15A NCAC 18A .2901 is proposed for readoption with substantive changes as follows:

15A NCAC 18A .2901 DISBURSEMENT OF FUNDS

(a) For the purposes of this Rule, the following definitions shall apply:

2. “Disaster” means when a declaration has been made by the President of the United States under 44 C.F.R. Part 206, Subpart B, which is hereby incorporated by reference, including any subsequent editions or amendments, or by the Governor of North Carolina under G.S. 166A-19.3(3).
3. “Emergency” means when a state of emergency declaration has been issued under G.S. 166A-19.3(19).
4. “Event” means a National Special Security Event designated by the President of the United States under 18 U.S.C. 3056(e)(1), which is hereby incorporated by reference, including any subsequent editions or amendments.
5. “Rate of compliance” means the number of inspections for food and lodging establishments conducted by the local health department during the previous state fiscal year divided by the number of inspections mandated to be conducted by the local health department per state fiscal year pursuant to G.S. 130A-249 and 10A NCAC 46 .0213, not to exceed a value of 1.

(b) Fees collected pursuant to G.S. 130A-248(d), minus state expenses budgeted for the collection and inventory program, shall be distributed to local health departments for the support of local public health programs and activities as follows:

1. Seven hundred and fifty dollars ($750.00) to each county; and
2. the remaining balance of funds that remain after the distribution described in Subparagraph (b)(1) of this Rule shall be distributed to each county in accordance with the following formula:

\[
\text{allocation to the county} = \left( \frac{\text{number of facilities in the county}}{\text{number of facilities in the state}} \right) \times \left( \frac{\text{county's rate of compliance}}{100} \right)
\]

where the rate of compliance equals the number of inspections conducted by the local health department during the previous state fiscal year divided by the number of inspections mandated to be conducted by the local health department per state fiscal year pursuant to G.S. 130A-249 and 15A NCAC 25 .0213 for the previous fiscal year, not to exceed 100 percent.

(a)(A) [the remaining balance of funds after distribution in Paragraph (1)]Subparagraph (b)(1) of this Rule] multiplied by (the number of facilities in the county divided by the number of facilities in the state) multiplied by (the county's percentage rate of compliance with mandatory inspection requirements for food and lodging establishments in G.S. 130A-249 and 15A NCAC 25 .0213 for the previous fiscal year, not to exceed 100 percent) equals the allocation to the county; and

(b)(B) distribution of remaining funds to counties with 100 percent compliance with mandatory inspection requirements for food and lodging establishments as set out in G.S. 130A-249 and 10A NCAC 46 .0213 in the immediately preceding state fiscal year:
NCAC 25 .0213 during the previous fiscal year shall be made in accordance with the following: [total amount of remaining funds after distribution in Paragraph Subparagraph (b)(2)(A)] multiplied by (the number of facilities in the county divided by the number of facilities in all counties with 100 percent compliance with mandatory inspection requirements for food and lodging establishments as set forth in G.S. 130A-249 and 15A10A NCAC 2546 .0213 during the previous fiscal year) equals the additional allocation to the county.

(c) Notwithstanding the definition of rate of compliance in Paragraph (a) of this Rule, the total amount of funds distributed to a local health department shall be calculated in accordance with Paragraph (b) of this Rule, but using the local health department’s rate of compliance from the last state fiscal year that was completed immediately prior to a disaster, emergency, or event, when:

(1) one or more counties served by the local health department is named in a disaster or emergency declaration or in an event designation;

(2) the local health director or the local health director’s designee submits a written attestation to the State Environmental Health Director that includes the following:

(A) an explanation of how disruption caused by the disaster, emergency, or event is such that inspections that are required pursuant to G.S. 130A-249 and 10A NCAC 46 .0213 for food and lodging establishments cannot be carried out as planned because of the local health department’s involvement in the response to the disaster, emergency, or event; and

(B) a statement that the loss of funds as a result of the local health department’s decreased rate of compliance is expected to result in a financial hardship to the local health department’s environmental health program; and

(3) the Department determines that sufficient funds are available to make a disbursement to the local health department in accordance with this Paragraph.

(d) Attestations written pursuant to Paragraph (c) of this Rule shall be submitted to the State Environmental Health Director by mail at 5605 Six Forks Road, 1632 Mail Service Center, Raleigh, NC 27699-1632.

History Note: Authority G.S. 130A-9; 130A-248; 130A-249; Eff. May 1, 1991.