

1 26 NCAC 03 .0103 is amended with changes as published in 28:14 NCR 1637 as follows:

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3 **26 NCAC 03 .0103 COMMENCEMENT OF CONTESTED CASE: NOTICE AND FILING FEE**

4 (a) A contested case in the Office of Administrative Hearings is commenced by the filing of a petition as required
5 by G.S. 150B-23 and payment of the appropriate filing fee (if a fee is required by G.S. 150B-23.2).

6 (b) Within five days of filing a petition to commence a contested case, the Chief Administrative Law Judge shall
7 assign an administrative law judge to the case. Within ten days of the filing of a petition commencing a contested
8 case, the chief hearings clerk of the Office of Administrative Hearings shall serve a Notice of Contested Case Filing
9 and Assignment upon all who are parties to the dispute. The notice shall contain the following:

- 10 (1) Name of case and date of filing;
11 (2) Name, address, and telephone number of the administrative law judge; and
12 (3) A request that the party send within 30 days a copy of the document constituting the agency action
13 that caused the filing of the petition.

14 (c) In contested cases commenced by a person aggrieved involving the following causes of action, the petitioner
15 shall pay a filing fee of one hundred twenty-five dollars (\$125.00):

- 16 (1) Contested cases challenging certificate of need filed pursuant to G.S. 131E-188;
17 (2) Contested cases challenging permit actions under G.S. 143-215.1, G.S. 143-215.10C, G.S. 143-
18 215.15, and G.S. 143-215.108;
19 (3) Contested cases where the amount in controversy is fifty thousand dollars (\$50,000) or greater.

20 (d) In contested cases commenced by a person aggrieved ~~which that~~ do not involve the causes of action listed in
21 Paragraph (c) of this Rule, the petitioner shall pay a fee of twenty dollars (\$20.00).

22 (e) The filing fee shall be waived in a contested case in which the petition is filed *in forma pauperis* and supported
23 by such proofs as are required in G.S. 1-110. A petitioner seeking to have the filing fee waived under this Paragraph
24 shall file the appropriate OAH form with the chief hearings clerk simultaneously when filing the petition for a
25 contested case.

26 (f) The filing fee shall be waived in a contested case involving a mandated federal cause of action.

27 ~~(g) If the filing fee is not [paid]paid, or is paid in an incorrect [amount] amount, at the time of filing, the Office of~~
28 ~~Administrative Hearings shall notify the petitioner in writing and permit a late payment of the filing fee to be made~~
29 ~~within 60 days of the date the petition was filed. If the filing fee is not paid [as provided herein,]and good cause is~~
30 ~~not shown by the petitioner within the 60 days of the date of filing, the petition [may be dismissed at the discretion~~
31 ~~of]shall be dismissed by the [assigned] Administrative Law Judge.~~

32 ~~(h) The filing fee shall be [refunded in a contested case in which the losing party is the State as set forth in Rule~~
33 ~~.0105 of this Section.]reimbursed when applicable in accordance with 26 NCAC 03 .0105(7) of this Section.~~

34 ~~(g)~~(i) The method of payment of the filing fee shall be:

- 35 (1) cash;
36 (2) money order;
37 (3) certified check; or
38 (4) check drawn on an attorney's trust or operating account.

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History Note: Authority G.S. 150B-23; 150B-23.2; 150B-33;
Eff. August 1, 1986;
Amended Eff. October 1, 1991; November 1, 1987; September 1, 1986;
Emergency Amendment Eff. October 1, 2009;
Temporary Amendment Eff. December 1, 2009;
Amended Eff. June 1, 2014; October 1, 2010.

From: [Masich, Molly](#)
To: [Rules, Oah](#)
Subject: OAH Rules 26 NCAC 03 .0103 and .0132
Date: Friday, May 09, 2014 3:59:29 PM
Attachments: [26 NCAC 03 .0103.docx](#)

From: Masich, Molly
Sent: Wednesday, May 07, 2014 3:48 PM
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Subject: RE: OAH rules

Please see attached revised Rule .0103.

Based on the review and discussions at the RRC meeting in April, Judge Mann would like to withdraw Rule .0132. I will prepare a memorandum for Judge Mann requesting the rule to be withdrawn from RRC review.

Thank you!

Molly Masich
Codifier of Rules
Office of Administrative Hearings
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