant to G.S. 90-323 so long as all other applicable requirements are met and doing so is permitted by and consistent with practice-site-specific policies and procedures; and
 - (d) shall include a pre-determined plan for emergency services.
- (3) The nurse practitioner shall demonstrate the ability to perform medical acts as outlined in the collaborative practice agreement upon request by members or agents of either Board.
- (4) Quality Improvement Process:
- (a) The primary supervising physician and the nurse practitioner shall develop a process for the ongoing review of the care provided in each practice site, including a written plan for evaluating the quality of care provided for one or more frequently encountered clinical problems.
 - (b) This plan shall include a description of the clinical problem(s), an evaluation of the current treatment interventions, and if needed, a plan for improving outcomes within an identified time frame.
 - (c) The quality improvement process shall include scheduled meetings between the primary supervising physician and the nurse practitioner for a minimum of every six months. Documentation for each meeting shall:
 - (i) identify clinical problems discussed, including progress toward improving outcomes as stated in Sub-item (4)(b) of this Rule, and recommendations, if any, for changes in treatment plan(s);
 - (ii) be signed and dated by those who attended; and
 - (iii) be available for review by either Board for the previous five calendar years and be retained by both the nurse practitioner and primary supervising physician.
- (5) Nurse Practitioner-Physician Consultation. The following requirements establish the minimum standards for consultation between the nurse practitioner and primary supervising physician(s):
- (a) During the first six months of a collaborative practice agreement between a nurse practitioner and the primary supervising physician, there shall be monthly meetings to discuss practice-relevant clinical issues and quality improvement measures.
 - (b) Documentation of the meetings shall:
 - (i) identify clinical issues discussed and actions taken;
 - (ii) be signed and dated by those who attended; and
 - (iii) be available for review by either Board for the previous five calendar years and be retained by both the nurse practitioner and primary supervising physician.

Authority G.S. 90-8.2; 90-18(c)(14); 90-18.2; 90-171.23(b)(14).

TITLE 26 – OFFICE OF ADMINISTRATIVE HEARINGS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Rules Review Commission intends to adopt the rule cited as 26 NCAC 05 .0116.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.oah.nc.gov/rules-division/rules-review-commission>

Proposed Effective Date: October 1, 2024

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): A public hearing on the proposed rule will be held if the agency receives a written request for said hearing within 15 days after the notice of text is published. Requests for a hearing can be emailed to Travis.wiggs@oah.nc.gov*

CHAPTER 05 - RULES REVIEW COMMISSION

SECTION .0100 – GENERAL

26 NCAC 05 .0116 ATTESTATION OF COMPLIANCE WITH RULE-MAKING REQUIREMENTS

(a) An agency shall attest that the requirements listed in G.S. 150B-19.1(c)(1)-(5) were posted on the agency Web site no later than the publication date of the notice of text for a proposed rule in the North Carolina Register.

(b) Failure to comply with this Rule shall be grounds for objection to the proposed rule pursuant to G.S. 150B-21.9(a)(4).

Authority G.S. 143B-30.1.

Reason for Proposed Action: *The rule seeks to ensure state agencies are complying with G.S. 150B-19.1(c). The proposed rule aims to prevent state agencies from removing information required for rule-making from their websites prior to being reviewed by the Rules Review Commission.*

Comments may be submitted to: *Travis Wiggs, 1711 New Hope Church Rd, Raleigh, NC 27609; email travis.wiggs@oah.nc.gov*

Comment period ends: *August 31, 2024*

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (>= \$1,000,000)
- Approved by OSBM
- No fiscal note required

Note from the Codifier: The rules published in this Section of the NC Register are temporary rules reviewed and approved by the Rules Review Commission (RRC) and have been delivered to the Codifier of Rules for entry into the North Carolina Administrative Code. A temporary rule expires on the 270th day from publication in the Register unless the agency submits the permanent rule to the Rules Review Commission by the 270th day.
 This section of the Register may also include, from time to time, a listing of temporary rules that have expired. See G.S. 150B-21.1 and 26 NCAC 02C .0500 for adoption and filing requirements.

TITLE 16 – DEPARTMENT OF PUBLIC INSTRUCTION

Rule-making Agency: State Board of Education

Rule Citation: 16 NCAC 06C .0602

Effective Date: June 6, 2024

Date Approved by the Rules Review Commission: May 29, 2024

Reason for Action: S.L. 2023-128, effective December 1, 2023, expands the applicability of the criminal statute related to indecent liberties with a student and increases penalties on school personnel who fail to report certain misconduct by educators. The legislation also gives the State Board of Education ("SBE") authority to adopt temporary rules to implement the requirements of the legislation, to address disciplinary action against professional educator licenses, and to modify the Standards of Professional Conduct.

The Standards of Professional Conduct for North Carolina Educators, codified 16 NCAC 06C .0601 and 06C .0602, are also among the SBE Rules schedule for re adoption no later than June 30, 2026, through the periodic review process required by the APA. See G.S. 150B-21.3A.

The SBE has used the temporary authority in S.L. 2023-128 to amend 16 NCAC 06C .0601 and 06C .0602 in preparation for re adoption. The SBE has simultaneously adopted new rules, 16 NCAC 06C .0603 - 06C .0608, to govern the process for denying an application for a professional educator license or taking disciplinary action against an existing license. These will replace its existing rules on this topic, currently codified at 16 NCAC 06C .0372 - 06C .0376. The SBE understands that 16 NCAC 06C .0601 and 06C .0602 will need to be readopted through permanent rulemaking procedures and intends to do so concurrently with putting the other rules through permanent rulemaking.

16 NCAC 06C .0602 STANDARDS OF PROFESSIONAL CONDUCT

~~(a) The standards of Professional Conduct ("Standards") listed in this Section shall be generally accepted for the education profession and shall be the basis for State Board review of reviewing the performance of professional educators by the State Board of Education ("SBE"). These standards shall establish mandatory prohibitions and requirements for educators. Violation of these standards shall subject an educator to investigation and disciplinary action by the SBE or LEA, any public school unit by which the educator is employed.~~

~~(b) Professional educators shall adhere to the standards of professional conduct contained Standards as set forth in this Rule. Any intentional act or omission that violates these standards Standards is prohibited.~~

This Rule establishes uniform Standards of Professional Conduct ("Standards") for professional educators in North Carolina, which apply to all persons who hold a professional educator license issued pursuant to this Subchapter and Chapter 115C, Article 17E of the General Statutes. These Standards shall be the basis for reviewing the performance of professional educators by the State Board of Education ("SBE"). Violation of these Standards shall be grounds for disciplinary sanctions against a professional educator's license as provided in this Section.

- ~~(1)~~ Generally recognized professional standards. Recognized Professional Standards. The educator shall adhere to and practice the professional standards of all federal, state, and local governing bodies. bodies with oversight of public education with public education oversight.
- ~~(2)~~ Personal conduct. Conduct. The educator shall serve as a positive role model for students, parents, and the community. Because the educator is entrusted with the care and education of small children and adolescents, the educator shall demonstrate a high standard of personal character and conduct. The educator is entrusted with the care and education of children and adolescents. As a result, the educator shall demonstrate a high standard of personal character and conduct and shall serve as a positive role model for students, parents, and the community.
- ~~(3)~~(2) Conduct with Students. The educator shall treat all students with respect and maintain appropriate professional boundaries with all students, regardless of whether that student is directly under the care or supervision of the educator. Specifically, the educator shall not engage in any of the following conduct toward or in the presence of a student:
 - (a) Use of profane, vulgar, or demeaning language.
 - (b) Intentional or reckless exposure of students to profane, vulgar, or sexually explicit material except as part of age-appropriate classroom instruction or other pedagogical practice.
 - (c) Solicitation, encouragement, or consummation of a romantic, physical, or sexual relationship with a student in any form, whether written, verbal, or physical. As used in this context, "solicitation" or "encouragement" shall include engaging in a pattern of flirtatious

