

## **REQUEST FOR TECHNICAL CHANGES**

AGENCY: NC Innovation Council

RULE CITATION: 04 NCAC 25 .0101

**DEADLINE FOR RECEIPT: February 5, 2025**

**PLEASE NOTE:** *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In the introductory paragraph (lines 4-6), the OAH Rule Style Guide recommends not incorporating General Statutes by reference. Consider rephrasing the paragraph to say, "For the purposes of the rule in this Chapter, the definitions found in G.S. 169-1 shall apply, and the following definitions shall apply to this Section."*

*In (4), line 15, add "G.S." before "55A".*

*In (6), line 19, delete "is". On line 20, consider adding ", Inc." before "(D&B)".*

*In the History Note, line 24, add "G.S. 169-4" as authority.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

04 NCAC 25 .0101 is adopted as published in 39:10 NCR 623 as follows:

**04 NCAC 25 .0101 DEFINITIONS**

For the purposes of the rules in this Chapter, the definitions found in G.S. 169-1, and subsequent amendments and editions are hereby incorporated by reference. In addition to the definitions set forth in G.S. 169-1, the following definitions shall apply to this Section:

- (1) "Executive Director" means the Executive Director of the North Carolina Innovation Council or an authorized designee of the Executive Director.
- (2) "Expression of Interest" shall mean a method for potential applicants to contact the NC Innovation Council through its website to document their interest in submitting an application to be a Sandbox participant.
- (3) "Monitoring and Evaluation Plan" means a written plan submitted by a Sandbox applicant that requires the applicant to periodically measure the success or risks of the innovative product or service during and at the end of the Sandbox period.
- (4) "Nonprofit corporation" as defined in 55A-1-40(17).
- (5) "Control person" means an entity or individual who has the power to influence, direct, or control the activities of a publicly traded company. Control persons can be directors, officers, shareholders, affiliates, or any other person with authority over the public company's management and operations.
- (6) "DUNS Number" means a data universal numbering system or DUNS number, is a unique, nine-digit series or numerals that identifies a business. Dun & Bradstreet (D&B) creates the number, which generates a business profile in its database and provides a company's name, phone number, address, number of workers and line of business, along with other relevant corporate information.

History Note: Authority G.S. 169-1;  
Eff. March 1, 2025.

## **REQUEST FOR TECHNICAL CHANGES**

AGENCY: NC Innovation Council

RULE CITATION: 04 NCAC 25 .0102

**DEADLINE FOR RECEIPT: February 5, 2025**

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (e), line 32, consider deleting "appropriate" as it is vague.*

*On line 33, should "may" be replaced with "shall" based on the language in G.S. 143-318.11? Also, delete "and/" to say "or G.S.".*

*In the History Note, line 6, please add "G.S. 169-4" as authority.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609

04 NCAC 25 .0102 is adopted as published in 39:10 NCR 623 -624 as follows:

**04 NCAC 25 .0102 NONPROFIT PARTNERS**

- (a) Nonprofit organizations wishing to assist applicants or participants as a nonprofit partner shall submit an application to the Council. Applications may be found on the Council's website at [www.innovation.nc.gov](http://www.innovation.nc.gov).
- (b) Nonprofit organization applications shall include the following:
- (1) The formal legal name of the organization applying to be a nonprofit partner;
  - (2) If applicable, the nonprofit applicant must provide documentation of registration of associated trade names or Doing Business As (DBA);
  - (3) The name and address of the registered agent;
  - (4) Proof that the organization is a nonprofit organization duly authorized by the North Carolina Office of the Secretary of State and provide a North Carolina Certificate of Good Standing;
  - (5) A single point of contact must be designated for all correspondence, including the individual's name, role, phone number, and email address;
  - (6) A list of individuals that are directors of the board, partners, managers, and other individuals who are legally responsible for the governance of the entity, including their names, titles, expertise related to the product or service, and whether they have been convicted of, or are currently under investigation for, fraud or State or federal securities law violations;
  - (7) A summary of how the nonprofit organization's mission is aligned with the Sandbox program, to be used by the Council in a published list of nonprofit partners; and
  - (8) A description of the nonprofit organization's capabilities, including its data security capabilities and practices as required by law to ensure the confidentiality of information submitted by Sandbox applicants and participants.
- (c) The Council may request additional information from the applicant pertaining to their application and eligibility to participate in the Sandbox based on the criteria set forth in subsection (b) of this Rule.
- (d) Within 30 business days of receipt of a nonprofit organization's application, the Executive Director shall review the application for completeness. Applications that the Executive Director has determined have met the application submittal requirements shall be forwarded to all Council members for review. If an application is incomplete, the Executive Director shall request that any missing information from the nonprofit organization be submitted within 14 business days of the request.
- (e) At the next Council meeting that is at least 14 business days after the Council has received a complete application, the Council shall discuss the application to determine the next appropriate action. Upon the motion of any member, the Council may enter a closed session, pursuant to G.S. 143-318.11(a)(1) and/or G.S. 132-1.2(1)(a)-(c)a. - c., to discuss the application, however, all votes on an application shall be in an open session.
- (f) Within 14 business days of a Council vote on an application, the Executive Director shall notify the nonprofit organization in writing of the Council's decision. If the Council denied the nonprofit organization's application, the written notification shall include the specific reasons for the denial.

