

1 **CHAPTER 24 - DIVISION OF EMPLOYMENT SECURITY**

2
3 **SUBCHAPTER A – GENERAL**

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5 **SECTION .0100 – GENERAL**

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7 04 NCAC 24A .0101 is adopted with changes as published in 29:17 NCR 2033 as follows:

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9 **04 NCAC 24A .0101 OFFICE LOCATION**

10 The administrative offices of the North Carolina Department of Commerce, Division of Employment Security
11 (hereinafter “DES,” or “The Division”) are located at 700 Wade Avenue, in Raleigh, North Carolina. The General
12 Mailing Address is P.O. Box 25903, Raleigh, NC 27611-5903. The same work hours ~~will~~ shall be observed by the
13 Division as ~~are, or may be~~ observed by the Office of State Human Resources (OSHR). This office is open to the
14 public during regular business hours, from 8:00 a.m. to 5:00 p.m., Monday through Friday, except for approved state
15 holidays as set forth in 25 NCAC 01E .0901.

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17 *History Note:* *Authority G.S. 96-4;*

18 *Eff. July 1, 2015.*

04 NCAC 24A .0102 is adopted with changes as published in 29:17 NCR 2034 as follows:

04 NCAC 24A .0102 ADDRESS CHANGES

(a) Each employing unit that has or had individuals in employment as defined in G.S. 96-1 shall notify DES in writing of any change to its mailing address. This notice shall be transmitted by facsimile, via the internet, or by postal mail within seven days after the effective date of the change. All notices shall be submitted to the Tax Administration Section, ATTN: Address Change by mail to Post Office Box 26504, Raleigh, North Carolina, 27611, facsimile to (919) 715-7194, or email to des.tax.customerservice@nccommerce.com.

(b) Each claimant who is liable to DES for an overpayment of benefits, or is registered for work at a public employment office, shall notify DES by facsimile, via the internet, or by postal mail of any change of address within seven days after the effective date of the change. All notices shall be submitted to the Benefits Integrity Unit, ATTN: Overpayment Address Change by mail to Post Office Box 25903, Raleigh, NC 27611, facsimile to (919) 733-1369, or email to des.ui.bpc@nccommerce.com.

History Note: Authority G.S. 96-4; 20 C.F.R. 640;

Eff. July 1, 2015.

04 NCAC 24A .0103 is adopted with changes as published in 29:17 NCR 2034 as follows:

04 NCAC 24A .0103 ADDRESSES FOR NOTICE

(a) In all transactions requiring notice by G.S. 96 or these Rules, DES shall provide notice to the party's last known address as reflected in its official records.

(b) Except as provided in Paragraph (a) of this Rule, when DES mails a notice of an initial claim to the employer at one of the following addresses:

- (1) the address of the employer for which the claimant last worked;
- (2) if the employer has more than one branch or division at different locations, the address of the branch or division for which the claimant last worked; or
- (3) an address designated by the employer as reflected in DES's official records.

History Note: Authority G.S. 96-4; 96-14.1;

Eff. July 1, 2015.

04 NCAC 24A .0104 is adopted as published in 29:17 NCR 2034

04 NCAC 24A .0104 ADDRESSES FOR FILING CLAIMS, APPEALS, EXCEPTIONS, REQUESTS OR PROTESTS

(a) Claimants shall file a claim for unemployment insurance benefits by internet on DES's website, or by telephone.

(1) The telephone number for filing a new initial claim is (877) 841-9617.

(2) Claimants with a social security number ending in an odd number shall file weekly certifications on Monday and Wednesday through Saturday by dialing (888) 372-3453.

(3) Claimants with a social security number ending in an even number shall file weekly certifications on Tuesday through Saturday by dialing (888) 372-3453.

(b) Appeals from a Determination by Adjudicator shall be filed with the Appeals Section by mail, facsimile, or email.

(1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611.

(2) The facsimile number is (919) 733-1228.

(3) The email address is des.public.appeals@nccommerce.com.

(4) Any questions regarding the contents of a Determination by Adjudicator shall be directed to the Adjudication Unit by telephone to (919) 707-1410, facsimile at (919) 733-1127, or email at des.ui.customerservice@nccommerce.com.

(c) Appeals of a Non-Fraud Overpayment Determination shall be filed with the Benefits Integrity Unit by mail or facsimile.

(1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611.

(2) The facsimile number is (919) 733-1369.

(3) Any questions regarding the contents of a Non-Fraud Overpayment Determination shall be directed to the Benefits Integrity Unit by telephone to (919) 707-1338, facsimile at (919) 733-1369, or email at des.ui.bpc@nccommerce.com

(d) Appeals of a Fraud Overpayment Determination shall be filed with the Benefits Integrity Unit by mail, or facsimile.

(1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611.

(2) The facsimile number is (919) 733-1369.

(3) Any questions regarding the contents of a Fraud Overpayment Determination shall be directed to the Benefits Integrity Unit by telephone to (919) 707-1338, facsimile at (919) 733-1369, or email at des.ui.bpc@nccommerce.com.

(e) Appeals of a Monetary Determination shall be filed with the Monetary Revision Unit by ~~mail~~ mail, ~~or facsimile~~ facsimile, or email.

(1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611.

(2) The facsimile number is (919) 715-3983.

(3) The email address is des.ui.customerservice@nccommerce.com.

(4) Any questions regarding the contents of a Monetary Determination shall be directed to the Monetary Revision Unit by telephone to (919) 707-1257, facsimile at ~~(919) 715-3983~~ (919) 715-3983, or mail, email at des.ui.customerservice@nccommerce.com.

(f) Appeals of a Wage Transcript and Monetary Determination shall be filed with the Monetary Revision Unit by mail or facsimile.

1 (1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611.

2 (2) The facsimile number is (919) 715-3983.

3 (3) Any questions regarding the contents of a Wage Transcript and Monetary Determination shall be directed

4 to the Monetary Revision Unit by telephone to (919) 707-1257, facsimile at ~~(919) 715-3983~~ (919) 715-

5 3983, or mail- email at des.ui.customerservice@nccommerce.com.

6 (g) Petitions for Waiver of Overpayment shall be filed with the Benefits Integrity Unit by ~~mail~~ mail, or facsimile.

7 (1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611.

8 (2) The facsimile number is (919) 733-1369.

9 (3) Any questions regarding the contents of an overpayment determination shall be directed to the Benefit

10 Payment Control Unit by telephone to (919) 707-1338, facsimile at (919) 733-1369 or email at

11 des.ui.bpc@nccommerce.com.

12 (h) Claimant appeals of a North Carolina Department of Revenue (NCDOR) Offset Letter shall be filed with the Benefits

13 Integrity Unit by ~~mail~~ mail, or facsimile.

14 (1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611.

15 (2) The facsimile number is (919) 733-1369.

16 (3) Any questions regarding the contents of a North Carolina Department of Revenue Offset Letter shall be

17 directed to the Benefits Integrity Unit by telephone to (919) 707-1338, facsimile at ~~(919) 733-1369~~ (919)

18 733-1369, or email at des.ui.bpc@nccommerce.com.

19 (i) Employer appeals of a North Carolina Department of Revenue Offset Letter for outstanding tax debts shall be filed with

20 and Tax Administration Section by mail, facsimile, or email.

21 (1) The mailing address is Post Office Box 26504, Raleigh, NC 27611.

22 (2) The facsimile number is (919) 733-1255.

23 (3) The email address is des.tax.customerservice@nccommerce.com.

24 (4) Any questions regarding the contents of a NCDOR Offset letter for outstanding tax debts shall be directed

25 to the Tax Administration Section by telephone to (919) 707-1150 , facsimile at ~~(919) 733-1255~~ (919)

26 733-1255, or email at des.tax.customerservice@nccommerce.com.

