

## CHAPTER 60 - BOARD OF REFRIGERATION EXAMINERS

### SECTION .0100 - ORGANIZATION AND DEFINITIONS

#### 21 NCAC 60 .0101 STRUCTURE OF BOARD

*History Note:* Authority G.S. 87-52; 87-54;  
Eff. February 1, 1976;  
Readopted Eff. April 17, 1978;  
Amended Eff. April 1, 1989; December 1, 1987;  
Repealed Eff. December 1, 1993.

#### 21 NCAC 60 .0102 OFFICE OF BOARD

The Board's office is located at 889 Highway 70, West, Suite 208, Garner, North Carolina. The Board's mailing address is 889 Highway 70 West, Garner, North Carolina, NC 27529. The Board's rules are available for inspection at this office during regular office hours. The materials used in rule-making decisions are available for inspection at said office.

*History Note:* Authority G.S. 87-54; 150B-11(2);  
Eff. February 1, 1976;  
Readopted Eff. April 17, 1978;  
Amended Eff. September 1, 2011; August 1, 2004; July 1, 2000; August 1, 1995; December 1, 1993;  
October 1, 1994.

#### 21 NCAC 60 .0103 RULE-MAKING AND ADMINISTRATIVE HEARING PROCEDURES

- (a) Administrative hearing procedures as set forth in Article 3A of Chapter 150B of the General Statutes of North Carolina shall be followed.
- (b) Rule-making procedures as set forth in Article 2 of Chapter 150B of the General Statutes of North Carolina shall be followed.
- (c) With respect to rules governing the conduct of hearings:
- (1) "presiding officer" means the Chairman of the State Board of Refrigeration Examiners or, the Chairman being unable to preside, a member of the Board designated by the full Board provided, however, that person shall not be the member serving on the review committee; and
  - (2) the following rules establishing procedures for contested cases, adopted by the Office of Administrative Hearings and contained in Title 26, Chapter 3 of the North Carolina Administrative Code, are hereby incorporated by reference for contested cases for which the Board has authority to adopt rules under G.S. 150B-38(h): .0001(1), .0005, .0006, .0012, .0013, .0014, .0015, .0016, .0017, .0018, .0019, .0020, .0021 and .0024. This incorporation does not include subsequent amendments and editions and applies to the listed rules in 26 NCAC 3 as amended as of January 1, 1989. References in such rules to the Office of Administrative Hearings shall be deemed for this purpose to be references to the State Board of Refrigeration Examiners, and the presiding officer for Board hearings shall have the powers and duties given in such rules to the administrative law judge. Copies of the rules incorporated by reference are on file in the Board's office and may be obtained there at no cost.

*History Note:* Authority G.S. 87-54; 150B-21.6; 150B-38(h);  
Eff. February 1, 1981;  
Amended Eff. October 1, 1995; April 1, 1989; May 1, 1988; October 1, 1984.

#### 21 NCAC 60 .0104 RESERVED FOR FUTURE CODIFICATION

**21 NCAC 60 .0105        REFRIGERATION LAW PLUG-IN DEVICES**

*History Note:*     *Authority G.S. 87-54; 87-58;*  
*Recodified from 21 NCAC 60 .0303 Eff. January 13, 1989;*  
*Repealed Eff. November 1, 1995.*

**SECTION .0200 - EXAMINATIONS**

**21 NCAC 60 .0201        DATES OF BOARD MEETINGS**

*History Note:*     *Authority G.S. 87-54; 87-58;*  
*Eff. February 1, 1976;*  
*Readopted Eff. April 17, 1978;*  
*Amended Eff. April 1, 1989; October 1, 1984; February 1, 1981;*  
*Repealed Eff. August 1, 2004.*

**21 NCAC 60 .0202        APPLICATION FOR EXAMINATION  
21 NCAC 60 .0203        FORM**

*History Note:*     *Authority G.S. 87-54; 87-64; 150A-11(1);*  
*Eff. February 1, 1976;*  
*Readopted Eff. April 17, 1978;*  
*Amended Eff. February 1, 1981;*  
*Repealed Eff. October 1, 1984.*