- behavior; efforts to gain access to, or time alone with, a student with no clear educational or school-related objective; provision of individualized or specialized treatment, including tangible or monetary gifts, to a student that does not comply with generally recognized professional standards for educators; or any other behavior that could be perceived by a rational observer as excessively personal or intimate in the context of the educator-student relationship.
- (C)(d) Solicitation, encouragement, or consummation of sexual contact with a student.
- (D)(e) Sexual harassment, as defined in 34 C.F.R. 106.30(a).
- (E)(f) Child abuse, as defined in G.S. 14-318.2 or G.S. 14-318.4.
- (4)(3) Alcohol and Controlled Substances. The educator shall not be under the influence of, possess, use, or consume an alcoholic beverage or a controlled substance, as defined in G.S. 90-95, on school premises, at a school-sponsored activity, or when otherwise discharging the educator's professional duties, unless the educator has a prescription from a licensed medical professional authorizing such use. The educator shall not furnish alcoholic beverages or controlled substances to a student, except for the administration of medication prescribed by a [license] licensed medical professional in accordance with the educator's professional duties.
- (3)(4) Honesty. The educator shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation in the performance of the educator's professional duties, including the following:
- (A)(a) ~~statement~~ statements or representations of professional qualifications;
- (B)(b) application or recommendation for professional employment, promotion, or licensure;
- (C)(c) ~~application or recommendation~~ applications or recommendations for college or university admission, scholarship, grant, academic award, or similar benefit;
- (D)(d) ~~representation~~ statements or representations of completion of college or staff development credit;
- (E)(e) evaluation or grading of students or school personnel;
- (F)(f) submission of financial or program compliance reports submitted to state,
- federal, or other governmental agencies;
- (G)(g) ~~submission of information in the course of an official inquiry by the employing LEA or the SBE related to facts of unprofessional misconduct, provided, however, SBE or the educator's employing PSU into allegations of professional misconduct, provided that an educator shall be given adequate notice of the allegations and may be represented by legal counsel; and~~
- (H)(h) ~~submission of information in the course of an investigation into school related criminal activity by a law enforcement agency, child protective services, or any other agency with the right authority to investigate, regarding school related criminal activity; provided, however, investigate, provided that an educator shall be entitled to decline to give evidence may refuse decline to provide information to law enforcement if such evidence may tend to could incriminate the educator as that term is defined by the Fifth Amendment to in violation of the educator's rights under the U.S. Constitution. United States Constitution or North Carolina Constitution.~~
- (6)(5) ~~Compliance with Criminal Laws. The educator shall not violate the criminal laws of this State, the United States, or any other state or territory under the jurisdiction of the United States.~~
- (4)(6) ~~Proper remunerative conduct. Remunerative Conduct. The educator shall not solicit current students or parents of students to purchase equipment, supplies, or services from the educator in a private remunerative capacity. An educator shall not tutor for remuneration students currently assigned to the educator's classes, unless approved by the local superintendent. An educator shall not accept any compensation, benefit, or thing of value other than the educator's regular compensation for the performance of any service that the educator is required to render in the course and scope of the educator's employment. This Rule shall not restrict performance of any overtime or supplemental services at the request of the LEA; PSU, nor shall it apply to or restrict the acceptance of gifts or tokens of minimal value offered and accepted openly from students, parents, or other persons in recognition or appreciation of service. the educator's professional service, provided the gift is given~~

- and received freely, openly, and without expectation of favor or advantage to the donor in return.
- (5) Conduct with students. The educator shall treat all students with respect. The educator shall not commit any abusive act or sexual exploitation with, to, or in the presence of a student, whether or not that student is or has been under the care or supervision of that educator, as defined below:
- (A) any use of language that is considered profane, vulgar, or demeaning;
 - (B) any sexual act;
 - (C) any solicitation of a sexual act, whether written, verbal, or physical;
 - (D) any act of child abuse, as defined by law;
 - (E) any act of sexual harassment, as defined by law; and
 - (F) any intentional solicitation, encouragement, or consummation of a romantic or physical relationship with a student, or any sexual contact with a student. The term "romantic relationship" shall include dating any student.
- (6)(7) Confidential information. Information. The educator shall keep in confidence confidential all personally identifiable information regarding students or their family members that the educator has been obtained in the course of professional service, unless disclosure is required or permitted by law or professional standards, or is necessary for the personal safety of the student or others.
- (7)(8) Rights of others. Others. The educator shall not willfully or maliciously violate the constitutional or civil rights of a student, parent/legal parent or legal guardian, or colleague.
- (8)(9) Required reports. Reports. The educator shall make all reports required by G.S. 115C, Chapter 115C of the General Statutes.
- (9) Alcohol or controlled substance abuse. The educator shall not:
- (A) be under the influence of, possess, use, or consume on school premises or at a school sponsored activity a controlled substance as defined by G.S. 90-95, the Controlled Substances Act, without a prescription authorizing such use;
 - (B) be under the influence of, possess, use, or consume an alcoholic beverage or a controlled substance on school premises or at a school sponsored activity involving students; or
 - (C) furnish alcohol or a controlled substance to any student except as indicated in the professional duties of administering legally prescribed medications.
- (10) Compliance with criminal laws. The educator shall not commit any act referred to in G.S. 115C-332 and any felony under the laws of the United States or of any state.
- (11)(10) Public funds and property. Funds and Property. The educator shall not misuse public funds or property, funds of a school related organization, or colleague's funds. property or any funds belonging to an organization affiliated with the school or PSU. The educator shall account for funds collected from students, colleagues, or parents/legal guardians. parents, or legal guardians of students. The educator shall not submit fraudulent requests for reimbursement, expenses, or pay.
- (12)(11) Scope of professional practice. Professional Practice. The educator shall not perform any act as an employee in a position professional duty or function for which licensure is required by the rules of the SBE or by G.S. 115C or the North Carolina General Statutes this Chapter or by Chapter 115C of the General Statutes during any period in which the educator's license has been is suspended or revoked.
- (13)(12) Conduct related to ethical violations. Abuse of Authority. The educator shall not directly or indirectly use or threaten to use any official authority or influence in any manner that tends to discourage, restrain, interfere with, coerce, or discriminate discourages, restrains, coerces, interferes with, or discriminates against any subordinate or any licensee who in good faith reports, discloses, divulges, reports or otherwise brings to the attention of an LEA, a PSU, the SBE, or any other public agency authorized to take remedial action, any facts or information relative to the actual or suspected violation of any law or rule regulating the duties of persons serving in the public school system, including but not limited to these Rules. those established by this Section.

Authority G.S. 115C-295.3; 115C-12(9); 115C-270.5; 115C-307; Eff. May 1, 1998; Temporary Amendment Eff. June 6, 2024.

APPROVED RULES

*This Section includes a listing of rules approved by the Rules Review Commission followed by the full text of those rules. The rules that have been approved by the RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register are identified by an * in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

Rules approved by the Rules Review Commission at its meeting on May 29, 2024.

**REGISTER CITATION TO THE
NOTICE OF TEXT**

HOME INSPECTOR LICENSURE BOARD

<u>Definitions</u>	11 NCAC 08 .1101*	38:06 NCR
<u>Purpose and Scope</u>	11 NCAC 08 .1103*	38:06 NCR
<u>General Exclusions</u>	11 NCAC 08 .1105*	38:06 NCR
<u>Exterior</u>	11 NCAC 08 .1107*	38:06 NCR
<u>Plumbing</u>	11 NCAC 08 .1109*	38:06 NCR
<u>Electrical</u>	11 NCAC 08 .1110*	38:06 NCR
<u>Code of Ethics</u>	11 NCAC 08 .1116*	38:06 NCR

PRIVATE PROTECTIVE SERVICES BOARD

<u>Training Requirements for Unarmed Security Guards</u>	14B NCAC 16 .0707*	38:15 NCR
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WILDLIFE RESOURCES COMMISSION

<u>License Fees</u>	15A NCAC 10A .1601*	38:14 NCR
<u>Bladen County</u>	15A NCAC 10F .0304*	38:14 NCR
<u>Dare County</u>	15A NCAC 10F .0310*	38:11 NCR

FORESTERS, BOARD OF REGISTRATION FOR

<u>Registration Fees</u>	21 NCAC 20 .0106	38:16 NCR
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OPTOMETRY, BOARD OF EXAMINERS IN

<u>Prescriptions; Dispensing</u>	21 NCAC 42E .0103*	38:15 NCR
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The following rules are subject to Legislative Review

WILDLIFE RESOURCES COMMISSION

<u>New Hanover County</u>	15A NCAC 10F .0314*	38:14 NCR
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TITLE 11 - DEPARTMENT OF INSURANCE

11 NCAC 08 .1101 DEFINITIONS

The following definitions apply to this Section:

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|---|---|
| (1) "Abnormal" means nontypical or unusual conditions that could cause damage to systems and components of the home. | (4) "Central air conditioning" means a system that uses ducts to distribute cooled or dehumidified air to more than one room or uses pipes to distribute chilled water to heat exchangers in more than one room, and that is not plugged into an electrical convenience outlet. |
| (2) "Arc-fault circuit interrupter" means a device intended to provide protection from the effects of arc faults by recognizing characteristics unique to arcing and de-energizing the circuit when an arc fault is detected. | (5) "Component" means a readily accessible and visible aspect of a system, such as a floor or wall, but not individual pieces such as boards or nails where many similar pieces make up the component. |
| (3) "Automatic safety controls" means devices designed and installed to protect systems and components from excessively high or low pressures and temperatures, excessive electrical current, loss of water, loss of ignition, fuel leaks, fire, freezing, or other unsafe conditions as stated in manufacturer's instructions. | |

