SUBCHAPTER 01B - RULE-MAKING AND ADMINISTRATIVE HEARING PROCEDURES

SECTION .0100 - RULE-MAKING

13 NCAC 01B .0101 INSTRUCTIONS FOR FILING A PETITION FOR RULE-MAKING

- (a) Any person may petition the Commissioner of Labor to adopt a new permanent rule, or amend or repeal an existing permanent rule by submitting a rule-making petition to the Rulemaking Coordinator, N.C. Department of Labor, 1101 Mail Service Center, Raleigh, NC 27699-1101.
- (b) The petition shall be titled "Petition for Rule-making" and shall include the following information:
 - (1) the name and address of the person submitting the petition;
 - (2) a citation to any rule for which an amendment or repeal is requested;
 - (3) the text of any proposed rule or amended rule; and
 - (4) a statement of the effect of the requested rule change on the Department of Labor to include the effect on those over whom the agency has jurisdiction.
- (c) The petition may include the following to provide clarifying information to the Commissioner of Labor:
 - (1) documents or data supporting the petition;
 - (2) a statement of the reasons for adoption of the proposed rule(s), amendment, or repeal of an existing rule(s), to include why the proposed rule(s) or amendment is requested;
 - (3) a statement explaining the costs and computation of the cost factors, if known;
 - (4) a description, including named entities, if known, of those most likely to be affected by the proposed rule(s);
 - (5) the statutory authority for the agency to promulgate the rule(s); and
 - (6) any other information the person submitting the petition considers relevant.
- (d) The Commissioner of Labor shall grant or deny a petition for rule-making within 30 days of the date the rule-making petition is received by the agency. In making the decision, the Commissioner of Labor shall consider the information submitted with the petition and any other relevant information.
- (e) In the review of the proposed permanent rule, the Commissioner of Labor shall consider whether the Department has authority to adopt the rule; the effect of the proposed rule on existing rules, programs, and practices; probable costs and cost factors of the proposed rule; and the impact of the rule on the public and regulated entities.
- (f) When the Commissioner of Labor denies a petition for rule-making, a written notice of the denial shall be sent to the person who submitted the request. The notice shall state the reason for the denial.
- (g) When the Commissioner of Labor grants a rule-making petition, the Rulemaking Coordinator shall initiate permanent rule-making proceedings and send written notice of the proceedings to the person who submitted the request.

History Note: Authority G.S. 95-4(2); 150B-20;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. April 1, 2001; July 1, 1988; December 1, 1985;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22,

Amended Eff. May 1, 2022; January 1, 2020.

13 NCAC 01B .0102 MAILING LIST

- (a) Any person or agency desiring to be placed on the mailing list for the Department's rule-making notices issued pursuant to G.S. 150B-21.2(d) may file a request in writing to the Commissioner of the Department at 1101 Mail Service Center Raleigh, NC 27699-1101.
- (b) The request shall:
 - (1) include the person's name and address;
 - (2) specify the subject areas within the authority of the Department for which notice is requested; and
 - (3) state the calendar year(s) for which the notice is desired.

History Note: Authority G.S. 95-4(2); 150B-21.2;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. April 1, 2001;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22,

2018;

Amended Eff. May 1, 2022.

13 NCAC 01B .0103 DISPOSITION OF PETITIONS

History Note: Authority G.S. 95-4(2); 150B-16;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977; Amended Eff. April 1, 2001;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22,

2018;

Repealed Eff. May 1, 2022.

SECTION .0200 - NOTICE OF RULE-MAKING HEARINGS

13 NCAC 01B .0201 TIMING OF NOTICE

History Note: Authority G.S. 95-4(2); 150B-12(2);

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Repealed Eff. July 1, 1988.

13 NCAC 01B .0202 NOTICE MAILING LIST
13 NCAC 01B .0203 ADDITIONAL INFORMATION

History Note: Authority G.S. 95-4; 150B-12;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. July 1, 1988; December 1, 1985;

Repealed Eff. April 1, 2001.

