

REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcohol Beverage Control Commission

RULE CITATION: All Rules

DEADLINE FOR RECEIPT: August 2, 2019

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 your history notes, please add the proposed effective date for each Rule, including any repeals. Please do so in a new line. For example:

. . .

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff.

August 22, 2015;

*Amended Eff. **Date.***

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 19, 2019

REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcohol Beverage Control Commission

RULE CITATION: 14B NCAC 15A .0101

DEADLINE FOR RECEIPT: August 2, 2019

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:

This Rule contains aspirational language. Why is this Rule necessary? Does it describe the procedure or practice requirements of the agency?

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 19, 2019

1 14B NCAC 15A .0101 is amended as published in 33:20 NCR 2032 as follows:

2
3 **CHAPTER 15 – ALCOHOLIC BEVERAGE CONTROL COMMISSION**

4
5 **SUBCHAPTER 15A - ORGANIZATIONAL RULES: POLICIES AND PROCEDURES**

6
7 **SECTION .0100 - GENERAL PROVISIONS**

8
9 **14B NCAC 15A .0101 PURPOSE**

10 The purpose of the Alcoholic Beverage Control System is to provide regulation and control of the manufacture,
11 distribution, advertisement, sale, possession and consumption of alcoholic beverages to serve the public health, safety
12 and welfare. It is the objective of the North Carolina Alcoholic Beverage Control Commission at all times to conform
13 to that purpose.

14
15 *History Note: Authority G.S. 18B-100; 18B-105; 18B-207;*

16 *Eff. January 1, 1982;*

17 *Amended Eff. May 1, 1984;*

18 *Transferred and Recodified from 04 NCAC 02R .0101 Eff. August 1, 2015;*

19 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
20 *2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcohol Beverage Control Commission

RULE CITATION: 14B NCAC 15A .0102

DEADLINE FOR RECEIPT: August 2, 2019

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:

At line 7, consider changing "This office" to "The principal office."

At line 8, please change "will not" to "shall not."

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 19, 2019

1 14B NCAC 15A .0102 is amended as published in 33:20 NCR 2032 as follows:

2
3 **14B NCAC 15A .0102 ~~LOCATION AND ADDRESS~~LOCATION, ADDRESSES AND BUSINESS HOURS**

4 The principal office of the North Carolina Alcoholic Beverage Control Commission is located at 400 East Tryon Road,
5 Raleigh, North Carolina 27610. The mailing address is 4307 Mail Service Center, Raleigh, North Carolina 27699-
6 4307. The telephone number is (919) 779-0700. The Commission's email address is contact@abc.nc.gov. The
7 Commission's website address is <https://abc.nc.gov>. This office is open to the public during regular business hours,
8 from 8:00 a.m. to 5:00 p.m., Monday through Friday. Permit applications received after 3:00 p.m. will not be
9 processed until the following business day.

10
11 *History Note: Authority G.S. 18B-100; 18B-207;*

12 *Eff. January 1, 1982;*

13 *Amended Eff. December 1, 2012; January 1, 2011; August 1, 2010; May 1, 1984;*

14 *Transferred and Recodified from 04 NCAC 02R .0102 Eff. August 1, 2015;*

15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
16 *2015;*

17 *Amended Eff. February 1, 2019; April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcohol Beverage Control Commission

RULE CITATION: 14B NCAC 15A .0103

DEADLINE FOR RECEIPT: August 2, 2019

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), consider "The following definitions apply in this Chapter:"

In (a)(4), what do you mean by "includes trade names or trademarks?" Can a "brand" include multiple trade names or trademarks? Or is each trade name or trademark a separate brand?

In (a)(5), please add a comma after "hats."

In (a)(5), at line 17, change "that bears" to "which bear."

In (a)(11), please add a comma after "label."

In (a)(12), why do you list both "importer" and "liquor importer/bottler?" Is a "liquid importer/bottler" a type of "importer?" Are these terms defined?

In (a)(13), line 7, should you say "infusing the spirituous liquor with any ingredient?"

In (a)(13), does your regulated public understand the meaning of "standards of identity" at line 8?

In (a)(13), consider splitting this definition into two sentences. You could end the first sentence after "distilled spirits" on line 8.

In (a)(14), is "retail alcoholic beverage permit" defined? Are all of the permits listed in G.S. 18B-1001 retail permits?

In (a)(14), does "retail permittee" include a local government issued a Special One-Time permit?

In (a)(14), should "Special One-Time" be capitalized? Please note it is not capitalized in statute.

In (a)(15), at line 17, please capitalize "State" if you are only referring to the State of North Carolina. If you are referring to any state, do not capitalize "state."

Ashley Snyder
Commission Counsel
Date submitted to agency: July 19, 2019

In (a)(17), line 19, please either add a comma after “means” or replace “means as the term is used in” with “means the term as used in,” whichever you intended.

In (a)(18, at line 21, should “malt beverages” be “malt beverage?”

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

1 14B NCAC 15A .0103 is amended as published in 33:20 NCR 2032 as follows:

2
3 **14B NCAC 15A .0103 DEFINITIONS**

4 (a) As used ~~throughout in this Chapter.~~ Chapter, the following terms mean:

5 (1) "Administrator" means the principal administrative officer of the ~~Commission;~~ Commission.

