

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: North Carolina Agricultural Finance Authority

RULE CITATION: 02 NCAC 63 .0101, .0102, .0103, .0104, .0105, & .0106 Temporary Rules

RECOMMENDATION DATE: August 16, 2024

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☐ Lack of statutory authority
 - ☐ Unclear or ambiguous
 - ☐ Unnecessary
- ☒ Failure to comply with the APA
- ☐ Extend the period of review

COMMENT:

The North Carolina Agricultural Finance Authority (hereinafter “the Authority”) was established by Chapter 122D, the 1983 North Carolina Agricultural Finance Act (hereinafter “the Act”), specifically G.S. 122D-4. While the Authority is “a body politic and corporate” “within the Department of Agriculture and Consumer Services” (hereinafter “the Department”), the Authority has rulemaking authority independent of the Department pursuant to G.S. 122D-6(4) to “adopt, promulgate and amend rules for the administration of this Chapter.” ¹

In Part X of Session Law 2023-134 (the “Current Operations Appropriations Act of 2023” more commonly known as the “Budget Bill”), the General Assembly adopted Article 88, titled the “Large Animal Healthcare Enhancement Act,” as part of Chapter 106 of the North Carolina

¹ THE DEPARTMENT IS ONLY MENTIONED FOUR TIMES IN THE ACT AND DOES NOT APPEAR TO PLAY A SIGNIFICANT ROLE IN THE OPERATIONS OF THE AUTHORITY. IT APPEARS TO HAVE A SIMILAR RELATIONSHIP AS THE OFFICE OF ADMINISTRATIVE HEARINGS HAS TO THE RULE REVIEW COMMISSION.

William W. Peaslee
Commission Counsel

General Statutes. ² Part X establishes the Large Animal Healthcare Enhancement Fund within the Department of Agriculture and Consumer Services to be “administered by the Authority.”

Part X of S.L. 2023-134, the General Assembly mandates that the Authority “adopt rules temporary rules to implement this section as soon as practicable...”³

S.L. 2023-134 became effective October 3, 2023.

Pursuant to G.S. 150B-21.1(a3) the Authority is required to submit proposed temporary rules and a notice of public hearing to the Codifier of Rules who shall then publish the same on the Internet.

On June 11, 2024 the Department, not the Authority, submitted the temporary rules and notice to the Codifier. The following statement was published by the Codifier.

“Notice is hereby given in accordance with G.S. 150B-21.1(a3) that the Department of Agriculture and Consumer Services intends to adopt the rules cited as 02 NCAC 63 .0101-.0106.”

As published, the temporary rules cite Title 02 of the North Carolina Administrative Code which is entitled “Agriculture and Consumer Services.” However, the Authority’s existing rules are in Title 24, entitled “Independent Agencies,” specifically Chapter 02, entitled “NC Agricultural Finance Authority.”

Thereafter, the temporary rules were adopted by the Authority on August 8, 2024 and submitted to the Rules Review Commission for review on August 12, 2024 by the Department rule-making coordinator who is different from the Authority rule-making coordinator.

I.

² CHAPTER 106 IS ENTITLED “AGRICULTURE.”

³ In the History Note for each rule the Authority cites G.S. 106-1074 as its authority to adopt rules. The language of G.S. 106-1074 does not contain rulemaking authority; only Section 10.1(c) of S.L. 2023-134 does. This error can and should be easily remedied. The Authority may want to consider asking the General Assembly to write its rulemaking authority into Article 88 of Chapter 106 of the North Carolina General Statutes rather than just the Session Law.

Pursuant to G.S. 150B-21.1(a3) the Authority, not the Department, was required to submit temporary rules and a notice of public hearing to the Codifier of Rules. Consequently, these rules were published as Department temporary rules, not Authority temporary rules. (See the attached exhibit.) Anyone looking for Authority rulemaking could easily have not seen the proposed temporary rules as they were published and cited as Department rules. Accordingly, staff recommends objection to the temporary rules pursuant to G.S. 150B-21.9(a)(4) for the Authority's failure to adopt the rules in accordance with the Administrative Procedures Act.

II.

Pursuant to G.S. 150B-21.1(a), to engage in temporary rulemaking the immediate adoption of a rule must be required by listed circumstances including "the effective date of a recent act of the General Assembly..." It is on this basis that the Authority claims authority to engage in temporary rulemaking as it cited on the Form 0500.

"Recent act" is defined in G.S. 150B-21.1(a2) as adoption within 210 days of the effective date of the act. The effective date of S.L. 2023-134 was October 3, 2023. The authority adopted these temporary rules on August 8, 2024, 310 days after the effective date of the act.

Accordingly, staff recommends objection to the temporary rules pursuant to G.S. 150B-21.9(a)(4) for the Authority's failure to adopt the rules in accordance with the Administrative Procedures Act.

Note from the Codifier: The OAH website includes notices and the text of proposed temporary rules as required by G.S. 150B-21.1(a1). Prior to the agency adopting the temporary rule, the agency must hold a public hearing no less than five days after the rule and notice have been published and must accept comments for at least 15 business days.
For questions, you may contact the Office of Administrative Hearings at 984-236-1850 or email oah.postmaster@oah.nc.gov.

TITLE 02 – DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Notice is hereby given in accordance with G.S. 150B-21.1(a3) that the Department of Agriculture and Consumer Services intends to adopt the rules cited as 02 NCAC 63 .0101-.0106.

Codifier of Rules received for publication the following notice and proposed temporary rule(s) on: June 11, 2024.

Public Hearing:

Date: June 25, 2024

Time: 10:00 a.m.

Location: Steve Troxler Agricultural Sciences Center: 4400 Reedy Creek Road, Raleigh NC (Room A201A)

Reason for Proposed Temporary Action: The effective date of a recent act of the General Assembly or of the U.S. Congress, cite: G.S. 106-1073, effective date: September 22, 2023. The NCGA stood up the Large Animal Healthcare Enhancement Advisory Committee in the 2023 General Assembly session. This "Temporary Rule" has been discussed and voted on by the Large Animal Healthcare Enhancement Advisory Committee on June 10, 2024. This "Temporary Rule" has subsequently been voted on by the Board of Directors of the North Carolina Agricultural Finance Authority on June 11, 2024, which G.S. 106-1073 housed the Large Animal Health Enhancement Advisory Committee.

