

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcoholic Beverage Control Commission

RULE CITATION: All Rules

**DEADLINE FOR RECEIPT: November 7, 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 the end of your history notes, please add a proposed effective date as shown below. The earliest possible effective date for these rules is December 1, 2019.*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest  
Eff. August 22, 2015;  
Amended Eff. December 1, 2019.*

*Throughout these rules, why is "Contractor" capitalized.*

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: October 24, 2019

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcoholic Beverage Control Commission

RULE CITATION: 14B NCAC 15A .0902

**DEADLINE FOR RECEIPT: November 7, 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), are you using the definition of "working capital" from G.S. 18B-702(g)(3)?*

*In (a)(1), can a local board use any 4 months from the latest fiscal year or does the board have to use the last four months? The same question applies for (a)(2) and (a)(3).*

*In (b)(2), just to be clear, by "current portion of long-term debt" do you mean the debt currently due or the debt due at that time and not in the future?*

*Throughout this rule, consider changing "long term" to "long-term."*

*Are both (b)(2) and (b)(3) necessary?*

*In (b)(4), how does the Commission determine whether continued operation of a local board will lead to profits in the next fiscal year? What factors are considered? What does the Commission review to make this determination?*

*In your history note, please consider adding G.S. 18B-702(g).*

*In your history note, do you need to cite G.S. 18B-805(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: October 24, 2019

1 14B NCAC 15A .0902 is amended as published in 34:02 NCAC 115 as follows:

2  
3 **14B NCAC 15A .0902 MAINTENANCE OF WORKING CAPITAL**

4 ~~(a) As used in this Rule, "working capital" means the total of cash, investments and inventory less all unsecured~~  
5 ~~liabilities.~~

6 ~~(b)(a)~~ A local board shall set its working capital requirements at not less than two weeks' average gross sales of the  
7 latest fiscal year nor greater than:

- 8 (1) four months of the latest fiscal year for boards with gross sales less than one million five hundred  
9 thousand dollars (\$1,500,000);  
10 (2) three months of the latest fiscal year for boards with gross sales greater than or equal to one million  
11 five hundred thousand dollars (\$1,500,000) and less than fifty million dollars (\$50,000,000); and  
12 (3) two months of the latest fiscal year for boards with gross sales equal to or greater than fifty million  
13 dollars (\$50,000,000).

14 ~~Gross sales means gross receipts from the sale of alcoholic beverages less distributions as defined in G.S. 18B-~~  
15 ~~805(b)(2),(3), and (4).~~

16 ~~(c)(b)~~ A local board is considered insolvent if all of the following conditions apply:

- 17 (1) the local board does not adhere to the working capital requirements as stated in Paragraph ~~(b)(a)~~ of  
18 this Rule;  
19 (2) the local board's current assets are less than the local board's current liabilities and the current  
20 portion of long term debt;  
21 (3) the local board is unable to pay its debts as they fall due; and  
22 (4) the Commission believes that continued operation of the local board will not lead to profits in the  
23 next fiscal year.

24 ~~(d)(c)~~ As used in this Rule, "long term debt" means the loans and financial obligations lasting over one year.

25  
26 *History Note: Authority G.S. 18B-100; 18B-203(a)(20); 18B-207; 18B-702(u); 18B-805(a),(d);*  
27 *Eff. January 1, 1982;*

28 *Amended Eff. November 1, 2011; July 1, 1992; June 1, 1988; May 1, 1984;*

29 *Transferred and Recodified from 04 NCAC 02R .0902 Eff. August 1, 2015;*

30 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*  
31 *2015.*  
32

1 14B NCAC 15A .0903 is amended as published in 34:02 NCAC 115 as follows:

2  
3 **14B NCAC 15A .0903 DEPOSITS**

4 (a) Each local board shall designate as its official depositories one or more ~~banks, savings and loan associations~~ banks  
5 or trust companies in this State.

6 (b) The amount of funds on deposit in an official depository or deposited at interest shall be secured as provided in  
7 the Rules of the Local Government Commission at ~~20 NCAC 7.20~~ NCAC 7, which are incorporated herein by  
8 reference, including subsequent amendments and editions.

9  
10 *History Note: Authority G.S. 18B-100; 18B-207; 18B-702(t),(u);*

11 *Eff. May 1, 1984;*

12 *Transferred and Recodified from 04 NCAC 02R .0903 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: Alcoholic Beverage Control Commission

RULE CITATION: 14B NCAC 15A .0905

**DEADLINE FOR RECEIPT: November 7, 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), are you using the term "official depository" as used in G.S. 18B-702(q)?*

*At lines 9 and 14, are you using the term "financial officer" as defined in G.S. 18B-101(6a)?*

*In (b), how much change is "necessary for daily operation?" Is this determination left to the discretion of the local board?*

*In (d), how does a local board demonstrate "adequate security for the funds involved?" What factors does the Commission consider when determining whether to grant a waiver?*