6 (2) ~~"Agent," "alcohol law enforcement agent,"~~ "Alcohol law enforcement agent" or "ALE agent" means
7 an enforcement agent of the Alcohol Law Enforcement ~~Division;~~ Branch, North Carolina
8 Department of ~~Crime Control and Public Safety;~~ Safety.

9 (3) "Applicant" means any person who requests the issuance of a permit from the
10 ~~Commission;~~ Commission, unless the context clearly means otherwise.

11 (4) "Brand," in relation to wines, means the name under which a wine is produced and includes trade
12 names or trademarks. A brand shall not be construed to mean a class or type of wine, but all classes
13 and types of wines sold under the same brand label shall be considered a single brand. Differences
14 in packaging such as a different style, type, or size of container shall not be considered different
15 brands.

16 (5) "Branded merchandise" means items, including glassware, cups, signs, t-shirts, hats and other
17 apparel, that bears the brand of the alcoholic beverage being served, or the brand of the brewery,
18 winery, or distiller whose alcoholic beverages is being served, at a tasting conducted pursuant to
19 G.S. 18B-1114.1, 18B-1114.5 or 18B-1114.7.

20 (6) "Brokerage" means a business that brokers in the State the sale of spirituous liquor on behalf of a
21 spirituous liquor supplier.

22 (7) "Brokerage representative" means an individual who promotes spirituous liquor on behalf of a
23 brokerage.

24 (8) "Chairman" means the chairman of the ~~Commission;~~ Commission.

25 ~~(5)(9) "Contract carrier" means the carriers operated by the contractor on behalf of the state for the purpose~~
26 ~~of distributing spirituous liquors;~~ "Contractor" means the person or persons responsible for carrying
27 out the storage and distribution of spirituous liquors at the State ABC warehouse.

28 (10) "Distiller representative" means an individual who promotes spirituous liquor on behalf of a
29 distiller, or otherwise represents a distiller.

30 ~~(6)(11)~~ (11) "Distressed liquor" means liquor which is not saleable due to adulteration or damage to the bottle,
31 label or tax ~~seal;~~ seal.

32 ~~(7)(12)~~ (12) "Industry Member" means any ~~manufacturer, bottler, importer, vendor, representative or wholesaler~~
33 ~~of alcoholic beverages;~~ wholesaler, salesman, brewery, winery, bottler, importer, liquor
34 importer/bottler, distiller, distiller representative, brokerage, brokerage representative, supplier
35 representative, rectifier, nonresident vendor, vendor representative, or affiliate thereof, that sells or
36 solicits orders for alcoholic beverages, whether or not licensed in this State.

- (8) ~~"Operator" or "Contractor" means the person or persons responsible for carrying out the storage and distribution of spirituous liquors at the state ABC warehouse;~~
- (9) ~~"Permit" means a written or printed authorization to engage in some phase of the alcoholic beverage industry that is issued by the Commission;~~
- (10) ~~"Permittee" means a person to whom a permit has been issued by the Commission; and Commission.~~
- (13) "Rectifier" means a permittee that processes spirituous liquor by cutting, blending, mixing, or infusing with any ingredient that reacts with the constituents of the distilled spirits and changes the character and nature, or standards of identity, of the distilled spirits, but does not include a person who extracts spirituous liquor by original or continuous distillation, or who mixes spirituous liquor with other ingredients for immediate consumption.
- (14) "Retail permittee" or "retailer" means any permittee holding a retail alcoholic beverage permit issued pursuant to the authority of G.S. 18B-1001 but does not include a non-profit or political organization that has been issued a Special One-Time permit pursuant to the provisions of G.S. 18B-1002(a)(2) or (5).
- ~~(11)~~(15) "State ABC warehouse" means the contractor-operated facility or facilities storing spirituous liquors on behalf of the Commission pursuant to G.S. 18B-204, or, in cases of emergency, the facility or facilities operated by the state for the purpose of storing spirituous liquors.
- (16) "Spirituous liquor supplier" means a distiller, liquor importer/bottler, or rectifier.
- (17) "Supplier representative" means as the term is used in G.S. 18B-1114.7, an individual who promotes on behalf of a spirituous liquor supplier, or otherwise represents a spirituous liquor supplier.
- (18) "Vendor" means any brewery, winery, bottler, malt beverages or wine importer, or nonresident malt beverage vendor or nonresident wine vendor as those terms are used in G.S. 18B-1113 and 18B-1114.
- (19) "Vendor representative" means any person who holds a permit issued pursuant to G.S. 18B-1112.
- (20) "Wine" means both fortified wine and unfortified wine.

(b) The definitions in Chapter 18B apply to the rules in this Chapter.