Comment Procedures: Comments from the public shall be directed to: Robert Hosford, 1101 Spring Forest Road, Suite 150, Raleigh, NC 27615; email largeanimalvetgrants@ncagr.gov. The comment period begins June 13, 2024 and ends July 5, 2024.

CHAPTER 63 – LARGE ANIMAL HEALTHCARE ENHANCEMENT ADVISORY COMMITTEE

SECTION .0100 - GENERAL PROVISIONS

02 NCAC 63 .0101 PURPOSE

This Chapter describes the operating procedures for the Large Animal Healthcare Enhancement Advisory Committee and the Chair under the guidance of the North Carolina Department of Agriculture and Consumer Services, and the North Carolina Agricultural Finance Authority implementing the Large Animal Healthcare Enhancement Fund for the enhancement of large animal veterinary services in North Carolina. Procedures and guidelines for participating applicants are also described. The purpose of the program is to provide grants to encourage veterinary students to sustainably serve as large or mixed animal veterinarians in underserved areas in the state and to provide additional resources for large or mixed animal veterinary practices that operate in underserved areas to help them to better serve their communities.

Authority G.S. 106-1074.

02 NCAC 63 .0102 DEFINITIONS

In addition to the terms defined in Article 88 of Chapter 106 of the North Carolina General Statutes, the following terms used in this Chapter have the following meanings:

- (1) "Applicant" means a large animal veterinarian who applies for funds from the Large Animal Healthcare Enhancement Fund.
- (2) "Application" means a form developed and made available by the Large Animal Healthcare Enhancement Advisory Committee, including, but not limited to, any attachments and other information or documentation required by the form, for an applicant to complete and submit to the advisory committee to request a grant from the fund.
- (3) "Chair" or "Commissioner" means the chair of the advisory committee who is also the Commissioner of Agriculture.
- (4) "Grant" means an amount of money designated by the advisory committee to be given to a qualified applicant who has been chosen by the advisory committee.
- (5) "Grant recipient" means a qualified applicant who has received a grant.
- (6) "Large animal" means any of the animals referenced in G.S. 106-1072(8) and (9).
- (7) "Qualified applicant" means a large animal veterinarian (as defined in G.S. 106-1072(8)) and who otherwise meets the criteria described in this Rule and in Article 88 of Chapter 106 of the North Carolina General Statutes.

Authority G.S. 106-1074.

02 NCAC 63 .0103 EVALUATION OF APPLICATIONS

(a) Applicants for funding from the fund shall submit a completed application within 60 days from the date of the public announcement of requests for proposals (the "application deadline").

(b) Applications and instructions shall be available online at www.ncagr.gov.

William W. Peaslee
Commission Counsel

§ 150B-21.9. Standards and timetable for review by Commission.

(a) Standards. - The Commission must determine whether a rule meets all of the following criteria:

- (1) It is within the authority delegated to the agency by the General Assembly.
- (2) It is clear and unambiguous.
- (3) It is reasonably necessary to implement or interpret an enactment of the General Assembly, or of Congress, or a regulation of a federal agency. The Commission shall consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed.
- (4) It was adopted in accordance with Part 2 of this Article.

The Commission shall not consider questions relating to the quality or efficacy of the rule but shall restrict its review to determination of the standards set forth in this subsection.

The Commission may ask the Office of State Budget and Management to determine if a rule has a substantial economic impact and is therefore required to have a fiscal note. The Commission must ask the Office of State Budget and Management to make this determination if a fiscal note was not prepared for a rule and the Commission receives a written request for a determination of whether the rule has a substantial economic impact.

(a1) Entry of a rule in the North Carolina Administrative Code after review by the Commission creates a rebuttable presumption that the rule was adopted in accordance with Part 2 of this Article.

(b) Timetable. - The Commission must review a permanent rule submitted to it on or before the twentieth of a month by the last day of the next month. The Commission must review a rule submitted to it after the twentieth of a month by the last day of the second subsequent month. The Commission must review a temporary rule in accordance with the timetable and procedure set forth in G.S. 150B-21.1. (1991, c. 418, s. 1; 1995, c. 507, s. 27.8(f); 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2003-229, s. 9.)

§ 150B-21.1. Procedure for adopting a temporary rule.

(a) Adoption. - An agency may adopt a temporary rule when it finds that adherence to the notice and hearing requirements of G.S. 150B-21.2 would be contrary to the public interest and that the immediate adoption of the rule is required by one or more of the following:

- (1) A serious and unforeseen threat to the public health, safety, or welfare.
- (2) The effective date of a recent act of the General Assembly or the United States Congress.
- (3) A recent change in federal or State budgetary policy.
- (4) A recent federal regulation.
- (5) A recent court order.
- (6) The need for a rule establishing review criteria as authorized by G.S. 131E-183(b) to complement or be made consistent with the State Medical Facilities Plan approved by the Governor, if the rule addresses a matter included in the State Medical Facilities Plan, and the proposed rule and a notice of public hearing is submitted to the Codifier of Rules prior to the effective date of the Plan.
- (7) The need for the Wildlife Resources Commission to establish any of the following:
 - a. No wake zones.
 - b. Hunting or fishing seasons, including provisions for manner of take or any other conditions required for the implementation of such season.
 - c. Hunting or fishing bag limits.
 - d. Management of public game lands as defined in G.S. 113-129(8a).
- (8) The need for the Secretary of State to implement the certification technology provisions of Article 11A of Chapter 66 of the General Statutes, to adopt uniform Statements of Policy that have been officially adopted by the North American Securities Administrators Association, Inc., for the purpose of promoting uniformity of state securities regulation, and to adopt rules governing the conduct of hearings pursuant to this Chapter.
- (9) The need for the Commissioner of Insurance to implement the provisions of G.S. 58-2-205.
- (10) The need for the State Chief Information Officer to implement the information technology procurement provisions of Article 15 of Chapter 143B of the General Statutes.
- (11) The need for the State Board of Elections to adopt a temporary rule after prior notice or hearing or upon any abbreviated notice or hearing the agency finds practical for one or more of the following:
 - a. In accordance with the provisions of G.S. 163-22.2.
 - b. To implement any provisions of state or federal law for which the State Board of Elections has been authorized to adopt rules.
 - c. The need for the rule to become effective immediately in order to preserve the integrity of upcoming elections and the elections process.
- (12) Repealed by Session Laws 2015-264, s. 22, effective October 1, 2015.
- (13), (14) Reserved.
- (15) Expired pursuant to Session Laws 2002-164, s. 5, effective October 1, 2004.
- (16) Expired pursuant to Session Laws 2003-184, s. 3, effective July 1, 2005.
- (17) To maximize receipt of federal funds for the Medicaid or NC Health Choice programs within existing State appropriations, to reduce Medicaid or NC Health

Choice expenditures, and to reduce Medicaid and NC Health Choice fraud and abuse.