**21 NCAC 60 .0204        SCORING EXAMINATIONS**

*History Note:*     *Authority G.S. 87-54; 87-58;*  
*Eff. February 1, 1976;*  
*Readopted Eff. April 17, 1978;*  
*Amended Eff. April 1, 1997; August 1, 1995; October 1, 1984;*  
*Repealed Eff. August 1, 2004.*

**21 NCAC 60 .0205        RENEWAL AND REINSTATEMENT FEES**

*History Note:*     *Authority G.S. 87-54; 87-64;*  
*Eff. October 1, 1984;*  
*Repealed Eff. May 1, 1988.*

**21 NCAC 60 .0206        EXAMINATION APPLICATION DULY FILED**

An examination application shall be considered as duly filed when the applicant has filed an application with the Board, together with information verifying that he meets all of the minimum requirements to sit for an examination. By filing his application with the Board, an applicant authorizes the Board or the Board's staff to verify, in any manner the Board or staff deems necessary and appropriate, the information submitted on or in support of his application.

*History Note:*     *Authority G.S. 87-54; 87-58;*  
*Eff. October 1, 1984;*

*Amended Eff. August 1, 2004.*

**21 NCAC 60 .0207 REQUIREMENTS FOR EXAMINATION APPLICANTS**

- (a) An applicant for the commercial refrigeration examination shall be eligible to take that examination upon:
- (1) Filing with the Board an application, on a form provided by the Board, together with the non-refundable combined examination-license fee.
  - (2) Furnishing with his application information verifying that he has acquired at least 4000 hours of commercial refrigeration experience gained while engaged actively and directly in the installation, maintenance, servicing or repairing of commercial, industrial or institutional refrigeration equipment.
- (b) An applicant for the transport refrigeration examination shall be eligible to take that examination upon:
- (1) Filing with the Board an application, on a form provided by the Board, together with the non-refundable combined examination license fee.
  - (2) Furnishing with his application information verifying that he has acquired at least 4000 hours of transport or commercial refrigeration experience or a combination of both gained while engaged actively and directly in the installation, maintenance, servicing or repairing of transport or commercial refrigeration equipment or a combination of both.
- (c) Prior to filing the application, qualifying experience shall be acquired while working under the supervision of a person who holds a valid refrigeration contractor's license, who is a registered professional engineer or who has equivalent industry experience. Up to one-half of the experience may be in academic or technical training directly related to the field of endeavor for which the examination is requested. Applicants who obtain a license shall receive a certificate issued by the Board, bearing that license number. The license shall not be assigned or transferred to another individual.
- (d) An individual holding a valid transport contractor refrigeration license shall be eligible to sit for the commercial refrigeration examination upon filing with the Board an application, on a form provided by the Board, together with the combined examination-license fee.
- (e) The Board shall deny an examination applicant permission to take an examination when it finds the applicant is not eligible, regardless of whether it has previously notified the applicant that he may take the examination. The Board shall refuse to issue a license to a licensee when it finds the applicant is not qualified, regardless of whether the applicant has passed the appropriate examination. An applicant may contest the Board's decision by requesting an administrative hearing.

*History Note: Authority G.S. 87-54; 87-58;  
Eff. October 1, 1984;  
Amended Eff. August 1, 2004, July 1, 2000; April 1, 1997; December 1, 1993; April 1, 1989; September 1, 1988.*

**21 NCAC 60 .0208 EXAMINATION REVIEW**

An applicant who fails an examination or any portion of the examination shall have the opportunity to review any incorrect answers immediately following the examination.

*History Note: Authority G.S. 87-54; 87-58(d); 93B-8(c);  
Eff. May 1, 1988;  
Amended Eff. August 1, 2004.*

**21 NCAC 60 .0209 FEES**

Fees shall be set at the statutory maximum for the following:

- (1) Examination application/initial licensure;
- (2) License renewal;
- (3) License reinstatement.

*History Note: Authority G.S. 87-58(d); 87-64;  
Eff. May 1, 1989.*

**21 NCAC 60 .0210 SPECIAL EXAMINATION**

*History Note:* Authority G.S. 87-54; 87-58(d); 93B-8(c);  
Eff. December 1, 1993;  
Repealed Eff. August 1, 2004.

