

1 10A NCAC 13B .6103 is proposed for reoption with substantive changes as follows:

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3 **10A NCAC 13B .6103 APPLICATION OF PHYSICAL PLANT REQUIREMENTS EQUIVALENCY AND**
4 **CONFLICTS WITH REQUIREMENTS**

5 The physical plant requirements for each facility shall be applied as follows:

- 6 (1) ~~— New construction shall comply with the requirements of Section .6000 of this Subchapter;~~
7 (2) ~~— Existing buildings shall meet licensure and code requirements in effect at the time of construction,~~
8 ~~alteration, or modification;~~
9 (3) ~~— New additions, alterations, modifications, and repairs shall meet the technical requirements of~~
10 ~~Section .6000 of this Subchapter, however, where strict conformance with current requirements~~
11 ~~would be impractical, the authority having jurisdiction may approve alternative measures where the~~
12 ~~facility can demonstrate to the Division's satisfaction that the alternative measures do not reduce the~~
13 ~~safety or operating effectiveness of the facility;~~
14 (4) ~~— Rules contained in Section .6000 of this Subchapter are minimum requirements and not intended to~~
15 ~~prohibit buildings, systems or operational conditions that exceed minimum requirements;~~
16 (5) ~~— Equivalency: Alternate methods, procedures, design criteria, and functional variations from the~~
17 ~~physical plant requirements, because of extraordinary circumstances, new programs, or unusual~~
18 ~~conditions, may be approved by the authority having jurisdiction when the facility can effectively~~
19 ~~demonstrate to the Division's satisfaction, that the intent of the physical plant requirements are met~~
20 ~~and that the variation does not reduce the safety or operational effectiveness of the facility; and~~
21 (6) ~~— Where rules, codes, or standards have any conflict, the most stringent requirement shall apply.~~

22 (a) The Division may grant an equivalency to allow an alternate design or functional variation from the requirements
23 in Rule .3102 and the Rules contained in Sections .6000 through .6200 of this Subchapter. The equivalency may be
24 granted by the Division if a governing body submits a written equivalency request to the Division that indicates the
25 following:

- 26 (1) the rule citation and the rule requirement that will not be met;
27 (2) the justification for the equivalency;
28 (3) how the proposed equivalency meets the intent of the corresponding rule requirement; and
29 (4) a statement by the governing body that the equivalency request will not reduce the safety and
30 operational effectiveness of the facility design and layout.

31 The governing body shall maintain a copy of the approved equivalence issued by the Division.

32 (b) If the rules, codes, or standards contained in this Subchapter conflict, the most restrictive requirement shall apply.

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34 *History Note: Authority G.S. 131E-79;*
35 *Eff. January 1, 1996; 1996;*
36 *Readopted Eff. April 1, 2019.*