- 1 (g) Upon the motion of any member, at a duly called meeting of the Council, the Council may rescind its approval  
2 of a nonprofit partner by a majority vote of the Council.
- 3 (h) A nonprofit partner whose approval is denied or rescinded by the Council may not reapply to be a nonprofit  
4 partner for a period of two years from the date of the Council vote.

5

6 *History Note: Authority G.S. 169-5;*  
7 *Eff. March 1, 2025.*

## **REQUEST FOR TECHNICAL CHANGES**

AGENCY: NC Innovation Council

RULE CITATION: 04 NCAC 25 .0103

**DEADLINE FOR RECEIPT: February 5, 2025**

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (6), line 11, consider adding “,as determined by the Council,” after “illustrate”.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609

04 NCAC 25 .0103 is adopted as published in 39:10 NCR 624 as follows:

**04 NCAC 25 .0103 NONPROFIT PARTNERS APPLICATION DENIAL**

(a) Reasons for denial of a nonprofit application shall include at least one of the following:

- (1) Perceived or actual conflicts of interest;
- (2) Failure to provide proof that the organization is a nonprofit organization duly authorized by the North Carolina Office of the Secretary of State;
- (3) Failure to provide a current North Carolina Certificate of Good Standing;
- (4) Failure to implement and utilize data security practices, as required by law, that ensure the confidentiality of information submitted by Sandbox applicants and participants;
- (5) Failure to illustrate the organization's capabilities or expertise in FinTech, InsurTech, blockchain technologies, or other new or emerging technology products or services; and
- (6) Failure to provide any required missing information related to the application, or any additional information upon request of the Executive Director within 14 business days, as set forth in 04 NCAC 25 .0102(c).

History Note: Authority G.S. 169-4; 169-5;

Eff. March 1, 2025.

## **REQUEST FOR TECHNICAL CHANGES**

AGENCY: NC Innovation Council

RULE CITATION: 04 NCAC 25 .0104

**DEADLINE FOR RECEIPT: February 5, 2025**

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), lines 6-7, will the Council automatically approve a request to present at a meeting if the “applicant intends to propose a FinTech, InsurTech, blockchain, or other new or emerging technology...” If yes, replace “will be” with “shall be” on line 6.*

*In the History Note, line 19, add “G.S. 169-4”.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609



04 NCAC 25 .0104 is adopted as published in 39:10 NCR 624 - 625 as follows:

**04 NCAC 25 .0104 EXPRESSION OF INTEREST TO PARTICIPATE**

- (a) An applicant may contact the Council to request a consultation regarding the Sandbox prior to submitting a formal application. An applicant may also request to present the innovative product or service at a Council meeting. All requests to present will be approved by the Council based on a determination of whether the expression of interest indicates that the applicant intends to propose a FinTech, InsurTech, blockchain or other new or emerging technology for participation in the Sandbox. Each request shall be submitted through the Expression of Interest to Participate form on the Council 's website at [www.innovation.nc.gov](http://www.innovation.nc.gov).
- (b) The applicant must provide basic contact information for the entity or business, the industry type (finance or insurance), and a brief description of the proposed product or service that would be tested in the Sandbox.
- (c) The Executive Director or a designee will acknowledge receipt of a submission within five business days. The Executive Director will provide the completed Expression of Interest to Participate form to the Council. If the applicant has requested to present, and the Council has approved the request, the proposed applicant will be allotted time to present at the next regularly scheduled Council meeting. If a consultation has been requested, the Executive Director will facilitate a meeting with either the Chair or Co-Chair of the Council within 14 business days after submission.