*In (d), if the Commission grants the waiver, is all of Paragraph (a) waived? Specifically, does the Commission also waive the requirement to deposit any funds on hand at the end of the month?*

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: October 24, 2019

1 14B NCAC 15A .0905 is amended as published in 34:02 NCAC 115 as follows:

2  
3 **14B NCAC 15A .0905 DAILY DEPOSITS**

4 (a) Each officer whose duty it is to collect or receive moneys of the local board shall deposit the collections and  
5 receipts daily into an official ~~depository the collections and receipts daily depository~~. If the local board gives its  
6 approval, deposits shall be required only when the moneys on hand are equal to or are greater than two hundred fifty  
7 dollars (\$250.00), but in any event a deposit shall be made of any amount of moneys on hand on the last business day  
8 of the month. ~~All deposits shall be made in an official depository.~~ Deposits in an official depository shall be reported  
9 to the finance officer by means of a duplicate deposit ticket.

10 (b) A change fund necessary for daily operation of an ABC store shall be established by each local board and  
11 maintained in a secure place on the store's premises and shall not be subject to the daily deposit ~~rule~~ rule set forth in  
12 Paragraph (a) of this Section. Each change fund shall be maintained in the amount and place established by the local  
13 board.

14 (c) The finance officer may at any time audit the records maintained by any employee collecting sales revenue and  
15 may prescribe the form and detail of these records.

16 (d) The Commission shall waive or alter the daily deposit requirement set forth in Paragraph (a) of this Section for  
17 any local board where adequate security for the funds involved is demonstrated.

18  
19 *History Note: Authority G.S. 18B-100; 18B-207; 18B-702(t),(u);*

20 *Eff. May 1, 1984;*

21 *Amended Eff. November 1, 2010;*

22 *Transferred and Recodified from 04 NCAC 02R .0905 Eff. August 1, 2015;*

23 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*  
24 *2015.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcoholic Beverage Control Commission

RULE CITATION: 14B NCAC 15A .0907

**DEADLINE FOR RECEIPT: November 7, 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 6, are the contents or substantive requirements of the form in rule in accordance with G.S. 150B-2(8a)(d)?

In (b), line 11, is the requirement to "divulge any information relating to fiscal affairs as requested" applicable only during the course of the audit or at all times?

In (c), consider re-wording the first sentence: "Each local board shall disclose the distribution of profits, including all distributions made pursuant to G.S. 18B-805, in a schedule to be included with the annual financial audit statements."

At line 19, consider changing "shall be so designated to provide" to "shall provide."

At line 19, what is the "schedule for each type of distribution?"

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: October 24, 2019

1 14B NCAC 15A .0907 is amended with changes as published in 34:02 NCAC 115 as follows:

2  
3 **14B NCAC 15A .0907 ANNUAL INDEPENDENT FINANCIAL AUDIT**

4 (a) Each local board shall have its accounts audited after the close of each fiscal year by an independent certified  
5 public accountant. The auditor shall be selected by and report to the local board. The audit contract shall be on a  
6 form provided by the Commission. The audit report is due to the Commission ~~ninety~~90 days after the end of the fiscal  
7 year. The financial officer shall file ensure one unbound copy of the audit report and management letter is filed with  
8 the Commission.

9 (b) Each officer and employee of the local board having custody of public money or responsibility for keeping records  
10 of financial or fiscal affairs shall produce books and records requested by the auditor or the Commission and shall  
11 divulge any information relating to fiscal affairs ~~that they request, as requested.~~ If any member of the local board or  
12 any employee conceals, falsifies or refuses to deliver or divulge any books, records, or information with intent to  
13 mislead the auditor or impede or interfere with the audit, ~~he~~that individual is subject to removal for cause pursuant to  
14 G.S. 18B-203(a)(8).

15 (c) Disclosure of the distribution of profits shall include ~~every element that is applicable under~~all distributions made  
16 pursuant to G.S. 18B-805 in a schedule prepared for inclusion with the annual audited financial statements. ~~In addition~~  
17 ~~the~~The schedule shall be supported by a listing of each person who receives moneys from the local board, the date of  
18 payment and, if applicable, the purpose for which the payment was made and restrictions on use of the payment. The  
19 listing shall be so designated to provide the same totals as were used in the schedule for each type of distribution.

20  
21 *History Note: Authority G.S. 18B-100; 18B-203(a)(8); 18B-207; 18B-702(s),(u);*

22 *Eff. May 1, 1984;*

23 *Amended Eff. November 1, 2010;*

24 *Transferred and Recodified from 04 NCAC 02R .0907 Eff. August 1, 2015;*

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



## REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcoholic Beverage Control Commission

RULE CITATION: 14B NCAC 15A .1003

**DEADLINE FOR RECEIPT: November 7, 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:

*Please review and update the citation to G.S. 97-25.5(j) at line 6.*

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: October 24, 2019

1 14B NCAC 15A .1003 is amended as published in 34:02 NCR 115 as follows:

2  
3 **14B NCAC 15A .1003 EMPLOYMENT AGE REQUIREMENT**

4 A person employed by a local board shall be at least 18 years of age unless waived by the ~~commission~~ Commission.  
5 The Commission shall grant a waiver pursuant to this Rule subject to compliance with the conditions and limitations  
6 applicable to permittees pursuant to G.S. 97-25.5(j).