27 (j) Claimant Requests for Reevaluation under the Treasury Offset Program (TOP) shall be filed with the Benefit Integrity

28 Unit of mail or facsimile.

29 (1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611.

30 (2) The facsimile number is (919) 715-3983.

31 (3) Any questions regarding TOP shall be directed to a Recovery Specialist by telephone to ~~(919) 707-1338~~

32 (919) 707-1338, or email at des.ui.bpc@nccommerce.com.

33 (k) Employer requests shall be filed with Employer Call Center (ECC) by mail, telephone, ~~facsimile~~ facsimile,

34 or email.

35 (1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611.

36 (2) The phone number is (919) 707-1150.

37 (3) The facsimile number is (919) 715-0780.

38 (4) The email address is des.tax.customerservice@nccommerce.com.

39 (l) Appeals from an Appeals Decision shall be filed with the Board of Review by mail, ~~facsimile~~ facsimile, or email.

- 1 (1) The mailing address is Post Office Box 28263, Raleigh, North Carolina 27611.
- 2 (2) The facsimile number is (919) 733-0690.
- 3 (3) The email address is BOR@nccommerce.com.
- 4 (m) Requests for Post-Decision Relief or Reconsideration shall be filed with the Board of Review by mail, ~~facsimile~~
5 facsimile, or email.
- 6 (1) The mailing address is Post Office Box 28263, Raleigh, North Carolina 27611.
- 7 (2) The facsimile number is (919) 715-7193.
- 8 (3) The email address is BOR@nccommerce.com.
- 9 (n) Protests or appeals of a Tax Liability Determination shall be filed with the Tax Administration Section by mail,
10 facsimile, or email.
- 11 (1) The mailing address is Post Office Box 26504, Raleigh, NC 27611.
- 12 (2) The facsimile number is (919) 733-1255.
- 13 (3) The email address is des.tax.customerservice@nccommerce.com.
- 14 (o) Protests or appeals of a Tax Rate Assignment shall be filed with the Tax Administration Section by mail, facsimile, or
15 email.
- 16 (1) The mailing address is Post Office Box 26504, Raleigh, NC 27611.
- 17 (2) The facsimile number is (919) 733-1255.
- 18 (3) The email address is des.tax.customerservice@nccommerce.com.
- 19 (p) Protests or appeals of Audit Results shall be filed with the Tax Administration Section by mail, facsimile, or email.
- 20 (1) The mailing address is Post Office Box 26504, Raleigh, NC 27611.
- 21 (2) The facsimile number is (919) 733-1255.
- 22 (3) The email address is des.tax.customerservice@nccommerce.com.
- 23 (q) Protests or appeals of Tax Assessments shall be filed with the Tax Administration Section by mail, facsimile, or email.
- 24 (1) The mailing address is Post Office Box 26504, Raleigh, NC 27611.
- 25 (2) The facsimile number is (919) 733-1255.
- 26 (3) The email address is des.tax.customerservice@nccommerce.com.
- 27 (r) Exceptions to a Tax Opinion shall be filed with the Board of Review by mail, facsimile or email.
- 28 (1) The mailing address is Post Office Box 28263, Raleigh, North Carolina 27611.
- 29 (2) The facsimile number is (919) 715-7193.
- 30 (3) The email address is BOR@nccommerce.com.
- 31 (s) Protests or appeals of benefit charges to an employer's account, or requests for non-charging shall be filed with the
32 Employer Benefit Charges/Benefit Charges Unit by mail or facsimile.
- 33 (1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611-5903.
- 34 (2) The facsimile number is (919) 733-1126.
- 35 (3) All questions regarding non-charging shall be directed to the Employer Benefit Charges/Benefit Charges
36 Unit at (919) 707-1279.
- 37 (t) Protests or appeals of a Denial of Seasonal Assignment shall be filed with the Tax Administration Section by mail,
38 facsimile, or email.
- 39 (1) The mailing address is Post Office Box 26504, Raleigh, NC 27611.

1 (2) The facsimile number is (919) 733-1255.
2 (3) The email address is des.tax.customerservice@nccommerce.com.
3 (u) Transmittal of interstate work search records and photo identification shall be filed with the Interstate Unit by mail, or
4 facsimile.
5 (1) The Mailing Address is Post Office Box 27967, Raleigh, North Carolina 27611.
6 (2) The facsimile number is (919) 733-1370.
7 (3) All questions regarding interstate work search requirements shall be directed to the Interstate Unit at (919)
8 707-1237.
9
10 History Note: Authority G.S. 96-4; 96-14.1;
11 Eff. July 1, 2015.

04 NCAC 24A .0105 is adopted with changes as published in 29:17 NCR 2035 as follows:

04 NCAC 24A .0105 DEFINITIONS

(a) In addition to the terms defined in G.S. 96, the following definitions apply whenever these terms are used in this Chapter:

- (1) “Additional claim” means the reopening of a valid initial claim for unemployment insurance benefits after a claimant, as defined in ~~item~~ Item (15), ceased filing a weekly certification as defined in G.S. 96-14.9, for one or more weeks due to intervening employment. The first week of eligibility filed after a claim has been reopened shall constitute a waiting period week if all eligibility requirements set forth in G.S. 96-14.9 are met.
- (2) “Agent state” means any state from which, or through which a claimant files a claim for benefits from another state.
- (3) “Adjudicator” means an employee of DES appointed to conduct an informal investigation and render a determination as required by G.S. 96-15(b).
- (4) “Appeal” means a submission by a party with statutory appeal rights requesting the Appeals Section of DES or the Board of Review to review a determination or decision that is adverse to that party.
- (5) “Appeals Referee” or “Hearing Officer” means an attorney appointed to hear or decide an appeal from a determination by an adjudicator and issues involving the rights, status, and liabilities of an employer pursuant to the provisions of G.S. 96-4(q) or 96-15(c).
- (6) “Appeals Section” means the section within DES where Appeals Referees conduct quasi-judicial administrative evidentiary hearings and make decisions in contested cases for unemployment insurance benefits. The Appeals Section also consists of support staff that assists Appeals Referees.
- (7) “Authorized Representative” means an individual authorized by an employer or employing unit to act on the employer or employing unit’s behalf before DES.
- (8) “Base period” means as defined in G.S. ~~96-1(3)~~; 96-1(b)(3). Calendar quarters are January through March, April through June, July through September, and October through December.
- (9) “Benefit week” means a period of seven consecutive calendar days, ending at 11:59 pm on Saturday.
- (10) “Benefit wage credits” means wages used to determine a claimant's monetary eligibility for benefits. Benefit wage credits consist of the wages a claimant received or should have received during the claimant’s base period of employment and to include those wages that were awarded and paid to the claimant after the base period pursuant to a court ~~order~~, order, ~~the~~ a National Labor Relations ~~Board~~, Board determination; another adjudicative ~~agency~~ agency; or by private agreement, consent, or arbitration for loss of pay because of discharge. DES shall credit the awarded wages to the quarter in which the wages should have been paid.