History Note: Authority G.S. 18B-100; 18B-207;

Eff. January 1, 1982;

Amended Eff. November 1, 2010; May 1, 1984;

Transferred and Recodified from 04 NCAC 02R .0103 Eff. August 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcohol Beverage Control Commission

RULE CITATION: 14B NCAC 15A .0201

DEADLINE FOR RECEIPT: August 2, 2019

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:

Why is this Rule necessary? It repeats G.S. 18B-200(d). Additionally, statements concerning only the internal management of an agency are not a Rule. G.S. 150B-2(8a)(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 19, 2019

1 14B NCAC 15A .0201 is amended as published in 33:20 NCR 2032 as follows:

2
3 **SECTION .0200 - STRUCTURE**

4
5 **14B NCAC 15A .0201 COMMISSION CHAIRMAN**

6 ~~The North Carolina Alcoholic Beverage Control Commission shall be composed of a chairman and two associate~~
7 ~~members.~~

8 The ~~chairman~~Chairman shall have the powers and perform the duties prescribed by the Commission including the
9 authority to appoint, promote, demote, and discharge all subordinate officers and employees of the Commission.

10 ~~The Commission shall have all the authority and duties given it by the provisions of the North Carolina General~~
11 ~~Statutes.~~

12
13 *History Note: Authority G.S. 18B-100; 18B-200; 18B-207;*

14 *Eff. January 1, 1982;*

15 *Amended Eff. May 1, 1984;*

16 *Transferred and Recodified from 04 NCAC 02R .0201 Eff. August 1, 2015;*

17 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
18 *2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcohol Beverage Control Commission

RULE CITATION: 14B NCAC 15A .0202

DEADLINE FOR RECEIPT: August 2, 2019

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:

At lines 4-7, why is this necessary? G.S. 143-318.12 does not require a public body's schedule of regular meetings to be in Rule. Additionally, Chapter 143, Article 33 of the General Statutes allows public bodies to call special meetings.

At lines 8-9, why is this necessary? It repeats G.S. 143-318.12(d) and (e).

At lines 10-12, why is this necessary? It repeats part of G.S. 143-318.11.

At line 13, why is this necessary? If you decide to keep this sentence, please provide a link to the minutes on the Commission's website.

If you decide to keep this Rule, please divide it into paragraphs, with (a) beginning at line 4, (b) at line 8, (c) at line 10, and (d) at line 13.

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 19, 2019

1 14B NCAC 15A .0202 is amended as published in 33:20 NCR 2032 as follows:

2
3 **14B NCAC 15A .0202 COMMISSION MEETINGS**

4 The Commission shall meet in monthly sessions open to the public in order to ~~make final decisions on hearing cases,~~
5 ~~to adopt, amend or repeal alcoholic beverage control rules, and to consider and act upon any other business pending~~
6 ~~that may come before the Commission.~~ The Commission may call special meetings in addition to the monthly
7 meetings to consider and act upon any ~~unfinished business pending before of~~ the Commission.

8 The ~~press~~public shall be notified of the time and place of both monthly and special ~~meetings-meetings on the~~
9 Commission's website.

10 The Commission may hold ~~executive closed~~ sessions with regard to personnel ~~matters-matters and other matters as~~
11 allowed pursuant to G.S. 143-318.11 These sessions are not open to the public ~~nor is the press notified of these~~
12 ~~sessions-public.~~

13 Minutes of all Commission meetings shall be kept on ~~file-file~~ and made accessible on the Commission's website.

14
15 *History Note: Authority G.S. 18B-100; 18B-200; 18B-207;*

16 *Eff. January 1, 1982;*

17 *Amended Eff. May 1, 1984;*

18 *Transferred and Recodified from 04 NCAC 02R .0202 Eff. August 1, 2015;*

19 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
20 *2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcohol Beverage Control Commission

RULE CITATION: 14B NCAC 15A .0203

DEADLINE FOR RECEIPT: August 2, 2019

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:

Why is this Rule necessary? Statements concerning the internal management of an agency are not rules pursuant to G.S. 150B-2(8a)(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 19, 2019

1 14B NCAC 15A .0203 is amended as published in 33:20 NCR 2032 as follows:

2
3 **14B NCAC 15A .0203 ADMINISTRATIVE FUNCTIONS**

4 The principal administrative officer shall be the administrator who executes rules, policies and procedures governing
5 the sale of alcoholic beverages and coordinates the functions of the Commission with local boards and ~~industry~~
6 alcoholic beverage industry.

7
8 *History Note: Authority G.S. 18B-100; 18B-200(d); 18B-207;*

9 *Eff. January 1, 1982;*

10 *Amended Eff. July 1, 1992; May 1, 1984;*

11 *Transferred and Recodified from 04 NCAC 02R .0204 Eff. August 1, 2015;*

12 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
13 *2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcohol Beverage Control Commission

RULE CITATION: 14B NCAC 15A .0204

DEADLINE FOR RECEIPT: August 2, 2019

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:

Why is this Rule necessary? Statements concerning the internal management of an agency are not rules pursuant to G.S. 150B-2(8a)(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 19, 2019

1 14B NCAC 15A .0204 is amended as published in 33:20 NCR 2032 as follows:

2
3 **14B NCAC 15A .0204 LEGAL FUNCTIONS**

4 The Legal Division processes cases involving permittees charged with violations of the ABC laws, and represents the
5 Commission in contested cases before the Office of Administrative Hearings. Legal staff may also serve as hearing
6 officers in cases filed under Article 12 of Chapter 18B, pursuant to G.S. 18B-1205.