7  
8 *History Note: Authority G.S. 18B-100; 18B-207; 18B-302(h); 18B-807;*  
9 *Eff. January 1, 1982;*  
10 *Amended Eff. February 1, 1986;*  
11 *Transferred and Recodified from 04 NCAC 02R .1004 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: Alcoholic Beverage Control Commission

RULE CITATION: 14B NCAC 15A .1006

**DEADLINE FOR RECEIPT: November 7, 2019**

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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), how are you using the terms "policies" and "rules." Are you using the APA definitions or are these terms defined for purposes of this Rule? How is a "policy" different than a "rule" for local boards? Please note G.S. 18B-701(a) uses the term "rules."*

*In (a)(3), please add a comma after "sick leave."*

*In (a)(3), what "other matters" may pertain to conditions of employment? What exactly are you requiring here?*

*In (a)(4), please add a comma after "demotion?"*

*In (a)(8), what are you requiring a local board include in its policies? What other programs or procedures may be necessary?*

*In (c), as you use the terms here, what is the difference between a "rule" and a "policy?"*

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: October 24, 2019

1 14B NCAC 15A .1006 is amended as published in 34:02 NCR 115 as follows:

2  
3 **14B NCAC 15A .1006 PERSONNEL MANUAL**

4 (a) Each local board shall establish policies and rules governing each of the following:

- 5 (1) Initial employment of employees, including qualifications and requirements for new employees;
- 6 (2) Compensation and benefits;
- 7 (3) Hours and days of work, holidays, vacation, sick leave and other matters pertaining to the conditions  
8 of employment;
- 9 (4) Promotion, transfer, demotion and suspension of employees;
- 10 (5) Separation or termination of employees;
- 11 (6) Granting of salary increases;
- 12 (7) Employee grievance procedures; and
- 13 (8) Any other programs or procedures as may be necessary to promote efficiency and to provide for a  
14 fair and reasonable system of personnel administration.

15 (b) A local board ~~is encouraged to~~ may model its personnel policies and procedures after those adopted by the county  
16 or municipality in which it operates.

17 (c) A local board shall not adopt a rule or policy that conflicts with the provisions of Chapter 18B or these Rules.  
18

19 *History Note: Authority G.S. 18B-100; 18B-203(a)(10); 18B-207; 18B-700(g1); 18B-701(a); 18B-807;*  
20 *Eff. July 1, 1992;*  
21 *Transferred and Recodified from 04 NCAC 02R .1009 Eff. August 1, 2015;*  
22 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*  
23 *2015.*  
24

REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcoholic Beverage Control Commission

RULE CITATION: 14B NCAC 15A .1101

**DEADLINE FOR RECEIPT: November 7, 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:

*What does this rule require? Is it 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: October 24, 2019

1 14B NCAC 15A .1101 is amended as published in 34:02 NCR 115 as follows:

2  
3 **SECTION .1100 - LOCAL ABC BOARDS: RELATIONSHIP WITH STATE COMMISSION**

4  
5 **14B NCAC 15A .1101 COMMON INTEREST**

6 ~~It shall be the policy of the~~ The Commission ~~to shall~~ advise and consult with the local boards regarding matters of  
7 common interest to the ~~alcoholic beverage-spirituous liquor~~ control system.

8  
9 *History Note:* Authority G.S. 18B-100; 18B-207; 18B-807;

10 *Eff. January 1, 1982;*

11 *Amended Eff. May 1, 1984;*

12 *Transferred and Recodified from 04 NCAC 02R .1101 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: Alcoholic Beverage Control Commission

RULE CITATION: 14B NCAC 15A .1102

**DEADLINE FOR RECEIPT: November 7, 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 (b), how do local boards know when the Commission receives the proposed rules to count the 15 days from receipt?*

*In (b), consider the following if it is what you intend: "The Commission shall notify a local board within 15 days of receipt of a proposed rule or amendment if the rules are disapproved or the effective date will be delayed. Those rules or amendments shall become effective when and as approved by the Commission. If the Commission does not send a notice of disapproval within 15 days of receipt, those rules or amendments shall stand approved."*

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: October 24, 2019

1 14B NCAC 15A .1102 is amended as published in 34:02 NCR 115 as follows:

2  
3 **14B NCAC 15A .1102 LOCAL RULES**

4 (a) Submitted to Commission. A copy of all rules or amendments thereto that may be adopted by a local board to  
5 govern the operation of ABC stores or the enforcement of the ABC laws shall be submitted to the Commission at least  
6 ~~45~~30 days prior to the date on which it is proposed that those rules or amendments are to become effective.