- (11) “Board of Review” means as defined in G.S. 96-4(b) and is the body that conducts “higher authority review” of appeals arising from the decisions of the Division, tax liability ~~hearings~~ hearings, and labor disputes. The Board of Review is also referred to as the ~~Board~~ “Board” or ~~BOR~~ “BOR.”
- (12) “Calendar Period” means the fifty-two week period beginning with the first day of a week in which an individual first files a valid claim for benefits and registers for work. The week begins on the first Sunday preceding the initial claim filed and ends the following year ~~on a Saturday~~ at 11:59 p.m. on Saturday.
- (13) “Charging cycle” means the fifty-two week period beginning August 1st and ending July 31st the year following the year in which the employer’s account is assessed and charged for erroneous payments against its account, due to establishing a pattern of untimely and inadequate responses to Requests for Separation Information (NCUI 500AB) during the preceding reporting cycle.
- (14) “Chief Appeals Referee” includes the Chief Appeals Referee’s designee, unless otherwise stated.
- (15) “Claimant” means an individual who files an unemployment insurance benefits claim for payments as provided in G.S. 96-14.1.
- (16) ~~“Convincing”~~ “Clear and convincing evidence” is evidence ~~that is reasonable and persuasive enough to cause the trier of fact to believe it~~ indicating that the thing to be proved is highly probable or reasonably certain.
- (17) “Customarily,” as the term is used in G.S. 96-16, means during at least seventy-five percent of the calendar years of an observation interval.
- (18) “Day” means a calendar day.
- (19) “Delivery service” means an authorized designated carrier pursuant to Rule 4(j) of the North Carolina Rules of Civil Procedure and 26 U.S.C. 7502(f)(2).
- (20) “DES website” means the internet address found at www.ncesc.com.
- (21) “Due diligence” means the measure of carefulness, precaution, attentiveness, and good judgment as to be expected from, and ~~ordinarily~~ exercised by a reasonable and prudent person under the particular circumstances.
- (22) “Effective date of a claim” means either (1) the benefit year beginning on the Sunday preceding the payroll week ending date if the claimant is payroll attached, or (2) the benefit year beginning on the Sunday of the calendar week within which a claimant filed a valid claim for benefits and registered for work if the claimant is not payroll attached.
- (23) “Electronic transmission” means transmission by facsimile or internet.
- (24) “Equity and good conscience” means fairness as applied to a given set of circumstances.
- (25) ~~“Fault” means circumstances to which blame, responsibility, culpability, or impropriety attaches; an error or defect of judgment or of conduct; any deviation from prudence or duty; a wrong tendency, course, or act; bad faith or neglect of duty.~~ an error or defect of judgment or of conduct; any deviation from prudence or duty resulting from inattention, incapacity, perversity, bad faith, or

- 1 mismanagement.
- 2 (26) “Good cause” means a ~~substantial reason amounting to a legal excuse for failing to perform an act~~
3 ~~required by law in the exercise of due diligence.~~ legally sufficient reason.
- 4 (27) “In-person/telephone hearing” means an administrative hearing before the Appeals Section, Board
5 of Review, or other designated Hearing Officer where at least one party or witness appears in-
6 person, and another party or witness appears by telephone.
- 7 (28) “Interstate benefit payment plan” means the plan approved by the Interstate Conference of
8 Employment Security Agencies under which benefits may be paid to unemployed claimants absent
9 from the state (or states) where benefit wage credits accumulated. This rule incorporates the
10 United States Department of Labor’s Interstate Benefit Payment Plan, Interstate Agreements, ET
11 Handbook No. 392 app. B (2d ed. 1997) by reference and includes subsequent amendments and
12 editions of the referenced material in accordance with G.S. 150B-21.6. Copies of the incorporated
13 material are located at 700 Wade Avenue, in Raleigh, North Carolina, and can be obtained by
14 request at no cost to the public by contacting DES as specified under 04 NCAC 24A .0201.
- 15 (29) “Interstate claimant” means a claimant who claims benefits under the unemployment insurance
16 law of one or more liable states through the facilities of an agent state, or directly with the liable
17 state. The term "interstate claimant" shall not include any claimant who customarily commutes
18 from a residence in an agent state to work in a liable state unless the Division finds that this
19 exclusion would create an undue hardship.
- 20 (30) “Labor dispute” means a dispute between an employer and its employees about wages, hours,
21 working conditions, or issues concerning the association or representation of persons in
22 negotiating, fixing, maintaining, changing, or seeking to arrange terms or condition of
23 employment, between those who ~~alone~~ could be ~~directly~~ concerned in the controversy.
- 24 (31) “Last known address” means the most recent address provided to DES by the claimant or taxpayer
25 located in its official record, except that DES shall update addresses maintained in its official
26 records by referring to data accumulated and maintained in the United States Postal Service
27 (USPS) National Change of Address database that retains change of address information (NCOA
28 Database). If the claimant or taxpayer’s name and last known address in DES’s official records
29 match the claimant or taxpayer’s name and previous mailing address contained in the NCOA
30 database, the new address in the NCOA database is the taxpayer’s last known address. This rule
31 incorporates the United States Postal Service’s National Change of Address Database by reference
32 and includes subsequent amendments and editions of the referenced material in accordance with
33 G.S. 150B-21.6. Copies of the incorporated material are located at 700 Wade Avenue, in Raleigh,
34 North Carolina, and can be obtained by request at no cost to the public by contacting DES as
35 specified under 04 NCAC 24A .0201.
- 36 (32) “Legal representative” means a licensed attorney or a person supervised by a licensed ~~attorney as~~
37 ~~defined in G.S. 96-17(b) and G.S. 84.~~ attorney.

- (33) “Liable state” means any state against which a claimant files a claim for benefits through another state.
- (34) “Observation interval” means an interval of time including the four consecutive calendar years preceding the calendar year in which an application for a seasonal determination is made pursuant to G.S. 96-16. In the case of a newly liable employer or an employer whose operational activities have changed, the observation interval may be less than four calendar years.
- (35) “Party with appeal rights” means a party who has the right to appeal an unfavorable determination or decision pursuant to G.S. 96-4(q) and G.S. 96-15.
- (36) “Public employment office” means a local office managed and operated by the Division of Workforce Solutions (DWS) of the North Carolina Department of Commerce.
- (37) “Regularly recurring” means a period or periods of operational activity and shall be deemed regularly recurring if, during at least seventy-five percent of the calendar years in the observation interval, the beginning and ending dates of the period or periods do not vary more than four weeks.
- (38) “Reopened claim” means the resumption of a valid initial claim following a break in filing weekly certifications during a benefit year and the break was caused by reasons other than intervening employment. The first week of eligibility following the effective date of the reopened claim shall constitute a waiting period week if all eligibility requirements ~~of~~ set forth in G.S. 96-14.9 are met.
- (39) “Reporting cycle” means the fifty-two week period beginning August 1st and ending July 31st the following year in which the employer’s account is examined and recorded for any inadequate responses to Requests for Separation Information (NCUI 500AB).
- (40) “State” means any of the 50 states in the United States and includes the District of Columbia, Puerto Rico and the U.S. Virgin Islands.
- (41) “Wages paid” means both wages actually received by a worker, and wages ~~constructively paid.~~ “constructively paid.” Wages are constructively paid when they are credited to the account of, or set apart for a worker without any substantial restriction as to the time or manner of payment or condition upon which payment is to be made, and ~~must~~ shall be made available so that the worker may draw upon them at any time, and payment brought within the worker’s control and disposition, although not then actually reduced to possession.
- (42) “Wages payable” means wages earned but not paid.
- (43) “Weekly period” means a seven day period beginning ~~on~~ at 12:00 a.m. Sunday and ending on the following ~~Saturday.~~ Saturday at 11:59 p.m.
- (44) “Week of unemployment” includes any week of unemployment as defined in the law of the liable state from which benefits for the week are claimed.

History Note: Authority G.S. ch. 84; 96-1; 96-4; 96-9.2; 96-9.6; 96-14.1; 96-14.9; 96-15; 96-17; 96-20;
Eff. July 1, 2015.