(a1) Recodified as subdivision (a)(16) of this section by Session Laws 2004-156, s. 1.

(a2) A recent act, change, regulation, or order as used in subdivisions (2) through (5) of subsection (a) of this section means an act, change, regulation, or order occurring or made effective no more than 210 days prior to the submission of a temporary rule to the Rules Review Commission.

Upon written request of the agency, the Commission may waive the 210-day requirement upon consideration of the degree of public benefit, whether the agency had control over the circumstances that required the requested waiver, notice to and opposition by the public, the need for the waiver, and previous requests for waivers submitted by the agency.

(a3) Unless otherwise provided by law, the agency shall:

- (1) At least 30 business days prior to adopting a temporary rule, submit the rule and a notice of public hearing to the Codifier of Rules, and the Codifier of Rules shall publish the proposed temporary rule and the notice of public hearing on the Internet to be posted within five business days.
- (2) At least 30 business days prior to adopting a temporary rule, notify persons on the mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a temporary rule and of the public hearing.
- (3) Accept written comments on the proposed temporary rule for at least 15 business days prior to adoption of the temporary rule.
- (4) Hold at least one public hearing on the proposed temporary rule no less than five days after the rule and notice have been published. If notice of a public hearing has been published and that public hearing has been cancelled, the agency shall publish notice at least five days prior to the date of any rescheduled hearing.

(a4) An agency must also prepare a written statement of its findings of need for a temporary rule stating why adherence to the notice and hearing requirements in G.S. 150B-21.2 would be contrary to the public interest and why the immediate adoption of the rule is required. If the temporary rule establishes a new fee or increases an existing fee, the agency shall include in the written statement that it has complied with the requirements of G.S. 12-3.1. The statement must be signed by the head of the agency adopting the temporary rule.

(b) Review. - When an agency adopts a temporary rule it must submit the rule and the agency's written statement of its findings of the need for the rule to the Rules Review Commission. Within 15 business days after receiving the proposed temporary rule, the Commission shall review the agency's written statement of findings of need for the rule and the rule to determine whether the statement meets the criteria listed in subsection (a) of this section and the rule meets the standards in G.S. 150B-21.9. The Commission shall direct a member of its staff who is an attorney licensed to practice law in North Carolina to review the statement of findings of need and the rule. The staff member shall make a recommendation to the Commission, which must be approved by the Commission or its designee. The Commission's designee shall be a panel of at least three members of the Commission. In reviewing the statement, the Commission or its designee may consider any information submitted by the agency or another person. If the Commission or its designee finds that the statement meets the criteria listed in subsection (a) of this section and the rule meets the standards in G.S. 150B-21.9, the Commission or its designee must approve the temporary rule and deliver the rule to the Codifier of Rules within two business days of approval. The Codifier of Rules must enter the rule into the North Carolina Administrative Code on the sixth business day following receipt from the Commission or its designee.

(b1) If the Commission or its designee finds that the statement does not meet the criteria listed in subsection (a) of this section or that the rule does not meet the standards in G.S. 150B-21.9, the Commission or its designee must immediately notify the head of the agency. The agency may supplement its statement of need with additional findings or submit a new statement within 30 days of the notification. If the agency fails to supplement its statement of need with additional findings or submit a new statement to the Commission within 30 days, or submits written notice within 30 days to the Commission that the agency does not intend to supplement its statement of need with additional findings or submit a new statement, the Commission or its designee shall immediately return the rule to the agency. If the agency provides additional findings or submits a new statement within 30 days of the notification, the Commission or its designee must review the additional findings or new statement within five business days after the agency submits the additional findings or new statement. If the Commission or its designee again finds that the statement does not meet the criteria listed in subsection (a) of this section or that the rule does not meet the standards in G.S. 150B-21.9, the Commission or its designee must immediately notify the head of the agency and return the rule to the agency. When the Commission returns a rule to an agency in accordance with this subsection, the agency may file an action for declaratory judgment within 30 days after notification of the return of the rule by the Commission in Wake County Superior Court pursuant to Article 26 of Chapter 1 of the General Statutes.

(b2) If an agency decides not to provide additional findings or submit a new statement when notified by the Commission or its designee that the agency's findings of need for a rule do not meet the required criteria or that the rule does not meet the required standards, the agency must notify the Commission or its designee of its decision. The Commission or its designee shall then return the rule to the agency. When the Commission returns a rule to an agency in accordance with this subsection, the agency may file an action for declaratory judgment in Wake County Superior Court pursuant to Article 26 of Chapter 1 of the General Statutes within 30 days of the date the rule is returned to the agency.

(b3) Notwithstanding any other provision of this subsection, if the agency has not complied with the provisions of G.S. 12-3.1, the Codifier of Rules shall not enter the rule into the Code.

(b4) When the Commission returns to an agency a proposed permanent rule intended to replace a temporary rule, the holder of a permit from the agency may submit revised plans for a revised permit removing the impacts of the returned rule if all of the following conditions apply:

(1) The permit was conditioned upon adherence to the requirements of a temporary rule that the returned proposed permanent rule was intended to replace.

(2) The revised plans comply with all other applicable regulations.

The agency shall review the revised plans and approve or deny the revised permit within 45 days of the receipt of the revised plans. The agency may not impose an additional permit fee for review of a revised plan resulting from the expiration of a temporary rule.

(c) Standing. - A person aggrieved by a temporary rule adopted by an agency may file an action for declaratory judgment in Wake County Superior Court pursuant to Article 26 of Chapter 1 of the General Statutes. In the action, the court shall determine whether the agency's written statement of findings of need for the rule meets the criteria listed in subsection (a) of this section and whether the rule meets the standards in G.S. 150B-21.9. The court shall not grant an ex parte temporary restraining order.