7
8 *History Note:* Authority G.S. 18B-100; 18B-200(d); 18B-207;
9 Eff. January 1, 1982;
10 Amended Eff. July 1, 1992; May 1, 1984;
11 Transferred and Recodified from 04 NCAC 02R .0205 Eff. August 1, 2015;
12 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,
13 2015.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcohol Beverage Control Commission

RULE CITATION: 14B NCAC 15A .0301

DEADLINE FOR RECEIPT: August 2, 2019

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:

Just to be sure, does (a) still occur since everything is now available online?

In (a), lines 8-9, why do you need to include employees of the Commission in this list? Statements concerning only the internal management of an agency are not rules pursuant to G.S. 150B-2(8a)(a).

At line 17, please add a comma before "if applicable."

At line 18, please reference "Subparagraphs (b)(1) and (b)(2) of this Rule" and provide a link to the website.

In (c), please add a link to this page of your website.

In your history note, there is no need to cite G.S. 132-6.2. Although related to this Rule, that statute does not grant the Commission rulemaking authority.

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 19, 2019

1 14B NCAC 15A .0301 is amended as published in 33:20 NCR 2032 as follows:

2
3 **SECTION .0300 - PUBLICATIONS: RECORDS: COPIES**
4

5 **14B NCAC 15A .0301 DISTRIBUTION, INSPECTION AND COPIES OF ABC LAWS**

6 (a) Distribution of Rules and Statutes. The Commission shall distribute at no charge ~~aone~~ copy of Chapter 18B of
7 the General Statutes and the Commission's Rules to each local ABC board, each ALE agent, ABC officer and local
8 law enforcement officer employed by a contracting agency pursuant to G.S. 18B-501(f), and to each employee of the
9 Commission.

10 (b) Purchasing Copies of Documents. Copies of the following documents are available from the Commission:

11 (1) Chapter 18B of the General Statutes and the Commission's Rules;

12 ~~(2) Individual sections of Chapter 18B of the General Statutes;~~

13 ~~(3) Individual Commission Rules;~~

14 ~~(4)~~(2) ABC Retail Guide; and

15 ~~(5)~~(3) Public records retained by the Commission.

16 Copies of the above documents are available at the "actual cost" as defined in G.S. 132-6.2(b) for making the copies
17 and the mailing cost if applicable. The Commission shall provide its "actual cost" of documents specified under
18 Paragraph (b)(1) and (2) of this Rule on the Commission's website. Persons requesting copies of the above documents
19 shall make payment by certified check, cashier's ~~check or money order~~check, money order, or credit card to the
20 Commission prior to receiving any copies of the above documents.

21 (c) Online Documents. Copies of Chapter 18B of the General Statutes and Commission rules, forms, minutes and
22 reports shall be made accessible online on the Commission's website without charge.

23
24 *History Note: Authority G.S. 12-3.1; 18B-100; 18B-207; 132-6.2;*

25 *Eff. July 1, 1992;*

26 *Amended Eff. November 1, 2010;*

27 *Transferred and Recodified from 04 NCAC 02R .0303 Eff. August 1, 2015;*

28 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
29 *2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcohol Beverage Control Commission

RULE CITATION: 14B NCAC 15A .0302

DEADLINE FOR RECEIPT: August 2, 2019

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:

Is this Rule necessary? G.S. 132-6.1 already allows public bodies to provide data-processing services or databases as public records.

Please note this Rule states the Commission "shall" provide data processing services related to public information if the Commission has the capability. G.S. 132-6.1 says public agencies "may" provide access to public records in computer databases. Please confirm you intentionally changed the standard.

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 19, 2019

1 14B NCAC 15A .0302 is amended as published in 33:20 NCR 2032 as follows:

2
3 **14B NCAC 15A .0302 FEE FOR COMPUTER SERVICES**

4 Upon request, the Commission shall provide data processing services related to the public information maintained by
5 the ~~Commission, if feasible.~~Commission that the Commission has the capability to provide. Fees for such services
6 ~~are based on the actual cost to the Commission~~shall be determined by the Commission in accordance with G.S. 132-
7 6.2(b) and shall be paid in advance by certified check, cashier's ~~check or money order.~~check, money order, or credit
8 card. The requester shall request and receive a quote from the Commission prior to payment of requested services.

9
10 *History Note: Authority 18B-100; 18B-207; 132.6.2; 150B-19(5)(e);*

11 *Eff. July 1, 1992;*

12 *Amended Eff. November 1, 2010;*

13 *Transferred and Recodified from 04 NCAC 02R .0304 Eff. August 1, 2015;*

14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
15 *2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcohol Beverage Control Commission

RULE CITATION: 14B NCAC 15A .0401

DEADLINE FOR RECEIPT: August 2, 2019

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), at line 6, please add a comma after "amendment."

In (b), what is your authority to require anything in addition to "the proposed text of the requested rule change and a statement of the effect" as allowed by G.S. 150B-20? For any of the additional listed items, you could say "The petition may contain the following information:"

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 19, 2019

1 14B NCAC 15A .0401 is amended as published in 33:20 NCR 2032 as follows:

2
3 **SECTION .0400 - RULE-MAKING**
4

5 **14B NCAC 15A .0401 PETITION FOR ADOPTION OF RULES**

6 (a) Any person wishing to submit a petition requesting the adoption, amendment or repeal of a rule by the Commission
7 shall address the petition to the North Carolina Alcoholic Beverage Control Commission, Chief Counsel, 4307 Mail
8 Service Center, Raleigh, North Carolina 27699-4307.