7 (b) Power to Approve. In the absence of notice from the Commission ~~to the contrary, to the local board within 15 days~~  
8 of receipt of the proposed rules by the Commission that the rules are disapproved or the effective date of the rules will  
9 be delayed, those rules or amendments thereto shall stand approved. Otherwise, the proposed rules or amendments  
10 will become effective when and as approved by the Commission.

11  
12 *History Note: Authority G.S. 18B-100; 18B-203(a)(10); 18B-207; 18B-807;*

13 *Eff. January 1, 1982;*

14 *Amended Eff. May 1, 1984;*

15 *Transferred and Recodified from 04 NCAC 02R .1102 Eff. August 1, 2015;*

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



## REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcoholic Beverage Control Commission

RULE CITATION: 14B NCAC 15A .1103

**DEADLINE FOR RECEIPT: November 7, 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 this rule, are you referring to audits under G.S. 18-205(a), (c), or both?*

*If you are referring to audits under G.S. 18-205(c), does Commission staff or an independent auditor conduct the audit?*

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: October 24, 2019

1 14B NCAC 15A .1103 is amended as published in 34:02 NCR 115 as follows:

2  
3 **14B NCAC 15A .1103 COST OF AUDIT**

4 The cost of any audit or examination of records ~~conducted under authority of G.S. 18B-203(4) may be assessed to~~  
5 ~~local boards being audited or examined, at the discretion of the Commission.~~required by the Commission pursuant to  
6 G.S. 18B-205 shall be borne by the local board being audited or examined.

7  
8 *History Note: Authority G.S. 18B-100; 18B-205; 18B-207; 18B-702(u); 18B-807;*

9 *Eff. January 1, 1982;*

10 *Transferred and Recodified from 04 NCAC 02R .1104 Eff. August 1, 2015;*

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

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcoholic Beverage Control Commission

RULE CITATION: 14B NCAC 15A .1203

**DEADLINE FOR RECEIPT: November 7, 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), line 5, is it necessary to say "at least?" Rules always set minimum requirements.*

*At line 6, please consider replacing "such" with "the" before "ABC store" and "such" with "the proposed" before "location."*

*In (b)(1), is it necessary to say "at least?" Rules always set minimum requirements.*

*In (b)(3), define "sufficient contrast."*

*In (c), just to be clear, G.S. 18B-801(b) sets factors for the Commission to consider when reviewing a proposed ABC store's location. Paragraph (c) of this Rule sets factors for the Commission to consider when determining whether to approve an additional store. Is that correct?*

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: October 24, 2019

1 14B NCAC 15A .1203 is amended as published in 34:02 NCR 115 as follows:

2  
3 **14B NCAC 15A .1203 APPROVAL OF NEW STORES**

4 (a) Notice to Commission. The opening of any new ABC stores shall not be ~~approved~~considered by the Commission  
5 unless at least a ~~30-day~~45-day notice is given to the Chairman as to the intended location of the store and until a public  
6 notice of the intention to open such ABC store has been posted for 30 days at such location.

7 (b) Sign Requirements. In order to meet the public notice requirements of Paragraph (a) of this Rule, the local board  
8 shall post at least one sign at the proposed new store site in accordance with all the following requirements:

9 (1) Dimensions of the sign shall ~~total be~~ at least ~~nine square feet;~~three feet high and three feet wide;

10 (2) The board shall state on the sign its intention to open an ABC store on the site and shall state the  
11 ~~entity and its phone-~~telephone number of the local board to provide public comments; where public  
12 comments will be received;

13 (3) Lettering shall be at least four inches in height and background colors shall be of sufficient contrast  
14 so that the notice ~~shall be legible to passersby;~~may be discerned by the viewer; and

15 (4) The sign shall be posted within 10 feet of the property line that is parallel to the public road or  
16 sidewalk that will be in front of the proposed store, or if the proposed store will be in an existing  
17 shopping center, the sign shall be posted on the front exterior of the existing storefront or building.  
18 Lettering on the sign shall face the public road or sidewalk, or if within an existing shopping center,  
19 the lettering shall face the exterior of the existing storefront or building.

20 (c) In considering whether to approve the opening of a new ABC store, in addition to determining whether the health,  
21 safety or general welfare of the community would be adversely affected, the Commission shall consider the factors  
22 enumerated in G.S. 18B-901(c)(3), (4), (5), (6), and (7).

23  
24 *History Note: Authority G.S. 18B-100; 18B-207; 18B-801;*

25 *Eff. January 1, 1982;*

26 *Amended Eff. November 1, 2010; July 1, 1992;*

27 *Transferred and Recodified from 04 NCAC 02R .1203 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: Alcoholic Beverage Control Commission

RULE CITATION: 14B NCAC 15A .1204

**DEADLINE FOR RECEIPT: November 7, 2019**

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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:

*Please format this rule as a repeal if that is your intent. An example is available at <https://files.nc.gov/ncoah/documents/Rules/Examples---Permanent-Repeal-For-Publication-In-The-Ncac.pdf>.*

*Please update box 3 of your submission for permanent rule form to label this as a repeal.*