- (6) "Cosmetic damage" means blemishes or defects that do not interfere with the functionality of the component or system.
- (7) "Cross connection" means any physical connection or contact between potable water and any source of contamination.
- (8) "Dangerous or adverse situations" means situations that pose a threat of injury to the inspector, or those situations that require the use of special protective clothing or safety equipment.
- (9) "Describe" means report in writing a system or component by its type, or other inspected characteristics, to distinguish it from other systems or components used for the same purpose.
- (10) "Dismantle" means to take apart or remove any component, device, or piece of equipment that is bolted, screwed, or fastened by other means and that would not be disassembled by a homeowner in the course of routine household maintenance.
- (11) "Enter" means to go into an area to inspect all visible components.
- (12) "Functional drainage" means a drain that empties at a rate equal to or greater than the supply water flow to the fixture.
- (13) "Functional flow" means a usable flow at the highest fixture in a dwelling when another fixture is operated simultaneously.
- (14) "Gray water" means wastewater generated from household activities that do not involve human waste, such as bathing, showering, handwashing, and laundry, which typically contains some residues from soap, detergent, and dirt.
- (15) "Gray water system" means a water reuse system contained within a single-family residence or multiunit residential or commercial building that filters gray water or captured rainwater and reuses it for nonpotable purposes such as toilet flushing and irrigation.
- (16) "Ground-fault circuit interrupter" means devices intended for the protection of people that de-energizes a circuit or portion thereof within an established period of time when currents are out of balance.
- (17) "Habitable space" means a space in a building for living, sleeping, eating, or cooking. "Habitable space" does not mean a bathroom, toilet room, closet, or any space used or designed for storage.
- (18) "Harmful" means conditions that cause damage to systems and components of the home.
- (19) "Inspect" means to make a visual examination.
- (20) "Installed" means attached or connected such that an item requires tools for removal.
- (21) "Normal operating controls" means homeowner operated devices such as a thermostat, wall switch, or safety switch.
- (22) "On-site water supply quality" means water quality based on the bacterial, chemical, mineral, and solids content of the on-site well water.
- (23) "On-site water supply quantity" means the rate of flow of on-site well water.
- (24) "Operate" means to cause systems or equipment to function as intended.
- (25) "Readily accessible" means within reach, without the use of a ladder, not blocked by appliances, and approachable or enterable for visual inspection without the risk of damage to any property or alteration of the accessible space, equipment, or opening.
- (26) "Readily openable access panel" means a panel provided for homeowner inspection and maintenance that has removable or operable fasteners or latch devices in order to be lifted off, swung open, or otherwise removed by one person; and its edges and fasteners are not painted in place. This definition is limited to those panels within reach standing on the floor or from a four-foot stepladder, and that are not blocked by stored items, furniture, or building components.
- (27) "Readily visible" means seen by using natural or artificial light without the use of equipment or tools other than a flashlight.
- (28) "Representative number" means, for multiple identical components such as windows and electrical outlets, one such component per room; and, for multiple identical exterior components, one such component on each side of the building.
- (29) "Roof drainage systems" means gutters, downspouts, leaders, splash blocks, and similar components used to carry water off a roof and away from a building.
- (30) "Sewage pump" means a device used at elevations where mechanical assistance is needed to move effluent to a sewage system.
- (31) "Shut down" means a piece of equipment or a system that cannot be operated by the device or control provided for homeowner operation. If its safety switch or circuit breaker is in the "off" position, or its fuse is missing or blown, the inspector is not required to reestablish the circuit for the purpose of operating the equipment or system.
- (32) "Solid fuel heating device" means any wood, coal, fossil, or other similar organic fuel burning device, including fireplaces whether masonry or factory built, fireplace inserts and stoves, wood stoves (room heaters), central furnaces, and combinations of these devices.

- (33) "Structural component" means a component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads).
 - (34) "Sump pump" means a device used to remove non-effluent drainage.
 - (35) "System" means a combination of interacting or interdependent components, assembled to carry out one or more functions.
 - (36) "Technically exhaustive" means an inspection involving the use of measurements, instruments, testing, calculations, and other means to develop scientific or engineering findings, conclusions, and recommendations.
 - (37) "Under floor crawl space" means the area within the confines of the foundation and between the ground and the underside of the lowest floor structural component.
- (C) state any systems or components inspected that do not function as intended, allowing for normal wear and tear, or appear not to function as intended, based upon documented tangible evidence;
 - (D) describe each system or component, pursuant to Part (b)(3)(C) of this Rule; state how the condition is defective; explain the implications of defective conditions reported; and direct the client to a course of action for repair, monitoring, or further investigation by a specialist;
 - (E) on the first or second page clearly state the name, license number, and signature of the person conducting the inspection.

History Note: Authority G.S. 143-151.49; Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996; Eff. July 1, 1998; Amended Eff. February 1, 2007; April 1, 2005; May 1, 2003; Readopted Eff. October 1, 2018; Amended Eff. October 1, 2024.

11 NCAC 08 .1103 PURPOSE AND SCOPE

- (a) Home inspections performed according to this Section shall provide the client with an understanding of the property conditions, as inspected at the time of the home inspection.
- (b) Home inspectors shall:
 - (1) provide a written contract, signed by the client, before the home inspection is performed that shall:
 - (A) state that the home inspection is in accordance with the Standards of Practice of the North Carolina Home Inspector Licensure Board as set forth in this Section;
 - (B) state what services shall be provided and the cost; and
 - (C) when an inspection is for a limited number of systems or components, state that the inspection is limited to only those systems or components;
 - (2) inspect readily visible and readily accessible installed systems and components described in Rules .1106 through .1115 of this Section;
 - (3) submit a written report pursuant to G.S. 143-151.58(a), to the client that shall:
 - (A) describe those systems and components required to be described in Rules .1106 through .1115 of this Section;
 - (B) state which systems and components present at the home and designated for inspection in this Section were not

- (4) submit a summary page(s) pursuant to G.S. 143-151.58(a1).
- (c) Home inspectors may:
 - (1) report observations and conditions, including safety or habitability concerns, or render opinions of items in addition to those required in Paragraph (b) of this Rule; or
 - (2) exclude systems and components from the inspection if requested by the client, and so stated in the written contract.

History Note: Authority G.S. 143-151.49; 143-151.58; Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996; Eff. July 1, 1998; Amended Eff. October 1, 2014; October 1, 2011; March 1, 2010; February 1, 2009; February 1, 2007; April 1, 2005; May 1, 2003; July 1, 2000; Readopted Eff. October 1, 2018; Amended Eff. October 1, 2024.

11 NCAC 08 .1105 GENERAL EXCLUSIONS

- (a) Home inspectors are not required to report on:
 - (1) life expectancy of any component or system;
 - (2) the causes of the need for a repair;
 - (3) the methods, materials, and costs of corrections;
 - (4) the suitability of the property for any specialized use;
 - (5) compliance or non-compliance with codes, ordinances, statutes, regulatory requirements, or restrictions;
 - (6) the market value of the property or its marketability;
 - (7) the advisability or inadvisability of purchase of the property;
 - (8) any component or system that was not inspected;

- (9) the presence or absence of pests such as wood damaging organisms, rodents, or insects;
- (10) cosmetic damage, underground items, or items not installed; or
- (11) the presence or absence of systems installed to control or remove suspected hazardous substances listed in Subparagraph (b)(7) of this Rule.

(b) Home inspectors are not required to:

- (1) offer warranties or guarantees of any kind;
- (2) calculate the strength, adequacy, or efficiency of any system or component;
- (3) enter any area or perform any procedure that may damage the property or its components or be dangerous to or adversely affect the health or safety of the home inspector or other persons;
- (4) operate any system or component that is shut down or otherwise inoperable;
- (5) operate any system or component that does not respond to normal operating controls;
- (6) move personal items, panels, furniture, equipment, plant life, soil, snow, ice, or debris that obstructs access or visibility;
- (7) determine the presence or absence of any suspected adverse environmental condition or hazardous substance, including mold, toxins, carcinogens, noise, contaminants in the building or in soil, water, and air;
- (8) determine the effectiveness of any system installed to control or remove suspected hazardous substances;
- (9) determine House Energy Ratings (HER), insulation R values, system or component efficiencies;
- (10) inspect heat recovery and similar whole house ventilation systems;
- (11) predict future condition, including failure of components;
- (12) project operating costs of components;
- (13) evaluate acoustical characteristics of any system or component;
- (14) inspect special equipment or accessories that are not listed as components to be inspected in this Section;
- (15) disturb insulation, except as required in Rule .1114 of this Section;
- (16) inspect elevators or related equipment meant to transport occupants or materials between elevations; or
- (17) inspect 240V receptacles or outlets.

(c) Home inspectors shall not:

- (1) offer or perform any act or service contrary to law; or
- (2) offer or perform engineering, architectural, plumbing, electrical or any other job function requiring an occupational license in the jurisdiction where the inspection is taking place, unless the home inspector holds a valid occupational license. In that case the home

inspector shall inform the client that the home inspector is so licensed, and therefore qualified to go beyond this Section and perform additional inspections beyond those within the scope of the Standards of Practice.

History Note: Authority G.S. 143-151.49; Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996; Eff. July 1, 1998; Amended Eff. February 1, 2007; April 1, 2005; May 1, 2003; Readopted Eff. October 1, 2018; Amended Eff. October 1, 2024.

11 NCAC 08 .1107 EXTERIOR

(a) The home inspector shall inspect:

- (1) wall cladding, flashings, and trim;
- (2) entryway doors and a representative number of windows;
- (3) garage door operators, including automatic safety controls;
- (4) decks, balconies, stoops, steps, areaways, porches, and appurtenant railings;
- (5) eaves, soffits, and fascias;
- (6) driveways, patios, walkways, and retaining walls; and
- (7) vegetation, grading, and drainage with respect only to their effect on the condition of the building.