(c1) Filing a petition for rule making or a request for a declaratory ruling with the agency that adopted the rule is not a prerequisite to filing an action under this subsection. A person who files an

action for declaratory judgment under this subsection must serve a copy of the complaint on the agency that adopted the rule being contested, the Codifier of Rules, and the Commission.

(d) Effective Date and Expiration. - A temporary rule becomes effective on the date specified in G.S. 150B-21.3. A temporary rule expires on the earliest of the following dates:

- (1) The date specified in the rule.
- (2) The effective date of the permanent rule adopted to replace the temporary rule, if the Commission approves the permanent rule.
- (3) The date the Commission returns to an agency a permanent rule the agency adopted to replace the temporary rule.
- (4) The effective date of an act of the General Assembly that specifically disapproves a permanent rule adopted to replace the temporary rule.
- (5) 270 days from the date the temporary rule was published in the North Carolina Register, unless the permanent rule adopted to replace the temporary rule has been submitted to the Commission.
- (6) Notwithstanding subdivision (5) of this subsection, 12 months after the effective date of the temporary rule.

(e) Publication. - When the Codifier of Rules enters a temporary rule in the North Carolina Administrative Code, the Codifier must publish the rule in the North Carolina Register.

§ 122D-4. North Carolina Agricultural Finance Authority.

(a) The North Carolina Agricultural Finance Authority, a body politic and corporate, is hereby created within the Department of Agriculture and Consumer Services. The Authority shall be constituted a public agency and an instrumentality of the State for the performance of essential public functions.

(b) The Authority shall be composed of 10 members appointed to three-year terms as follows:

- (1) One member appointed by the Governor to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by three.
- (2) One member appointed by the Governor to a term that expires on 1 July of years that are evenly divisible by three.
- (3) One member appointed by the Governor to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by three.
- (4) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by three.
- (5) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that are evenly divisible by three.
- (6) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by three.
- (7) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by three.
- (8) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that are evenly divisible by three.
- (9) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by three.
- (10) The Commissioner or the Commissioner's designee shall serve ex officio, with the same rights and privileges, including voting rights, as other members.

(c) A member appointed under subdivisions (1) through (9) of subsection (b) of this section may be reappointed to no more than two successive three-year terms. Upon the expiration of a three-year term, a member shall continue to serve until a successor is appointed and duly qualified as provided by G.S. 128-7.

(d) Vacancies in the offices of any appointed members of the Authority shall be filled in accordance with G.S. 120-122 for the remainder of the unexpired term. No vacant office shall be included in the determination of a quorum. No vacancy in office shall impair the rights of the members to exercise all rights and to conduct official business of the Authority.

(e) The domicile of the Authority shall be the City of Raleigh.

(f) A majority of the members shall constitute a quorum for the transaction of official business. All official actions of the Authority shall require an affirmative vote of a majority of the members present and voting at any meeting.

(g) Members of the Authority shall not receive any salary for the performance of their duties as members. Appointed members may receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(h) The Authority shall meet quarterly and may meet more frequently upon call.

(i) The Authority may delegate to one or more of its members, officers, employees or agents such powers and duties as it may deem proper. (1983, c. 789, s. 1; 1985, c. 583, s. 2; 1985 (Reg. Sess., 1986), c. 1011, s. 1; 1989, c. 500, s. 109(e); 1989 (Reg. Sess., 1990), c. 1074, s. 32(b); 1995, c. 490, s. 4; 1997-261, s. 109; 2004-195, s. 5.1.)

§ 122D-6. General powers of Authority.

The Authority shall have all the powers necessary to give effect to and carry out the purposes and provisions of this Chapter, including the following powers in addition to all other powers granted by other provisions of this Chapter, to:

- (1) Sue and be sued in its own name and in the name of any subsidiary corporation or entity which may be created pursuant to paragraph (19) of this section;
- (2) Have a seal and alter the same at its pleasure;
- (3) Adopt bylaws for the internal organization and government of the Authority;
- (4) **Adopt, promulgate and amend rules for the administration of the Chapter;**
- (4a) Limit the definition of agricultural loan under G.S. 122D-3(1);
- (5) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this Chapter with any federal or State governmental agency, public or private corporation, lending institution or other entity or person, and each and any North Carolina governmental agency is hereby authorized to enter into contracts and otherwise cooperate with the agency to facilitate the purposes of this Chapter;
- (6) Accept, administer and expend donations of movable or immovable property from any source, and receive, administer and expend appropriations from the legislature and financial assistance, guarantees, insurance or subsidies from the federal or State government;
- (7) Subject to the rights of holders of bonds of the Authority, to renegotiate, refinance or foreclose on any mortgage, security interest or lien; or commence any action to protect or enforce any right or benefit conferred upon the Authority by any law, mortgage, security interest, lien, contract or other agreement; and bid for and purchase property at any foreclosure or at any other sale or otherwise acquire or take possession of any property; and in any such event, the Authority may complete, administer, pay the principal of and interest on any obligation incurred in connection with such property, dispose of and otherwise deal with such property in such manner as may be necessary or desirable to protect the interest of the Authority or of holders of its bonds therein;
- (8) Procure or provide for the procurement of insurance or reinsurance against any loss in connection with its property or operations, including but not limited to insurance, reinsurance or other guarantees from any federal or State governmental agency or private insurance company for the payment of any bonds issued by the Authority, or bond, notes or any other obligations or evidences of indebtedness issued or made by any subsidiary corporation or entity created pursuant to subdivision (19) of this section or by any lending institution or other entity or person, or insurance or reinsurance against loss with respect to agricultural loans, mortgages or mortgage loans, or any other type of loans, including the power to pay premiums on such insurance or reinsurance;
- (9) Make, insure, coinsure, reinsure, or cause to be insured, coinsured or reinsured, agricultural loans, mortgage loans or mortgages, or any other type of loans and pay or receive premiums on such insurance, coinsurance or reinsurance, and establish reserves for losses, and participate in the insurance, coinsurance or reinsurance of agricultural loans, mortgage loans or mortgages, or any other type of loans with the federal or State government or any private insurance company;