**21 NCAC 60 .0211 CERT REQUIREMENTS OF EPA: ISSUANCE OF CERT LICENSES BY BOARD**

- (a) All licensed refrigeration contractors and technicians as defined in 40 CFR 82.161 who handle refrigerants as stated in the Act and regulations must be certified by an EPA-Approved Technician's Certification Program effective November 14, 1994.
- (b) The State Board of Refrigeration Examiners shall issue a license or certification to contractors and technicians who can document successful completion of an EPA-Approved Course and Examination.

*History Note:* Authority G.S. 87-52; 87-54; 87-58; 42 U.S.C. ' 7671g(a); 40 C.F.R. 82.161;  
Eff. February 1, 1994.

**21 NCAC 60 .0212 QUALIFYING EXAMINATIONS**

- (a) Commercial Refrigeration contractor examinations are divided into four parts, "A," "B," "C" and "D." Transport refrigeration contractor examinations are divided into three parts, "A", "B" and "C".
- (b) Each applicant must successfully complete 70 percent of each part to pass an examination. Each candidate who passes an examination shall be issued a refrigeration contractor's license.
- (c) All qualifying examinations administered by the Board for each license classification shall be written or computer-based examinations and must be taken by the approved applicant.
- (d) The executive director shall schedule the examination and shall notify the approved applicant of the date, time and place.
- (e) The executive director shall arrange for examinations to be administered by the Board.

*History Note:* Authority G.S. 87-54; 87-58;  
Eff. August 1, 2004.

**21 NCAC 60 .0213 EXAMINATIONS**

- (a) In order to pass the qualifying examination, an applicant is required to pass all parts of the examination within the same one year period and within no more than three consecutive attempts. Each time an applicant takes the examination, he shall take all parts for which he does not have currently valid passing grades. If the applicant fails to pass all parts within one year or within three consecutive attempts (whichever period is shorter), any passing grades for individual parts shall no longer be valid and the applicant must start over by re-taking all parts of the examination.
- (b) A person who fails an examination must wait a period of five business days from the date he last failed an examination before he will be eligible to take another examination.
- (c) Each person who fails an examination shall be notified of his scores and the parts of the examination he failed.
- (d) If a person files an application for examination which is accepted, and takes and fails the examination, his verification of refrigeration experience shall be kept and shall be sufficient for taking any future examination, provided he files another application accompanied by the required fee.

*History Note:* Authority G.S. 87-54; 87-58;  
Eff. August 1, 2004

**SECTION .0300 - LICENSES AND FEES**

**21 NCAC 60 .0301 REGISTER OF LICENSEES**  
**21 NCAC 60 .0302 DESCRIPTION OF FORMS**

*History Note:* Authority G.S. 87-54; 150B-11(1);  
Eff. February 1, 1976;  
Readopted Eff. April 17, 1978;



*Repealed Eff. May 1, 1988.*

### **21 NCAC 60 .0310            LOST OR DESTROYED CERTIFICATES**

A lost or destroyed refrigeration license certificate may be reissued at no cost for a current year, upon receipt of a written request from the licensee stating the reason for his requesting a new certificate.

*History Note:    Authority G.S. 87-54; 87-60;  
                      Eff. February 1, 1976;  
                      Readopted Eff. April 17, 1978.*

### **21 NCAC 60 .0311            PERMITS**

(a) The refrigeration license number of the licensee shall appear on all applications for permits.  
(b) A licensee shall assure that a permit is obtained from the local Building Code enforcement official before commencing any installation work for which a license is required by the Board. The licensee shall also assure that a request for final inspection is made within 10 days of subsequent completion of the work for which a license is required, absent agreement with the owner and the local Building Code enforcement official.  
(c) A licensee shall obtain permits and allow his number to appear on permits only for work over which he will provide general supervision until the completion of the work, for which he holds the contract and for which he receives all contractual payments.

- (1)        General supervision is that degree of supervision which is necessary and sufficient to ensure that the work is performed in a competent manner and with the requisite skill and that the work is done timely, safely and in accordance with applicable codes and rules. General supervision requires that the review of the work be performed in person by the licensee while the work is in progress.
- (2)        Each business office for which a licensee is responsible shall be actively and locally supervised by that licensee who shall have primary responsibility and a corresponding amount of time personally involved in the work contracted for or performed by that office.