04 NCAC 24A .0106 is adopted with changes as published in 29:17 NCR 2038 as follows:

04 NCAC 24A .0106 FILING/MAILING DATES AND USE OF FORMS

(a) Except as otherwise provided in this Chapter, a ~~document~~, document or form shall be filed with DES on the date the ~~document~~, document or form is received by DES.

(b) When determining whether a party had good cause for filing a late appeal or protest, DES shall consider the date mailed in the order listed:

(1) the postmark date or the postal meter date, where there is only one;

(2) the postmark date if there is both a postmark date and a postal meter date, if they conflict; or

(3) the date the document was delivered to a delivery service, which is equivalent to a postmark date of the United States Postal Service.

(c) A document received in an envelope bearing no legible postmark, postal meter date, or date of delivery to the delivery service shall be considered to have been sent three business days before receipt by DES, or on the date of the document, if the document date is less than three days earlier than date of receipt.

(d) If the envelope is lost after delivery to DES, the date on the document shall control. If the document is undated, DES shall deem the date the writing was sent to be three business days prior to receipt by DES, subject to sworn testimony establishing an ~~even~~ earlier date from the sender of the writing.

(e) Except as otherwise provided in this Chapter, the date and time that DES receives a document shall be used when the document is sent by facsimile transmission or via the internet.

(f) Except as otherwise provided in this Chapter, when a document furnishes information that is sufficient to indicate the purpose or intent of the document, but is not on a form prescribed by DES, the controlling date shall be determined as described in this Section.

History Note: Authority G.S. 96-4;

Eff. July 1, 2015.

04 NCAC 24A .0107 is adopted with changes as published in 29:17 NCR 2038 as follows:

04 NCAC 24A .0107 DIGITAL SIGNATURES

~~(a)~~ A digital signature provided by an employing unit or ~~claimant~~, claimant shall authenticate a written electronic communication sent to DES with the same force and effect as that of a manual signature by the person or individual using ~~it and~~ it. The digital signature shall have the following characteristics:

- (1) unique to the person or individual using it;
- (2) ability to be independently verified;
- (3) under the sole control of the person or individual using it; and
- (4) infeasible to change the data in the communication without invalidating the digital signature.

History Note: Authority G.S. 96-4; 96-9.15;

Eff. July 1, 2015.

04 NCAC 24A .0108 is adopted with changes as published in 29:17 NCR 2038 as follows:

04 NCAC 24A .0108 SIGNATURES ON REPORTS AND FORMS

(a) Where DES requires a signature on a report or form, the writing shall be signed by:

- (1) the individual, if the person required to submit the report or form is an individual;
- (2) an officer or authorized representative, if the employing unit required to submit the report or form is a corporation;
- (3) a partner or other authorized representative, if the employing unit required to submit the report or form is a partnership;
- (4) a member or other authorized representative, if the employing unit required to submit the form is an association;
- (5) an authorized member or officer having knowledge of its affairs, if the employing unit required to submit the report or form is an unincorporated organization;
- (6) the fiduciary, if the employing unit required to submit the report or form is a trust or estate; or
- (7) the head of the department, or designee having control of the services to which contributions, reimbursements, or other payments are attributable, if the employing unit required to submit the report or form is the State of North Carolina or a department, division, branch, unit, instrumentality, or political subdivision thereof. Carolina.

*History Note: Authority G.S. 96-4; 96-9.15;
 Eff. July 1, 2015.*

1 04 NCAC 24A .0109 is adopted with changes as published in 29:17 NCR 2038 as follows:

2
3 **04 NCAC 24A .0109 POWER OF ATTORNEY**

4 ~~(a)~~ An employer may appoint an agent with full or limited power and authority to act on its behalf with DES. An
5 employer's appointment of an agent shall be made in writing in the manner prescribed by G.S. 32A-1.

6
7 *History Note: Authority G.S. 96-4; 96-9.15; 32A-1; 32A-2;*
8 *July 1, 2015.*

SECTION .0200 - REQUESTS FOR DOCUMENTS AND PUBLIC RECORDS UNRELATED TO
CONTESTED CLAIM

04 NCAC 24A .0201 is adopted with changes as published in 29:17 NCR 2038 as follows:

04 NCAC 24A .0201 WRITTEN REQUEST REQUIRED

(a) Any individual or employing unit requesting to inspect or copy any record containing confidential unemployment insurance information shall make the request in writing. All requests shall be submitted to the Legal Services Section, ATTN: Legal Release by mail to Post Office Box 25903, Raleigh, North Carolina, 27611, facsimile to (919) 715-7194, or email to legal.release@nccommerce.com.

History Note: Authority G.S. 96-4; 20 CFR 603;

Eff. July 1, 2015.

04 NCAC 24A .0202 is adopted with changes as published in 29:17 NCR 2038 as follows:

04 NCAC 24A .0202 CLEAR DESCRIPTION OF RECORDS REQUIRED

(a) Each written request for unemployment insurance information shall describe the record or records sought and provide sufficient details to permit identification and location of the records.

(b) The request ~~shall~~ may specify:

- (1) the subject matter of the record;
- (2) the date or approximate date that the record was made;
- (3) the place where the record was made;
- (4) the person or office that made the record; and
- (5) any other necessary identifying details about the record, such as an account or form number.

(c) If the description is insufficient for an employee familiar with the subject area of the request to locate the record, the ~~Chief~~ General Counsel or designee shall notify the person making the request and ~~where applicable,~~ indicate the additional information required to locate the record.

*History Note: Authority G.S. 96-4; ~~20 CFR 603~~; 20 CFR 603.4;
Eff. July 1, 2015.*

04 NCAC 24A .0204 is adopted with changes as published in 29:17 NCR 2039 as follows:

04 NCAC 24A .0204 RELEASE OF INFORMATION TO THIRD PARTY

(a) Upon written request, a claimant, employer, applicant, or other person who authorizes information or records to be released to a third party or person shall provide:

- (1) the name of the third party or person;
- (2) the address of the third party or person;
- (3) a statement that the claimant, employer, applicant or other person authorizing the disclosure of information waives confidentiality as to the information directed to be released.

(b) An individual requesting that DES release or disclose to a third party or person the individual's quarterly wage records, including the amount of wages, names, and addresses of each employer reporting wages for the individual shall:

- (1) clearly identify the third party or person by name;
- (2) provide the address of the third party or person;
- (3) contain a statement that the individual waives confidentiality as to the information authorized to be ~~disclosed;~~ disclosed to the identified third party;
- (4) state that the authorization and waiver is given on the basis of informed consent as mandated by 20 CFR ~~Part 603~~ 603.5 and any other applicable federal regulation that may be promulgated by the U.S. Department of Labor; and
- (5) contain a ~~clear~~ statement that the employing unit ~~which~~ that provided the information to DES has been provided proper advance notice of the request for disclosure.

History Note: *Authority G.S. 96-4; ~~20 CFR 603;~~ 20 CFR 603.5;*
Eff. July 1, 2015.

04 NCAC 24A .0205 is adopted with changes as published in 29:17 NCR 2039 as follows:

04 NCAC 24A .0205 FEES FOR COPIES AND SERVICES

(a) Search Fees:

- (1) The fee for searching DES records by authorized staff ~~is~~ shall be four dollars and forty cents (\$4.40) for each one-quarter hour or fraction thereof required to obtain the records to be searched or to search the records.
- (2) If the search for requested records requires transportation of DES staff to the location of the records, or transportation of the records to DES staff at a cost of more than five dollars (\$5.00), the actual transportation costs ~~will~~ shall be added to the search time cost.
- (3) If the search for requested records requires batch processing by computer, the ~~Chief General~~ Counsel or designee shall provide an estimate of DES's cost to produce the information to individual making the request. The amount of the estimate provided ~~must~~ shall be based on the computer programming and other actions necessary for the batch processing. Upon consenting to the estimate provided by the ~~Chief General~~ Counsel or designee, DES shall send an invoice for the actual cost of producing the requested information to the individual making the request.

