

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Child Care Commission intends to adopt the rule cited as 10A NCAC 09 .0512 and amend the rules cited as 10A NCAC 09 .0604 - .0605, .0805, .1003 and .2510.

Proposed Effective Date: September 1, 2007

Public Hearing:

Date: February 8, 2007

Time: 11 am – 12 pm

Location: NC Division of Child Development, 319 Chapanoke Road, Suite 120, Raleigh, NC

Reason for Proposed Action: The NC Child Care Commission is initiating rule-making regarding the requirements for the safety of children in child care facilities. Amendments to the rules will ensure the safety and welfare of children who are participating in activities off premises from their child care facility, either by being transported by motor vehicle or by taking a walk. Other changes simply recodify language within the rules for clarity, consistency and ease of reading.

Procedure by which a person can object to the agency on a proposed rule: Anyone wishing to comment on this proposed rule or to request copies of the rule should contact Dedra Alston, Rule-making Coordinator, NC Division of Child Development, 2201 Mail Service Center, Raleigh, NC 27699-2201, at 919-662-4543 or Dedra.Alston@ncmail.net. Written comments will be accepted through March 19, 2007. Oral comments may be made during the public hearing. The Commission Chairperson may impose time limits for oral remarks.

Comments may be submitted to: Dedra Alston, 2201 Mail Service Center, Raleigh, NC 27699-2201, phone (919) 662-4543, fax (919) 662-4568, email Dedra.Alston@ncmail.net

Comment period ends: March 19, 2007

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. If the Rules Review Commission receives written and signed objections 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 919-733-2721.

Fiscal Impact:

- State
Local
Substantive (>=\$3,000,000)
None

CHAPTER 09 - CHILD CARE RULES

SECTION .0500 - AGE APPROPRIATE ACTIVITIES FOR CENTERS

10A NCAC 09 .0512 OFF PREMISE ACTIVITIES

(a) Off premise activities refer to any activity which takes place away from licensed space.

(b) When children participate in off premise activities the following shall apply:

- (1) Children under the age of three shall not participate in off premise activities that involve children being transported in a motor vehicle.
(2) Before children are transported in a motor vehicle for off premise activities, written permission from a parent shall be obtained as specified in Rule .1003(i) of this Chapter.
(3) Before staff members walk children off premises for play or outings, the parent of each child shall give written permission for the child to be included in such activities.
(4) Parents may provide a written statement giving standing permission which may be valid for up to 12 months for participation in off premise activities that occur on a regular basis.
(5) The center shall maintain documents providing permission for participation for children in off premise activities.
(6) The facility shall post a schedule of off premise activities in each participating classroom where it can be easily viewed by parents, and a copy shall be given to parents. The schedule shall be current and shall include: the location of the activity, purpose of the activity, time the activity will take place, date of the activity, the name of the person(s) to be contacted in the event of an emergency.
(7) Each time that children are taken off the premises, staff shall take a list of the children participating in the activity with them. Staff members shall use this list to check attendance when leaving the facility, periodically when the children are involved in the activity, before leaving the activity to return to the child care facility, and upon return to the facility.

SECTION .0600 - SAFETY REQUIREMENTS FOR CHILD CARE CENTERS

10A NCAC 09 .0604 GENERAL SAFETY REQUIREMENTS

- (a) Potentially hazardous items, such as firearms and ammunition, hand and power tools, nails, chemicals, lawn mowers, gasoline or kerosene, archery equipment, propane stoves, whether or not intended for use by children, shall be stored in locked areas or with other appropriate safeguards, or shall be removed from the premises.
- (b) Electrical outlets not in use which are located in space used by the children shall be covered with safety plugs unless located behind furniture or equipment that cannot be moved by a child.
- (c) Electric fans shall be mounted out of the reach of children or shall be fitted with an appropriate mesh guard to prevent access by children.
- (d) All small electrical appliances shall be used only in accordance with the manufacturer's instructions.
- (e) Electrical cords shall not be accessible to infants and toddlers. Extension cords, except as approved by the local fire inspector, shall not be used. Frayed or cracked electrical cords shall be replaced.
- (f) All materials used for starting fires, such as matches and lighters, shall be kept in locked storage or shall be stored out of the reach of children.
- (g) Smoking shall not be permitted in space used by children when children are present. All smoking materials shall be kept in locked storage or out of the reach of children.
- (h) Fuel burning heaters, fireplaces and floor furnaces shall be provided with a protective screen attached securely to substantial supports to prevent access by children and to prevent objects from being thrown into them.
- (i) Plants that are toxic shall not be in indoor or outdoor space that is used by or is accessible to children.

