12 NCAC 04H .0401 is proposed for adoption as follows:

## SECTION .0400 – STANDARDS AND CERITIFICATION AS A DCIN USER

**12 NCAC 04H .0401 DCIN USERS**

(a) Prior to receiving certification as a DCIN user, and as a condition for maintaining certification as a DCIN user, each applicant or user shall be a citizen of the United States.

(b) The applicant or certified user shall be at least 18 years of age.

(c) An individual is eligible to attend certification class and become a DCIN user only if employed by and under the management control of an agency as described in Rule .0201 of this Subchapter and only after the individual has had a fingerprint-based criminal records search completed by the employing agency indicating that the individual has not been convicted of a criminal offense described in (d) or (e) of this Rule.

(d) A conviction of a felony renders an applicant or certified DCIN user permanently ineligible to hold such certification.

(e) A conviction of a crime or unlawful act defined as a Class B Misdemeanor renders an applicant ineligible to become certified as a DCIN user when such conviction is within 10 years of the applicant's date of request for DCIN certification. Existing DCIN users convicted of a crime or unlawful act defined as a Class B Misdemeanor while holding certification are ineligible to maintain such certification for a period of 10 years following such conviction. An applicant or certified DCIN user is permanently ineligible to hold such certification upon conviction of two or more Class B misdemeanors regardless of the date of conviction.

(f) No applicant for certification as a DCIN user is eligible for certification while the applicant is subject to pending or outstanding criminal charges, which, if adjudicated, would disqualify the applicant from holding such certification.

(g) No DCIN user is eligible to access DCIN while the user is subject to pending or outstanding criminal charges, which, if adjudicated, would disqualify the user from access.

(h) An employee assigned as a DCIN user and who currently holds valid certification as a sworn law enforcement officer with the powers of arrest through either the North Carolina Criminal Justice Education and Training Standards Commission or the North Carolina Sheriff's Education and Training Standards Commission is not subject to the criminal history record and background search provisions of this Rule.

*Authority G.S. 114-10; 114-10.1.*