History Note: Authority G.S. 169-;

Eff. March 1, 2025.

## **REQUEST FOR TECHNICAL CHANGES**

AGENCY: NC Innovation Council

RULE CITATION: **February 5, 2025**

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In reviewing this Rule, the staff recommends the following technical changes be made:

*In (b)(4), line 27, is "currently under investigation" intended to include individuals who currently have pending charges? This may need to be clarified.*

*On pg. 2, (12)(i), lines 7-8, add a comma after "prohibition" and after "Sandbox".*

*On pg. 3, (14)(i), line 1, consider replacing "appropriate" with "applicable".*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609

04 NCAC 25 .0105 is adopted as published in 39:10 NCR 625 as follows:

**04 NCAC 25 .0105 REGULATORY SANDBOX APPLICATIONS**

- (a) An applicant for the Regulatory Sandbox shall provide to the Council an application that includes applicant information, product or service information, a business plan, and a monitoring and evaluation plan for the proposed product or service. The application can be found on the Council's website at [www.innovation.nc.gov](http://www.innovation.nc.gov).
- (b) The applicant information should include the following:
- (1) Confirmation that the applicant or its parent company are subject to the jurisdiction of the State; this shall be established by any of the following applicable documentation:
    - (i) Articles of Organization, Certificate of Formation, Certificate of Authority, Certificate of Organization, Articles of Formation, or other applicable company formation documents.
  - (2) Proof that the applicant has a physical location within the State from where the waiver project will be developed and performed, and where all records, documents, and data will be maintained, shall be established by providing:
    - (i) The name and address of the registered agent;
    - (ii) The physical address of the applying entity's headquarters;
    - (iii) The physical address of the North Carolina operations, if different from the headquarters;
    - (iv) The legal name of the applicant to participate in the Sandbox and, if the entity applying is a subsidiary of a parent entity, the legal name of the parent entity; and
    - (v) If applicable, the applicant must provide documentation of registration of associated trade names or doing business as assumed names.
  - (3) A single point of contact must be designated for all correspondence, including the individual's name, role, phone number, and email address.
  - (4) A list of individuals that are directors of the board, partners, managers, other individuals who are legally or financially responsible, or liable for the governance of the entity. The list of individuals shall include their names, titles, expertise related to the product or service, and whether they have been convicted of, or are currently under investigation for, fraud or State or federal securities law violations.
  - (5) Details of criminal convictions of the applicant and any individuals identified in paragraph (b)(4) of this Rule.
  - (6) If available, the entity's and any parent entity's Dun and Bradstreet Data Universal Numbering System (D-U-N-S) Number.
  - (7) A list of each government agency, if any, that the applicant knows regulates the applicant's business.
  - (8) The applicant's number of employees and, if the entity is a subsidiary of a parent company, the parent entity's number of employees.
  - (9) The number of the applicant's employees that are residents of North Carolina.