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: October 24, 2019

14B NCAC 15A .1204 is amended as published in 34:02 NCR 115 as follows:

## 14B NCAC 15A .1204 NEW STORES PROHIBITED IN CERTAIN AREAS

~~New stores should not be opened in any area which is principally residential, in unreasonable proximity to any church, school or similar institution, in any slum district or other similarly undesirable area or at any location where sufficient parking facilities cannot be made available to avoid traffic congestion.~~

*History Note:* Authority G.S. 18B-100; 18B-207; 18B-801;

*Eff. January 1, 1982;*

*Transferred and Recodified from 04 NCAC 02R .1204 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: Alcoholic Beverage Control Commission

RULE CITATION: 14B NCAC 15A .1301

**DEADLINE FOR RECEIPT: November 7, 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:

*Throughout this rule, were the highlighted changes made in response to public comment?*

*In (a), please add a comma after "storage."*

*In (a)(1), what is the "price list?" Is it in rule?*

*In (a)(2), should the words "to provide" be added after "volume" at line 11?*

*In (a)(2), line 11, define "efficient delivery."*

*At line 15, define "economically feasible."*

*In (b)(1), line 21, do you mean "and" instead of "an" after "Sheet?" If so, please delete the comma after "Sheet."*

*In (b)(2), should the dash after "local board" be deleted at line 25?*

*In (b)(2), what are "exception entries?" Does this term refer to overages, shortages, or breakages?*

*In (c)(3), line 4, who is the local board's "designated representative?" How are they designated? Is this up to each local board?*

*In (d), line 12, who is the Administrator's designee?*

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: October 24, 2019

1 14B NCAC 15A .1301 is amended with changes as published in 34:02 NCAC 115 as follows:

2  
3 **SECTION .1300 - STORAGE AND DISTRIBUTION OF SPIRITUOUS LIQUORS: COMMERCIAL**  
4 **TRANSPORTATION**  
5

6 **14B NCAC 15A .1301 STORAGE: DELIVERIES: SECURITY**

7 (a) Storage. Private warehouse contractors performing the receipt, storage and distribution functions shall:

- 8 (1) Allocate space in the ~~Commission's~~State ABC warehouse for each item listed on the price list  
9 adopted by the Commission. Space allocated shall be based on sales volume;
- 10 (2) Develop and publish a delivery schedule of spirituous liquors to all local ~~boards,~~boards based on  
11 each local board's sales [volume,]volume and the efficient delivery of spirituous liquor to all local  
12 boards, ~~which are~~ subject to approval of the ~~Commission which are based on sales~~  
13 ~~volume-Commission.~~ Orders and shipments over the quantity on the approved schedule may be  
14 made as agreed between the local boards and the ~~contractor-Contractor.~~ All orders over the quantity  
15 on the schedule shall be accepted when deemed economically feasible by the ~~contractor-Contractor.~~
- 16 (3) Develop and publish standard operating procedures not covered by these Rules for use by the  
17 ~~contractor-Contractor~~ and local boards. All procedures published shall be submitted to the  
18 Commission.

19 (b) Deliveries and Shipments. The processing of shipments upon receipt by the local boards shall be as follows:

- 20 (1) The ~~[Contractor's-]Contractor driver~~ shall provide the local board representative an Off-Loading  
21 Check Sheet, an Invoice Bill(s) of Lading and a Transmittal Sheet with the shipment. The Off-  
22 Loading Check Sheet shall reflect the items and quantities being delivered in numerical order, and  
23 the quantities shall agree with those on the Invoice Bill(s) of Lading and the Transmittal Sheet;
- 24 (2) The system used for off-loading shall be such that an accurate count of the merchandise is made and  
25 all overages or shortages can be verified by ~~the driver~~the local board before any exceptions entries  
26 are made on the Transmittal Sheet;
- 27 (3) If there are no overages, shortages or breakage, remittance shall be made as referenced in  
28 Subparagraph (10) of this Paragraph;
- 29 (4) If there is an overage which is accepted by the local board representative, the local board  
30 representative shall line through the number of cases invoiced and shall write the correct number of  
31 cases on the Transmittal Sheet. The local board representative shall enter the quantity over, the stock  
32 code number and an explanation in the "comments" block on the Transmittal Sheet. Upon return of  
33 the Transmittal Sheet to the ~~Commission's~~State ABC warehouse, the ~~contractor-Contractor~~ shall  
34 issue a debit adjustment. The debit adjustment shall have the original invoice number in the  
35 purchase order reference box as a cross reference. Remittance shall be made as referenced in  
36 Subparagraph (10) of this Paragraph;



