

## SUBCHAPTER 010 – ENVIRONMENTAL HEALTH

### SECTION .0100 – DELEGATION OF AUTHORITY TO ENFORCE THE COMMISSION FOR PUBLIC HEALTH SANITATION RULES

#### 15A NCAC 010 .0101 SCOPE OF DELEGATED AUTHORITY

No person shall act as an authorized agent of the state in enforcing the provisions of G.S. 130A and the rules of the Commission for Public Health, and the rules of the Environmental Management Commission, who is not a current employee of a local health department or the North Carolina Alliance of Public Health Agencies, registered with the North Carolina State Board of Sanitarian Examiners as a Registered Sanitarian or Sanitarian Intern and authorized pursuant to these Rules. Except as provided in Rule .0105 of this Section, an authorization shall be valid only in the county or district served by the local health department which employs the agent. There shall be eight areas of authorization to enforce the provisions of G.S. 130A and the rules of the Commission for Public Health found in 15A NCAC 18A and the rules of the Environmental Management Commission found in 15A NCAC 02C as follows:

- (1) Food, Lodging, and Institution Sanitation including the following:
  - (a) .1000 Sanitation of Summer Camps;
  - (b) .1300 Sanitation of Hospitals; Nursing and Rest Homes; Sanitariums, Sanitoriums; Educational and other Institutions;
  - (c) .1500 Sanitation of Local Confinement Facilities;
  - (d) .1600 Sanitation of Residential Care Facilities;
  - (e) .1800 Sanitation of Lodging Establishments;
  - (f) .2100 Rules Governing the Sanitation & Safety of Migrant Housing;
  - (g) .2200 Sanitation of Bed and Breakfast Homes;
  - (h) .2400 Sanitation of Public, Private, and Religious Schools;
  - (i) .2600 Sanitation of Restaurants and Other Foodhandling Establishments;
  - (j) .2700 Sanitation of Meat Markets; and
  - (k) .3000 Bed and Breakfast Inns.
- (2) On-Site Wastewater, including the following:
  - (a) .1900 Sewage Treatment and Disposal Systems;
  - (b) .1603 and .1606, 1611(a) and (b) and .1613 Sanitation of Residential Care Facilities (Family Foster Homes); and
  - (c) .2100 Rules Governing the Sanitation and Safety of Migrant Housing.
- (3) .2800 Sanitation of Child Care Centers.
- (4) .3100 Lead Poisoning Prevention in Children Program.
- (5) .2500 Public Swimming Pools.
- (6) .3200 Tattooing.
- (7) .1603, .1606, .1611(a) and (b), .1613 Sanitation of Residential Care Facilities (Family Foster Homes) and .2100 Rules Governing the Sanitation and Safety of Migrant Housing.
- (8) G.S. 87-97 and 15A NCAC 02C .0100 Standards of Construction: Water-Supply Wells.

*History Note: Authority G.S. 87-87; 130A-4;  
Temporary Adoption Eff. March 1, 1998;  
Eff. April 1, 1999;  
Temporary Amendment Eff. March 28, 2006;  
Amended Eff. October 1, 2008; August 1, 2006;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.*

#### 15A NCAC 010 .0102 ELIGIBILITY FOR DELEGATION OF AUTHORITY

- (a) The applicant for authorization shall successfully complete the centralized training course provided by the Division.
- (b) The applicant shall successfully complete field practice by evaluating sites and establishments with an authorized environmental health specialist to assure that the applicant knows the rules of the Commission for Public Health and the Environmental Management Commission, as applicable, and how to properly enforce them.
- (c) When the supervisor determines that the applicant has progressed sufficiently to work independently, the applicant may request to be evaluated for authorization. Documentation of the satisfactory completion of all required orientation

activities and field practice, including any inspection or evaluation forms completed by the applicant and comments of the supervisor shall be forwarded to the regional specialist.

(d) If, upon reviewing the file, the regional specialist finds that the applicant needs additional study or field practice, the evaluation for authorization may be postponed until that study or practice has been completed.

(e) Upon satisfactory completion of the requirements in Paragraphs (a) through (d) of this Rule, the regional specialist shall coordinate the administration of a written test which the applicant must pass by a score of 70 percent or more. The test may be repeated if necessary.