(b) The home inspector shall:

- (1) describe wall cladding materials;
- (2) operate all entryway doors;
- (3) operate garage doors manually or by using installed controls for any garage door operator;
- (4) report any garage door operator that will not automatically reverse when meeting reasonable resistance during closing;
- (5) report any garage door that will not automatically reverse when photoelectric safety devices are actuated;
- (6) report any garage door operator that does not utilize a photoelectric safety device; and
- (7) probe exterior wood components where deterioration is suspected.

(c) The home inspector is not required to inspect:

- (1) storm windows, storm doors, screening, shutters, and awnings;
- (2) fences;
- (3) for the presence of safety glazing in doors and windows;
- (4) garage door operator remote control transmitters;
- (5) geological conditions;
- (6) soil conditions;
- (7) recreational facilities (including spas, saunas, steam baths, swimming pools, tennis courts, playground equipment, and other exercise, entertainment, or athletic facilities), except as

- otherwise required in 11 NCAC 08 .1109(d)(5)(F);
- (8) detached buildings or structures; or
- (9) for the presence or condition of buried fuel storage tanks.

History Note: Authority G.S. 143-151.49; Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996; Eff. July 1, 1998; Amended Eff. February 1, 2007; April 1, 2005; July 1, 2000; Readopted Eff. October 1, 2018; Amended Eff. October 1, 2024.

11 NCAC 08 .1109 PLUMBING

- (a) The home inspector shall inspect:
 - (1) interior water supply and distribution system, including: piping materials, supports, and insulation; fixtures and faucets; functional flow; leaks; and cross connections;
 - (2) interior drain, waste, and vent system, including: traps; drain, waste, and vent piping; piping supports and pipe insulation; leaks; and functional drainage;
 - (3) hot water systems including: water heating equipment; normal operating controls; automatic safety controls; and chimneys, flues, and vents;
 - (4) fuel storage and distribution systems including: interior fuel storage equipment, supply piping, venting, and supports; leaks; and
 - (5) sump pumps.
- (b) The home inspector shall describe:
 - (1) water supply and distribution piping materials;
 - (2) drain waste, and vent piping materials;
 - (3) water heating equipment, including fuel or power source, storage capacity or tankless point of use demand systems, and location; and
 - (4) the location of any main water supply shutoff device.
- (c) The home inspector shall operate all plumbing fixtures, including their faucets and all exterior faucets attached to the house, except where the flow end of the faucet is connected to an appliance.
- (d) The home inspector is not required to:
 - (1) state the requirement for or effectiveness of anti-siphon devices;
 - (2) determine whether water supply and waste disposal systems are public or private;
 - (3) determine the presence or absence of backflow devices;
 - (4) operate automatic safety controls;
 - (5) operate any valve except water closet flush valves, fixture faucets, and hose faucets;
 - (6) inspect:
 - (A) water conditioning systems;
 - (B) fire and lawn sprinkler systems;

- (C) on-site water supply quantity and quality;
- (D) on-site waste disposal systems including electrical controls, alarms, sewage pumps, and gray water systems;
- (E) foundation irrigation systems;
- (F) bathroom spas, whirlpools, or air jet tubs except as to functional flow and functional drainage;
- (G) swimming pools;
- (H) solar water heating equipment; or
- (I) fixture overflow devices or shower pan liners;
- (7) inspect the system for proper sizing, design, or use of approved materials;
- (8) report on the absence or presence of thermal expansion tanks;
- (9) report on the adequacy of the reported water heater capacity; or
- (10) operate sewage pumps.

History Note: Authority G.S. 143-151.49; Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996; Eff. July 1, 1998; Amended Eff. February 1, 2007; April 1, 2005; Readopted Eff. October 1, 2018; Amended Eff. October 1, 2024.

11 NCAC 08 .1110 ELECTRICAL

- (a) The home inspector shall inspect:
 - (1) electrical service entrance conductors;
 - (2) electrical service equipment, grounding equipment, main overcurrent device, and interiors of panelboard enclosures unless unsafe conditions are reported;
 - (3) amperage and voltage ratings of the electrical service;
 - (4) branch circuit conductors, their overcurrent devices, and the compatibility of their ampacities at the interiors of panelboard enclosures unless unsafe conditions are reported;
 - (5) the operation of a representative number of installed ceiling fans, lighting fixtures, switches, and receptacles located inside the house, garage, and on the dwelling's exterior walls;
 - (6) all readily accessible 120V receptacles within six feet of interior plumbing fixtures, not separated from a fixture by an operable door, and all receptacles in the garage or carport, and on the exterior of inspected structures; and
 - (7) the operation of ground fault circuit interrupters within six feet of the floor/ground.
- (b) The home inspector shall describe:
 - (1) electrical service amperage and voltage;

- (2) electrical service entry conductor materials at the readily openable access panels at the main;
 - (3) the electrical service type as being overhead or underground; and
 - (4) the location of main and distribution panels.
- (c) The home inspector shall report in writing the presence of any readily accessible single strand aluminum branch circuit wiring.
- (d) The home inspector shall report in writing the presence or absence of readily accessible:
- (1) installed smoke alarms, and operate their test function, except when smoke alarms are part of a central alarm system;
 - (2) installed carbon monoxide alarms in any homes with fireplaces, fuel fired appliances, or attached garages, and operate their test function, except when carbon monoxide alarms are part of a central alarm system; and
 - (3) ground fault protection of receptacles within six feet of interior plumbing fixtures not separated from a fixture by an operable door, and all receptacles in the garage or carport, on the exterior of inspected structures.
- (e) The home inspector is not required to:
- (1) insert any tool, probe, or testing device inside the panels;
 - (2) test or operate any arc-fault circuit interrupters or other overcurrent devices;
 - (3) dismantle any electrical device or control other than to remove the covers of panelboard enclosures; or
 - (4) Inspect:
 - (A) low voltage systems;
 - (B) security systems and heat detectors;
 - (C) telephone, security, cable TV, intercoms, or other ancillary wiring that is not a part of the primary electrical distribution system;
 - (D) built-in vacuum equipment;
 - (E) back up electrical generating equipment;
 - (F) other alternative electrical generating or renewable energy systems such as solar, wind, or hydro power;
 - (G) battery or electrical automotive charging systems;
 - (H) electrical systems to swimming pools or spas, including bonding and grounding; or
 - (I) elevators or related equipment used for the purpose of transporting occupants or materials between elevations.

Amended Eff. September 1, 2013; February 1, 2007; April 1, 2005;
Readopted Eff. October 1, 2018;
Amended Eff. October 1, 2024.

11 NCAC 08 .1116 CODE OF ETHICS

- (a) Licensees shall discharge their duties faithfully, accurately, and impartially to the public and to their clients.
- (b) Opinions expressed by licensees shall be based only on their education, experience, and honest convictions.
- (c) A licensee shall not disclose any information about the results of an inspection without the approval of the client for whom the inspection was performed, or the client's representative, unless the licensee finds that public health, safety, or welfare imperatively requires immediate or emergency action.
- (d) No licensee shall accept compensation or any other consideration from more than one interested party for the same service without the written consent of all interested parties.
- (e) No licensee or licensee's company shall compensate, either financially or through other services or benefits, realty agents or other parties with a financial interest in closing or settlement of real estate transactions for the following:
 - (1) Referral of inspections; or
 - (2) Inclusion on a list of recommended inspectors or preferred providers.

This Rule also prohibits co-marketing or sharing of expenses between the licensee or licensee's company and realty agents or other parties with a financial interest in closing or settlement of real estate transactions that obligates the realty agents or other parties with a financial interest in closing or settlement of real estate transactions to include the licensee or the licensee's company on preferred lists of providers.

- (f) No licensee shall express, within the context of an inspection, an appraisal or opinion of the market value of the inspected property.
- (g) Before the execution of a contract to perform a home inspection, a licensee shall disclose to the client any interest he or she has in a business that may create a conflict of interest for the home inspector or the client. No licensee shall allow his or her interest in any business to affect the quality or results of the inspection work that the licensee may be called upon to perform. The client must approve in writing the licensee's dissemination of personal information including names, addresses, email addresses or phone numbers unrelated to the results of the home inspection to any third parties, other than the Board.
- (h) A licensee shall not solicit for repairs of systems or components found defective in the course of a home inspection performed by the licensee or that licensee's company.
- (i) Licensees shall not engage in false or misleading advertising or otherwise misrepresent any matters to the public.
- (j) Licensees shall not inspect properties under contingent arrangements whereby any compensation or future referrals are dependent on reported findings or on the sale of a property.
- (k) A licensee shall not impugn the professional reputation or practice of another home inspector, nor criticize another inspector's reports.
- (l) Licensees must obtain written permission from the client or clients to sell, share, or provide data or personal information such as names, addresses, email addresses, telephone numbers about

History Note: Authority G.S. 143-151.49; 143-151.58;
Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996;
Temporary Adoption Eff. October 24, 1996;
Eff. July 1, 1998;

the home inspection or the client or clients to third parties, other than the Board.