- 1       (10) The name of any entity, be it nonprofit organization, for profit organization, professional, or  
2       individual assisting with the application process.
- 3       (11) The name of any partner organization or individual(s) assisting with the design and implementation  
4       of the product or service.
- 5       (12) A description of the product or service the applicant seeks to provide through the Sandbox, including  
6       statements regarding:
- 7           (i) How the product or service is subject to licensing, legal prohibition or other authorization  
8           requirements outside the Regulatory Sandbox or whether the product or service is not  
9           subject to any regulation;
- 10          (ii) Each law or regulation the applicant seeks to have waived while participating in the  
11          Regulatory Sandbox;
- 12          (iii) How the product or service will benefit consumers or businesses;
- 13          (iv) What risks may exist for consumers who use the product or service;
- 14          (v) A description of the methods that will be used to protect consumers or businesses;
- 15          (vi) A statement outlining a process to resolve complaints during the Sandbox period;
- 16          (vii) A description of the methods and controls to ensure consumers are residents of the State;  
17          and
- 18          (viii) Applicable only to products and services related to money transmitters, a description of  
19          how they will ensure customers are physically present in the State at the time of transaction.
- 20       (13) A business plan for the intended product or service, which shall include the following information:
- 21           (i) A description of the proposed implementation plan, including estimated time periods for  
22           beginning and ending;
- 23           (ii) A description of how the applicant will end the Sandbox offering and protect consumers if  
24           the demonstration fails;
- 25           (iii) Technical details and requirements for the product or services;
- 26           (iv) Proposed sales methods, methods of pricing, and the target market;
- 27           (v) Proposed consumer disclosures required by G.S. 169-8 and applicable State agencies;
- 28           (vi) Copy of the proposed consumer contract for the applicant's product or service;
- 29           (vii) The expected distribution of consumers across rural, urban, and suburban areas of the State;
- 30           (viii) The maximum number of consumers or businesses expected to utilize the product or  
31           service;
- 32           (ix) The expected revenue; and
- 33           (x) The availability of capital for the product or service.
- 34       (14) A monitoring and evaluation plan, including a definition of risk metrics to be evaluated and the  
35       frequency of measurement, and a description of compensating controls that assist in managing risk  
36       and harm to consumers and the Sandbox participant.

1                   (i)       The appropriate State agency, upon approval of the Sandbox applicant, will provide input  
2                               and request modifications to the proposed monitoring and evaluation plan to ensure the  
3                               proper metrics and risks are monitored related to the waiver.

4                   (ii)       The approved monitoring and evaluation plan will be included in the waiver agreement.

5       (15)       The applicant may provide any additional information the applicant determines to be relevant to the  
6                               review and consideration of the Sandbox application.

7       (16)       All Sandbox applicants are required to pay a \$50 application fee that must be received in a format  
8                               determined by the Council.

9       (17)       Council may request additional information from the applicant pertaining to their application and  
10                              eligibility to participate in the Sandbox based on the criteria set forth in paragraph (b) of this Rule.

11  
12       *History Note:     Authority G.S. 169-4; 169-6, 169-8;*

13       *Eff. March 1, 2025.*

## **REQUEST FOR TECHNICAL CHANGES**

AGENCY: NC Innovation Council

RULE CITATION: 04 NCAC 25 .0106

**DEADLINE FOR RECEIPT: February 5, 2025**

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (b), lines 12-13, consider deleting "in its review" and "to be required" as they appear unnecessary and redundant.*

*On pg. 2, line 4, consider replacing "(6)" with "(f)" and moving "(f)" to the left margin. Also, change the current "(f)" and "(g)" with "(g)" and "(h)".*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609

04 NCAC 25 .0106 is adopted as published in 39:10 NCR 626 as follows:

**04 NCAC 25 .0106 SANDBOX APPLICATION REVIEW**

- (a) The Executive Director or designee shall review the application for completeness according to the criteria set forth in 04 NCAC 25 .0105. If there is missing or incomplete information in the application, the Executive Director shall request the additional information from the applicant. When the Executive Director determines that an application is complete based on the established criteria, they shall notify the applicant and refer the complete application to the applicable State agencies and the Council for review. If the applicant is deemed ineligible due to an incomplete application, the Executive Director shall notify the applicant of their ineligibility, and reasons for ineligibility, and provide notice of such denial to the Council.
- (b) Upon receipt from the Executive Director of a Sandbox application, the applicable State agency or agencies shall provide a review of the Sandbox application to the Council in writing, including in its review a recommendation of any reporting requirements or restrictions to be required of the Sandbox applicant. If the agency or agencies do not provide a written review within 45 business days, the Council, in its discretion, may deem the Sandbox application acceptable. If the applicable State agency or agencies cannot complete the review of the Sandbox application within 45 business days, the agency or agencies may request additional time for review by submitting a written request to the Executive Director. Upon receipt of a written request for additional time from an agency, the Executive Director shall inform the Council of the request, and the Council may, in its discretion, allow additional time for review.
- (c) The Council will review and evaluate the following:
- (1) Potential risks and benefits of the innovative product or service to the State, industry, and consumers;
  - (2) The statutes and rules that the applicant is seeking a waiver of;
  - (3) The applicant's monitoring and evaluation plan;
  - (4) Recommendations regarding consumer caps, limitations, reporting requirements, and disclosure statements;
  - (5) A recommendation on the amount of a bond or cash deposit required from the applicant;
  - (6) Whether the applicable State agency recommends that the application be granted or denied; and
  - (7) The recommended length of waiver if less than 24 months.
- (d) As part of its review of a complete application, the Council, the Executive Director, or the applicable State agency may request a presentation or additional information from the applicant.
- (e) After receipt of the applicable State agency's written statement of its review of a completed application, the Council shall discuss the completed application at the next meeting of the Council. At the meeting:
- (1) There shall be an opportunity for members of the public to comment on the complete application;
  - (2) There shall be an opportunity for the applicant to present the product or services to the Council;
  - (3) There shall be an opportunity for the any Council member to request clarification or additional information;