~~(j)~~ (i) Air conditioning units shall be located so that they are not accessible to children or shall be fitted with a mesh guard to prevent objects from being thrown into them.

~~(k)~~ (j) Gas tanks shall be located so they are not accessible to the children or shall be in a protective enclosure or surrounded by a protective guard.

~~(l)~~ (k) Cribs and playpens shall be placed so that the children occupying them shall not have access to cords or ropes, such as venetian blind cords.

~~(m)~~ (l) The indoor and outdoor premises shall be checked daily for debris, vandalism and broken equipment. Debris shall be removed and disposed of appropriately.

~~(n)~~ (m) Plastic bags, toys and toy parts small enough to be swallowed, and materials that can be easily torn apart such as foam rubber and styrofoam, shall not be accessible to children under three years of age, except that styrofoam plates and larger pieces of foam rubber may be used for supervised art activities and styrofoam plates may be used for food service. Latex and rubber balloons shall not be accessible to children under five years of age.

(o) When non-mobile children are in care, a crib or other approved device shall be available for evacuation in case of fire or other emergency. The crib or other approved device shall be fitted with wheels in order to be easily moveable, have a reinforced bottom, and shall be able to fit through the designated fire exit. For centers that do not meet institutional building code, and the exit is more than eight inches above grade, the center shall develop a plan to ensure a safe and timely evacuation of the crib or other approved device. This plan shall be demonstrated to a Division representative for review and approval. During the monthly fire drills required by Rule 10A NCAC 09 .0302(d)(4), the evacuation crib or other approved device shall be used in the manner described in the evacuation plan.

10A NCAC 09 .0605 CONDITION OF OUTDOOR LEARNING ENVIRONMENT

(a) All equipment shall be in good repair and shall be maintained in useable condition. All commercially manufactured equipment shall be assembled and installed according to procedures specified by the manufacturer.

(b) Equipment shall be sturdy, stable, and free of hazards that are accessible to children during normal supervised play including sharp edges, lead based paint, loose nails, splinters, protrusions (excluding nuts and bolts on sides of fences), pinch and crush points.

(c) All broken equipment shall be removed from the premises immediately or made inaccessible to the children.

(d) Children shall not be allowed to play on outdoor equipment that is too hot to touch.

(e) Any openings in equipment, steps, decks and handrails shall be smaller than 3 1/2" or greater than 9" to prevent entrapment.

(f) All upright angles shall be greater than 55 degrees to prevent entrapment and entanglement.

(g) The outdoor play area shall be protected by a fence or other protection. The height shall be a minimum of four feet and the top of the fence shall be free of protrusions. The requirement disallowing protrusions on the tops of fences shall not apply to fences six feet high or above. The fencing shall exclude fixed bodies of water such as ditches, quarries, canals, excavations, and fish ponds. Gates to the fenced outdoor play area shall remain securely closed while children occupy the area.

(h) All stationary outdoor equipment more than 18 inches high shall be installed over a resilient surface. Footings which anchor equipment shall not be exposed. Loose surfacing material shall not be installed over concrete. Acceptable materials to be used for surfacing include the following: wood mulch, double shredded bark mulch, uniform wood chips, fine sand, coarse sand, and pea gravel. Other materials that have been certified by the manufacturer to be shock-absorbing resilient material in accordance with the American Society for Testing and Materials (ASTM) Standard 1292, may be used only if installed, maintained and replaced according to the manufacturer's instructions. Pea gravel shall not be used if the area will be used by children under three years of age. The depth of the surfacing that is required shall be based on the critical height of the equipment. The critical height is defined as the maximum height a child may climb, sit or stand.