*History Note: Authority G.S. 143-151.49;
Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996;
Temporary Adoption Eff. October 24, 1996;
Eff. July 1, 1998;
Amended Eff. May 1, 2013; October 1, 2010; July 1, 2000;
Readopted Eff. October 1, 2018;
Amended Eff. October 1, 2024.*

TITLE 14B - DEPARTMENT OF PUBLIC SAFETY

14B NCAC 16 .0707 TRAINING REQUIREMENTS FOR UNARMED SECURITY GUARDS

(a) Applicants for an unarmed security guard registration shall complete the basic unarmed security guard training course within 30 days from the date of permanent hire. The course shall consist of a minimum of 16 hours of classroom instruction including:

- (1) The Security Officer in North Carolina -- (minimum of one hour);
- (2) Legal Issues for Security Officers -- (minimum of three hours);
- (3) Emergency Response -- (minimum of three hours);
- (4) Communications -- (minimum of two hours);
- (5) Patrol Procedures -- (minimum of three hours);
- (6) Note Taking and Report Writing -- (minimum of three hours); and
- (7) Professional Conduct -- (minimum of one hour).

A minimum of four hours of instruction shall be completed within 20 calendar days of any security guard, including probationary, being placed on a duty station. These four hours shall include the instruction on The Security Officer in North Carolina and Legal Issues for Security Officers.

(b) Training shall be conducted by a Board certified unarmed security guard trainer. A Board created lesson plan covering the training requirements in Paragraph (a) of this Rule shall be made available by the Board to each trainer. The Board may approve other forms of media and training materials that deliver the training requirements of Paragraph (a) of this Rule.

(c) The 16 hours of training may be delivered in-person, in-person remotely, synchronously on-line, or in a hybrid format under the following conditions:

- (1) "In-Person" means an instructor physically present in-person in a classroom setting with students physically present in-person in a classroom setting. This is considered traditional in-person training. "In-Person remotely" means an instructor delivering a course to students in an in-person seated classroom while also transmitting to another or multiple other classrooms where students are in-person and observing via video and sound technology. Students must have the ability to have constant audio and visual communication with the

instructor as the instructor is presenting. "Synchronously on-line" means instruction utilizing an on-line audio/video platform where the instructor is teaching the course live to students that are attending live and the instructor and students have constant visual and audio communication with each other available. "Hybrid format" means instruction utilizing both in-person classroom teaching as well as synchronously on-line. The instruction is delivered by an instructor that is in-person in a classroom with in-person seated students while the instruction is also being delivered simultaneously in an on-line live format where on-line students have had the ability to have constant audio and video communication with the in-person students and instructor.

- (2) Each student is provided a copy of the unarmed security guard training manual to use for the duration of the 16 hour training course.
- (3) The technology used allows the trainer to see the students and the students to see the trainer in real time during the training.
- (4) All students are able to see and read the screen or monitor, and they must be able to hear and understand the audio presentation. All monitors used in a classroom setting must be at least 32 inches.
- (5) The technology used is of sufficient quality so that the training audio and video is delivered smoothly and without interruption.
- (6) The total number of students receiving the in-person or in-person remotely training at one time does not exceed 35 students. There is no size limitation for synchronous on-line training.
- (7) Any additional training beyond the Board mandated training in the unarmed security guard training manual is taught either before or after the 16 hour unarmed security officer training.

*History Note: Authority G.S. 74C-5; 74C-11; 74C-13(m);
Eff. January 1, 1990;
Amended Eff. June 1, 2009; November 1, 2006; June 1, 2004;
Transferred and Recodified from 12 NCAC 07D .0707 Eff. July 1, 2015;
Readopted Eff. August 1, 2020;
Amended Eff. June 1, 2024; July 1, 2021.*

TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY

15A NCAC 10A .1601 LICENSE FEES

- (a) License fees established by the Commission in this Rule shall be subject to the requirements of G.S. 113-270.1B(e).
- (b) The following fees shall apply to combination hunting and inland fishing licenses issued by the Commission, as set forth in G.S. 113-270.1C:

APPROVED RULES

- (1) Resident Annual Combination Hunting and Inland Fishing License - \$42.00.
- (2) Resident Disabled Veteran Lifetime Combination Hunting and Inland Fishing License - \$14.00.
- (3) Resident Totally Disabled Lifetime Combination Hunting and Inland Fishing License - \$14.00.
- (c) The following fees shall apply to sportsman licenses issued by the Commission, as set forth in G.S. 113-270.1D:
 - (1) Annual Sportsman License - \$63.00.
 - (2) Infant Lifetime Sportsman License - \$252.00.
 - (3) Youth Lifetime Sportsman License - \$441.00.
 - (4) Adult Resident Lifetime Sportsman License - \$630.00.
 - (5) Nonresident Lifetime Sportsman License - \$1,511.00.
 - (6) Age 70 Resident Lifetime Sportsman License - \$19.00.
 - (7) Resident Disabled Veteran Lifetime Sportsman License - \$126.00.
 - (8) Resident Totally Disabled Lifetime Sportsman License - \$126.00.
- (d) The following fees shall apply to hunting licenses issued by the Commission, as set forth in G.S. 113-270.2:
 - (1) Resident State Hunting License - \$30.00.
 - (2) Lifetime Resident Comprehensive Hunting License - \$315.00.
 - (3) Controlled Hunting Preserve Hunting License - \$27.00.
 - (4) Resident Annual Comprehensive Hunting License - \$47.00.
 - (5) Nonresident State Hunting Licenses:
 - (A) Season License - \$119.00.
 - (B) Ten-Day License - \$95.00.
 - (6) Falconry Hunting License - \$30.00.
- (e) The following fees shall apply to special activity licenses issued by the Commission, as set forth in G.S. 113-270.3:
 - (1) Resident Big Game Hunting License - \$17.00.
 - (2) Nonresident Bear Hunting License - \$284.00.
 - (3) Bear Management Stamp - \$14.00.
 - (4) Nonresident Big Game Hunting License:
 - (A) Season License - \$119.00.
 - (B) Ten-Day License - \$95.00.
 - (5) Bonus Antlerless Deer License - \$14.00.
 - (6) Game Land License - \$19.00.
 - (7) Falconry License - \$14.00.
 - (8) Migratory Waterfowl Hunting License - \$17.00.
 - (9) Resident American Alligator License - \$297.00.
 - (10) Nonresident American Alligator License - \$594.00.
 - (11) Resident Elk License - \$594.00.
 - (12) Nonresident Elk License - \$1,188.00.
- (f) The following fees shall apply to hunting and fishing guide licenses issued by the Commission, as set forth in G.S. 113-270.4:
 - (1) Resident Hunting and Fishing Guide License - \$19.00.
- (2) Nonresident Hunting and Fishing Guide License - \$189.00.
- (g) The following fees shall apply to trapping licenses issued by the Commission, as set forth in G.S. 113-270.5:
 - (1) Resident State Trapping License - \$38.00.
 - (2) Resident Lifetime Trapping License - \$357.00.
 - (3) Nonresident State Trapping License - \$158.00.
- (h) The following fees shall apply to hook-and-line licenses in inland and joint fishing waters issued by the Commission, as set forth in G.S. 113-271:
 - (1) Resident State Inland Fishing License - \$30.00.
 - (2) Lifetime Resident Comprehensive Inland Fishing License - \$315.00.
 - (3) Nonresident State Inland Fishing License - \$54.00.
 - (4) Short-Term Inland Fishing License:
 - (A) Resident 10-day Inland Fishing License - \$11.00.
 - (B) Nonresident 10-day Inland Fishing License - \$28.00.
 - (5) Age 70 Resident Lifetime Inland Fishing License - \$19.00.
 - (6) Resident Disabled Veteran Lifetime Inland Fishing License - \$14.00.
 - (7) Resident Totally Disabled Lifetime Inland Fishing License - \$14.00.
 - (8) Special Landholder and Guest Fishing License - \$126.00.
 - (9) Mountain Heritage Trout Waters Three-Day Fishing License - \$10.00.
- (i) The following shall apply to special device licenses issued by the Commission, as set forth in G.S. 113-272.2:
 - (1) Resident Special Device License - \$95.00.
 - (2) Nonresident Special Device License - \$630.00.
- (j) The non-refundable fee for a collection license issued by the Commission, as set forth in G.S. 113-272.4 shall be \$12.00.
- (k) The following non-refundable fees shall apply to captivity licenses issued by the Commission, as set forth in G.S. 113-272.5:
 - (1) Captivity License for Holding - \$60.00.
 - (2) Captivity License for Rehabilitation - \$12.00.
- (l) The following non-refundable fees shall apply to dealer licenses issued by the Commission as set forth in G.S. 113-273:
 - (1) Resident Fur-dealer License - \$76.00.
 - (2) Nonresident Fur-dealer License - \$378.00.
 - (3) Fur-dealer Station License - \$152.00.
 - (4) Controlled Hunting Preserve Operator License - \$119.00.
 - (5) Controlled Hunting Preserve Rabbit Operator License - \$30.00.
 - (6) Game Bird Propagation License - \$12.00.
 - (7) Furbearer Propagation License - \$33.00.
 - (8) Taxidermy License - \$60.00.
 - (9) Taxidermy Cervid Certification - \$6.00.
 - (10) Wildlife Control Agent License - \$60.00.
 - (11) Wildlife Control Technician Certification - \$30.00.
 - (12) Alligator Control Agent Certification - \$30.00.
- (m) The following non-refundable fees shall apply to permits issued by the Commission, as set forth in G.S. 113-274:

APPROVED RULES

- (1) Possession Permit - \$12.00.
- (2) Exportation or Importation Permit - \$12.00.
- (3) Trophy Wildlife Sale Permit - \$12.00.
- (4) Endangered Species Permit - \$12.00.
- (5) Field Trial Permit - \$12.00.