- (10) Undertake and carry out or authorize the completion of studies and analyses of agricultural conditions and needs within the State and needs relating to the promotion of agricultural exports and ways of meeting such needs, and make such studies and analyses available to the public and to the agricultural industry, and to engage in research or disseminate information on agriculture and agricultural exports;
- (11) Accept federal, State or private financial or technical assistance and comply with any conditions for such assistance, provided such conditions are not in conflict with the intent of this Chapter;
- (12) Establish, pay and collect fees and charge in connection with its loans, deposits, insurance commitments and services, including but not limited to, reimbursement of costs of issuing bonds, origination and servicing fees, and insurance premiums;
- (13) Make loans to or deposits with lending institutions and purchase or sell agricultural loans;
- (14) Acquire or contract to acquire from any person, firm, corporation, municipality, federal or State agency, by grant, purchase or otherwise, movable or immovable property or any interest therein; own, hold, clear, improve, lease, construct or rehabilitate, and sell, invest, assign, exchange, transfer, convey, lease, mortgage or otherwise dispose of or encumber the same, subject to the rights of holders of the bonds of the Authority, at public or private sale, with or without public bidding;
- (15) Borrow money, issue bonds, and provide for the rights of the lenders or holders thereof and purchase, discount, sell, negotiate and guarantee, insure, coinsure and reinsure note, drafts, checks, bills of exchange, acceptances, bankers acceptances, cable transfers, letters of credit and other evidence of indebtedness with or without credit enhancement devices;
- (16) Subject to the rights of holders of the bonds of the Authority, consent to any modification with respect to the rate of interest, time, payment of any installment of principal or interest, security or any other term or condition of any loan, contract, mortgage, mortgage loan or commitment therefor or agreement of any kind to which the Authority is a party or beneficiary;
- (17) Maintain an office at such place or places as the Authority shall determine;
- (18) Serve as the beneficiary of any public trust;
- (19) After reporting to the agriculture committees of the House of Representatives and the Senate, to create such subsidiary corporations or entities as may be necessary to borrow money, insure or reinsure agricultural loans, or issue bonds in the international financial market; and
- (20) Purchase or participate in the purchase and enter into commitments by itself or together with others for the purchase of federally issued securities; provided that the proceeds of such securities will be utilized in accordance with the provisions of this Chapter.

PART X. AGRICULTURE AND CONSUMER SERVICES

LARGE ANIMAL HEALTH ENHANCEMENT FUND

SECTION 10.1.(a) Funds appropriated in this act to the Department of Agriculture and Consumer Services for the enhancement of large animal veterinary services in the State shall be allocated to the Large Animal Healthcare Enhancement Fund created in Article 88 of Chapter 106 of the General Statutes, as enacted by subsection (b) of this section, for the purposes set forth therein.

SECTION 10.1.(b) Chapter 106 of the General Statutes is amended by adding a new Article to read:

"Article 88.

"Large Animal Healthcare Enhancement Act.

"§ 106-1071. Title.

This Article shall be known and may be cited as the "Large Animal Healthcare Enhancement Act of 2023."

"§ 106-1072. Definitions.

The following definitions apply in this Article:

- (1) Advisory Committee. – The Large Animal Healthcare Enhancement Advisory Committee, as established by G.S. 106-1073.
- (2) Authority. – The North Carolina Agricultural Finance Authority, as created by G.S. 122D-4.
- (3) Board. – The North Carolina Board of Agriculture, as created by G.S. 106-2.
- (4) Commissioner. – The Commissioner of Agriculture.
- (5) Department. – The Department of Agriculture and Consumer Services.
- (6) Designated county. – A county in this State with a population of less than 100,000 people according to the latest decennial census.
- (7) Fund. – The Large Animal Healthcare Enhancement Fund, as created by G.S. 106-1074.
- (8) Large animal veterinarian. – A person who is actively engaged in and is licensed to practice veterinary medicine pursuant to Article 11 of Chapter 90 of the General Statutes and whose specialties include livestock, poultry, or equine animals.
- (9) Large animal veterinary medicine. – The practice of veterinary medicine, as defined in G.S. 90-181, for livestock, poultry, or equine animals.

"§ 106-1073. Advisory Committee.

(a) Committee Established. – The Large Animal Healthcare Enhancement Advisory Committee is established within the North Carolina Agricultural Finance Authority and shall consist of membership as follows:

- (1) The Commissioner of Agriculture or an employee of the Department designated by the Commissioner, who shall serve as chair.
- (2) The State Veterinarian or the State Veterinarian's designee.
- (3) A member of the Food Animal Scholars Program steering and mentoring committee.
- (4) Two practicing large animal veterinarians, to be appointed by the Commissioner. The veterinarians shall have different specialties in their practice.
- (5) Two representatives of the livestock industry, to be appointed by the Commissioner. The representatives shall represent different segments of the livestock industry.
- (6) The Executive Director of the Authority or the Executive Director's designee, who shall not be a voting member.

The Commissioner and the State Veterinarian may each designate one additional at-large member of the Advisory Committee.

(b) Terms of Members. – Members of the Advisory Committee shall serve terms of four years, beginning effective July 1 of the year of appointment.

(c) Vacancies. – Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be made by the original appointing authority and shall be for the balance of the unexpired term.

(d) Removal. – The appointing authority shall have the power to remove any member of the Commission appointed by that authority from office for misfeasance, malfeasance, or nonfeasance.

(e) Reimbursement. – The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(f) Meetings. – The Advisory Committee shall meet at least once every six months and may meet more often upon the call of the chair. A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(g) Ethics. – Members of the Advisory Committee are public servants as defined by G.S. 138A-3(70).

(h) Staff. – The staff of the Authority shall serve as staff to assist the Advisory Committee in carrying out administrative functions in the discharge of its duties and responsibilities.

"§ 106-1074. Large Animal Healthcare Enhancement Fund.

(a) Fund Created. – The Large Animal Healthcare Enhancement Fund is created as a special fund within the Department of Agriculture and Consumer Services. The Fund shall be administered by the Authority. The purpose of the fund is to make grants to encourage veterinary students to enter and stay in large animal veterinarian practice and to support large animal veterinarian practices to enable them to better serve their designated counties.

(b) Fund Sources. – The Fund shall consist of any money appropriated to it by the General Assembly and any money received from public or private sources. Unexpended, unencumbered money in the Fund from sources other than appropriations from the General Assembly shall not revert and shall remain available for expenditure in accordance with this section. The Authority may use up to five percent (5%) of General Fund appropriations in each fiscal year for administrative support.