*History Note:    Authority G.S. 87-54; 87-58(g);  
                      Eff. May 1, 1988;  
                      Amended Eff. August 1, 2004; July 1, 2000; April 1, 1989.*

### **21 NCAC 60 .0312            CHANGE OF TRADE NAME**

The trade name under which a license is issued may be changed upon request to and approval by the Board. The last license issued to the licensee must be returned to the Executive Director along with the form provided by the Board.

*History Note:    Authority G.S. 87-54; 87-60;  
                      Eff. December 1, 1993.*

### **21 NCAC 60 .0313            PROCESSING FEE FOR SUBMITTAL OF BAD CHECK**

Any person or firm submitting to the Board a check which is subsequently returned to the Board because of insufficient funds in or no account at a bank will be charged the maximum processing fee allowed by G.S. 25-3-512. Until such time as the payer of such a bad check has made the check good and paid the prescribed processing fee, the payer will not be eligible to take an examination, obtain a license or have a license renewed.

*History Note:    Authority G.S. 87-54; 87-63;  
                      Eff. December 1, 1993.*

**21 NCAC 60 .0314 USE OF LICENSE**

- (a) The licensed contractor shall not permit the use of his license by any other person.
- (b) All refrigeration contracting business, including all business advertising and the submission of all documents and papers by a licensee of the Board shall be conducted in the exact name in which the refrigeration contracting license is issued.
- (c) Should a licensee terminate his relationship from a company in which his license is issued, work begun prior to such termination may be completed under such conditions as the Board shall direct subject to the following conditions deemed applicable by the Board under the unique facts and circumstances of each instance:
  - (1) the percentage of the project completed;
  - (2) the time that may elapse before another licensee can be employed for the project;
  - (3) the size and complexity of the project;
  - (4) the experience and qualifications of remaining personnel;
  - (5) any prior disciplinary record the company involved licensees has with the Board;
  - (6) the financial accountability of the firm;
  - (7) whether or not the remaining firm has any other occupational licenses.

However, no work for which a license is required under G.S. 87-58 may be bid for, contracted for or initiated prior to said company obtaining a license.

*History Note: Authority G.S. 87-54; 87-57;  
Eff. December 1, 1993;  
Amended Eff. April 1, 1997; August 1, 1995.*

**21 NCAC 60 .0316 CHANGE OF ADDRESS**

All licensees shall notify the Board in writing within 30 days of any change of address or business location.

*History Note: Authority G.S. 87-58;  
Eff. July 1, 2000.*

**SECTION .0400 - BOARD PERSONNEL**

**21 NCAC 60 .0401 SUPERVISION OF STAFF**

**21 NCAC 60 .0402 QUALIFICATIONS FOR EMPLOYMENT**

*History Note: Authority G.S. 87-54; 150B-11(1);  
Eff. February 1, 1976;  
Readopted April 17, 1978;  
Amended Eff. February 1, 1981;  
Repealed Eff. May 1, 1988.*

**21 NCAC 60 .0403 SALARY REVIEW COMMITTEE**

**21 NCAC 60 .0404 SALARIES AND FRINGE BENEFITS**

*History Note: Authority G.S. 87-54; 150B-11(1);  
Eff. February 1, 1981;  
Amended Eff. October 1, 1984;  
Repealed Eff. May 1, 1988.*

**SECTION .0500 - PETITIONS FOR RULES**

<b>21 NCAC 60 .0501</b>	<b>PETITION FOR RULEMAKING HEARINGS</b>
<b>21 NCAC 60 .0502</b>	<b>CONTENTS OF PETITION</b>
<b>21 NCAC 60 .0503</b>	<b>DISPOSITION OF PETITIONS</b>

*History Note:* Authority G.S. 87-54; 150A-16;  
 Eff. February 1, 1976;  
 Readopted Eff. April 17, 1978;  
 Repealed Eff. February 1, 1981.

### **SECTION .0600 - NOTICE OF RULEMAKING HEARINGS**

<b>21 NCAC 60 .0601</b>	<b>TIMING OF NOTICE</b>
<b>21 NCAC 60 .0602</b>	<b>NOTICE MAILING LIST</b>
<b>21 NCAC 60 .0603</b>	<b>ADDITIONAL INFORMATION</b>

*History Note:* Authority G.S. 87-54; 150A-12(a)(2); 150A-12(b); 150A-12;  
 Eff. February 1, 1976;  
 Readopted Eff. April 17, 1978;  
 Repealed Eff. February 1, 1981.