(n) Unified hunting and fishing licenses issued by the Commission, as set forth in G.S. 113-351:

- (1) Annual Resident Unified Sportsman/Coastal Recreational Fishing License - \$82.00.
- (2) Annual Resident Unified Inland/Coastal Recreational Fishing License - \$49.00.
- (3) Lifetime Unified Sportsman/Coastal Recreational Fishing Licenses:
 - (A) Infant Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$347.00.
 - (B) Youth Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$567.00.
 - (C) Resident Adult Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$851.00.
 - (D) Nonresident Adult Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$1,952.00.
 - (E) Resident Age 70 Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$38.00.
 - (F) Resident Disabled Veteran Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$139.00.
 - (G) Resident Totally Disabled Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$139.00.
- (4) Resident Lifetime Unified Inland/Coastal Recreational Fishing License - \$567.00.

(o) The following fees shall apply to Coastal Recreational Fishing Licenses issued by the Commission, as set forth in G.S. 113-174.2:

- (1) Annual Resident Coastal Recreational Fishing License - \$19.00.
- (2) Annual Nonresident Coastal Recreational Fishing License - \$38.00.
- (3) Ten-Day Resident Coastal Recreational Fishing License - \$8.00.
- (4) Ten-Day Nonresident Coastal Recreational Fishing License - \$14.00.
- (5) Infant Lifetime Coastal Recreational Fishing License - \$126.00.
- (6) Youth Lifetime Coastal Recreational Fishing License - \$189.00.
- (7) Resident Adult Lifetime Coastal Recreational Fishing License - \$315.00.
- (8) Nonresident Adult Lifetime Coastal Recreational Fishing License - \$630.00.
- (9) Resident Age 70 Lifetime Coastal Recreational Fishing License - \$19.00.

- (10) Resident Disabled Veteran Coastal Recreational Fishing License - \$14.00.
- (11) Resident Totally Disabled Coastal Recreational Fishing License - \$14.00.

History Note: Authority G.S. 113-270.1B(e); Temporary Adoption Eff. January 1, 2020; Eff. July 1, 2020; Amended Eff. July 1, 2024; May 1, 2022.

15A NCAC 10F .0304 BLADEN COUNTY

(a) Regulated Areas. This Rule applies to the following waters in Bladen County:

- (1) White Lake. The water between the shoreline and no-wake markers 500 feet from the shoreline is a restricted area.
- (2) Cape Fear River:
 - (A) the waters shore to shore between a point 100 yards east and 100 yards west of the ferry cable at Elwell Ferry and Elwells Ferry Boating Access Area, 2702 Elwell Ferry Road, Council;
 - (B) the waters within 50 yards of the Tar Heel Boating Access Area, 1000 Wildlife Landing Drive, Tar Heel; and
 - (C) the waters within 50 yards of the Tory Hole Boating Access Area, 335 N. Poplar Street, Elizabethtown.
- (3) Black River. The waters within 50 yards of the Hunts Bluff Boating Access Area, 351 Hunts Bluff Road, Kelly.

(b) Restricted Area. Skiing is prohibited in the restricted area described in Subparagraph (a)(1) of this Rule.

(c) Diving. A person engaged in skin or scuba diving shall display a diver's flag, and no vessel shall approach within 50 feet of a diver's flag, as described in G.S. 75A-13.1.

(d) Speed Limit. No person shall operate a vessel at greater than no-wake speed within the regulated areas described in Subparagraphs (a)(1) and (3), and Parts (a)(2)(A) through (C) of this Rule.

(e) Placement and Maintenance of Markers. The following agencies shall place and maintain the markers implementing this Rule:

- (1) North Carolina State Parks for the regulated area designated in Subparagraph (a)(1) of this Rule; and
- (2) the North Carolina Wildlife Resources Commission for the regulated areas designated in Parts (a)(2)(A) through (C), and Subparagraph (a)(3) of this Rule.

History Note: Authority G.S. 75A-3; 75A-15; Eff. February 1, 1976; Amended Eff. April 1, 1990; August 1, 1988; June 17, 1979; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. June 1, 2024; October 1, 2018.

15A NCAC 10F .0310 DARE COUNTY

(a) Regulated Areas. This Rule shall apply to the following waters in Dare County:

- (1) Manteo:
 - (A) the waters of Doughs Creek off Shallowbag Bay and the canals off Shallowbag Bay; and
 - (B) within 50 yards of the Bowsertown Boating Access Area on Croatan Sound at 35.89810 N, 75.67710 W.
- (2) Hatteras:
 - (A) the waters of Pamlico Sound otherwise known as Hatteras Harbor and Muddy Creek bounded on the north and south by the high-water mark, on the west by a straight line between channel markers number 20 and 17 at the entrance to Hatteras Harbor, and on the east by the mouth of Muddy Creek at Sandy Bay at a point at 35.22801 N, 75.68050 W; and
 - (B) Hatteras Ferry Terminal and United States Coast Guard basins ending at Coast Guard Beacon Number One in the Hatteras Channel.
- (3) Manns Harbor:
 - (A) Old Ferry Dock Road Canal, beginning at a point at 35.90654 N, 75.76916 W;
 - (B) within 50 yards of the Manns Harbor Boating Access Area on Croatan Sound at 35.91020 N, 75.77150 W; and
 - (C) within 50 yards of the Mashoes Boating Access Area on East Lake at 35.92820 N, 75.81470 W.
- (4) Nags Head:
 - (A) the canals of Old Nags Head Cove where the canal entrance meets Roanoke Sound beginning at a point at 35.94192 N, 75.62571 W; and
 - (B) the Roanoke Sound inlets at Pond Island on either side of W. Marina Drive extending north from U.S. Highway 64-264.
- (5) Wanchese:
 - (A) Wanchese Harbor otherwise known as Mill Landing Creek, beginning at its entrance from Roanoke Sound at a point at 35.84006 N, 75.61726 W; and
 - (B) the canal from its beginning where it connects with Roanoke Sound south of the dead-end road S.R. 1141 otherwise known as Thicket Lump Drive, extending northwest roughly parallel to S.R. 1141, S.R. 1142 otherwise known as The Lane, and S.R. 1143 otherwise known as Tink Tillet Road, then westward roughly

parallel to N.C. Highway 345, and finally curving to the southwest roughly parallel to S.R. 1289 otherwise known as C B Daniels S.R. Road to its end.

- (6) Stumpy Point:
 - (A) Stumpy Point Canal shore to shore on Pamlico Sound, beginning 50 yards west of the Stumpy Point Boating Access Area, 321 Bayview Drive; and
 - (B) Stumpy Point Basin off Stumpy Point Bay, east of U.S. Highway 264 where it intersects Stumpy Point Bay at a point at 35.69591 N, 75.77264 W.
- (7) Rodanthe. Within 50 yards of the Rodanthe Boating Access Area in Roanoke Sound, 23170 Myrna Peters Road;
- (8) Town of Southern Shores. The canals and lagoons within the Town of Southern Shores north of U.S. Highway 158;
- (9) Colington Harbour. The waters in the canals of Colington Harbour Subdivision on Albemarle Sound;
- (10) Kitty Hawk. The waters in the canals of Kitty Hawk Landing Subdivision;
- (11) Washington Baum Bridge Boating Access Area. The waters within 150 yards north and south and 300 yards east of the Washington Baum Boating Access Area in Roanoke Sound, at 35.89380 N, 75.63710 W;
- (12) Kill Devil Hills:
 - (A) Baum Bay Harbor, beginning at a point at 36.00572 N, 75.68105 W; and
 - (B) the waters within 50 yards of the Avalon Beach Boating Access Area in Kitty Hawk Bay, 2025 Bay Drive.
- (13) Avon. The waters of Pamlico Sound shore to shore beginning at a line from a point on the east shore of Big Island at 35.36653 N, 75.50770 W westward to a point on the mainland at 35.36653 N, 75.50556 W, south to include the waters of the cove between North Albacore Lane and South Albacore Lane and the waters of Mill Creek, and ending east of a line from a point on the south shore of Big Island at 35.36500 N, 75.50820 W southward to a point on the mainland at 35.36358 N, 75.50826 W;
- (14) Jean Guite Creek. The waters of Jean Guite Creek from where it meets Kitty Hawk Bay at 36.04887 N, 75.72754 W, north to a line from a point on the east shore in Southern Shores at 36.10460 N, 75.74192 W to a point on the west shore in Martin's Point Subdivision at 36.10452 N, 75.73948 W;
- (15) Frisco. The waters of the marina canal and boat basin at Palmetto Shores Subdivision, shore to shore beginning at the canal's entrance at

Pamlico Sound at a point at 35.25427 N, 75.60301 W; and

- (16) Cape Hatteras National Seashore. The waters of Motts Creek in Roanoke Sound, shore to shore at a line from a point on the north shore where the Oregon Inlet U.S. Coast Guard Station is located, to a point near the south shore of Motts Creek at 35.79270 N, 75.54903 W, then northward to include the waters at the Oregon Inlet Fishing Center and Marina, Oregon Inlet Public Boat Ramp, kayak launch area, and U. S. Coast Guard Station and Launch Area.