- (5) If there is an overage that is not accepted by a local board representative, the local board representative shall enter the quantity, the stock code number and an explanation in the "comments" box on the Transmittal Sheet. The driver shall return the merchandise to the ~~Commission's~~State ABC warehouse;
- (6) If there is a shortage, the local board representative shall line through the number of cases invoiced and shall write the correct number of cases on the Transmittal Sheet. The local board representative shall enter the quantity under, the stock code number and an explanation in the "comments" box on the Transmittal Sheet. Upon return of the Transmittal Sheet to the ~~Commission's~~State ABC warehouse, the ~~contractor~~Contractor shall issue a credit adjustment. Remittance shall be made as referenced in Subparagraph (10) of this Paragraph;
- (7) The local board representative shall handle breakage discovered during the unloading process as a shortage in shipment ~~{see in accordance with the procedure set forth in Subparagraph (6) of this Paragraph}~~Paragraph with the note in the "comments" block of the Transmittal Sheet indicating that the case was returned due to breakage. If the breakage involves a case that is an overage not accepted by the local board representative, the procedures in Subparagraph (5) of this Paragraph shall be followed. Remittance shall be made as referenced in Subparagraph (10) of this Paragraph;
- (8) If a local board's shipment includes a shrink-wrapped pallet(s), the local board shall break down the pallet(s) and any overage, shortage, or breakage shall be reported to the State ABC warehouse as follows:
- (A) The procedures for marking the Transmittal Sheet in Subparagraphs (4), (5), (6) and (7) of this Paragraph shall be followed; and
- (B) The updated Transmittal Sheet shall be emailed, faxed or postmarked to the ~~Commission's~~State ABC warehouse within three days of delivery of the pallet(s);
- Remittance shall be made as referenced in Subparagraph (10) of this Paragraph;
- (9) The~~Except as provided for in Subparagraph (8) of this Paragraph, the~~ local board representative and the driver shall sign the Transmittal Sheet(s) and the driver shall return the Transmittal Sheet(s) to the ~~Commission's~~State ABC warehouse. The local board representative shall receipt date stamp or sign the distiller's Invoice Bills of Lading copies and the driver shall return them to the ~~Commission's~~State ABC warehouse; and
- (10) The local board shall remit payment to the party listed in the "Remit to" information listed on the Invoice Bill(s) of Lading which includes any Bailment Invoices or Surcharge Invoices. The local board shall enter the Invoice Bill of Lading number on each check or each check stub.
- (c) Security Measures. Security of the merchandise during the delivery process shall be as follows:
- (1) The conveyances (trucks and trailers) shall be secured with a lock and serially numbered metal or plastic seal by the ~~contractor~~[Contractor.]Contractor: Each local board shall be issued a key that will unlock all the locks used by the contractor; [Contractor;]

- 1 (2) The seal numbers will be entered on the "Seal Nos." line of the invoice transmittal sheet. Extra seals  
2 shall be included in sealed envelopes for resealing the unit when shipments are destined for more  
3 than one local board and for the return trip after final delivery;
- 4 (3) The local board general manager or his designated representative shall check the seal number on the  
5 unit with the number on the invoice transmittal sheet upon arrival of a shipment. If the numbers  
6 correspond the unit shall be ~~unlocked~~unsealed by the local board's representative. If the numbers  
7 do not correspond the ~~contractor~~Contractor shall be contacted for further instructions; and
- 8 (4) The local boards' general manager ~~shall limit the accessibility of the key to three personnel and~~ shall  
9 not allow the ~~contractor's~~Contractor's driver or his assistant to remove the ~~seal or have the key in~~  
10 ~~his possession at any time.~~seal.
- 11 (d) Local boards shall not pick up merchandise from the ~~Commission's~~State ABC warehouse without prior approval  
12 from the ~~Commission's~~ Administrator or ~~his~~the Administrator's designee.
- 13 (e) Local boards may purchase, exchange, or otherwise obtain spirituous liquor from another local board and transport  
14 such beverages as necessary for the operation of its ABC stores. Payment for such transactions shall be satisfied as  
15 provided by ~~04 NCAC 15A .1406.~~14B NCAC 15A .1406.

16

17 *History Note:* Authority G.S. 18B-100; 18B-204; 18B-207; 18B-701(a)(1);  
18 Eff. January 1, 1982;  
19 Amended Eff. January 1, 2011; May 1, 1984;  
20 Transferred and Recodified from 04 NCAC 02R .1302 Eff. August 1, 2015;  
21 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,  
22 2015.  
23

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcoholic Beverage Control Commission

RULE CITATION: 14B NCAC 15A .1302

**DEADLINE FOR RECEIPT: November 7, 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? Are the contents of (a) already required by G.S. 18B-1115(d)(2) and (e)(1)?*

*Why is (b) necessary? Are the contents of (b) already required by G.S. 18B-1115(d)(3) and (4)?*

*In (c), what are the contents or substantive requirements of the form? Are they in rule in accordance with G.S. 150B-2(8a)(d)?*

*In (c), please change "will" to "shall."*

*In (c), just to be sure, are the forms still furnished upon request or are they available on the Commission's website?*

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: October 24, 2019

1 14B NCAC 15A .1302 is amended as published in 34:02 NCR 115 as follows:

2  
3 **14B NCAC 15A .1302 COMMERCIAL TRANSPORTATION: PERMIT AND BOND REQUIRED**

4 (a) Any person transporting spirituous liquors into and through the State of North Carolina shall first give a bond of  
5 ~~one thousand dollars (\$1,000)~~ as required by G.S. 18B-1115(e) and secure a blanket fleet permit for the transportation  
6 of spirituous liquors signed by the ~~chairman~~ Chairman or ~~administrator of the Commission~~ Administrator. That permit  
7 shall designate the spirituous liquors to be shipped.