9 (b) Contents. The petition shall contain the following information:

- 10 (1) ~~Drafts~~drafts of proposed rule or amendment, or summary of its contents;
11 (2) reasons for the adoption, amendment or repeal of the proposed rule;
12 (3) citation of authorities showing the legality of the proposed adoption, amendment or repeal of the
13 rule;
14 (4) effect of existing rules or orders;
15 (5) any data supporting the proposal;
16 (6) effect of existing rules on existing practices in the area ~~involved, including case factors;~~
17 ~~(7) names and addresses of persons most likely to be affected by the proposal; involved; and~~
18 ~~(8)(7)~~ name and address of each petitioner.
19

20 *History Note: Authority G.S. 18B-100; 18B-207; 150B-20(a);*

21 *Filed November 24, 1981;*

22 *Legislative Delay Eff. December 31, 1981;*

23 *Eff. January 12, 1982;*

24 *Amended Eff. August 1, 2010; May 1, 1984;*

25 *Transferred and Recodified from 04 NCAC 02R .0402 Eff. August 1, 2015;*

26 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
27 *2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcohol Beverage Control Commission

RULE CITATION: 14B NCAC 15A .0402

DEADLINE FOR RECEIPT: August 2, 2019

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:

At line 4, what "other relevant supporting material" are you referring to?

The 120-day timeline and the contents of (1) and (2) repeat G.S. 150B-20. Why is this necessary?

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 19, 2019

1 14B NCAC 15A .0402 is amended as published in 33:20 NCR 2032 as follows:

2
3 **14B NCAC 15A .0402 ADMINISTRATIVE ACTION**

4 Based on a study of the petition and other relevant supporting material, the Commission shall deny the petition or
5 initiate rule-making proceedings within a reasonable ~~time~~time, but no later than 120 days following submission of the
6 petition.

7 (1) If the Commission ~~determines that the adoption, amendment or repeal of a rule will serve no public~~
8 ~~interest, it may deny the petition; the Commission denies the petition,~~ it shall notify the petitioner in
9 writing of its decision to deny the petition, stating the reasons for the denial.

10 (2) If the Commission ~~determines that the proposed adoption, amendment or repeal of a rule will serve~~
11 ~~the public interest, grants the petition,~~ it shall initiate rule-making proceedings ~~by issuing a~~
12 ~~rule making notice, as provided in this Section.~~in accordance with Chapter 150B of the General
13 Statutes. In accordance with G.S. 150B-20(c), the Commission may publish the name of the person
14 requesting the rule change.

15
16 *History Note:* Authority G.S. 18B-100; 18B-207; 150B-20;
17 Eff. January 1, 1982;
18 Amended Eff. May 1, 1984;
19 Transferred and Recodified from 04 NCAC 02R .0403 Eff. August 1, 2015;
20 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,
21 2015.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcohol Beverage Control Commission

RULE CITATION: 14B NCAC 15A .0403

DEADLINE FOR RECEIPT: August 2, 2019

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:

Why is (a) necessary? Chapter 150B already sets forth this requirement.

In (b), please add "in accordance with G.S. 150B-21.2(d)" after "mailing list."

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 19, 2019

1 14B NCAC 15A .0403 is amended as published in 33:20 NCR 2032 as follows:

2
3 **14B NCAC 15A .0403 NOTICE OF RULE-MAKING HEARINGS; MAILING LIST**

4 (a) Upon a determination to hold a rule-making proceeding, either in response to a petition or otherwise, the
5 Commission shall give notice to all interested parties of the proceedings in accordance with the requirements of
6 Chapter 150B of the General Statutes.

7 (b) Mailing List. Any person desiring to be placed on the mailing list for the rule-making notices may file a request
8 in writing, furnishing ~~his name~~ the person's name, email and mailing address to the Commission. ~~The request shall~~
9 ~~state the subject areas within the authority of the Commission for which notice is requested.~~

10 ~~(c) Fee Charged. The cost to be on the mailing list for rule making notices shall be fifteen dollars (\$15.00) per year.~~
11 ~~A notice and invoice will be mailed in February of each year to persons on the mailing list. Persons who do not renew~~
12 ~~their request to remain on the mailing list by remitting the fee by March 1 of each year will be deleted from the list.~~

13
14 *History Note: Authority G.S. 18B-100; 18B-207; 150B-21.2;*

15 *Eff. January 1, 1982;*

16 *Amended Eff. July 1, 1992; August 1, 1988; May 1, 1984;*

17 *Transferred and Recodified from 04 NCAC 02R .0404 Eff. August 1, 2015;*

18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
19 *2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcohol Beverage Control Commission

RULE CITATION: 14B NCAC 15A .0404

DEADLINE FOR RECEIPT: August 2, 2019

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:

Why is this rule necessary given 150B-31.2(e)?

In (b), what are you requiring of your regulated public? Please use "shall" statements instead of words like "encouraged" or "should."

In (c), define "fair opportunity."

In (c), line 12, under what circumstances will the Chairman limit a speaker's time?

