



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

Commission for Public Health

ROY COOPER • Governor

KODY H. KINSLEY • Secretary

MARK T. BENTON • Deputy Secretary for Health

SUSAN KANSAGRA • Assistant Secretary for Public Health

Division of Public Health

MEMORANDUM

DATE: June 1, 2023

TO: Rulemaking Interested Persons

FROM: Virginia Niehaus, Rulemaking Coordinator, Commission for Public Health and
Director of Regulatory and Legal Affairs, Division of Public Health

RE: Notification of Proposed Rule Repeal: 10A NCAC 41A .0107

Pursuant to G.S. 150B-21.2, this memorandum serves as the required notice to interested persons that the Commission for Public Health (CPH) is proposing to repeal rule 10A NCAC 41A .0107, regarding the reporting of COVID-19 diagnostic test results by laboratories to public health officials.

This rule requires that reports be made in compliance with the requirements set forth in the United States Department of Health and Human Services' COVID-19 Pandemic Response, Laboratory Data Reporting: CARES Act Section 18115 guidance, which is no longer in effect now that the federal Public Health Emergency has ended. Given that case and test reporting have become less representative of COVID-19 activity in the community due to the widespread use of home testing and the existence of other surveillance systems that are now providing more timely and complete data for public health action, this rule is no longer needed and is proposed for repeal.

CPH has submitted notice of its intent to repeal this rule to the NC Office of Administrative Hearings (OAH). Pursuant to G.S. 150B-21.4(d), no fiscal note is required for the repeal of an existing rule. The notice of text that was published in today's edition of the NC Register is attached to this memorandum and may be found on OAH's website at <https://www.oah.nc.gov/rules-division/north-carolina-register>. The text of the proposed repeal may be found on the CPH's website at <https://cph.dph.ncdhhs.gov/>.

A public hearing on the proposed repeal is scheduled for Friday, July 7, 2023 at 2:00 p.m. The public hearing will be held by teleconference. You may participate in the public hearing by dialing 919-715-0769. No access code is required.

CPH is accepting public comments on the proposed repeal from June 1, 2023 through July 31, 2023. You may submit comments by email to cphcomment@lists.ncmail.net or by mail to Virginia Niehaus, Rulemaking Coordinator, Commission for Public Health, 1931 Mail Service Center, Raleigh, NC 27699-1931. Comments will also be accepted at the public hearing. The proposed effective date of this repeal is October 1, 2023.

Should you have questions related to this memorandum or proposed repeal, please contact Dr. Zack Moore, Epidemiology Section Chief, Division of Public Health at (919) 546-1725.

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF PUBLIC HEALTH

LOCATION: 5605 Six Forks Road, Building 3, Raleigh, NC 27609
MAILING ADDRESS: 1931 Mail Service Center, Raleigh, NC 27699-1931
www.ncdhhs.gov • TEL: 919-707-5000 • FAX: 919-870-4829

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

Attachment

cc: Dr. Ronald May, Chair, Commission for Public Health
Dr. Susan Kansagra, Assistant Secretary for Public Health, Division of Public Health
Dr. Zack Moore, Epidemiology Section Chief, Division of Public Health
Dr. Erica Wilson, Medical Director, Communicable Disease Branch, Division of Public Health

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to repeal the rule cited as 10A NCAC 41A .0107.

Pursuant to G.S. 150B-21.17, the Codifier has determined it impractical to publish the text of rules proposed for repeal unless the agency requests otherwise. The text of the rule(s) are available on the OAH website at <http://reports.oah.state.nc.us/ncac.asp>.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://cph.dph.ncdhhs.gov/>

Proposed Effective Date: *October 1, 2023*

Public Hearing:

Date: *July 7, 2023*

Time: *2:00 p.m.*

Location: *This public hearing will be held by teleconference at (919) 715-0769 (no access code required).*

Reason for Proposed Action:

Rule 10A NCAC 41A .0107 governs the reporting of COVID-19 diagnostic test results by laboratories to public health officials. This rule requires that reports be made in compliance with the requirements set forth in the United States Department of Health and Human Services' COVID-19 Pandemic Response, Laboratory Data Reporting: CARES Act Section 18115 guidance, which will no longer be in effect after the federal Public Health Emergency ends on May 11, 2023. Given that case and test reporting have become less representative of COVID-19 activity in the community due to the widespread use of home testing and the existence of other surveillance systems that are now providing more timely and complete data for public health action, this rule is no longer needed and is proposed for repeal.

Comments may be submitted to: *Virginia Niehaus, CPH Rulemaking Coordinator, 1931 Mail Service Center, Raleigh, NC 27699-1931; email cphcomment@lists.ncmail.net*

Comment period ends: *July 31, 2023*

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 written objections to the Rules Review Commission after the adoption of the Rule. 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 those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please 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 41 - EPIDEMIOLOGY HEALTH

SUBCHAPTER 41A - COMMUNICABLE DISEASE CONTROL

SECTION .0100 - COMMUNICABLE DISEASE CONTROL

10A NCAC 41A .0107 REPORTING OF COVID-19 DIAGNOSTIC TEST RESULTS

*History Note: Authority G.S. 130A-134; 130A-139; 130A-141; 130A-141.1;
Emergency Adoption Eff. September 25, 2020;
Temporary Adoption Eff. December 1, 2020;
Eff. October 1, 2021;
Amended Eff. October 1, 2022.*