8 (b) Driver to Possess Permit. Any person applying for and receiving this permit shall require the driver or operator  
9 of any truck, tractor, or trailer to have in ~~his~~ the driver's possession a copy of the permit together with the bills of  
10 lading of the spirituous liquors being transported disclosing the consignor and consignee of the spirituous liquors being  
11 transported all the documents required pursuant to G.S. 18B-1115(d)(3) and (4).

12 (c) Commission to Provide Forms. Blank forms for the bond will be supplied by the Commission upon request.

13 (d) A local board owning and operating trucks for the purpose of transporting spirituous liquors from a local  
14 warehouse to the various local stores within ~~an~~ a local ABC system shall not be required to give bond and shall be  
15 permitted to operate its trucks without a common carrier permit.

16  
17 *History Note: Authority G.S. 18B-100; 18B-207; 18B-1115;*

18 *Eff. January 1, 1982;*

19 *Amended Eff. May 1, 1984;*

20 *Transferred and Recodified from 04 NCAC 02R .1303 Eff. August 1, 2015;*

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

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcoholic Beverage Control Commission

RULE CITATION: 14B NCAC 15A .1304

**DEADLINE FOR RECEIPT: November 7, 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 (b), just to be clear, are you defining "emergency situation" as the warehouse being closed due to natural or other disasters?*

*At line 8, how does the Commission determine whether it is "mutually advantageous" to allow a direct shipment? Are a set of factors considered?*

*In (c), line 11, what do you mean by the "direct shipment shall be consigned by the State ABC warehouse?"*

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: October 24, 2019

1 14B NCAC 15A .1304 is amended as published in 34:02 NCR 115 as follows:

2  
3 **14B NCAC 15A .1304 DIRECT SHIPMENTS**

4 (a) A "direct shipment" means a shipment from the distiller or a warehouse of spirituous liquors, or from an antique  
5 spirituous liquor ~~seller of antique spirituous liquor, seller,~~ directly to a local board without passing through the State  
6 ABC warehouse.

7 (b) Direct shipments shall be allowed by the Commission in emergency situations when the State ABC warehouse is  
8 closed due to natural or other disasters or in a situation where for transportation reasons it is mutually advantageous  
9 to local boards, the Commission, or the operator of the State ABC warehouse.

10 (c) Direct shipment shall have prior written approval from the Commission. Merchandise authorized to be shipped  
11 by direct shipment shall be consigned by the State ABC warehouse to the distiller's account in care of the local board.  
12 The local board shall acknowledge receipt of the merchandise on the shipping documents and forward them to the  
13 Contractor for processing through the accounting system as though the merchandise were shipped from the State ABC  
14 warehouse.

15 (d) Upon compliance with 14B NCAC 15A .1403 and obtaining a transportation permit as required by G.S. 18B-403,  
16 an antique spirituous liquor seller may deliver antique spirituous liquor listed in its inventory directly to the local board  
17 that placed the special order for that inventory.

18  
19 *History Note: Authority G.S. 18B-100; 18B-204; 18B-207; 18B-403; 18B-701(a)(1);*  
20 *Eff. January 1, 1982;*

21 *Amended Eff. January 1, 2011; May 1, 1984;*

22 *Transferred and Recodified from 04 NCAC 02R .1305 Eff. August 1, 2015;*

23 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*  
24 *2015;*

25 *Amended Eff. January 1, 2018.*  
26

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcoholic Beverage Control Commission

RULE CITATION: 14B NCAC 15A .1404

**DEADLINE FOR RECEIPT: November 7, 2019**

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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:

*At line 6, what do you mean by "historical events of the local board?" Do you just mean "historical events" or do the historical events have to be related to the local board?*

*At line 7, please consider changing "are not permitted to" 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: October 24, 2019

1 14B NCAC 15A .1404 is amended as published in 34:02 NCR 115 as follows:

2  
3 **14B NCAC 15A .1404 COMMEMORATIVE BOTTLES**

4 The Commission shall approve local boards' orders and sales of specially designed bottles commemorating particular  
5 events, occasions, or ceremonies, provided advertising borne upon commemorative bottles is limited to  
6 commemorating historical events of the local board and non-profit, charitable ~~enterprises (i.e., ordinary profit-oriented~~  
7 ~~businesses enterprises. Other businesses, other than the distiller,~~ are not permitted to advertise themselves or their  
8 products via commemorative ~~bottles.)bottles.~~

9  
10 *History Note: Authority G.S. 18B-100; 18B-207; 18B-807;*

11 *Eff. January 1, 1982;*

12 *Amended Eff. November 1, 2010;*

13 *Transferred and Recodified from 04 NCAC 02R .1405 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: Alcoholic Beverage Control Commission