### **SECTION .0700 - RULEMAKING HEARINGS**

<b>21 NCAC 60 .0701</b>	<b>REQUEST TO PARTICIPATE</b>
<b>21 NCAC 60 .0702</b>	<b>CONTENTS OF REQUEST: GENERAL TIME LIMITATIONS</b>
<b>21 NCAC 60 .0703</b>	<b>RECEIPT OF REQUEST: SPECIFICATION LIMITS</b>
<b>21 NCAC 60 .0704</b>	<b>WRITTEN SUBMISSIONS</b>
<b>21 NCAC 60 .0705</b>	<b>PRESIDING OFFICER: POWERS AND DUTIES</b>
<b>21 NCAC 60 .0706</b>	<b>STATEMENT OF REASONS FOR DECISION</b>
<b>21 NCAC 60 .0707</b>	<b>RECORD OF PROCEEDINGS</b>
<b>21 NCAC 60 .0708</b>	<b>EMERGENCY RULES</b>

*History Note:* Authority G.S. 87-54; 150A-11; 150A-12(a),(e); 150A-13;  
 Eff. February 1, 1976;  
 Readopted Eff. April 17, 1978;  
 Repealed Eff. February 1, 1981.

### **SECTION .0800 - DECLARATORY RULINGS**

<b>21 NCAC 60 .0801</b>	<b>SUBJECTS OF DECLARATORY RULINGS</b>
<b>21 NCAC 60 .0802</b>	<b>SUBMISSION OF REQUEST FOR RULING</b>
<b>21 NCAC 60 .0803</b>	<b>DISPOSITION OF REQUESTS</b>

**21 NCAC 60 .0804      RECORD OF DECISION**  
**21 NCAC 60 .0805      DEFINITION**

*History Note:*    Authority G.S. 87-54; 150A-11; 150A-17;  
                          Eff. February 1, 1976;  
                          Readopted Eff. April 17, 1978;  
                          Repealed Eff. February 1, 1981.

#### **SECTION .0900 - ADMINISTRATIVE HEARING PROCEDURES**

**21 NCAC 60 .0901      RIGHT TO HEARING**  
**21 NCAC 60 .0902      REQUEST FOR HEARING**  
**21 NCAC 60 .0903      GRANTING OR DELAYING HEARING REQUESTS**  
**21 NCAC 60 .0904      NOTICE OF HEARING**  
**21 NCAC 60 .0905      WHO SHALL HEAR CONSENT CASES**  
**21 NCAC 60 .0906      PETITION FOR INTERVENTION**  
**21 NCAC 60 .0907      TYPES OF INTERVENTION**  
**21 NCAC 60 .0908      DISQUALIFICATION OF HEARING OFFICERS**

*History Note:*    Authority G.S. 87-54; 150A-2(2); 150A-23(a) through 150A-23(d); 150A-32;  
                          1A-1, Rule 24;  
                          Eff. February 1, 1976;  
                          Readopted Eff. April 17, 1978;  
                          Repealed Eff. February 1, 1981.

#### **SECTION .1000 - ADMINISTRATIVE HEARINGS: DECISIONS: RELATED RIGHTS AND PROCEDURES**

**21 NCAC 60 .1001      FAILURE TO APPEAR**  
**21 NCAC 60 .1002      SIMPLIFICATION OF ISSUES**  
**21 NCAC 60 .1003      SUBPOENAS**  
**21 NCAC 60 .1004      FINAL DECISION OF ADMINISTRATIVE HEARINGS**  
**21 NCAC 60 .1005      PROPOSALS FOR DECISIONS**

*History Note:*    Authority G.S. 87-54; 150A-25(a); 150A-27; 150A-31; 150A-33; 150A-34(a);  
                          150A-43;  
                          Eff. February 1, 1976;  
                          Readopted Eff. April 17, 1978;  
                          Repealed Eff. February 1, 1981.