(b) **Speed Limit.** No person shall operate a vessel at greater than no-wake speed within the regulated areas described in Paragraph (a) of this Rule.

(c) **Swimming Area.** No person operating or responsible for the operation of a vessel shall permit it to enter the marked swimming area at Colington Island on the west shore, from a point where the canal enters the harbor at 36.01797 N, 75.72681 W, north 600 feet to a point at 36.01964 N, 75.72683 W and extending 300 feet west into Albemarle Sound.

(d) **Placement of Markers.** The following agencies shall place markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers:

- (1) the Board of Commissioners of the Town of Manteo for the areas designated in Part (a)(1)(A) of this Rule;
- (2) the Board of Commissioners of Dare County for the areas designated in Paragraph (c), Subparagraphs (a)(2); (a)(4); (a)(5); (a)(9); (a)(13) through (15); and Parts (a)(3)(A); (a)(6)(B); and (a)(12)(A) of this Rule;
- (3) the Board of Commissioners of the Town of Southern Shores for the areas designated in Subparagraph (a)(8) of this Rule;
- (4) the Board of Commissioners of the Town of Kitty Hawk for the area designated in Subparagraph (a)(10) of this Rule;
- (5) the National Park Service shall place and maintain markers for the area designated in Subparagraph (a)(16) of this Rule; and
- (6) the North Carolina Wildlife Resources Commission shall place and maintain markers for the areas designated in Subparagraphs (a)(7) and (a)(11); and Parts (a)(1)(B); (a)(3)(B) and (C); (a)(6)(A); and (a)(12)(B) of this Rule.

History Note: Authority G.S. 75A-3; 75A-15; Eff. February 1, 1976; Amended Eff. April 1, 1997; December 1, 1994; May 1, 1994; March 1, 1993; May 1, 1988; Temporary Amendment Eff. February 1, 1999; July 1, 1998; Amended Eff. July 1, 2000; April 1, 1999; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. June 1, 2024; September 1, 2023; October 1, 2022; October 1, 2018.

15A NCAC 10F .0314 NEW HANOVER COUNTY

(a) **Regulated Areas.** This Rule applies to the following waters in New Hanover County:

- (1) the area bounded on the north by the U.S. Highway 74-76 bridge crossing the Intracoastal Waterway, on the south by a line shore to shore intersecting Intracoastal Waterway channel marker number 127, on the west by the shore of Wrightsville Sound, and on the east by a line perpendicular to U.S. Highway 74-76 and intersecting channel marker number 25 in Motts Channel;
- (2) the area of Motts Channel between channel marker number 25 at the Intracoastal Waterway on the west and channel marker number 16 at the entrance from Banks Channel on the east;
- (3) Wilmington. The waters shore to shore in that portion of Bradley Creek in the City of Wilmington between the U.S. Highway 76 bridge crossing Bradley Creek and a point at 34.20794 N, 77.82158 W, near the mouth of Bradley Creek;
- (4) Lee's Cut from its western intersection with the Intracoastal Waterway at 34.21979 N, 77.80965 W, to its eastern intersection with Banks Channel at 34.21906 N, 77.79645 W;
- (5) Town of Wrightsville Beach. The unnamed channel lying between the shore west of Bahama Drive in the Town of Wrightsville Beach and an unnamed island located approximately 500 feet northeast of the U.S. Highway 74 bridge over Banks Channel; and
- (6) Castle Hayne. The waters of the Northeast Cape Fear River between the U.S. Highway 117 bridge and the railroad trestle 60 yards east of the Castle Hayne Boating Access Area, 6418 Orange Street, Castle Hayne.

(b) **Speed Limit.** No person shall operate a vessel at greater than no-wake speed within any of the regulated areas described in Paragraph (a) of this Rule.

(c) **Placement of Markers.** The Board of Commissioners of New Hanover County shall place the no-wake markers implementing Subparagraphs (a)(1), (a)(2), (a)(3), (a)(4), and (a)(5) of this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

(d) **Placement and Maintenance of Markers.** The Wildlife Resources Commission shall place and maintain markers for the area designated in Subparagraph (a)(6) of this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

History Note: Authority G.S. 75A-3; 75A-15; Eff. February 1, 1976; Amended Eff. July 1, 1993; May 1, 1989; June 1, 1987; May 1, 1987; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. July 1, 2023; February 1, 2023; October 1, 2018; April 1, 2017;

Amended Eff. Pending legislative review.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 20 – BOARD OF REGISTRATION FOR FORESTERS

21 NCAC 20 .0106 REGISTRATION FEES

Fees sent to the Board for any segment of the registration process shall be payable to the Secretary, Board of Registration for Foresters. The application fee for registration is fifty dollars (\$50.00), which shall be submitted by the applicant at the time of application. An approved applicant shall submit an additional fee of forty dollars (\$40.00) to receive a certificate of registration. Annual renewal fee is fifty dollars (\$50.00). The Board shall waive renewal fees for Registered Foresters for hardship circumstances, such as military deployment, extended illness, or other similar circumstances, upon written petition by the Registered Forester or Registered Forester's agent for this exemption.

History Note: Authority G.S. 89B-6; 89B-10; 89B-11; 93B-15(b); Eff. February 1, 1976; Amended Eff. February 1, 1990; May 1, 1985; Temporary Amendment Eff. March 1, 1999; Amended Eff. August 1, 2010; January 1, 2005; August 1, 2000; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014; Amended Eff. Pending Consultation pursuant to G.S. 12-3.1.

CHAPTER 42 – BOARD OF EXAMINERS IN OPTOMETRY

21 NCAC 42E .0103 PRESCRIPTIONS; DISPENSING

(a) All prescription forms shall conform to 21 NCAC 46 .2301 and shall include the name, address, state licensure number, and the Drug Enforcement Administration number of the prescriber, if applicable. The provisions of 16 C.F.R. 315.2 and 16 C.F.R. 456.1(g) are hereby incorporated by reference, including subsequent amendments and editions. The provisions of the Code of Federal Regulations (C.F.R.) cited in this rule may be accessed at no charge at https://www.ecfr.gov/current/title-16. The optometrist shall be responsible for implementing appropriate safeguards, including but not limited to the optometrist keeping a physical prescription pad in his or her personal possession or under lock and key at all times and password-protecting his or her electronic prescription form, within his or her practice to prevent the unauthorized use of his or her prescription forms, and shall immediately notify the Board upon determining that prescription blanks might be missing or misused.

(b) Any optometrist licensed by the Board who wishes to dispense drugs pursuant to G.S. 90-127.4 must first register with the North Carolina Board of Pharmacy pursuant to G.S. 90-85.26B.

(c) Any optometrist licensed by the Board shall provide their patients a copy of his or her eyeglass prescription, once such prescription is determined and finalized, consistent with Federal Trade Commission regulations. The provisions of 16 C.F.R. 456.2(a) are hereby incorporated by reference, including subsequent amendments and editions. An expiration date of not less than one year from the date of the prescribing examination shall appear on every such prescription. The prescription may show a statement of caution or a disclaimer if such a statement or disclaimer is supported by documented patient records.

(d) Any optometrist licensed by the Board shall provide their patients a copy of his or her contact lens prescription, once determined and finalized, consistent with Federal Trade Commission regulations. The provisions of 16 C.F.R. 315.4 are hereby incorporated by reference, including subsequent amendments and edition. A prescription for contact lenses shall explicitly state that it is for contact lenses and specify the lens type and all specifications necessary for the ordering and fabrication of the lenses. Words or phrases such as "OK for contact lenses", "fit with contact lenses", "contact lenses may be worn", or similar wording do not constitute a contact lens prescription. The prescriber cannot write the contact lens prescription until all the requirements of a satisfactory fit of contact lenses have been determined by the prescriber. All contact lenses used in the determination of a contact lens prescription are considered to be diagnostic lenses. An expiration date of not less than one year from the date of the prescribing examination shall appear on every such prescription unless there is a medical justification for a shorter duration. If the prescriber has such a medical justification, the prescriber must document the medical reason for the shorter expiration date in the patient's medical record consistent with Federal Trade Commission regulations. The provisions of 16 C.F.R. 315.6(a)(3) and (b)(1) are hereby incorporated by reference, including subsequent amendments and editions. If a patient is not adhering to appropriate regimens of care and follow-up with regard to the continuing use of contact lenses, the prescribing optometrist may terminate optometric care for that patient and notify the patient that he or she is terminating such relationship and the reasons for doing so.

(e) An optometrist shall provide a copy of a requesting patient's eyeglass prescription or contact lens prescription so long as the requested prescription has not expired.

History Note: Authority G.S. 90-114; 90-117.5; 90-127.2; 90-127.3; 90-127.4; Eff. June 1, 1989; Amended Eff. April 1, 1993; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015; Amended Eff. June 1, 2024.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission May 29, 2024 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 984-236-1850. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Jeanette Doran (Chair)
Jay R. Hemphill
Jeff Hyde
Brandon Leebrick
Bill Nelson

Appointed by House

Barbara A. Jackson (1st Vice-Chair)
Randy Overton (2nd Vice-Chair)
Wayne R. Boyles, III
Jake Parker
Paul Powell

COMMISSION COUNSEL

Brian Liebman	984-236-1948
William W. Peaslee	984-236-1939
Seth M. Ascher	984-236-1934
Travis Wiggs	984-236-1929

RULES REVIEW COMMISSION MEETING DATES

July 31, 2024	September 25, 2024
August 28, 2024	October 30, 2024

RULES REVIEW COMMISSION MEETING

MINUTES

May 29, 2024

The Rules Review Commission met on Wednesday, May 29, 2024, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx.