(f) An applicant requesting authorization for 15A NCAC 18A .3100 Lead Poisoning Prevention in Children Program shall take and successfully complete the North Carolina State of Practice course entitled "Lead Investigation and Abatement" and shall pass the written test provided by that course. An applicant requesting authorization for only 15A NCAC 18A Lead Poisoning Prevention in Children Program shall not be required to take the exam required in Paragraph (e) of this Rule.

(g) An applicant requesting authorization for 15A NCAC 02C .0100 to enforce the private well construction rules of the Environmental Management Commission shall take and successfully complete the North Carolina State of Practice course entitled Basic Private Wells Authorization Training: Groundwater Protection and Public Health or the Private Well portion of Centralized Intern Training, including any written test(s) associated with the course he or she takes. An applicant requesting authorization for 15A NCAC 02C .0100 Standards of Construction: Water-Supply Wells who has more than 18 months of experience in a well inspection program approved by the Department shall be required to take only the exam required in Paragraph (e) of this Rule.

(h) After the applicant has successfully completed the written test, the regional specialist shall conduct a field evaluation of the applicant's knowledge, skills, and ability to enforce the provisions of G.S. 130A and the rules of the Commission. Following the field evaluation, the regional specialist shall make a recommendation to the Director of the Division of Environmental Health regarding issuance or denial of authorization.

*History Note:* Authority G.S. 87-87; 130A-4;  
Temporary Adoption Eff. March 1, 1998;  
Eff. April 1, 1999;  
Amended Eff. October 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.

#### **15A NCAC 010 .0103 DELEGATION OF AUTHORITY**

Upon determination that the criteria in Rules .0101 and .0102 of this Section have been met and none of the reasons for denial listed in Rule .0107 of this Section exist, and upon a review of the recommendation of the regional specialist, the Director, Division of Environmental Health, shall issue or deny authorization. An Identification Card shall be issued by the Division to each person authorized to enforce provisions of G.S. 130A and the rules of the Commission for Public Health and G.S. 87-87, G.S. 87-97 and the rules of the Environmental Management Commission. The card shall be carried by the agent at all times when on duty. The card is the property of the Division and shall be returned to the Division upon separation of employment, suspension, or revocation of authorization or failure to maintain registration with the N.C. Board of Sanitarian Examiners.

*History Note:* Authority G.S. 130A-4;  
Temporary Adoption Eff. March 1, 1998;  
Eff. April 1, 1999;  
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Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.

#### **15A NCAC 010 .0104 LAPSED DELEGATIONS**

When one or more areas of authorization has lapsed, an applicant for reauthorization shall comply with the following:

- (1) An individual whose authorization in an area of authorization has lapsed for a period of up to three years shall complete training, which may also include portions of the centralized training course, as determined by the regional specialist after a field evaluation of the applicant's knowledge, skills, and ability to enforce the rules.

- (2) An individual whose authorization in an area of authorization has lapsed for a period of three years to five years shall meet all of the requirements which apply to new applicants, except that the individual shall be required to attend only the portions of the centralized training course which are directly applicable to the area of authorization requested.
- (3) An individual whose authorization in an area of authorization has lapsed for a period longer than five years shall meet all requirements which apply to new applicants.

*History Note:* Authority G.S. 130A-4;  
 Temporary Adoption Eff. March 1, 1998;  
 Eff. April 1, 1999;  
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**15A NCAC 010 .0105 AGENTS SERVING AS CONTRACTORS**

(a) An agent who is authorized in a specific local health department may contract with another local health department to provide services to the other local health department. The North Carolina Alliance of Public Health Agencies may also provide authorized agents who may perform contract services for any local health department. When a local health department contracts for such services, the contracting department shall provide a statement to the Division on progress made to employ an individual who may be considered for authorization.

(b) A contract shall be created between the contracting local health department and the agent (contractor) or with the North Carolina Alliance of Public Health Agencies to include at least the following provisions:

- (1) Names and addresses of each party.
- (2) Scope of work to be performed.
- (3) A requirement that the original public records remain in the local health department in which the work is performed. The public records shall be left at the local health department or with an individual employed by the local health department who shall be responsible for returning said records to the local health department within two business days of the service provided.
- (4) Designation of the party responsible for maintaining public records created by the agent.
- (5) A requirement that the contracting agent be available for consultation to the public being served during usual business hours.
- (6) A requirement that the contracting agent be available for any hearing or other legal proceeding which may ensue from activities conducted by the agent.