(b) Reproduction Fees: The fees for obtaining copies of records shall be computed as follows:

- (1) copying: one cent (\$0.01) per page;
- (2) transcription of hearing: three dollars and seventy-five cents (\$3.75) per quarter hour or fraction thereof;
- (3) recording of hearing: three dollars and seventy-five cents (\$3.75) per compact disk or recording.

(c) No more than 10 copies of any document shall be furnished in response to any request.

(d) Administrative and Overhead Fees: The fee required for the time required for the ~~Chief General~~ Counsel or designee to review a request and determine whether the request is authorized by G.S. 96-4 ~~is~~ shall be five dollars and eighty-four cents (\$5.84) for each one-quarter hour or fraction thereof. The overhead cost for processing and invoicing ~~is~~ shall be four dollars and fifty cents (\$4.50) per invoice.

*History Note: Authority G.S. 96-4(x); 20 CFR 603;
Eff. July 1, 2015.*

1 **SECTION .0300 – PETITIONS FOR RULE-MAKING**
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3 04 NCAC 24A .0301 is adopted with changes as published in 29:17 NCR 2040 as follows:
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5 **04 NCAC 24A .0301 RIGHT TO PETITION**

6 (a) The petition shall be in writing and contain the following information:

- 7 (1) the subject area to which the petition is directed;
8 (2) a draft of the proposed ~~rule, amendment or repeal~~, or amended rule;
9 (3) the reason for the proposal;
10 (4) the effect ~~on existing rules and practices, including cost~~; of the requested rule change;
11 (5) any data supporting the proposal;
12 (6) the name and address of each petitioner; and
13 (7) the date.

14 (b) Any person submitting a petition requesting the adoption, amendment, or repeal of a rule under this Chapter shall
15 address the petition to the Rules Coordinator, Attn: DES Legal Services Section, Post Office Box 25903, Raleigh,
16 North Carolina 27611-5903.

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18 *History Note:* *Authority G.S. 96-4; 150B-20;*

19 *Eff. July 1, 2015.*

04 NCAC 24A .0302 is adopted with changes as published in 29:17 NCR 2040 as follows:

04 NCAC 24A .0302 DISPOSITION OF PETITION

(a) Upon receipt of a petition, the Secretary of Commerce, or designee shall review the petition to determine whether the public interest would be served by granting the request.

(b) Within 30 days of receiving the petition, the Secretary or designee shall make a decision on the petition and inform the petitioner by mailing:

(1) a written denial of the petition and the reason for the denial; or

(2) written notice to the petitioner that the Secretary or designee will initiate a rule-making proceeding as required by G.S. ~~150B-~~ 150B-20(c).

(c) Each determination granting or denying a petition shall include a statement that the Secretary or designee's decision is a final agency decision subject to judicial review.

(d) Each determination shall include instructions for filing a request for judicial review in the superior court pursuant to G.S. 150B-45 within 30 days after receiving the ~~determination and the date the determination was mailed.~~ determination.

History Note: Authority G.S. 96-4; 150B-20; 150B-45;

Eff. July 1, 2015.

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SECTION .0100 - CLAIMS FOR UNEMPLOYMENT INSURANCE BENEFITS

04 NCAC 24B .0101 is adopted with changes as published in 29:17 NCR 2040 as follows:

04 NCAC 24B .0101 FILING A CLAIM

(a) An individual shall contact DES by internet or telephone to file a ~~valid~~ an initial claim for benefits pursuant to 04 NCAC 24A .0104.

(b) Prior to receiving any benefits, the claimant shall register for work with a public employment office, unless exempt from this requirement as enumerated under this Chapter or any under state G.S. 96-14.9 or federal law.

(c) In the event of a mass layoff by an employer, the employer may request to electronically file an initial claim for benefits for the individuals to be laid off. The request shall be made to DES through its website at www.ncesc.com. The employer shall provide DES with a list of the individuals who wish to file an initial claim for benefits. For each individual, the list shall include all information required in Paragraph (d) for an initial claim. The list shall be used by DES as an initial claim for each individual on the list. Each individual shall subsequently file his or her weekly certification.

(d) Information for an initial claim shall include:

- (1) the claimant's name, social security number, address, telephone number, email address, and date of birth, and gender;
- (2) immigration status;
- (3) whether the claimant worked for the federal government or in another state during the previous two years;
- (4) whether the claimant applied for or is receiving disability payments;
- (5) whether the claimant was or will be paid vacation or severance and the time frame that the payment covers;
- (6) whether the claimant refused work since becoming unemployed;
- (7) whether the claimant filed for or is receiving benefits under any other unemployment insurance law;
- (8) whether the claimant applied for or is receiving any type of retirement pension;
- (9) the name and complete address of the claimant's last employer;
- (10) the reason for the claimant's separation from work; and
- (11) the claimant's beginning and ending dates of employment.

History Note: Authority G.S. 96-4; 96-14.1; 96-14.9; 96-15; 20 C.F.R. 602
Eff. July 1, 2015.

04 NCAC 24B .0102 is adopted with changes as published in 29:17 NCR 2041 as follows:

04 NCAC 24B .0102 ALTERNATIVE FILING METHODS

(a) A claimant shall file ~~a valid~~ an initial claim, or a weekly certification for payment of benefits by mail, delivery service, or facsimile to DES's Central Office in Raleigh, North ~~Carolina,~~ Carolina. A claimant shall file an initial claim, or a weekly certification for payment of benefits at or a Division of Workforce Solutions public employment office throughout the State when hazardous or emergency conditions exist that ~~make it impracticable for prevent~~ a DES representative ~~to accept~~ from accepting the claim or weekly certification by telephone or internet due to inclement weather or declared natural disaster.

History Note: *Authority G.S. 96-4; 96-14.1; 96-14.9; 96-15; 20 C.F.R. 602*
 Eff. July 1, 2015.

04 NCAC 24B .0103 is adopted with changes as published in 29:17 NCR 2041 as follows:

04 NCAC 24B .0103 WEEKLY CERTIFICATIONS

(a) After a claimant files ~~a valid~~ an initial claim and establishes a benefit year, the claimant shall file subsequent weekly certification for payment of benefits by telephone, or internet on DES's website at intervals of no less than seven and no more than fourteen consecutive days for each week claimed.

(1) Each claimant shall file weekly certifications as ~~defined~~ prescribed under ~~04 NCAC 24A .0104.~~
04 NCAC 24A .104(a).

(2) If at any time during the benefit year, more than fourteen calendar days elapse since the claimant last filed a weekly certification, the claimant shall file an additional or reopened claim for benefits as defined in 04 NCAC 24A .0105, and shall comply with all eligibility requirements.

(b) Each claimant shall:

(1) file claims and weekly certifications in accordance with the rules of this Chapter that includes the following:

(A) information required for claims filing outlined in Rule .0101 of this Section.

(B) information required for filing weekly certification, including each claimant's full name and social security number;

(2) inform DES of whether he or she worked during the previous calendar week;

(3) provide information regarding all earnings before deductions (gross) for work performed during the previous calendar week;

(4) provide information as to whether he or she received holiday, vacation, bonus, or separation pay, and the gross amount during the previous calendar week;

(5) inform DES of whether he or she began receiving or whether there was a change in any type of retirement pension during the previous calendar week;

(6) provide information regarding whether he or she applied for or received any disability payments during the previous calendar week;

(7) inform DES of whether he or she was physically able and available for ~~work~~ work, during the previous calendar week;

(8) provide information as to whether he or she looked for work, refused work or kept a record of work search during the previous calendar ~~week;~~ week as required by G.S. 96-14.9(e)(4); and

(9) provide information as to whether he or she has quit a job or been discharged from a job since filing a claim for unemployment benefits.