1       (4)     Any Council member may make a motion to enter a closed session, pursuant to G.S. 143-318.11 or  
2       G.S. 132-1.2, to discuss the application; and

3       (5)     The vote to approve or deny an application shall be made in open session.

4       (6)     If the Council approves an application, the approval, with any conditions, including any consumer  
5       caps, bond requirements, reporting requirements, notice requirements or fees, shall be set out in a  
6       written document, the waiver agreement. Upon review and acceptance by the applicable State  
7       agency, this document will be the Council's waiver and, along with the applicable statutes and rules,  
8       shall govern the applicant's participation in the Sandbox.

9       (f)     A waiver granted by the Council is not effective until all fees have been paid and all conditions of the waiver have  
10      been met.

11      (g)     If the Council denies a complete application, the Executive Director will disseminate the Council's determinations  
12      for denial and must provide the reasons for the denial to the applicant in writing within 10 business days of the  
13      Council's vote denying the application.

14  
15      History Note:     Authority G.S. 169-4; 169-6;

16      Eff. March 1, 2025.



## **REQUEST FOR TECHNICAL CHANGES**

AGENCY: NC Innovation Council

RULE CITATION: 04 NCAC 25 .0107

**DEADLINE FOR RECEIPT: February 5, 2025**

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In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 8, delete "(2)" for consistency. Just an FYI, "(2)" was not published in this Rule.*

*In (b), line 13, add a comma after "risks".*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609

04 NCAC 25 .0107 is adopted as published in 39:10 NCR 627 as follows:

**04 NCAC 25 .0107 SANDBOX OPERATIONS**

(a) The Sandbox waiver agreement will be developed by the Executive Director within 15 business days of the Sandbox participant's waiver approval, and will be provided to the Council Chair and applicable State agency for review and approval. The Council Chair and applicable State agency will notify the Executive Director in writing within five business days if the waiver agreement is approved. If changes or modifications are required, the Executive Director has two (2) business days to incorporate the prescribed changes into the waiver agreement.

(b) The waiver agreement shall include the following information:

(1) Sandbox waiver time period, when the waiver begins and when the waiver expires;

(2) Approved monitoring and evaluation plan;

(3) Approved business plan including all components required from 04 NCAC 25 .0105(b)(13);

(4) Approved notice to consumer participants, informing of consumer rights, risks and the complaint and appeals processes;

(5) A statement acknowledging that the applicant will be subject to all laws and regulations pertaining to the applicant's offering after conclusion of the demonstration;

(6) Amount of consumer protection bond or cash deposit required;

(7) Amount of Sandbox participation fee; and

(8) Approved wind down plan.

(c) Sandbox applicants must pay a participation fee, due upon execution of the waiver agreement, based on the number of employees the entity or parent entity, as appropriate, has and the expected revenue of the innovative product as set out below:

<u>Number of Employees</u>	<u>Revenue (or Risk)</u>	<u>Less than \$10,000</u>	<u>\$10,000 to less than \$100,000</u>	<u>\$100,000 to less than \$1,000,000</u>	<u>\$1,000,000 to less than \$10,000,000</u>	<u>\$10,000,000 and more</u>
<u>1-10</u>		<u>\$450</u>	<u>\$900</u>	<u>\$1,800</u>	<u>\$3,600</u>	<u>\$7,200</u>
<u>11-100</u>		<u>\$900</u>	<u>\$1,800</u>	<u>\$3,600</u>	<u>\$7,200</u>	<u>\$14,400</u>
<u>101-1000</u>		<u>\$1,800</u>	<u>\$3,600</u>	<u>\$7,200</u>	<u>\$14,400</u>	<u>\$28,800</u>
<u>1,001-50,000</u>		<u>\$3,600</u>	<u>\$7,200</u>	<u>\$14,400</u>	<u>\$28,800</u>	<u>\$57,600</u>
<u>50,001 and more</u>		<u>\$7,200</u>	<u>\$14,400</u>	<u>\$28,800</u>	<u>\$57,600</u>	<u>\$115,200</u>