(c) Grant Eligibility. – A large animal veterinarian who practices or plans to practice in one or more designated counties may be eligible for a grant of up to twenty-five thousand dollars (\$25,000) per fiscal year. Applicants shall apply in a format to be determined by the Advisory Commission, but the application shall require the applicant to state the designated counties in which the large animal veterinarian is practicing or plans to practice, the amount of funding requested, and the approved use for which the applicant intends to use the funds. When determining which applicants shall be awarded grant funds, the Advisory Committee shall consider all of the following criteria:

- (1) The geographic area of the State that an applicant serves or would serve and the need for large animal veterinary services in that area of the State.
- (2) The number of designated counties that an applicant serves or would serve.
- (3) The number of different large animal veterinarian specialties in which the applicant practices.
- (4) The percentage of time the applicant devotes to large animal veterinary services.
- (5) Any additional criteria the Advisory Committee determines to be appropriate.

(d) Uses of Grant Funds. – The grant recipient may use the funds to support the recipient's large animal veterinary practice, including any of the following:

- (1) The repayment of educational loans related to the recipient's veterinary degree.
- (2) The purchase of equipment or technology for use in the recipient's large animal veterinary practice.
- (3) Any additional uses the Advisory Committee determines is appropriate to promote and develop large animal veterinarians to practice in designated counties.

(e) Limitations. –The Advisory Committee shall review applicants on an annual basis to determine eligibility under the criteria developed under subsection (c) of this section. The Advisory Committee shall also review each recipient of grant funds at the end of each fiscal year. A recipient whose veterinary license expires, is revoked, or is suspended during the fiscal year in which the grant is awarded, or who fails to practice large animal veterinary medicine in the designated counties named in the recipient's application, shall repay the amount received from the Fund.

(f) Report. – The Agricultural Finance Authority shall report no later than October 1 each year to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division of the General Assembly regarding the implementation of this section during the previous fiscal year. The report shall include a list of the recipients of grants from the Fund for the previous fiscal year, the amount of the grants received, how recipients used awarded grant funds, and whether any awarded funds were required to be repaid by recipients."

SECTION 10.1.(c) The Agricultural Finance Authority, in consultation with the Large Animal Healthcare Enhancement Advisory Committee established by G.S. 106-1073, as enacted by subsection (b) of this section, shall adopt temporary rules to implement this section as soon as practicable and shall concurrently begin adopting permanent rules to replace the temporary rules.

SECTION 10.1.(d) This section is effective when it becomes law.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:

North Carolina Finance Authority

2. Rule citation & name:

02 NCAC 63 .0101: PURPOSE

3. Action: ☒ Adoption

☐ Amendment

☐ Repeal

Temporary adoption

4. Was this an Emergency Rule: ☐ Yes
☒ No

Effective date: 10/01/24

5. Provide dates for the following actions as applicable:

a. Proposed Temporary Rule submitted to OAH: 6/11/24

b. Proposed Temporary Rule published on the OAH website: 6/12/24

c. Public Hearing date: 6/25/24

d. Comment Period: 6/13/24 - 7/5/24

e. Notice pursuant to G.S. 150B-21.1(a3)(2): 6/11/24

f. Adoption by agency on: 8/8/24

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/24

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: House Bill 259, Session Law 2023-134
Effective date: October 3rd, 2023
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ Other:

Explain:

The 2023 Appropriations Act - House Bill 259 became law on October 3, 2023. The Large Animal Healthcare Enhancement Fund language can be found at the below link beginning on page 322.

H259v7.pdf (ncleg.gov)

<https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Anna R. Hayworth

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Robert Hosford

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10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Anna Hayworth

Title:

Rule-making coordinator

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

02 NCAC 63 .0101 is proposed for adoption under temporary procedures as follows:

CHAPTER 63 – LARGE ANIMAL HEALTHCARE ENHANCEMENT ADVISORY COMMITTEE

SECTION .0100 - GENERAL PROVISIONS

02 NCAC 63 .0101 PURPOSE

This Chapter describes the operating procedures for the Large Animal Healthcare Enhancement Advisory Committee and the Chair under the guidance of the North Carolina Department of Agriculture and Consumer Services, and the North Carolina Agricultural Finance Authority implementing the Large Animal Healthcare Enhancement Fund for the enhancement of large animal veterinary services in North Carolina. Procedures and guidelines for participating applicants are also described. The purpose of the program is to provide grants to encourage veterinary students to sustainably serve as large or mixed animal veterinarians in underserved areas in the state and to provide additional resources for large or mixed animal veterinary practices that operate in underserved areas to help them to better serve their communities.

History Note: Authority G.S. 106-1074;

Temporary Adoption Eff.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:

North Carolina Finance Authority

2. Rule citation & name:

02 NCAC 63 .0102: DEFINITIONS

3. Action: ☒ Adoption

☐ Amendment

☐ Repeal

Temporary adoption

4. Was this an Emergency Rule: ☐ Yes
☒ No

Effective date: 10/01/24

5. Provide dates for the following actions as applicable:

a. Proposed Temporary Rule submitted to OAH: 6/11/24

b. Proposed Temporary Rule published on the OAH website: 6/12/24

c. Public Hearing date: 6/25/24

d. Comment Period: 6/13/24 - 7/5/24

e. Notice pursuant to G.S. 150B-21.1(a3)(2): 6/11/24

f. Adoption by agency on: 8/8/24

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/24

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: House Bill 259, Session Law 2023-134
Effective date: October 3rd, 2023
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ Other:

Explain:

The 2023 Appropriations Act - House Bill 259 became law on October 3, 2023. The Large Animal Healthcare Enhancement Fund language can be found at the below link beginning on page 322.

H259v7.pdf (ncleg.gov)

<https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Anna R. Hayworth

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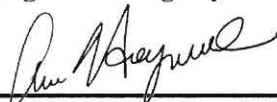
Robert Hosford

Phone:

n/a

E-Mail: robert.hosford@ncagr.gov

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Anna Hayworth

Title:

Rule-making coordinator

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

02 NCAC 63 .0102 is proposed for adoption under temporary procedures as follows:

02 NCAC 63 .0102 **DEFINITIONS**

In addition to the terms defined in Article 88 of Chapter 106 of the North Carolina General Statutes, the following terms used in this Chapter have the following meanings:

- (1) “Applicant” means a large animal veterinarian who applies for funds from the Large Animal Healthcare Enhancement Fund.
- (2) “Application” means a form developed and made available by the Large Animal Healthcare Enhancement Advisory Committee, including, but not limited to, any attachments and other information or documentation required by the form, for an applicant to complete and submit to the advisory committee to request a grant from the fund.
- (3) “Chair” or “Commissioner” means the chair of the advisory committee who is also the Commissioner of Agriculture.
- (4) “Grant” means an amount of money designated by the advisory committee to be given to a qualified applicant who has been chosen by the advisory committee.
- (5) “Grant recipient” means a qualified applicant who has received a grant.
- (6) “Large animal” means any of the animals referenced in G.S. 106-1072(8) and (9).
- (7) “Qualified applicant” means a large animal veterinarian (as defined in G.S. 106-1072(8)) and who otherwise meets the criteria described in this Rule and in Article 88 of Chapter 106 of the North Carolina General Statutes.