Commissioners Wayne R. Boyles III, Jeanette Doran, Jeff Hyde, Bill Nelson, Randy Overton, Brandon Leebrick, Jake Parker, and Paul Powell were present in the Commission Room. Commissioners Barbara Jackson and Jay Hemphill were present via WebEx.

Staff member Alexander Burgos, Commission Counsel Seth Ascher, Brian Liebman, Bill Peaslee, and Travis Wiggs were present in the room.

The meeting was called to order at 10:00 a.m. with Chair Doran presiding.

The Chair read the notice required by G.S. 138A-15(e) and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearance of conflicts of interest.

The Chair notified the Commissioners that the following items on the agenda would be taken up out of order at the end of the agenda: Follow-up matters for the Criminal Justice Education and Training Standards Commission and permanent rules from the Wildlife Resources Commission.

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the minutes of the April 30, 2024 meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the minutes were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 9. Voting in the negative: None.

The Chair asked for any discussion, comments, or corrections concerning the minutes of the May 13, 2024 special meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the minutes were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 9. Voting in the negative: None.

FOLLOW UP MATTERS**Home Inspector Licensure Board**

Upon the call of the Chair, 11 NCAC 08 .1101, .1103, .1105, .1107, .1109, .1110, and .1116 were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 9. Voting in the negative: None.

Criminal Justice Education and Training Standards Commission

Upon the call of the Chair, 12 NCAC 09F .0103, .0104, and .0105 were returned to the agency in accordance with the requirements of G.S. 150B-21.12(d) by roll-call vote, ayes 10, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jeanette Doran, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 10. Voting in the negative: None.

Kristin Mallett with the Department of Justice and representing the agency addressed the Commission.

State Board of Education

Upon the call of the Chair, 16 NCAC 06C .0602 was approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 9. Voting in the negative: None.

Board of Examiners in Optometry

21 NCAC 42D .0102 - At the January 2024 meeting, the Commission found that the revised rule satisfied the RRC's objection at the November 2023 meeting; however, it also determined that the revised rule was a substantial change and will need to be published and reviewed pursuant to G.S. 150B-21.2(g). This Rule will remain on the agenda until it is published. No action was required by the Commission.

Building Code Council

North Carolina Energy Conservation Code, Section R402, Appendix R1.2.1 - The Commission objected to these Rules at the April meeting. No action was required by the Commission.

Building Code Council

2024 NC Building Code and separately filed amendments to Sections 101.2, 202, 307, 414, 1109.2, 1901, and Chapter 35 of the 2024 NC Building Code - The Commission extended the period of review for these Rules at the April meeting. No action was required by the Commission.

Building Code Council

2024 NC Existing Building Code and separately filed amendments to Sections 101.2 and 803.2.1.2 of the 2024 NC Existing Building Code - The Commission extended the period of review for these Rules at the April meeting. No action was required by the Commission.

Building Code Council

2024 NC Fire Code and separately filed amendments to Sections 102.13, 105.5.32, 202, 203, 319.11.1, 319.11.13, 608, 911, 907.2.3.1, 1010.2.14, 1010.2.14.4, 1010.2.1, 3307, 5003, 5706.5.4.5, Chapter 80, and NFPA 241 of the 2024 NC Fire Code - The Commission extended the period of review for these Rules at the April meeting. No action was required by the Commission.

LOG OF FILINGS (PERMANENT RULES)**Private Protective Services Board**

Upon the call of the Chair, 14B NCAC 16 .0707 was approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 9. Voting in the negative: None.

Wildlife Resources Commission

Upon the call of the Chair, 15A NCAC 10A .1601; 10F .0304, .0310, and .0314 were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 9. Voting in the negative: None.

In accordance with G.S. 150B-21.3(b2), the Commission received over ten letters of objection requesting legislative review and a delayed effective date for 15A NCAC 10F .0314.

Jonathan Crews, General Manager of the Bradley Creek Yacht Club, addressed the Commission.

Matt Groff, the treasurer for the Creekside Yacht Club, addressed the Commission.

Howard Stanley, the General Manager for the Creekside Yacht Club, addressed the Commission.

Board of Registration for Foresters

Upon the call of the Chair, 21 NCAC 20 .0106 was approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 9. Voting in the negative: None.

Medical Board

21 NCAC 32S .0216; 32M .0107; and 32R .0101 were withdrawn at the request of the agency. No action was required by the Commission.

Board of Nursing

Upon the call of the Chair, the Commission voted to extend the period of review for 21 NCAC 36 .0807 by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 9. Voting in the negative: None.

Board of Examiners in Optometry

Upon the call of the Chair, 21 NCAC 42E .0103 was approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 9. Voting in the negative: None.

Existing Rule Review

15A NCAC 05C - Upon the call of the Chair, the Commission voted to schedule readoption of the rules no later than September 1, 2025 pursuant to G.S. 150B-21.3A(d)(2) by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None.

Commissioner Jackson did not vote.

COMMISSION BUSINESS

Upon the call of the Chair, the Commission voted to adopt changes to 26 NCAC 05 .0116 and submit the rule for publication in the NC Register approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None.

Commissioner Hemphill left the meeting.

The Chair announced that there are no updates regarding the CRC v. RRC litigation; therefore, the Chair did not call the meeting into a closed session.

The meeting was adjourned at 11:18 a.m.

The next regularly scheduled meeting of the Commission is Wednesday, June 26, 2024, at 10:00 a.m.

Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:
Jeanette Doran, Chair

RULES REVIEW COMMISSION

May 29, 2024

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Kristen Mallett	DOJ
MICHAEL THOMPSON	CFCC
William VAHS	CFCC
Cliff Isaac	NCHBA
Kyle Heuser	DOI
Kathleen Aldridge	OSBM
Grace Handwick	OSBM
Heather Nickers	USLS
David Hemmington	USLS
Jennifer Everett	DEQ

RULES REVIEW COMMISSION

Rules Review Commission Meeting May 29, 2024
Via WebEx

Name	Agency
Sophie Plott	Labor
Jessica Winebrenner	nc.gov
Ryan Collins	DPI
James Chapman	DEQ
Dwain Veach	DEQ
Tonia Brown	OAH
Pamela Schooler	DOI
Dennis Seavers	Barbers
Ingrid Davis	nc.gov
Karen Holder	DOI
Dana McGhee	OAH
Arthur Harrell	OAH
Ashley Snyder	OAH
Denise Mazza	SHRC
David Dye	fcinsp.com
Tamara Zmuda	WRC
Hejduk, Mike	DOI
Amber Thiel	COMMERCE
Anne Coan	NCFB
Andy Ellen	NCRMA
Sarah Zambon	szambon@ncdoj.gov
Connie	connie@greenvillenc.com
Gabby Decker	bcbsnc.com
Casey Harris-Pratt	OSBM
Kenneth Belk Taylor	DEQ
Taylor Corpening	DHHS
Jeffrey Smythe	DOJ
Catherine Blum	DEQ
Connie M. Corey	greenvillenc.com
Chad Thompson	
W Shenton	poynerspruill.com
James Pearce	nc.gov
Mike Morton	cityofwsfire.org
Johnny Loper	Optometry
Thien Dao	nc.gov
William Rafferty	Optometry
Janice Peterson	Optometry

LIST OF APPROVED PERMANENT RULES

May 29, 2024 Meeting

HOME INSPECTOR LICENSURE BOARD

<u>Definitions</u>	11 NCAC 08 .1101
<u>Purpose and Scope</u>	11 NCAC 08 .1103
<u>General Exclusions</u>	11 NCAC 08 .1105
<u>Exterior</u>	11 NCAC 08 .1107
<u>Plumbing</u>	11 NCAC 08 .1109
<u>Electrical</u>	11 NCAC 08 .1110
<u>Code of Ethics</u>	11 NCAC 08 .1116

PRIVATE PROTECTIVE SERVICES BOARD

<u>Training Requirements for Unarmed Security Guards</u>	14B NCAC 16 .0707
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WILDLIFE RESOURCES COMMISSION

<u>License Fees</u>	15A NCAC 10A .1601
<u>Bladen County</u>	15A NCAC 10F .0304
<u>Dare County</u>	15A NCAC 10F .0310
<u>New Hanover County</u>	15A NCAC 10F .0314

FORESTERS, BOARD OF REGISTRATION FOR

<u>Registration Fees</u>	21 NCAC 20 .0106
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OPTOMETRY, BOARD OF EXAMINERS IN

<u>Prescriptions; Dispensing</u>	21 NCAC 42E .0103
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LIST OF APPROVED TEMPORARY RULES

May 29, 2024 Meeting

EDUCATION, STATE BOARD OF

<u>Standards of Professional Conduct</u>	16 NCAC 06C .0602
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