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 19, 2019

1 14B NCAC 15A .0404 is amended as published in 33:20 NCR 2032 as follows:

2
3 **14B NCAC 15A .0404 RULE-MAKING HEARING**

4 (a) Location. Unless otherwise stated in a particular rule-making notice, rule-making hearings shall be held in the
5 administrative hearing room of the Commission's ~~Raleigh~~principal office.

6 (b) Oral Presentations. Any person desiring to present oral data, views or arguments on the proposed rule is
7 encouraged to file a written notice of that desire with the ~~Chairman~~Legal Division of the Commission. The notice of
8 the oral presentation should contain a brief summary of the individual's or organization's views with respect to the
9 proposed adoption, amendment or repeal of a rule, and a statement of the length of time the speaker intends to speak.

10 (c) The Chairman shall preside at the rule-making ~~hearing, and hearing and~~ and shall ensure that each person participating
11 is given a fair opportunity to present oral arguments, comments and data supporting ~~his~~the person's position. The
12 Chairman may limit the length of time any speaker may speak.

13
14 History Note: Authority G.S. 18B-100; 18B-207; 150B-21.2(e);

15 *Eff. January 1, 1982;*

16 *Amended Eff. July 1, 1992; May 1, 1984;*

17 *Transferred and Recodified from 04 NCAC 02R .0405 Eff. August 1, 2015;*

18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
19 *2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcohol Beverage Control Commission

RULE CITATION: 14B NCAC 15A .0501

DEADLINE FOR RECEIPT: August 2, 2019

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:

At line 7, you use the word "may." Under what circumstances will the Commission revoke or suspend the permit?

In your history note, please remove the citation to Chapter 166A, Article 1A because it does not grant the Commission rulemaking authority.

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 19, 2019

1 14B NCAC 15A .0501 is amended with changes as published in 33:20 NCR 2032 as follows:

2
3 **SECTION .0500 – DECLARED EMERGENCY RULES**

4
5 **14B NCAC 15A .0501 REVOCATION OR SUSPENSION OF PERMIT**

6 ~~When the sale of alcoholic beverages is suspended in any area of the state pursuant to a state of emergency as declared~~
7 ~~by the Governor in accordance with Article 36A of Chapter 14 of the General Statutes, the~~ The Commission may
8 revoke or suspend the permit of any person ~~violating~~who violates any order ~~or rule of the Governor issued~~ pursuant
9 ~~to that action.~~ G.S. 18B-110 when the sale of alcoholic beverages is suspended in any area of the State pursuant to a
10 state of emergency as declared by the Governor in accordance with Article 1A of Chapter 166A of the General
11 Statutes,]Statutes.

12
13 *History Note: Authority G.S. 18B-110; 18B-207; ~~14-288.1 through 14-288.20;~~166A, Article 1A;*

14 *Eff. January 1, 1982;*

15 *Amended Eff. May 1, 1984;*

16 *Transferred and Recodified from 04 NCAC 02R .0502 Eff. August 1, 2015;*

17 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
18 *2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcohol Beverage Control Commission

RULE CITATION: 14B NCAC 15A .0601

DEADLINE FOR RECEIPT: August 2, 2019

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:

Given G.S. 150B-4(a), why is this Rule necessary?

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 19, 2019

1 14B NCAC 15A .0601 is amended as published in 33:20 NCR 2032 as follows:

2
3 **SECTION .0600 - DECLARATORY RULINGS**

4
5 **14B NCAC 15A .0601 ISSUANCE: GROUNDS**

6 Upon request of an aggrieved party, except where the Commission ~~for good cause finds issuance of a ruling~~
7 ~~undesirable, denies a request in accordance with Rules .0602 or .0603 of this Section,~~ the Commission shall issue a
8 declaratory ruling if the request for such a ruling will:

- 9 (1) determine the validity of a rule previously adopted by the Commission; or
10 (2) determine the applicability of a particular statute or rule administered or adopted by the Commission
11 to a given specific fact situation.

12
13 *History Note: Authority G.S. 18B-100; 18B-207; 150B-4;*

14 *Eff. January 1, 1982;*

15 *Amended Eff. May 1, 1984;*

16 *Transferred and Recodified from 04 NCAC 02R .0602 Eff. August 1, 2015;*

17 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
18 *2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcohol Beverage Control Commission

RULE CITATION: 14B NCAC 15A .0602

DEADLINE FOR RECEIPT: August 2, 2019

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), you list the required information to file a request for a declaratory ruling to contest the validity of a rule. What information shall be filed to request a declaratory ruling as to the applicability to a given state of facts of a statute administered by an agency or a rule or order of the agency? See G.S. 150B-4(a).

In (a)(3), please delete or define "brief."

In (a)(8), what do you mean by "conference?" What is the purpose of this conference?

At lines 18-19, by "officer qualified to administer oaths that the information supplied in the request is true and accurate" do you mean a notary public? If so, please use that term.

In (b), by "any supporting materials relevant" do you mean the list in (a)?

In (c)(2) and (3), define "substantially similar."

In (c)(7), are you saying if they are in violation of any rule or statute in 18B or only if they are in violation of the rule or statute that is the subject of the request?

In (c)(7), when is an entity "connected to the subject matter of the request?"

Just to be clear, in (c)(1)-(7) the agency will issue a denial of the request for a declaratory judgement as described in 150B-4(a1)(2), but in (d) the agency will not issue a ruling as contemplated by 150B-(a1)(4), correct?