History Note: Authority G.S. 106-1074;
Temporary Adoption Eff.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:

North Carolina Finance Authority

2. Rule citation & name:

02 NCAC 63 .0103: EVALUATION OF APPLICATIONS

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

Temporary adoption

4. Was this an Emergency Rule: ☐ Yes ☒ No **Effective date:** 10/01/24

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 6/11/24
- b. Proposed Temporary Rule published on the OAH website: 6/12/24
- c. Public Hearing date: 6/25/24
- d. Comment Period: 6/13/24 - 7/5/24
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 6/11/24
- f. Adoption by agency on: 8/8/24
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/24

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: House Bill 259, Session Law 2023-134
Effective date: October 3rd, 2023
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ Other:

Explain:

The 2023 Appropriations Act - House Bill 259 became law on October 3, 2023. The Large Animal Healthcare Enhancement Fund language can be found at the below link beginning on page 322.

H259v7.pdf (ncleg.gov)

<https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

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Robert Hosford

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10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Anna Hayworth

Title:

Rule-making coordinator

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

02 NCAC .0103 is proposed for adoption under temporary procedures as follows:

02 NCAC .0103 EVALUATION OF APPLICATIONS

(a) Applicants for funding from the fund shall submit a completed application within 60 days from the date of the public announcement of requests for proposals (the “application deadline”).

(b) Applications and instructions shall be available online at www.ncagr.gov.

(c) To be eligible for consideration for funding, applicants shall complete the application, which shall be titled the “Large Animal Healthcare Enhancement Fund Application Form,” and which shall contain the following information:

(1) identifying information such as location, business name, and contact information;

(2) statement from the applicant that acknowledges and agrees that in the event that the applicant’s veterinary license expires, is revoked, or is suspended during the fiscal year in which the grant is awarded, or if the applicant fails to practice at least 30% large animal veterinary medicine in the designated counties named in the applicant’s application, the applicant shall repay the entire amount received from the fund;

(3) statement from the applicant that the applicant shall have no conflicting service obligation that would prevent the State from benefitting from the applicant’s services, with the exception of service in the National Guard or military reserve;

(4) an essay which describes the applicant’s professional ambition and how those professional goals fit with the intent of the fund (eight hundred word maximum, typed in 12-point Times New Roman font, and double-spaced);

(5) three personal or professional references listing the individual’s name, telephone number, and email address; and

(7) Certification that the applicant currently practices a minimum of 30% large animal veterinary medicine in at least one designated county.

(d) Each completed application shall be evaluated by the advisory committee staff based on the information provided in the application and in accordance with the fund criteria described in this rule and in Article 88 of Chapter 106 of the North Carolina General Statutes.

(e) The staff shall review all applications for completeness. If staff deems an application incomplete in that it does not contain information required by statute or these rules, the applicant may be asked by the authority staff to complete the application within seven days if the application deadline has expired.

(f) After the staff has reviewed each application for completeness, the advisory committee shall then review the applications prepared by each applicant and shall make recommendations to the Commissioner on applicants for funding.

(g) Grants shall be awarded contingent on the availability of sufficient funds to do so. Grants shall be conveyed to grant recipient(s) through contracts with the North Carolina Agricultural Finance Authority. If the North Carolina Agricultural Finance Authority determines that grants are not being used for the purpose for which they were awarded, the fund shall immediately cease making payments under the grant schedule and shall demand return of all amounts

1 from the grant pursuant to G.S. 106-1074. Grant recipient(s) must reimburse the fund all funds that the North Carolina
2 Agricultural Finance Authority determines to have been spent in violation of G.S. 106-1074(e).

3
4 History Note: Authority G.S. 106-1074;
5 Temporary Adoption Eff.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:

North Carolina Finance Authority

2. Rule citation & name:

02 NCAC 63 .0104: GRANT AGREEMENT

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

Temporary adoption

4. Was this an Emergency Rule: ☐ Yes ☒ No **Effective date:** 10/01/24

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 6/11/24
- b. Proposed Temporary Rule published on the OAH website: 6/12/24
- c. Public Hearing date: 6/25/24
- d. Comment Period: 6/13/24 - 7/5/24
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 6/11/24
- f. Adoption by agency on: 8/8/24
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/24

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: House Bill 259, Session Law 2023-134
Effective date: October 3rd, 2023
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ Other:

Explain:

The 2023 Appropriations Act - House Bill 259 became law on October 3, 2023. The Large Animal Healthcare Enhancement Fund language can be found at the below link beginning on page 322.

H259v7.pdf (ncleg.gov)

<https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Anna R. Hayworth

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anna.hayworth@ncagr.gov

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Robert Hosford

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E-Mail: robert.hosford@ncagr.gov

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Anna Hayworth

Title:

Rule-making coordinator

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

02 NCAC 63 .0104 is proposed for adoption under temporary procedures as follows:

02 NCAC 63 .0104 GRANT AGREEMENT

(a) Upon approval, a written agreement shall be executed between the grant recipient(s) and the North Carolina Finance Authority.

(b) The agreement shall define the North Carolina Finance Authority's and grant recipient's responsibilities and obligations, the project period, project scope, and the amount of grant assistance.

(c) The approved application and any support documentation submitted by the applicant shall become a part of the grant agreement.

(d) The grant agreement may be amended upon mutual consent and approval by the North Carolina Finance Authority and the grant recipient(s). The grant recipient(s) shall submit a written request for amendment to the North Carolina Finance Authority..

(e) Grant payments shall be made only for activities within the grant contract period and projects may not begin until the North Carolina Finance Authority and grant recipient(s) sign the agreement.