- 1 (d) During the period of Sandbox participation, the Sandbox participant shall submit reports, to the Executive  
2 Director, pursuant to the approved monitoring and evaluation plan. The Executive Director, Council or applicable  
3 State agency may request interim or additional reports.
- 4 (e) The Sandbox participant may request to raise consumer caps set in the waiver agreement. This request shall be  
5 submitted in writing to the Executive Director.
- 6 (f) A request to raise consumer caps shall include:
- 7 (1) An updated business plan demonstrating financial capability;  
8 (2) An updated assessment of risks and potential for consumer harm;  
9 (3) A current monitoring and evaluation plan report;  
10 (4) Additional information supporting raised caps; and  
11 (5) The new maximum consumer caps being sought.
- 12 (g) The Council or applicable state agency may request additional information relevant to the request.
- 13 (h) A request to raise caps shall be forwarded to the applicable State agency for a recommendation on whether to  
14 approve or deny the request. Recommendations shall be made within 20 business days after the receipt of the  
15 request. If the applicable State agency cannot review the request within 20 business days, the applicable State  
16 agency may submit in writing to the Executive Director the prescribed timeline for completing the review.
- 17 (i) Within 20 business days of receiving the recommendation from the applicable State agency, the Council shall  
18 make a determination, granting or denying the request to raise caps. If the request is denied, at the direction of  
19 the Council, the Executive Director shall provide written reasons for the denial.
- 20 (j) A Sandbox participant's request for an extension of the Sandbox waiver for the purpose of obtaining a license or  
21 other authorization required by law shall be made to the Executive Director in writing no less than 30 business  
22 days prior to expiration of the waiver and shall include: a current monitoring and evaluation report, a statement  
23 of the reasons for the extension, and any modifications or changes to the innovative product or service needed for  
24 the extension. The Executive Director shall forward the request to the Council and applicable State agency.

25  
26 *History Note: Authority G.S. 169-4; 169-6;*

27 *Eff. March 1, 2025.*

## **REQUEST FOR TECHNICAL CHANGES**

AGENCY: NC Innovation Council

RULE CITATION: 04 NCAC 25 .0108

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In reviewing this Rule, the staff recommends the following technical changes be made:

*In (e), lines 22-23, are there guidelines for how to conduct “an expedited process”? If so, please include them in the Rule. Also, is there a definition for “substantially similar”? How will this be determined?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609

04 NCAC 25 .0108 is adopted as published in 39:10 NCR 628 as follows:

**04 NCAC 25 .0108 SANDBOX PARTICIPANT REQUEST FOR EXTENSION**

- (a) A Sandbox participant may request an extension, no later than 30 business days before the end of the Sandbox period, of not more than 12 months, for the purpose of obtaining a license or other authorization required by law, to offer the Sandbox product or service in the open market.
- (b) The written request for an extension shall be made to the Executive Director and shall include:
- (1) A current monitoring and evaluation report;
  - (2) A statement of the reasons for the extension; and
  - (3) A statement of any modifications or changes required for the innovative product or services during the extension period.
- (c) Upon receipt from the Executive Director of a request for an extension, the applicable State agency or agencies shall provide a determination for the request to the Council in writing. If the agency or agencies do not provide a determination within 10 business days, the Council, in its discretion, may deem the request for an extension acceptable. If the applicable State agency or agencies cannot complete the review of the extension request within 10 business days, the agency or agencies may request additional time for review by submitting a written request to the Executive Director. Upon receipt of a written request for additional time from an agency, the Executive Director shall inform the Council of the request, and the Council may, in its discretion, allow additional time for review.
- (d) The Executive Director will notify the Sandbox participant of approval or denial within five business days of the end of the Sandbox period.
- (e) The Council and the applicable State agency shall provide for an expedited process for an innovative product or service that is substantially similar to a product or service for which a waiver has previously been granted.