~~(j)~~ The outdoor play area shall be protected by a fence or other protection. The height shall be a minimum of four feet and the top of the fence shall be free of protrusions by January 1, 1999. The requirement disallowing protrusions on the tops of fences shall not apply to fences six feet high or above. The fencing shall exclude fixed bodies of water such as ditches, quarries, canals, excavations, and fish ponds. Gates to the fenced outdoor play area shall remain securely closed while children occupy the area-

~~(k)~~ When the center uses areas outside the fenced outdoor play area for children

~~(l)~~ s activities or takes children off the premises for play or outings, the parent of each child shall give written permission for the child to be included in such activities. The permission may be:

~~(m)~~ (+)

~~(n)~~ a one-time, blanket permission for all activities;¶  
(2)

~~(o)~~ a one-time, blanket permission for a specific activity at any time; or¶  
(3)

~~(p)~~ a one-time permission for a specific activity at a designated time. The center shall maintain the signed permission in the child

~~(q)~~ s record. When children are taken off the premises, staff accompanying the children shall have a list of the names of all children participating in the outing. When the center provides transportation for children, the center shall furnish parents the names of all regularly scheduled drivers.¶  
(k)

~~(r)~~ (l)

~~(s)~~ (m)

~~(t)~~ (n)

~~(u)~~ Children shall not be allowed to play on outdoor equipment that is too hot to touch.¶  
(o)

~~(v)~~ (p)

~~(w)~~ The playground surface area shall be checked at least weekly to assure that surface material is maintained to assure continued resiliency.¶

~~(x)~~ Following completion of safety training by the administrator or other staff person as required by Rule .0705(e) of this Subchapter, a mon ... [1]

~~(y)~~ s files for review by a representative of the Division.¶  
(r)

~~(z)~~ (s)

~~(aa)~~ .0302d(4),

~~(ab)~~ (d)

~~(ac)~~ (e)

~~(ad)~~ (f)

- (1) Equipment with a critical height of five feet or less shall have six inches of any of the surfacing materials listed.
- (2) Equipment with a critical height of more than five feet but less than seven feet shall have six inches of any of the surfacing materials listed, except for sand.
- (3) Equipment with a critical height of seven feet to 10 feet shall have nine inches of any of the surfacing materials listed, except for sand.
- (4) When sand is used as a surfacing material for equipment with a critical height of more than five feet, 12 inches is required.

(i) The area required to have resilient surfacing is the area under and around the equipment where the child is likely to fall and it is called the fall zone.

(1) For stationary outdoor equipment used by children under two years of age, the resilient surfacing shall extend beyond the external limits of the equipment for a minimum of three feet.

(2) For stationary outdoor equipment used by children two years of age or older, the resilient surfacing shall extend beyond the external limits of the equipment for a minimum of six feet.

(j) Exceptions to Paragraph (i) of this Rule are as follows:

(1) Fall zones may overlap in two situations: around spring rockers, and around equipment that is more than 18 but less than 30 inches in height. If there are two adjacent structures and one is more than 18 but less than 30 inches in height, the resilient surfacing shall extend a minimum of nine feet between the two structures.

(2) Swings shall have resilient surfacing that extends two times the length of the pivot point to the surface below. The surfacing shall be to the front and rear of the swing.

(3) Tot swings shall have resilient surfacing that extends two times the length of the pivot point to the bottom of the swing seat. The surfacing shall be to the front and rear of the swing. Tot swings are defined as swings with enclosed seats.

(4) Tire swings shall have resilient surfacing that extends a distance of six feet plus the measurement from the pivot point to the swing seat and six feet to the side of the support structure.

(k) Swing seats shall be made of plastic or soft or flexible material.

(l) Elevated platforms shall have a guardrail or protective barrier, depending upon the height of the platform and the age of children that will have access to the piece of equipment. Guardrails shall prevent inadvertent or unintentional falls off the platform. The critical height for a platform with a guardrail is the top of the guardrail. Protective barriers shall prevent children from climbing over or through the barrier. The critical height for a platform with a protective barrier is the platform surface. All sides of platforms shall be protected except for the area which allows entry or exit. Measurements for the guardrails and protective barriers are stated below:

(1) Equipment used by preschool and school-age children:

(A) Guardrails - an elevated surface that is more than 20 inches and no more than 30 inches above the underlying surface shall have a guardrail. The minimum height of the top surface of the guardrail shall be at least 38 inches high and the lower edge shall be no more than 23 inches above the platform.