(f) The grant agreement shall include a requirement that the grant recipient(s) understands, acknowledges, and agrees that in the event that the grant recipient'(s') veterinary license expires, is revoked, or is suspended during the fiscal year in which the grant is awarded, or the grant recipient(s) fails to practice a minimum of 30% large animal veterinary medicine in at least one designated county named in the grant recipient'(s') application, the grant recipient(s) shall repay the entire amount received from the Fund.

History Note: Authority G.S. 106-1074;

Temporary Adoption Eff.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:

North Carolina Finance Authority

2. Rule citation & name:

02 NCAC 63 .0105: REPORTING

3. Action:

☒ Adoption

☐ Amendment

☐ Repeal

Temporary adoption

4. Was this an Emergency Rule:

☐ Yes

Effective date: 10/01/24

☒ No

5. Provide dates for the following actions as applicable:

a. Proposed Temporary Rule submitted to OAH: 6/11/24

b. Proposed Temporary Rule published on the OAH website: 6/12/24

c. Public Hearing date: 6/25/24

d. Comment Period: 6/13/24 - 7/5/24

e. Notice pursuant to G.S. 150B-21.1(a3)(2): 6/11/24

f. Adoption by agency on: 8/8/24

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/24

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: House Bill 259, Session Law 2023-134
Effective date: October 3rd, 2023
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
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Effective date:
- ☐ A recent court order.
Cite order:
- ☐ Other:

Explain:

The 2023 Appropriations Act - House Bill 259 became law on October 3, 2023. The Large Animal Healthcare Enhancement Fund language can be found at the below link beginning on page 322.

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<https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Anna R. Hayworth

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(919) 745-9356

E-Mail:

anna.hayworth@ncagr.gov

Agency contact, if any:

Robert Hosford

Phone:

n/a

E-Mail: robert.hosford@ncagr.gov

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Anna Hayworth

Title:

Rule-making coordinator

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

02 NCAC 63 .0105 is proposed for adoption under temporary procedures as follows:

02 NCAC 63 .0105 REPORTING

(a) Grant recipients shall submit to the North Carolina Agricultural Finance Authority a written progress report within 180 days of receipt of the grant.

(b) Written reports shall describe the status of the project, progress toward achieving program objectives, notable occurrences, any problems encountered, and steps taken to overcome the problems, and an affidavit from the grant recipient stating under oath or affirmation that, during the fiscal year in which the grant is awarded, and a statement of affirmation that supports the following:

(1) the grant recipient's veterinary license has not expired, been revoked, or been suspended, and

(2) the grant recipient(s) is currently practicing a minimum of 30% large animal veterinary medicine in at least one designated county named in the grant recipient's(s') application.

(c) Upon completion of the project, the grant recipient must make a final written report to the North Carolina Agricultural Finance Authority that shall include project accomplishments and benefits, all expenditures by line item as established in the application, and an affidavit from the grant recipient stating under oath or affirmation that, during the fiscal year in which the grant is and a statement of affirmation that supports the following:

(1) the grant recipient's veterinary license has not expired, been revoked, or been suspended, and

(2) the grant recipient(s) practiced a minimum of 30% large animal veterinary medicine in at least one designated county named in the grant recipient's(s') application.

(d) The North Carolina Agricultural Finance Authority shall review the progress reports for completeness, which shall include a showing of how the project is meeting its stated goals and performance standards. If the North Carolina Agricultural Finance Authority finds that the report is deficient in showing how the project is meeting its stated goals and performance standards, the grant recipient(s) shall be notified of the deficiency and must provide a changed and corrected report within 30 business days. A corrected or changed report shall be submitted to the North Carolina Agricultural Finance Authority within 30 business days. All grant funds shall be spent within 180 days of receipt by the grant recipient. If grant funds are not spent by the grant recipient by the end of this 180-day period, the grant funds shall be returned to the North Carolina Agricultural Finance Authority.

(e) Grant recipient(s) shall submit monitoring reports to the North Carolina Agricultural Finance Authority by email at largeanimalvetgrants@ncagr.gov or by hand delivery at 1101 Spring Forest Road, Suite 150, Raleigh, North Carolina 27615.

History Note: Authority G.S. 106-1074;

Temporary Adoption Eff.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:

North Carolina Finance Authority

2. Rule citation & name:

02 NCAC 63 .0106: RECORDS

3. Action:

☒ Adoption

☐ Amendment

☐ Repeal

Temporary adoption

4. Was this an Emergency Rule:

☐ Yes

Effective date: 10/01/24

☒ No

5. Provide dates for the following actions as applicable:

a. Proposed Temporary Rule submitted to OAH: 6/11/24

b. Proposed Temporary Rule published on the OAH website: 6/12/24

c. Public Hearing date: 6/25/24

d. Comment Period: 6/13/24 - 7/5/24

e. Notice pursuant to G.S. 150B-21.1(a3)(2): 6/11/24

f. Adoption by agency on: 8/8/24

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/24

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: House Bill 259, Session Law 2023-134
Effective date: October 3rd, 2023
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ Other:

Explain:

The 2023 Appropriations Act - House Bill 259 became law on October 3, 2023. The Large Animal Healthcare Enhancement Fund language can be found at the below link beginning on page 322.

H259v7.pdf (ncleg.gov)

<https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Anna R. Hayworth

Phone:

(919) 745-9356

E-Mail:

anna.hayworth@ncagr.gov

Agency contact, if any:

Robert Hosford

Phone:

n/a

E-Mail: robert.hosford@ncagr.gov

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Anna Hayworth

Title:

Rule-making coordinator

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

02 NCAC 63 .0106 is proposed for adoption under temporary procedures as follows:

02 NCAC 63 .0106 RECORDS

Grant recipients must keep financial and other records of the project for a period of five years, following completion of the project, or until audited. The records shall be made available to the Commissioner and the North Carolina Agricultural Finance Authority upon request. Recipients shall contact the Authority before destroying records or in the event that records are destroyed. The North Carolina Agricultural Finance Authority shall maintain and dispose of paper and electronic records in accordance with the approved Functional Schedule for North Carolina State Agencies, Program Record Retention and Disposition Schedule and Electronic Records and Imaging Policy, incorporated by reference with subsequent editions and amendments. The policy can be accessed free of charge at <https://archives.ncdcr.gov/documents/functional-schedule-state-agencies>.

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