(10) sign all forms for the valid initial claim or weekly certification that are filed in person, by mail or delivery service; and

(11) submit all claims and weekly certifications as required by the Employment Security Law and this Section.

- 1 *History Note:* *Authority G.S. 96-4; 96-14.1; 96-14.9; 96-15; 96-15.01;*
- 2 *Eff. July 1, 2015.*

04 NCAC 24B .0104 is adopted with changes as published in 29:17 NCR 2041 as follows:

04 NCAC 24B .0104 INFORMATION TO BE PROVIDED TO CLAIMANTS FILING A NEW CLAIM

~~(a)~~ A claimant filing a new claim for benefits shall be informed that:

- (1) unemployment ~~insurance~~ benefits are subject to federal and state income tax;
- (2) he or she may elect to have federal and state income tax deducted and withheld from the payment of unemployment ~~insurance~~ benefits;
- (3) he or she may change a previous withholding status; and
- ~~(4) all amounts deducted and withheld from unemployment insurance benefits shall remain in the unemployment fund, as defined in G.S. 96-5, until transferred to the federal or state taxing authority as a payment of income tax; and~~
- ~~(5)~~ (4) any amounts deducted and withheld for taxes shall be only after amounts are deducted and withheld under any other provisions of the Employment Security Law.

History Note: *Authority G.S. 96-4; 96-14.2;*
 Eff. July 1, 2015.

04 NCAC 24B .0105 is adopted with changes as published in 29:17 NCR 2041 as follows:

04 NCAC 24B .0105 ANTEDATING

~~(a)~~ A valid initial claim shall be retroactively effective to the Sunday of the calendar week during which a claimant would have filed a claim if the failure to file the claim at that time includes the following:

- (1) a notice of the time and place for filing a claim for benefits that should have been posted was not posted in the claimant's employment establishment;
- (2) the claimant's employer coerced the claimant not to file a claim for benefits and the claimant contacted an authorized representative of DES no later than 14 days following his or her last day of work;
- (3) ~~of natural disaster;~~ disaster where the claimant works or resides; or
- (4) an invalid claim was filed in good faith in another state.

*History Note: Authority G.S. 96-4; 96-14.1; 96-15;
Eff. July 1, 2015.*

04 NCAC 24B .0106 is adopted with changes as published in 29:17 NCR 2042 as follows:

**04 NCAC 24B .0106 SUSPENSION OF BENEFITS FOR PROBATION VIOLATORS WHO AVOID
ARREST**

(a) Upon receipt of a valid court order resulting from a probation violation for absconsion or willful avoidance of arrest, DES shall suspend benefits pursuant to the terms outlined by the issuing judge in the order, effective beginning on the Sunday following the effective date of the order.

(b) Within seven days of receiving the order, DES shall provide written notice and reasons for the ineligibility for benefits to the claimant, the issuing court, and the North Carolina Department of Public Safety.

(c) The notice shall state:

- (1) the claimant's name;
- (2) the claimant's address as contained in DES's official records and provided with the court order;
- (3) the date the order was entered; and
- (4) the effective date of the claimant's ineligibility for ~~benefits~~ benefits.

*History Note: Authority G.S. 15A-1345; 96-4; 96-14.1;
 Eff. July 1, 2015.*

04 NCAC 24B .0202 is adopted as published in 29:17 NCR 2042 as follows:

04 NCAC 24B .0202 BENEFIT RIGHTS OF INTERSTATE CLAIMANTS

(a) If a claimant files a claim against any state, and it is determined by the state that the claimant has benefit wage credits available in the state, then claims shall be filed only against the state as long as benefit wage credits are available in that state. Once benefit wage credits become unavailable in that state, the claimant shall file claims against any other state where benefit wage credits are available.

(b) For the purposes of this Section, benefit wage credits shall be deemed to be ~~unavailable~~: unavailable from another state:

- (1) whenever benefits have been exhausted, terminated, or postponed for an indefinite ~~period~~; period, or ~~(2) for~~ the entire period in which benefits would otherwise be payable; or
- ~~(3)~~ (2) whenever benefits are affected by the applications of a seasonal restriction.

History Note: Authority G.S. 96-4; 96-15; 96-16; 96-21; 96-24; 20 CFR 616;
Eff. July 1, 2015.

04 NCAC 24B .0203 is adopted with changes as published in 29:17 NCR 2042 as follows:

04 NCAC 24B .0203 CLAIMS FOR BENEFITS

(a) Claims for benefits or waiting-period credit filed by an interstate claimant directly with the liable state shall be filed according to the liable state's procedures. Any adjustments required to fit the type of week used by the liable state shall be made by the liable state based on consecutive claims filed.

(b) Claims shall be filed according to the agent state's regulations for intrastate claims in the same manner as provided in ~~Section .0100 of this Subchapter.~~ 04 NCAC 24B .0101.

(1) With respect to claims for weeks of unemployment during which a claimant was not working for his regular employer, the liable state shall accept a continued claim that is filed up to one week or one reporting period late under circumstances that it considers good cause. If a claimant files more than one reporting period late, the filing shall open an additional claim, and no continued claim for a past period shall be accepted.

(2) With respect to weeks of unemployment during which a claimant is attached to his regular employer, the liable state shall accept any claim filed within the time applicable to claims under the law of the agent state.

History Note: Authority G.S. 96-4; 20 C.F.R. 616;
Eff. July 1, 2015.

04 NCAC 24B .0205 is adopted with changes as published in 29:17 NCR 2042 as follows:

04 NCAC 24B .0205 APPELLATE PROCEDURE.

(a) The agent state shall cooperate in taking evidence and holding hearings in interstate benefit claims appeals.

(b) The agent state shall conduct appeal hearings in disputed cases and determine timeliness using the liable state's laws, regulations, or policies and practices. In interstate appeals where North Carolina is the liable state, timeliness of the appeal shall be determined by provisions of the Employment Security Law, ~~04 NCAC 24A .0100,~~ 04 NCAC 24A .0106, and any DES ~~Precedent Decisions~~ decisions applicable to intrastate appeals.

(c) The ~~liable~~ agent state shall conduct the hearings on appealed interstate benefit claims.

History Note: Authority G.S. 96-4; 20 CFR 616;

Eff. July 1, 2015.

04 NCAC 24B .0207 is adopted with changes as published in 29:17 NCR 2043 as follows:

04 NCAC 24B .0207 NOTIFICATION OF INTERSTATE CLAIM.

(a) The liable state shall notify the agent state of each initial claim, reopened claim file, claim transferred to interstate status, and each weekly claim filed from the agent state.

(b) Notice shall be provided using the Interstate Benefit Payment Plan uniform procedures and record format promulgated as written guidance by the USDOL.

(c) This rule incorporates ~~material found in the~~ United States Department of Labor's Interstate Benefit Payment Plan, Interstate Agreements, ET Handbook No. 392 app. B (2d ed. 1997) by reference and includes subsequent amendments and editions of the referenced material in accordance with ~~G.S. 150B-14(e).~~ 150B-21.6. Copies of the incorporated material found in the Interstate Benefit Payment Plan are located at 700 Wade Avenue, in Raleigh, North Carolina 27605, and can may be obtained by request at no cost to the public by contacting DES as specified under ~~04 NCAC 24A .0101.~~ 04 NCAC 24A .0201.