(B) Protective Barriers - an elevated surface that is more than 30 inches above the underlying surface shall have a protective barrier. The minimum height of the top surface of the protective barrier shall be at least 38 inches high.

(2) Equipment used exclusively by preschool children:

(A) Guardrails - an elevated surface that is more than 20 inches and no more than 30 inches above the underlying surface shall have a guardrail. The minimum height of the top surface of the guardrail shall be at least 29 inches high and the lower edge shall be no more than 23 inches above the platform.

(B) Protective Barriers - an elevated surface that is more than 30 inches above the underlying surface shall have a protective barrier. The minimum height of the top surface of the protective barrier shall be at least 29 inches high.

(3) Equipment used exclusively by school-age children:

(A) Guardrails - an elevated surface that is more than 30 inches and no more than 48 inches above the underlying surface shall have a guardrail. The minimum height of the top surface of the guardrail shall be at least 38 inches high and the lower edge shall be no more than 26 inches above the platform.

(B) Protective Barriers - an elevated surface that is more than 48 inches above the underlying surface shall have a protective barrier. The minimum height of the top surface of the protective barrier shall be at least 38 inches high.

(m) Large composite structures that were installed between January 1, 1989 and January 1, 1996 according to manufacturer's instructions that met existing safety standards for playground equipment at the time of installation, and received approval from the Division may continue to be used.

(n) Following completion of safety training by the administrator or other staff person as required by Rule .0705(e) of this Chapter, a monthly playground inspection shall be conducted. A trained administrator or staff person shall make a record of each inspection using a playground inspection checklist provided by the Division. The checklist shall be signed by the person who conducts the inspection and shall be maintained in the center's files for review by a representative of the Division.

Authority G.S. 110-85; 110-91(6); 143B-168.3.

## SECTION .0800 - HEALTH STANDARDS FOR CHILDREN

10A NCAC 09 .0805      SANITARY FOOD SERVICE

**Deleted:** (g)

**Deleted:** The resilient surfacing shall extend beyond the external limits of the equipment for a minimum of six feet.

**Deleted:** which is

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**Deleted:** Fall zones may overlap in three situations: between two swing structures, around spring rockers, or around equipment that is less than 30 inches in height.

**Deleted:** (h) Swings shall have resilient surfacing that extends two times the length of the pivot point to the surface below. The surfacing shall be to the front and rear of the swing. Enclosed tot swings shall have resilient surfacing that extends two times the length of the pivot point to the bottom of the swing seat. The surfacing shall be to the front and rear of the swing. Tot swings are defined as swings with enclosed seats. Tire swings shall have resilient surfacing that extends a distance of six feet plus the measurement from the pivot point to the swing seat and six feet to the side of the support structure.¶

**Deleted:** (i)

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**Deleted:** All sides of platforms shall be protected except for the area which allows entry or exit.

**Deleted:** surface; the critical height for a platform with a guardrail is the top of the guardrail.

**Deleted:** (k) All equipment and surfacing ordered, constructed or installed on or after October 1, 1997 shall conform to all the requirements in this Rule. All equipment and surfacing ordered, constructed, or installed prior to October 1, 1997 shall conform to Paragraphs (a) through (c) of this Rule.¶

(l) All equipment and surfacing ordered, constructed, or installed prior to October 1, 1997 shall conform with Paragraphs (d) through (j) of this Rule by January 1, 2000.¶

**Deleted:** (1) Any operator who is unable to comply by this date due to hardship may contact the Division by July 1, 1999 to apply for an extension of ... [2]

**Deleted:** In cases where a large

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**Deleted:** an operator may contact the Division to apply for approval for continued use of the structure. Ap ... [3]

**Deleted:** (A) Documentation submitted that verifies the structure was installed according to manufacturer

**Deleted:** s instructions; and¶  
(B) Documentation submitted that verifies the structure met existing ... [4]

(a) All food shall be served in a manner to minimize the possibility of contamination. In no instance shall any food be served directly on a table top, countertop, or other surface except on a sanitized high chair tray and must be cleaned and sanitized pursuant to 15A NCAC 18A .2812.

