

SUBCHAPTER 37C - RULEMAKING AND DECLARATORY RULINGS

SECTION .0100 - ADOPTION OF RULES

21 NCAC 37C .0101 PETITIONS FOR ADOPTION OF RULES

- (a) General. The procedure for petitioning the Board to adopt, amend, or repeal a rule is governed by G.S. 150B-20.
- (b) Submission. Rule-making petitions shall be sent to the Executive Director. No special form is required, but the petitioner shall state his name and address. The following shall be included in the petition:
- (1) a draft of the proposed rule;
 - (2) the reason for its proposal;
 - (3) the effect of the proposed rule on existing rules or decisions;
 - (4) data supporting the proposed rule;
 - (5) practices likely to be affected by the proposed rule;
 - (6) persons likely to be affected by the proposed rule.
- (c) Disposition. The Executive Director shall review the petition and develop a recommendation as to whether the petitioner's proposed rule should be rejected or implemented. The Executive Director shall present the petition and his recommendation to the Board at its next regular meeting following receipt of the petition, and the Board shall render its decision to either deny the petition or initiate rule-making. The Board shall notify the petitioner of its decision in writing within the period set by G.S. 150B-20.

History Note: Authority G.S. 90-285; 150B-20;
Eff. May 1, 1989;
Transferred and Recodified from 21 NCAC 37A .1201 Eff. April 1, 1996;
Amended Eff. April 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 22, 2014.

21 NCAC 37C .0102 PROCEDURE FOR ADOPTION OF RULES

- (a) General. The procedure for the adoption, amendment or repeal of rules is governed by G.S. 150B-21.2.
- (b) Notice of Rule-making. Notice of rule-making shall be published in the North Carolina Register. Any person who wishes to receive individual notice shall file a written request with the Executive Director and shall be responsible for the cost of mailing said notice.
- (c) Public Hearing. Any public rule-making hearing required by G.S. 150B-21.2 shall be conducted by the Chairman of the Board or by any person he may designate. The presiding officer shall have complete control of the hearing and shall conduct the hearing so as to provide a reasonable opportunity for any interested person to present views, data, and comments:
- (1) the presiding officer shall set a time limit for oral presentations.
 - (2) written presentations shall be submitted prior to or during a rule-making hearing and shall be acknowledged by the presiding officer and shall be given the same consideration as oral presentations.

History Note: Authority G.S. 90-285; 150B-21.2;
Eff. May 1, 1989;
Transferred and Recodified from 21 NCAC 37A .1202 Eff. April 1, 1996;
Amended Eff. April 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 22, 2014.

21 NCAC 37C .0103 DECLARATORY RULINGS

- (a) General. The issuance of declaratory rulings by the Board is governed by G.S. 150B-4.
- (b) Request And Contents. A request for a declaratory ruling shall be in writing and addressed to the Executive Director. The request shall contain the following information:
- (1) the name and address of the person making the request;
 - (2) the statute or rule to which the request relates;
 - (3) a concise statement of the manner in which the person has been aggrieved by the statute or rule;
 - (4) a statement as to whether a hearing is desired and, if desired, the reason therefor.
- (c) Refusal To Issue Ruling. The Board shall ordinarily refuse to issue a declaratory ruling under the following circumstances:

- (1) when the Board has already made a controlling decision on substantially similar facts in a contested case;
- (2) when the facts underlying the request for a ruling were specifically considered at the time of the adoption of the rule in question; or
- (3) when the subject matter of the request is involved in pending litigation in North Carolina.

History Note: Authority G.S. 150B-4;
Eff. May 1, 1989;
Transferred and Recodified from 21 NCAC 37A .1204 Eff. April 1, 1996;
Amended Eff. April 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 22, 2014.