*History Note: Authority G.S. 96-4; 20 CFR 616;
 Eff. July 1, 2015.*

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04 NCAC 24B .0301 REQUIREMENTS FOR CLAIMANTS

(a) Every claimant shall register for work at www.NCWorks.gov or a public employment office in the state in which you reside, actively seek work, ~~be~~ are available for work, and will accept suitable work unless specifically exempted by G.S. 96-14.9 or federal law.

(b) Each claimant shall make the minimum number of weekly work search contacts required by G.S. 96-14.9(e)(3).

(1) Each claimant shall maintain weekly work search contact records as required by G.S. 96-14.9(e)(4).

(2) Each claimant who receives his or her first unemployment benefit payment on or after March 1, 2014 shall have a mandatory in-person Employability Assessment Interview (EAI) with a workforce specialist at a local DWS office as a condition of continued eligibility for receipt of unemployment insurance benefits. Claimants excepted from this requirement are: Reemployment Eligibility Assessment (REA); those enrolled in and attending a Workforce Investment Act (WIA) program; attached claims; and longshoremen.

(A) The EAI shall be scheduled within four weeks of the first benefit payment to a claimant.

(B) Each claimant reporting for EAI shall be required to present a valid form of identification to DWS or their designee to establish their availability for work as required under G.S. ~~96-14.6.~~ 96-14.9. Valid identification shall be identification issued at the state or federal level and acceptable for Employment Verification (I-9) purposes, and includes the following:

(i) driver's license;

(ii) military identification;

(iii) United States Passport;

(iv) passport card;

(v) trusted traveler cards such as the NEXUS SENTRI and FAST CARDS issued by the U.S. Department of Homeland Security;

(vi) Permanent Resident Card (green card); and

(vii) Native American tribal identification card.

(C) DWS shall notify each claimant receiving an initial EAI of the date, time, and location by mail, at least 14 days in advance of the EAI.

(c) Each claimant attending an EAI shall present his or her record of work ~~search identification~~ in order to receive unemployment insurance services at a DWS office.

(1) ~~A valid ID shall be identification issued at the state or federal level acceptable for Employment Eligibility Verification Form (I-9) purposes, and shall include, but not be limited to the following:~~

- 1 (A) ~~driver's license;~~
2 (B) ~~military identification;~~
3 (C) ~~United States Passport;~~
4 (D) ~~passport card;~~
5 (E) ~~trusted traveler cards such as the NEXUS SENTRI and FAST CARDS issued by the U.S.~~
6 ~~Department of Homeland Security;~~
7 (F) ~~Permanent Resident Card (green card); and~~
8 (G) ~~Native American tribal identification card.~~

9 (d) Each claimant shall actively seek suitable work as required under G.S. 96-14.9 and 20 C.F.R. 604.5 to receive
10 unemployment benefits.

- 11 (1) Work registration at [www. NCWORKS.gov](http://www.NCWORKS.gov) alone shall be insufficient to establish that a claimant
12 is actively seeking work.
13 (2) Each claimant shall seek work on their own behalf.
14 (3) Restrictions as to salary, hours, or working conditions that are inconsistent with the labor market
15 pursuant to the factors outlined in G.S. ~~96-14.6(f)~~ 96-14.9(f) shall indicate that a claimant is not
16 making a reasonable search for suitable work.
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18 *History Note:* Authority G.S. 96-4; 96-14.9; 96-14.14; 96-15; 20 C.F.R. 604;
19 *Eff. July 1, 2015.*

04 NCAC 24B .0302 is adopted with changes as published in 29:17 NCR 2043 as follows:

04 NCAC 24B .0302 RECORD OF WORK AND WAGES OF CLAIMANTS

(a) Each claimant who has registered for work and filed a claim for unemployment insurance benefits shall keep a record of any work performed during any day within a benefit period. Each claimant shall record all work performed, regardless of whether the work constitutes employment as defined in G.S. 96-1(12).

(b) The record of work shall include the:

- (1) name and address of each individual or entity for whom the claimant worked;
- (2) total remuneration earned; and
- (3) the number of hours worked during the benefit period.

(c) Each claimant shall submit the record of work to DES when requested. DES shall request the record of work under the following conditions:

- (1) when a claimant's availability for work is questioned by failing to meet any of the requirements under G.S. ~~96-14.6(d)~~; 96-14.9(d);
- (2) whenever an inconsistency arises between what a claimant asserts in a work search report and what an employer reports to DES;
- (3) during a claimant's eligibility for benefits review;
- (4) during an audit; or
- (5) when a claimant reports to a DWS office for an Employability Assessment Interview.

(d) Each interstate claimant shall transmit a copy of their record of work, including ~~photo ID~~, photo identification to DES via facsimile or mail as provided in ~~04 NCAC 24A .0103~~. 04 NCAC 24A .0104(u).

History Note: Authority G.S. 96-4; 96-15; 20 C.F.R. 604;

Eff. July 1, 2015.

04 NCAC 24B .0402 is adopted with changes as published in 29:17 NCR 2044 as follows:

04 NCAC 24B .0402 REQUEST FOR SEPERATION INFORMATION FROM EMPLOYER

(a) In connection with a claim filed by a claimant, DES shall require the claimant's last employer to provide complete information (sufficient facts) to make a correct initial determination of the claimant's eligibility for unemployment insurance benefits without having to contact the employer to obtain additional information.

(b) Employers shall submit a Form NCUI 500AB consistent with G.S. 96-15(b)(2) that shall be provided to the employer's last known address as reflected in its official records and include the following information:

- (1) last and first dates of employment;
- (2) the claimant's pay rate;
- (3) the gross amount of the vacation, severance, and any sick pay;
- (4) the beginning and ending dates covered by the separation payments;
- (5) if the claimant quit their job:
 - (A) a copy of the employee's resignation letter if one exists.
 - (B) the reason(s) for the resignation; or
- (6) if the claimant was discharged:
 - (A) the reason(s) for the separation and supporting documentation and evidence;
 - (B) copies of any employee policies, warnings, handbooks, documents, or contracts signed by the employee that pertain to the employee's discharge; or
- (7) if the claimant is still employed:
 - (A) conditions under which the employee was hired;
 - (B) the number of hours per week that the employee is currently working;
 - (C) any reduction of the employee's work hours, the date the reduction took place, reasons for the reduction, and if temporary, any date when the employee may be allowed to return to work; or
- (8) if the employee was separated due to an inability to perform job duties and was employed less than 100 days, an explanation describing the inability to perform the job duties; and
- (9) any separation information requested by DES, or which the employer should ~~reasonably~~ expect is necessary for DES to make a correct initial determination of the claimant's eligibility for unemployment benefits.

(c) Employers may respond to requests for separation information by mail or fax as provided under 04 NCAC 24A .0104, or by submitting their responses at www.ncesc.com through the employer portal.

History Note: Authority G.S. 96-4; 96-11.3; 96-11.4; 96-15; 20 U.S.C. 3303;
Eff. July 1, 2015.

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04 NCAC 24B .0501 NOTICE TO EMPLOYER OF LABOR DISPUTE CLAIM

History Note: Authority G.S. 96-4; 96-15;
Eff. July 1, 2015.

04 NCAC 24B .0503 is adopted with changes as published in 29:17 NCR 2045 as follows:

04 NCAC 24B .0503 DETERMINATION OF LABOR DISPUTE AND REFERRAL FOR HEARING

(a) If an issue of unemployment due to a labor dispute exists, the ~~Chief~~ General Counsel shall refer the matter in writing to DES's Board of Review or designee for hearing.