Deleted: etc.

(b) No more than one child shall be fed with the same utensil, drink from the same cup or glass, or be fed from the same individual portion of food.

- (1) Each child shall be served individual portions of food on a plate or in another appropriate container.
- (2) Beverages shall be served to children in individual cups or glasses. Any child who is bottle-fed must be fed from the child's own bottle only.
- (3) Each child shall be fed with an individual spoon or other safe utensil.
- (4) Snack foods may be placed on an individual napkin or paper towel to be served to a child.

Authority G.S. 110-85; 110-91(1); 143B-168.3.

## SECTION .1000 - TRANSPORTATION BY MOTOR VEHICLE

### 10A NCAC 09 .1003 SAFE PROCEDURES

(a) The driver or other adult in the vehicle shall assure that all children are received by a responsible adult.

Deleted: person.

(b) Each center shall establish safe procedures for pick-up and delivery of children. These procedures shall be communicated to parents, and a copy shall be posted in the center where they can easily be seen. Centers licensed for three to 12 children located in a residence are not required to post these procedures.

(c) A first-aid kit shall be located in each vehicle used on a regular basis to transport children. The first-aid kit shall be firmly mounted or otherwise secured if kept in the passenger compartment.

(d) Emergency and identification information about each child must be in the vehicle in which the child is riding whenever children are being transported.

(e) The driver shall be:

Deleted: be

(1) 21 years old;

Deleted: 18

(2) a duly licensed bus driver and have a valid driver's license of the type required under North Carolina Motor Vehicle Law for the vehicle being driven or comparable license from the state in which the driver resides; and

Deleted: or

(3) no convictions of Driving While Impaired (DWI) or any other impaired driving offense within the previous three years.

Deleted: school

(f) Each person in the vehicle must be seated in the manufacturer's designated areas. No child shall ride in the load carrying area or floor of a vehicle.

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(g) Children shall never be left in a vehicle unattended by an adult.

Deleted: last

(h) Children shall be loaded and unloaded from curbside, or in a safe, off-street area, out of the flow of traffic, so that they are protected from all traffic hazards.

(i) Before children are transported, written permission from a parent shall be obtained which shall include when and where the child is to be transported, expected time of departure and arrival, and the transportation provider.

(j) A written statement from parents giving standing permission for routine pick-up and delivery of children from home or school may be given for up to 12 months.

(k) The center shall maintain documents providing permission for participation for children in off premise activities.

(l) When children are transported, an adult in each vehicle shall have a working cellular phone with them for use in an emergency.

Authority G.S. 110-85; 110-91; 110-91(13); 143B-168.3.

## SECTION .2500 - CARE FOR SCHOOL-AGE CHILDREN

### 10A NCAC 09 .2510 STAFF QUALIFICATIONS

(a) The individual who is responsible for ensuring the administration of the program, whether on-site or off-site, shall:

- (1) Prior to employment, be at least 21 years old and have at least 400 hours of verifiable experience working with school-aged children in a licensed child care program or 600 hours of verifiable experience working with school-aged children in an unlicensed school-age care or camp setting; or have an undergraduate, graduate, or associate degree, with at least 12 semester hours in school-age care related coursework; and
- (2) Meet the requirements for a child care administrator in G.S. 110-91(8).

(b) At least one individual who is responsible for planning and ensuring the implementation of daily activities for a school-age program (who may be called a program coordinator) shall:

- (1) Be at least 18 years old and have a high school diploma or its equivalent prior to employment; and
- (2) Have completed two semester credit hours in child and youth development and two semester credit hours in school-age programming. Each individual who does not meet this requirement shall enroll in coursework within six months after becoming employed and shall complete this coursework within 18 months of enrollment. An individual who meets the staff requirements for administrator or lead teacher shall be considered as meeting the requirements for program coordinator, provided the individual completes Basic School-Age Care (BSAC) training.
- (3) In a part day program be on site when children are in care. For a full day program be on site for two thirds of the hours of operation. This may include times when the individual may be off site due to illness or vacation.