*History Note: Authority G.S. 169-4; 169-6;*

*Eff. March 1, 2025.*

## **REQUEST FOR TECHNICAL CHANGES**

AGENCY: NC Innovation Council

RULE CITATION: 04 NCAC 25 .0109

**DEADLINE FOR RECEIPT: February 5, 2025**

**PLEASE NOTE:** *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 10, is there a definition for “substantial changes” or what factors will the Council consider when making this determination?*

*In (b), line 17, add “G.S.” before “169-7(a)”.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609

04 NCAC 25 .0109 is adopted as published in 39:10 NCR 628 as follows:

**04 NCAC 25 .0109 DISCIPLINARY GUIDELINES**

(a) Sandbox participants may be subject to disciplinary actions for any of the following:

(1) Failure to respond to consumer complaints according to the waiver agreement;

(2) Failure to resolve consumer complaints according to the waiver agreement;

(3) Failure to submit required reports;

(4) Security breaches impacting consumer data;

(5) Potential harm for the consumer or public has been identified;

(6) Substantial changes in the product or service delivery not approved by the applicable State agency;

(7) Sandbox participant or designee attempt to conceal a violation or mislead the applicable State agency; or

(8) Other relevant circumstances, including fraud or any violation of criminal or consumer protection laws.

(b) Applicable State agencies shall notify the Executive Director, in writing when they have identified cause for exercising their authority to limit or change a Sandbox participant's waiver or the innovative product or service operation, including enforcement activities pursuant to G.S. 169-4(a)(4) c., d. and 169-7(a). The applicable State agencies must provide this notice prior to exercising their authority. The Executive Director or designee shall deliver this finding to the Chair or Co-Chair of the Council within five business days of receipt.

(c) Within 15 business days of notifying the Council to exercise their authority, the applicable State agency shall provide a written statement of disciplinary actions to the Executive Director specifying the reasons for imposing limitations or changes to the waiver or innovative product or service, and what actions are to be imposed, along with the timeline for the Sandbox participant to implement the actions. The Executive Director or designee shall deliver this finding to the Chair or Co-Chair of the Council within five business days of receipt.

(d) The Chair or Co-Chair may call a meeting with the applicable State agency as needed to review the disciplinary actions.

(e) The Executive Director, at the direction of the Chair or Co-Chair, will deliver the statement of disciplinary actions to the Sandbox applicant.

History Note: Authority G.S. 169-4; 169-7;

Eff. March 1, 2025.

## **REQUEST FOR TECHNICAL CHANGES**

AGENCY: NC Innovation Council

RULE CITATION: 04 NCAC 25 .0110

**DEADLINE FOR RECEIPT: February 5, 2025**

**PLEASE NOTE:** *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 1, capitalize "sandbox". Also, in line 5, delete "as soon as reasonably practicable" because it's amorphous and unnecessary since the Rule already prescribes "at least 30 business days".*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609



04 NCAC 25 .0110 is adopted as published in 39:10 NCR 628 - 629 as follows:

**04 NCAC 25 .0110 EARLY TERMINATION NOTICE AND CLOSE OUT PLAN REPORT**

(a) When a Sandbox participant's business objectives fail before the end of the sandbox testing period, a written notice of early termination shall be provided, as soon as reasonably practicable, pursuant to G.S. 169-7(e), to the applicable State agency and the Executive Director, at least 30 business days prior to the planned termination of the Sandbox product or service and shall include:

(1) An updated monitoring and evaluation report;

(2) A description of why the product or service failed;

(3) A description of the proposed steps the Sandbox participant will need to terminate the innovative product or service to ensure that consumers have not been harmed;

(4) A copy of the consumer notice of termination of the product or service; and

(5) The proposed date for termination.

(b) The proposed termination steps must be approved by the applicable State agency before the Sandbox participant may notify consumers and begin winding down operations. The applicable State agency and the Sandbox participant will collaborate to determine a termination date that will ensure consumers are informed and rights are protected during this process.

*History Note: Authority G.S. 169-4; 169-7;*

*Eff. March 1, 2025.*