In (d), define "materially related."

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 19, 2019

1 14B NCAC 15A .0602 is amended as published in 33:20 NCR 2032 as follows:

2
3 **14B NCAC 15A .0602 REQUEST FOR DECLARATORY RULING**

4 (a) All requests for a declaratory ruling to contest the validity of a rule adopted by the Commission shall supply the
5 following information:

- 6 (1) name and address of person aggrieved;
- 7 (2) statute or rule to which the request relates;
- 8 (3) a brief statement of the manner in which the person aggrieved is affected or may be affected by the
9 statute or rule;
- 10 (4) names and addresses of additional third persons known to the person aggrieved who may possibly
11 be affected by the requested ruling;
- 12 (5) statement of all material facts;
- 13 (6) statement whether or not the person aggrieved is aware of any pending Commission action or court
14 action that may bear on the applicability of the statute or rule to the person's particular situation;
- 15 (7) statement of the arguments and legal authority supporting the person's position on the applicability
16 of this statute or rule; and
- 17 (8) statement of whether or not a conference is desired and reasons for requesting conference.

18 The person aggrieved shall sign and verify the request before an officer qualified to administer oaths that the
19 information supplied in the request form is true and accurate.

20 (b) The request and any supporting materials relevant to the request shall be sent to the North Carolina Alcoholic
21 Beverage Control Commission, Legal Division, 4307 Mail Service Center, Raleigh, North Carolina 27699-4307.

22 (c) The Commission shall either deny the request, stating the reasons therefore, or issue a declaratory ruling. The
23 Commission shall deny a request for a declaratory ruling when the Commission determines that:

- 24 (1) the request does not comply with the procedural guidelines within Paragraphs (a) and (b) of this
25 Rule;
- 26 (2) the Commission has previously issued a declaratory ruling on substantially similar facts;
- 27 (3) the Commission has previously issued a final agency decision in a contested case on substantially
28 similar facts;
- 29 (4) the facts underlying the request for a declaratory ruling were considered at the time of the adoption
30 of the rule in question;
- 31 (5) the subject matter is one concerning which the Commission is without authority to make a decision
32 binding the Commission or the petitioner;
- 33 (6) the petitioner is not aggrieved by the rule or statute in question or otherwise has no interest in the
34 subject matter of the request;
- 35 (7) there is reason to believe that the petitioner or some other person or entity materially connected to
36 the subject matter of the request is acting in violation of the G.S. 18B or the rules adopted by the
37 Commission; or

1 (8) the subject matter of the request is involved in pending litigation, legislation, or rulemaking.

2 (d) The Commission shall not issue a declaratory ruling when the ~~petitioner~~petitioner, or his or her ~~request~~request, is
3 the subject of, or materially related to, an investigation by the Commission or contested case before the Commission.
4

5 *History Note:* Authority G.S. 18B-100; 18B-207; 150B-4;

6 *Eff. January 1, 1982;*

7 *Amended Eff. November 1, 2010; May 1, 1984;*

8 *Transferred and Recodified from 04 NCAC 02R .0603 Eff. August 1, 2015;*

9 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
10 *2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcohol Beverage Control Commission

RULE CITATION: 14B NCAC 15A .0605

DEADLINE FOR RECEIPT: August 2, 2019

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:

Consider beginning with: "A petitioner may request a withdrawal of their request for a declaratory ruling by filing a written request with the Commission."

When will the Commission allow a request to be withdrawn? What factors are considered? Who makes the final determination, the Commission or staff? Please clarify in the body of the rule.

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 19, 2019

1 14B NCAC 15A .0605 is amended as published in 33:20 NCR 2032 as follows:

2
3 **14B NCAC 15A .0605 WITHDRAWAL OF REQUEST FOR DECLARATORY RULING**

4 At any time prior to ~~issuance, issuing a ruling, upon a written request~~ the Commission in its discretion may permit an
5 aggrieved party to withdraw the request for a declaratory ~~ruling, any such request for withdrawal to be in~~
6 writing ruling.

7
8 *History Note: Authority G.S. 18B-100; 18B-207; 150B-4;*

9 *Eff. January 1, 1982;*

10 *Transferred and Recodified from 04 NCAC 02R .0607 Eff. August 1, 2015;*

11 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
12 *2015.*

1 14B NCAC 15A .0701 is repealed as published in 33:20 NCR 2032 as follows:

2
3 **SECTION .0700 - PERSONNEL POLICIES: COMMISSION**

4
5 **14B NCAC 15A .0701 DISCIPLINARY ACTION OF EMPLOYEE**

6
7 *History Note: Authority G.S. 18B-100; 18B-202; 18B-207;*
8 *Eff. January 1, 1982;*
9 *Amended Eff. May 1, 1984;*
10 *RRC Objection due to lack of authority and lack of necessity Eff. May 21, 1992;*
11 *Amended Eff. July 6, 1992;*
12 *Transferred and Recodified from 04 NCAC 02R .0702 Eff. August 1, 2015;*
13 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
14 *2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcohol Beverage Control Commission

RULE CITATION: 14B NCAC 15A .0801

DEADLINE FOR RECEIPT: August 2, 2019

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:

At line 7, why do you capitalize "Notice of Alleged Violation" at the beginning of the line and not capitalize "notice of alleged violation" at the end of the line. Please be consistent.