(c) Staff who are responsible for supervising groups of school-aged children (who may be called group leaders) shall be at least 18 years of age and have a high school diploma or its equivalent prior to employment, and shall complete the BSAC Training.

(d) Staff who assist group leaders (who may be called assistant group leaders) shall be at least 16 years of age and shall complete the BSAC training.

(e) The individual who is on-site and responsible for the administration of the school-age component of a center which also provides care to preschool-age children shall meet the requirements for child care administrator in G.S. 110-91(8) and Section .0700 of this Chapter.

Deleted: Subchapter.

(f) When an individual has responsibility for both administering the program and planning and ensuring the implementation of the daily activities of a school-age program, the individual shall meet the staff requirements for an administrator and shall complete the BSAC Training.

(g) Completion of the BSAC Training may count toward meeting one year's annual on-going training requirements in Section .0700 of this Chapter.

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(h) Individuals who have completed seven hours of school-age program training as approved by the Division prior to July 1, 2000 shall not be required to complete the BSAC Training.

(i) As used in this Rule, the term "experience working with school-aged children" shall mean experience working with school-aged children as an administrator, program coordinator, group leader, assistant group leader, lead teacher, teacher, or aide.

(j) The special training requirements in Rule .0705 of this Chapter shall apply to all programs for school-aged children.

(k) Whenever children participate in swimming or other aquatic activities, the following provisions shall apply:

(1) The children shall be supervised by persons having current life guard training certificates issued by the Red Cross or having other training determined by the Division to be equivalent to the Red Cross training, appropriate for the type of body of water and type of aquatic activities:

(A) One lifeguard is required for groups of 25 or fewer children.

(B) Two lifeguards are required for groups of 26 or more children.

(2) A person with lifeguard certification is not required when there are no more than 12 children present and the body of water has no portion deeper than 30 inches and the total surface area is not more than 400 square feet. The children shall be supervised by at least one adult who is certified to perform cardiopulmonary resuscitation appropriate for the ages of children in care.

(l) All staff shall receive on-site training and orientation as follows:

(1) Within the first two weeks of assuming responsibility for supervising a group of children, each employee shall complete at least six clock hours of training on:

(A) the recognition of the signs and symptoms of child abuse or neglect and in the employee's duty to report suspected abuse and neglect;

(B) review of the center's operational policies;

(C) adequate supervision of children, taking into account their age, emotional, physical and cognitive development.

(2) Within the first six weeks of assuming responsibility for supervising a group of children, each employee shall complete at least three additional clock hours of training on maintaining a safe and healthy environment and developmentally appropriate activities for school-age children.

Deleted: participate in at least three hours of documented orientation related to the program

Deleted: s-policies, activities and child safety within six weeks of assuming responsibility for supervising a group of children.

(m) The health requirements for staff and volunteers in Rule .0701 - .0702 of this Chapter shall apply.

(n) All staff under age 18 counted toward meeting the required staff/child ratio shall work under the direction of another staff person at least 21 years of age.

(o) Staff in part-time or full day school-age care programs required to complete BSAC Training shall do so within three months of becoming employed. Staff in seasonal school-age care programs required to complete BSAC Training shall do so within six weeks of becoming employed.

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Authority G.S. 110-85; 110-91(8),(11); 143B-168.3.

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~~Following completion of safety training by the administrator or other staff person as required by Rule .0705(e) of this Subchapter, a monthly playground inspection shall be conducted and a record of each inspection shall be completed. This staff person shall use a playground inspection checklist provided by the Division. The checklist shall be signed by the person who conducts the inspection and shall be maintained in the center~~

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- (1) Any operator who is unable to comply by this date due to hardship may contact the Division by July 1, 1999 to apply for an extension until January 1, 2001.
- (2)

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an operator may contact the Division to apply for approval for continued use of the structure. Approval shall be based upon:

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s instructions; and

- (B) Documentation submitted that verifies the structure met existing safety standards at the time of installation; and
- (C) An inspection from a representative of the Division to determine the structure remains in good repair and in a useable condition.