SECTION .0300 - RULE-MAKING HEARINGS

13 NCAC 01B .0301 REQUEST TO PARTICIPATE

13 NCAC 01B .0302 CONTENTS OF REQUEST: GENERAL TIME LIMITATIONS

13 NCAC 01B .0303 RECEIPT OF REQUEST: SPECIFIC TIME LIMITS

13 NCAC 01B .0304 WRITTEN SUBMISSIONS

13 NCAC 01B .0305 PRESIDING OFFICER: POWERS AND DUTIES 13 NCAC 01B .0306 STATEMENT OF REASONS FOR DECISION

13 NCAC 01B .0307 RECORD OF PROCEEDINGS

History Note: Authority G.S. 95-4; 150B-12;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. July 1, 1988; December 1, 1985;

Repealed Eff. April 1, 2001.

13 NCAC 01B .0308 EMERGENCY RULES

History Note: Authority G.S. 95-4; 74A-1; 150B-13;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Repealed Eff. July 1, 1988.

SECTION .0400 - DECLARATORY RULINGS

13 NCAC 01B .0401 SUBJECTS OF DECLARATORY RULINGS SUBMISSION OF REQUEST FOR RULING

13 NCAC 01B .0403 DISPOSITION OF REQUESTS 13 NCAC 01B .0404 RECORD OF DECISION

13 NCAC 01B .0405 DEFINITION

History Note: Authority G.S. 95-4; 150B-17;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. July 1, 1988; December 1, 1985;

Repealed Eff. April 1, 2001.

SECTION .0500 - ADMINISTRATIVE HEARING PROCEDURES

13 NCAC 01B .0501 RIGHT TO HEARING 13 NCAC 01B .0502 PETITION FOR HEARING

History Note: Authority G.S. 95-4; 150B-23;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. July 1, 1988; December 1, 1985;

Repealed Eff. April 1, 2001.

13 NCAC 01B .0503 GRANTING OR DENYING HEARING REQUESTS

13 NCAC 01B .0504 NOTICE OF HEARING

13 NCAC 01B .0505 WHO SHALL HEAR CONTESTED CASES

13 NCAC 01B .0506 PETITION FOR INTERVENTION

13 NCAC 01B .0507 TYPES OF INTERVENTION

13 NCAC 01B .0508 DISQUALIFICATION OF HEARING OFFICERS

History Note: Authority G.S. 95-4; 150B;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977; Amended Eff. December 1, 1985; Repealed Eff. July 1, 1988.

SECTION .0600 - ADMINISTRATIVE HEARINGS: DECISIONS: RELATED RIGHTS AND PROCEDURES

13 NCAC 01B .0601 FAILURE TO APPEAR

History Note: Authority G.S. 95-4; 150B-25(a);

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Repealed Eff. July 1, 1988.

13 NCAC 01B .0602 SIMPLIFICATION OF ISSUES

History Note: Authority G.S. 95-4; 150B-33;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Repealed Eff. April 1, 2001.

13 NCAC 01B .0603 SUBPOENAS 13 NCAC 01B .0604 DEPOSITIONS

History Note: Authority G.S. 95-4(2); 150B-27; 150B-28(a);

Eff. February 1, 1976;

Readopted Eff. September 30, 1977; Amended Eff. December 1, 1985; Repealed Eff. July 1, 1988.

13 NCAC 01B .0605 REQUEST FOR DEPARTMENT RECORDS

13 NCAC 01B .0606 ASSISTANCE OF COUNSEL

13 NCAC 01B .0607 FINAL DECISIONS IN ADMINISTRATIVE HEARINGS

13 NCAC 01B .0608 APPLICABILITY

History Note: Authority G.S. 95-4; 95-4(2); 150B-2(2); 150B-23(a); 150B-28(b); 150B-36;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Repealed Eff. April 1, 2001.