RULE CITATION: 14B NCAC 15A .1405

**DEADLINE FOR RECEIPT: November 7, 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), line 5, define "reasonable time."*

*In (b), line 7, I think you are referring to the "Paragraph" as a whole and not "this Subparagraph." Please review and update if necessary.*

*In (b)(3) and (4), does your regulated public understand the meaning of a "daily store report" and a "stock difference report?"*

*At lines 15 and 16, why is this sentence Paragraph (c) and not (b)(8)?*

*In (c), does your regulated public understand the meaning of "loss and damage claim records?" Why are these terms capitalized?*

*In (c), what are the "required records" related to the sale of mixed beverages?*

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: October 24, 2019

1 14B NCAC 15A .1405 is amended as published in 34:02 NCR 115 as follows:

2  
3 **14B NCAC 15A .1405 RECORDS REQUIRED**

4 (a) A record of all orders, receipts, invoices, and payments shall be maintained by local boards and be available for  
5 inspection by any representative of the Commission at any reasonable time.

6 (b) ~~More specifically, local~~ Local boards shall retain the following records as follows: for the length of time specified  
7 in this Subparagraph:

8 (1) sales report ~~(until until the annual audit completed), is completed,~~

9 (2) warehouse report ~~(one year), for one year,~~

10 (3) daily store report ~~(until until the annual audit completed), is completed,~~

11 (4) stock difference report ~~(three years), for three years,~~

12 (5) receiving report ~~(until until the annual audit completed), is completed,~~

13 (6) clerk's daily sales and cash report ~~(until until the annual audit completed), is completed,~~ and

14 (7) paid invoices ~~(three years), for three years.~~

15 (c) In addition, local boards shall retain the Loss and Damage Claim records and required records related to the sale  
16 of mixed beverages for a period of three years.

17  
18 *History Note: Authority G.S. 18B-100; 18B-203(a)(4); 18B-205; 18B-207; 18B-702(s), (u);*

19 *Eff. January 1, 1982;*

20 *Amended Eff. May 1, 1984;*

21 *Transferred and Recodified from 04 NCAC 02R .1406 Eff. August 1, 2015;*

22 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*  
23 *2015.*

## **RRC STAFF OPINION**

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

AGENCY: Alcoholic Beverage Control Commission

RULE CITATION: 14B NCAC 15A .1406

RECOMMENDED ACTION:

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

COMMENT:

*Staff recommends objection for failure to comply with the APA because this Rule requires payment of a fee not established in rule as required by G.S. 150B-2(8a). This Rule requires local boards to remit payment of "bailment surcharges" in Paragraph (b) on cases of liquor shipped from a Commission warehouse.*

*The ABC Commission does have statutory authority to "fix the amount of bailment charges and bailment surcharges." G.S. 18B-203(a)(14). Staff cannot find the amount of bailment surcharges in rule as required by the APA. This Rule is also unclear as written because it does not specify the amount local boards will be required to pay in bailment surcharges.*

### **§ 150B-2. Definitions.**

As used in this Chapter,

...

- (8a) "Rule" means any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency. **The term includes the establishment of a fee and the amendment or repeal of a prior rule.** The term does not include the following: . . .

Ashley Snyder  
Commission Counsel  
Amended November 12, 2019

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcoholic Beverage Control Commission

RULE CITATION: 14B NCAC 15A .1406

**DEADLINE FOR RECEIPT: November 7, 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), what is the "bailment fee?" Is the same as the "bailment charge" mentioned in G.S. 18B-208(b) and 18B-804(b)(2)?*

*In (a), how much is the bailment fee? Is the amount set forth in rule?*

*In (b), how much is the bailment surcharge? Is the amount set forth in rule?*

*In your history note, should you include G.S. 18B-203(14) and (15)?*

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: October 24, 2019

1 14B NCAC 15A .1406 is amended as published in 34:02 NCR 115 as follows:

2  
3 **14B NCAC 15A .1406 PAYMENT**

4 (a) Local boards shall remit full payment of the ~~contractor's~~Contractor's statement of account pertaining to the  
5 bailment fee within 30 days of receipt of the statement.

6 (b) Local boards shall remit full payment of the ~~contractor's~~Contractor's statement of account pertaining to the  
7 bailment surcharge within ~~45~~30 days of receipt of the statement.

8 (c) Local boards shall remit full payment of the distiller's invoice within 30 days of delivery of the liquor.

9 (d) Local boards that obtain spirituous liquor from another local board pursuant to 14B NCAC 15A .1301(e) shall  
10 remit full payment within 15 days of the transaction.

11  
12 *History Note: Authority G.S. 18B-100; G.S. 18B-207; 18B-702(u);*

13 *Eff. May 1, 1984;*

14 *Amended Eff. November 1, 2010; July 1, 1992;*

15 *Transferred and Recodified from 04 NCAC 02R .1407 Eff. August 1, 2015;*

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