At line 7, why do you use the term "received" instead of "completed" as used in Rule 5 of the North Carolina Rules of Civil Procedure?

At lines 8-9, please update your citation to "G.S. 1A-1, Rule 5(b)."

To track Rule 5, consider the following for the sentence beginning at line 7: "Service of the Notice of Alleged Violation shall be deemed complete in accordance with G.S. 1A-1, Rule 5(b). The permittee's address as stated on the permit shall be considered the plaintiff's last known address."

Do you follow the mailbox rule in G.S. 1A-1, Rule 6(e)?

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 19, 2019

1 14B NCAC 15A .0801 is amended as published in 33:20 NCR 2032 as follows:

2
3 **SECTION .0800 - ADJUDICATION: CONTESTED CASES**
4

5 **14B NCAC 15A .0801 NOTICE OF ALLEGED VIOLATION**

6 If facts reported by a law enforcement officer indicate a violation of the ABC laws, the Commission shall send a
7 Notice of Alleged Violation to the permittee. The permittee is deemed ~~notified~~ to have received the notice of alleged
8 violation if service of the notice is delivered to made in accordance with the methods of service set forth in G.S. 1A-
9 5(b), including service at the permittee's address as stated on the permit.

10
11 *History Note: Authority G.S. 18B-100; 18B-203(a)(12); 18B-207;*

12 *Eff. January 1, 1982;*

13 *Amended Eff. February 1, 2012; July 1, 1992; May 1, 1984;*

14 *Transferred and Recodified from 04 NCAC 02R .0802 Eff. August 1, 2015;*

15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
16 *2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcohol Beverage Control Commission

RULE CITATION: 14B NCAC 15A .0805

DEADLINE FOR RECEIPT: August 2, 2019

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:

Just to be clear, this Rule only governs hearings related to wine distribution agreements, correct?

In (a), the first time you refer to "Article 12," please say "Chapter 18B, Article 12."

In (d), under what circumstances is an initial hearing conducted by the Commission instead of a hearing officer?

At line 17, is the word "prior" necessary?

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 19, 2019

1 14B NCAC 15A .0805 is amended as published in 33:20 NCR 2032 as follows:

2
3 **14B NCAC 15A .0805 ARTICLE 12 HEARINGS; FINAL ADMINISTRATIVE DECISION; ORDER**

4 (a) Right to Submit Proposed Findings. The parties in a hearing conducted under Article 12 shall have an opportunity
5 to file proposed findings of fact and conclusions of law within 30 days of the conclusion of the initial hearing.

6 (b) Recommended Decision. If a hearing conducted under Article 12 is presided over by a hearing officer, the hearing
7 officer shall issue a recommended decision that contains proposed findings of fact and conclusions of law. The hearing
8 officer shall serve a copy of the recommended decision upon all parties and the members of the Commission who will
9 make the final administrative decision. Service shall be in the manner prescribed in ~~Rule .0821(e)~~Rule .0803(c) of
10 this Section.

11 (c) Exceptions. The parties to a case heard under Article 12 shall have the right to file written exceptions to a
12 recommended decision by the hearing officer. Exceptions shall be filed with the Commission within 30 days of receipt
13 of the recommended decision.

14 (d) Hearing Conducted by Commission. In lieu of assigning a hearing officer to preside over the initial hearing, the
15 Commission may conduct the initial hearing. After the time for the filing of proposed findings of fact and conclusions
16 of law by the parties has expired, the Commission will issue a final administrative decision and order that determines
17 the issues set forth in any prior pre-hearing order.

18 (e) Petition to Office of Administrative Hearings. In any case heard by the Commission under Article 12 of Chapter
19 18B of the General Statutes, if the Commission finds evidence of violations of Article 12 of Chapter 18B, or any other
20 ABC law, it may commence proceedings in accordance with the provisions of ~~Rule .0802~~Rule .0801 of this Section.

21
22 *History Note: Authority G.S. 18B-100; 18B-207; 18B-1205; 18B-1207(c);*

23 *Eff. July 1, 1992;*

24 *Transferred and Recodified from 04 NCAC 02R .0823 Eff. August 1, 2015;*

25 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
26 *2015.*

1 14B NCAC 15C .0101 is repealed as published in 33:20 NCR 2032 as follows:

2
3 **SUBCHAPTER 15C - INDUSTRY MEMBERS: RETAIL/INDUSTRY MEMBER RELATIONSHIPS: SHIP**
4 **CHANDLERS: AIR CARRIERS: FUEL ALCOHOL**

5
6 **SECTION .0100 - DEFINITIONS: APPLICATION PROCEDURES**

7
8 **14B NCAC 15C .0101 DEFINITIONS**

9
10 *History Note: Authority G.S. 18B-100; 18B-101; 18B-207; 18B-1112; 18B-1113; 18B-1114; 18B-1116;*
11 *Eff. January 1, 1982;*
12 *Amended Eff. April 1, 2011; July 1, 1992; May 1, 1984;*
13 *Transferred and Recodified from 04 NCAC 02T .0101 Eff. August 1, 2015;*
14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,*
15 *2017;*
16 *Amended Effective April 1, 2019.*