



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina Department of Public Safety

2. Rule citation & name: 14B NCAC 05B .0401 GRANT APPLICATION PROCESS FOR STATE OR FEDERAL FUNDS AWARDED IN RESPONSE TO COVID-19

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☒ Yes ☐ No Effective date: April 14, 2020

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: April 3, 2020
- b. Proposed Temporary Rule published on the OAH website: April 7, 2020
- c. Public Hearing date: April 23, 2020
- d. Comment Period: April 14, 2020- May 5, 2020
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): April 7, 2020
- f. Adoption by agency on: July 8, 2020
- 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:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

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:
Effective date:
- ☐ 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: This rule is intended to be an extension of the corresponding Emergency Rule.

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

On March 10, 2020, the Governor of North Carolina, by issuing Executive Order No. 116, declared a State of Emergency to coordinate a response and enact protective measures to help prevent the spread of COVID-19. The World Health Organization, the Center for Disease Control and Prevention, and the United States Department of Health and Human Services have declared COVID-19 a public health threat and emergency. Pursuant to the authority of the Secretary of the Department of Public Safety (Department), the Governor's Crime Commission, as a section of the Division of Administration within the Department and as a State administering agency of North Carolina received funding from the Coronavirus Emergency Supplemental Fund (CESF) and is applying to receive additional funding for COVID-19 response. The current administrative rules are not conducive to the administration of an emergency funding source that could not have been anticipated. To efficiently distribute CESF, and any other funding that becomes available, in light of this emergency, the Department must temporarily waive the current application process set forth in 14B NCAC 05B .0200 and establish an emergency process for the efficient distribution of this critical grant funding to assist in the State's response to the COVID-19 pandemic.

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: Margaret McDonald

Phone: 919-825-2743

E-Mail: Margaret.mcdonald@ncdps.gov

Agency contact, if any:

Phone:

E-Mail:

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: Erik A. Hooks

Title: Secretary

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

TEMPORARY RULE
REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Public Safety

RULE CITATION: 14B NCAC 05B .0401

DEADLINE FOR RECEIPT: 12 PM; July 14, 2020

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:

The temporary rulemaking process is intended to ensure agencies only adopt rules under these measures after finding that “notice and hearing requirements [required for permanent rulemaking] would be contrary to the public interest and that the immediate adoption of the rule is required.” [G.S. 150B-21.1(a)] The agency held its public hearing on April 23 and ended its public comment period on May 5, but did not adopt this Rule until July 8. Why did the agency wait to adopt this Rule? Please provide a written response to justify the delay given the intent of temporary rulemaking.

On your filing form, please review and update Box 6. The emergency rule expired on June 30.

In Box 7, please add an explanation for why the notice and hearing requirements of the permanent rulemaking process are contrary to the public interest and the immediate adoption of the rule is required. See 150B-21.1(a).

In Box 7, what is the Coronavirus Emergency Supplemental Need Fund? Was this established as part of recent legislation? If so, in Box 6, is this rulemaking in response to a serious and unforeseen threat or recent legislation?

In the Rule, please update your introductory statement to say “14B NCAC 05B .0401 is adopted under temporary procedures as follows:”

Please update the formatting of this Rule to meet the requirements of 26 NCAC 02C .0108, including 10 point font, one skipped line between the introductory statement and the rule name, the tab requirements for each level of text, and a “history note.” For an example, visit: <https://files.nc.gov/ncoah/documents/Rules/Examples---Temporary-Adoption-For-Publication-In-The-Ncac.pdf>.

For each level of the Rule, please use parentheses – (a), (b), (c); (1), (2), (3); etc.

Ashley Snyder
Commission Counsel
Date submitted to agency: July 10, 2020

In (b)(1), what are the “requirements for submission?” Are you referring to the list in (b)(2)? If so, why is this necessary? If not, please provide the requirements in rule or provide a cross reference if they are in another rule.

In (b)(2)(i) and (iii), please do not capitalize the first word.

In (b)(2)(iv), what other information may be requested and under what circumstances does that occur?

In (c), how does the Secretary determine which applicants will be awarded funding? What factors are considered?

In (d)(2), line 3, please capitalize “Rule.”

In (d)(2)(i), please do not capitalize “a.”

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

Ashley Snyder
Commission Counsel
Date submitted to agency: July 10, 2020

1 14B NCAC 05B.0401 is proposed Temporary Rule for Adoption as follows:

2 SECTION .0400 – EMERGENCY GRANT APPLICATION PROCESS

3 14B NCAC 05B .0401 GRANT APPLICATION PROCESS FOR STATE OR FEDERAL FUNDS AWARDED
4 IN RESPONSE TO COVID-19

5 (a) The Secretary of the Department of Public Safety (Secretary) shall waive the requirements for
6 Program Grants as set forth in Sections .0200 of this Subchapter for the limited purpose of grant
7 distribution for the Coronavirus Emergency Supplemental Fund, or any other State or federal
8 fund established in response to the COVID-19 pandemic.

9 (b) The emergency grant application process shall consist of the following:

10 1. The Executive Director of the Commission shall designate requirements for submission
11 of grant applications for funding.

12 2. To be considered for funding, applicants shall complete the grant application, which
13 shall include the following information:

14 i. Names, mailing addresses, telephone numbers, and signatures of the applicant;

15 ii. project information, including the following:

16 1. a description of the project, its goals and objectives, and outcomes;

17 2. the issues or problems addressed by the project; and

18 3. project operation and activities.

19 iii. A proposed budget;

20 iv. a project time line;

21 v. any other information required by these rules or otherwise requested in order
22 to make a decision on the grant proposal; and

23 vi. a description of how the objectives of the proposed project are consistent with
24 the outcomes and guidelines set forth in a State or federal grant program.

25 3. Grant applications shall be electronically submitted to the Commission through the
26 Grant Enterprise Management System (GEMS).

27 4. Applications shall be received on an ongoing basis so long as funding is available.

28 (c) Applications that contain all of the information required in Rule shall be forwarded to the
29 Secretary. The Secretary shall select the applicants who will be awarded funding.

30 (d) Funding shall be administered as follows:

31 1. The Commission staff shall administer the grant as funds are available. All applicants
32 shall be notified in writing or electronic communication through the GEMS system upon
33 completion of the selection process that the applicant has been approved or denied.

- 1 2. Within 30 days of receipt of award notification, the applicant shall submit grant
2 compliance and modification information. An applicant who does not provide the
3 required information shall be ineligible for grant funding. For purposes of this rule, grant
4 compliance and modification information includes the following:
- 5 i. A list of grant conditions that were agreed to by an authorizing official of the
6 applicant;
- 7 ii. a certification of non-supplanting;
- 8 iii. a certification of filing of an equal employment opportunity program;
- 9 iv. a memorandum of agreement or contract with any cooperating government
10 agencies;
- 11 v. a signature of all authorizing officials, implementing project director, and the
12 applicant's chief financial officer; and
- 13 vi. a signed agreement to submit to an annual audit of the program.
- 14 3. Funds shall be conveyed to grantees through Grant Award Contracts. The Grant Award
15 Contract shall bear the signature of the grantee's authorizing official and the Executive
16 Director of the Commission. The Grant Award Contract shall be signed and returned to
17 the Department within 30 days.

18 *Authority G.S. 143B-602(5); 143B-602(8)(a)-(c); 143B-1101(a)(8); 143B-1103; 143B-1104*
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