(c) The contracting agent shall maintain a list of each activity and the date performed for review in accordance with Paragraph (d) of this Rule.

(d) Each public record created by the contracting agent shall be reviewed, dated, and initialed by an authorized agent of the contracting local health department. In addition, at least 10 percent of the activities performed by the agent shall be reviewed in the field by an authorized agent employed by the contracting local health department. If the contracting local health department has no authorized agent, the Division shall conduct a review of each public record created by the contracting agent. In addition, at least 10 percent of the activities performed by the agent shall be reviewed on-site in the field by the Division. The review shall be conducted each month and shall cover the previous month's activities conducted by the agent.

*History Note:* Authority G.S. 130A-4;  
 Temporary Adoption Eff March 1, 1998;  
 Eff. April 1, 1999;  
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**15A NCAC 010 .0106 EVALUATION**

The regional specialist may, at any time, evaluate the performance of an authorized agent.

*History Note:* Authority G.S. 130A-4  
 Temporary Adoption Eff. March 1, 1998;

*Eff. April 1, 1999;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.*

**15A NCAC 010 .0107 DENIAL, SUSPENSION AND REVOCATION**

(a) The Director, Division of Environmental Health, may deny, suspend, or revoke the authorization to act as an agent of the State for any of the following:

- (1) failure to satisfy the requirements for authorization in Rules .0101, .0102 .0103, .0105 and .0106 of this Section;
- (2) fraud, deceit, dishonesty, or perjury in obtaining authorization or in performing authorized duties;
- (3) drug or alcohol induced intoxication on duty;
- (4) incompetency or unprofessionalism in performing authorized duties;
- (5) neglect of duty; or
- (6) failure to properly interpret and enforce laws, rules, and policies.

(b) The Director, Division of Environmental Health may place an individual on conditional status for a period not to exceed six months if the individual's failure to properly enforce laws, rules and policies may be corrected with additional education and oversight. The Director may suspend or revoke the authorization anytime during the conditional period if satisfactory progress is not made and the Director shall suspend or revoke the authorization after the conditional period if the individual does not demonstrate the necessary knowledge, skills and ability to warrant an unconditional authorization.

*History Note: Authority G.S. 130A-4;*  
*Temporary Adoption Eff. March 1, 1998;*  
*Eff. April 1, 1999;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.*

**15A NCAC 010 .0108 RE-AUTHORIZATION**

If an individual's authorization has been suspended, the authorization shall be reinstated upon determination by the Division that the reasons for suspension no longer exist. If an agent's authorization has been revoked for failure to comply with the requirements found in Rule .0107(a)(2) of this Section, the agent may not apply for reinstatement until five years after the revocation becomes effective. If an individual's authorization has been revoked for reasons other than those found in Rule .0107(a)(2) of this Section, the agent may reapply for authorization after six months from the date the revocation becomes effective by satisfying the requirements of Rules .0101 .0102 and .0103 of this Section. The Division may refuse to re-authorize an individual if the Division determines that the actions which were the basis for the revocation or suspension are likely to reoccur.

*History Note: Authority G.S. 130A-4;*  
*Temporary Adoption Eff. March 1, 1998;*  
*Eff. April 1, 1999;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.*

**15A NCAC 010 .0109 APPEALS PROCEDURES**

Appeals concerning denials, suspensions and revocations of authorization under these Rules shall be made in accordance with G.S. 150B. An individual whose authorization has been suspended or revoked and who timely requests an appeal may continue to work as an authorized agent until a final agency decision is made pursuant to G.S. 150B-36; however, all inspection forms and permits completed by the agent during that period must be countersigned by another authorized agent who concurs with the findings and conclusions reflected on the inspection forms and permits.

*History Note: Authority G.S. 130A-4;*  
*Temporary Adoption Eff. March 1, 1998;*  
*Eff. April 1, 1999;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.*

