

24 NCAC 03 .0406 SUBPOENAS ISSUED: MODIFY SUBPOENAS: INSPECT AND COPY DATA

(a) Any member of the Board or the hearing examiner shall, on the application of any party directed to the Board, forthwith issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence, including relevant books, correspondence, or documents, in his possession or under his control. Applications for subpoenas may be ex parte. The subpoena shall show on its face the name and address of the party at whose request the subpoena was issued.

(b) Any person served with a subpoena, or a subpoena to produce documents shall, within five days after the date of service of the subpoena upon him, move in writing to revoke or modify the subpoena if he does not intend to comply. All motions to revoke or modify shall be served on the party of whose request the subpoena was issued. The Board or hearing examiner shall revoke or modify the subpoena if, in its, his, or her opinion, the evidence of which production is required does not relate to any matters under investigation or in question in the proceedings or the subpoena does not describe with sufficient particularity the evidence of which production is required, or if for any other reason sufficient in law the subpoena is otherwise invalid. The Board or hearing examiner shall make a simple statement of procedural or other grounds for the ruling on the motion to revoke or modify. The motion to revoke or modify, any answer filed thereto, and any ruling thereon, shall become a part of the record.

(c) Persons compelled to submit data or evidence at a public proceeding are entitled to retain, or on payment of lawfully prescribed costs, to procure copies of transcripts of the data or evidence submitted by them.

(d) Upon the failure of any person to comply with a subpoena issued on the request of a party, the party, on approval of the Board, may initiate proceedings in the appropriate court for the enforcement thereof. The Board shall approve proceedings for the enforcement of the subpoena if in its judgment enforcement of such subpoena would be consistent with the law and policies of the Act. Failure to comply with a subpoena may result in imposition of sanctions set out in Rule .0405 of this Section.

*History Note: Authority G.S. 95-135;
Temporary Rule Eff. October 2, 1991 For a Period of 180 Days to Expire on March 30, 1992;
Eff. February 3, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014.*