#### **SECTION .1100 - DISCIPLINARY ACTION**

**21 NCAC 60 .1101      GENERAL**

*History Note:*    Authority G.S. 87-59; 87-63; 150B-11(1);

*Eff. February 1, 1981;*  
*Repealed Eff. April 1, 1989.*

## **21 NCAC 60 .1102        PREFERRED CHARGES**

(a) Any person who believes that any refrigeration contractor is in violation of the provisions of G.S. 87-59 may prefer charges against such contractor by setting forth the charges in writing with particularity including, but not limited to, the date and place of the alleged violation. Such charges shall be signed and sworn to by the party preferring such charges and filed with the Executive Director of the State Board of Refrigeration Examiners at the office of the Board, Suite 208, 893 Highway 70 West, Garner, North Carolina 27529.

(b) A licensee who prefers charges against a refrigeration contractor shall cooperate with the Board in its investigation of the complaint including the execution of an affidavit covering their knowledge of the facts and circumstances concerning the complaint, if required, and participate in any legal action authorized by the Board if requested by the Board or its representative.

(c) A licensee shall fully cooperate with the Board in connection with any inquiry it shall make. Full cooperation includes responding in a timely manner to all inquiries of the Board or representative of the Board and claiming Board correspondence from the U.S. Postal Service.

*History Note:     Authority G.S. 87-59;*  
*Eff. February 1, 1981;*  
*Amended Eff. August 1, 2004; July 1, 2000; August 1, 1995; December 1, 1993; April 1, 1989; December 1, 1987.*

## **21 NCAC 60 .1103        PRELIMINARY DETERMINATION**

(a) A charge, filed under Rule .1102 of this Section, shall be referred initially to a review committee.

(b) The review committee shall be made up of the following individuals:

- (1) one officer, other than the Chairman, of the State Board of Refrigeration Examiners,
- (2) the legal counsel of the Board,
- (3) the Executive Director of the State Board of Refrigeration Examiners.

(c) The review committee shall have the authority to determine prior to a full Board hearing whether or not charges filed against a refrigeration contractor are unfounded, frivolous or trivial. The determination of the review committee shall be final in this respect.

(d) Once a charge is referred to the review committee a written notice of said charge shall be forwarded to the licensee against whom the charge is made. Notice of the charge and of the alleged facts and circumstances surrounding the charge shall be given personally or by registered or certified mail, return receipt requested. A response to said charges shall be requested of the licensee so charged and shall be made within twenty days from the date shown on the return mail certificate or date of personal notice.

(e) If the licensee denies the charges brought against him, then in the sole discretion of the review committee, additional investigative personnel may be retained by the Board for the purpose of obtaining evidence relating to such charges. The reasonable expenses of any such additional personnel shall be borne by the Board.

(f) After all preliminary evidence has been received by the review committee it shall make a preliminary determination of the charges filed against the refrigeration contractor. From the evidence it may recommend to the Board that:

- (1) the charges be dismissed as unfounded, frivolous, trivial; or
- (2) when the charge is admitted by the licensee or the evidence warrants, the Board be presented with the charge for its decision. If the charge is of such gravity as to make the imposition of punitive sanctions likely, the Board may administer one or more of the following penalties if the licensee is found to have violated the provisions of Article 5 of Chapter 87 of the General Statutes;
  - (A) Reprimand;
  - (B) Suspension from practice for a period not to exceed 12 months;
  - (C) Probationary revocation of license upon conditions set by the Board as the case shall warrant with revocation upon failure to comply with the conditions; or
  - (D) Revocation of license; or
  - (E) An acceptance of an offer in compromise of the charge, as provided by G.S. 87-59(d).

- (3) if the charge is denied and evidence warrants, or if the charge, while admitted, is of such gravity as to make the imposition of punitive sanctions likely, the charge be presented to the Board for its decision on the merits of the charge in accordance with G.S. 150B. In connection with any such reprimand and subsequent order the Board may also provide that in the event the licensee is determined to have violated in the future any of the provisions of G.S. 87, Article 5, the Board may suspend or revoke his license as prescribed by law.

*History Note:* Authority G.S. 87-57; 87-59; 150B-38;  
Eff. February 1, 1981;  
Amended Eff. November 1, 1995; December 1, 1993; April 1, 1989; May 1, 1988.

**21 NCAC 60 .1104            JUDICIAL REVIEW**

*History Note:* Authority G.S. 87-59; 87-63; 150B-11(1);150B-43;  
Eff. February 1, 1981;  
Amended Eff. May 1, 1988;  
Repealed Eff. April 1, 1989.