(b) Hearings involving the issue of unemployment due to a labor dispute shall be heard upon order of the Board of Review or designee and conducted pursuant to ~~04 NCAC 24C.~~ 04 NCAC 24D .1103.

History Note: Authority G.S. 96-4; 96-14.7; 96-15;

Eff. July 1, 2015.

04 NCAC 24B .0504 is adopted with changes as published in 29:17 NCR 2045 as follows:

04 NCAC 24B .0504 ISSUES

(a) The issues to be decided in labor dispute hearings may include the following:

- (1) whether a labor dispute existed, and if so, identification of the beginning and ending dates of the labor dispute, or whether the dispute is ongoing;
- (2) the reasons for the labor dispute;
- (3) whether any individual is disqualified to receive benefits as provided in G.S. ~~§96-14.7~~; 96-14.7(b); and
- (4) any other issue ordered by DES's Board of Review or designee, which shall be provided to each party in writing.

History Note: Authority G.S. 96-4; 96-14.7; 96-15;
Eff. July 1, 2015.

1 **SECTION .0600 – UNEMPLOYMENT INSURANCE BENEFIT OVERPAYMENTS**

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3 04 NCAC 24B .0601 is adopted as published in 29:17 NCR 2045 as follows:

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5 **04 NCAC 24B .0601 NOTICE REQUIREMENT FOR OVERPAYMENT**

6 (a) A determination finding an overpayment of benefits to a claimant shall contain:

- 7 (1) the date the determination was mailed to the claimant;
- 8 (2) reasons for the overpayment;
- 9 (3) the statutory authority under G.S. ~~96-18~~ 96-18(g)(3) for seeking repayment of the overpayment;
- 10 ~~and~~
- 11 (4) notice that the claimant may protest the overpayment determination and instructions on how to
- 12 protest the overpayment determination as provided in ~~04 NCAC 24A .0104~~ 04 NCAC 24A
- 13 .0104(c); and
- 14 (5) ~~Notice~~ notice that the claimant may file a request for waiver of the overpayment in the same
- 15 manner as prescribed under Subparagraph (a)(4) of this Rule.
- 16

17 *History Note:* *Authority G.S. 96-4; 96-18;*

18 *Eff. July 1, 2015.*

04 NCAC 24B .0602 is adopted with changes as published in 29:17 NCR 2045 as follows:

04 NCAC 24B .0602 BILL FOR REPAYMENT OF OVERPAYMENT

(a) If a claimant does not protest an overpayment ~~determination,~~ determination within 30 days, the determination of overpayment shall become final. DES shall mail a bill to the claimant for the amount of the overpayment owed after a final determination or decision.

(b) The first bill shall contain:

- (1) the total amount of the overpayment; and
- (2) notice that repayment of an overpayment determined to be fraudulent shall not be waived.

History Note: Authority G.S. 96-4; 96-18;
Eff. July 1, 2015.

04 NCAC 24B .0603 is adopted with changes as published in 29:17 NCR 2045 as follows:

04 NCAC 24B .0603 WAGE AUDIT NOTICE FOR EMPLOYERS

(a) DES shall mail a Wage Audit Notice to an employer requesting information for investigating a potential claimant overpayment whenever a discrepancy or question to that claimant's eligibility for unemployment benefits exists. The Wage Audit Notice shall:

- (1) identify the claimant whose weekly earnings information is sought;
- (2) request the employer provide weekly earnings information during the specified time period; and
- ~~(2)~~ (3) any other information necessary to investigate the claimant's overpayment ~~status~~; status.

(b) The employer shall respond to the Wage Audit Notice request within fifteen days by mail ~~or internet~~ at NC Division of Employment Security, Benefits Integrity Unit, Post Office Box 25903 Raleigh, NC 27611 or internet at ~~www.ncese.com~~ www.ncesc.com.

History Note: Authority G.S. 96-4; 96-18;
Eff. July 1, 2015.

1 **SECTION .0700 – REQUEST FOR WAIVER OF OVERPAYMENT**
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3 04 NCAC 24B .0701 is adopted with changes as published in 29:17 NCR 2045 as follows:
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5 **04 NCAC 24B .0701 WAIVER OF REPAYMENT OF NONFRAUDULENT OVERPAYMENT**

6 (a) Claimants may petition DES for a waiver of non-fraud unemployment insurance overpayments as provided in
7 ~~this Subchapter.~~ 04 NCAC 24B .0601.

8 (b) A request for waiver of overpayment shall be accompanied by all evidence or documents that the claimant
9 wishes DES to consider in deciding whether to grant the waiver and a written explanation of ~~why the waiver request~~
10 ~~should be granted.~~ the basis of the waiver request.

11 (c) DES shall not consider any petition for waiver of overpayment while an appeal of the overpayment is pending.

12 ~~(d) Any request to waive the overpayment shall indicate that the claimant agrees that the overpayment is owed to~~
13 ~~DES and the claimant shall not be permitted to challenge the overpayment determination in the waiver petition.~~

14
15 *History Note:* *Authority G.S. 96-4; 96-15; 96-18;*

16 *Eff. July 1, 2015.*

04 NCAC 24B .0702 is adopted with changes as published in 29:17 NCR 2045 as follows:

04 NCAC 24B .0702 WAIVER OF REPAYMENT OF FRAUDULENT OVERPAYMENT

DES shall not waive repayment of overpayment of any State or federal unemployment insurance benefits caused by a claimant's fraud as defined under G.S. 96-18. ~~DES shall not consider any request for waiver of fraudulent overpayments.~~

History Note: Authority G.S. 96-4; 96-18;

Eff. July 1, 2015.

04 NCAC 24B .0704 is adopted with changes as published in 29:17 NCR 2046 as follows:

04 NCAC 24B .0704 FACTORS IN DETERMINING EQUITY AND GOOD CONSCIENCE

(a) DES shall consider the following factors:

- (1) whether the overpayment resulted from a decision on appeal and whether there was notice to the claimant that the case had been appealed;
- (2) whether there has been an affirmative finding under Subparagraph (a)(1) regarding the claimant and the overpayment; and
- (3) whether recovery of the overpayment would cause extraordinary and lasting financial hardship to the claimant resulting in the claimant's loss of or inability to obtain minimal necessities of food, medicine, and shelter; and whether the financial hardship as described ~~above~~ may be expected to last for the foreseeable future.
- ~~(4) In applying this hardship test in the case of attempted recovery by repayment, a substantial period of time will be 180 days, and the foreseeable future shall be no less than 360 days.~~
- ~~(5) In applying this hardship test in the case of proposed recoupment from other benefits, a substantial period of time and the foreseeable future is the longest potential period of benefit entitlement at the time of the request for a waiver of repayment.~~
- ~~(6) In making financial hardship determinations, DES shall consider all potential income sources of the claimant, the claimant's family, and all cash resources available to the claimant and the claimant's family in the time period being considered.~~

(b) In applying this hardship test in the case of attempted recovery by repayment, a substantial period of time shall be 180 days, and the foreseeable future shall be no less than 360 days.

(c) In applying this hardship test in the case of proposed recoupment from other benefits, a substantial period of time and the foreseeable future is the longest potential period of benefit entitlement at the time of the request for a waiver of repayment.

(d) In making financial hardship determinations, DES shall consider all potential income sources of the claimant, the claimant's family, and all cash resources available to the claimant and the claimant's family in the time period being considered.

*History Note: Authority G.S. 96-4; 96-18;
Eff. July 1, 2015.*

04 NCAC 24B .0705 is adopted with changes as published in 29:17 NCR 2046 as follows:

04 NCAC 24B .0705 FACTORS IN DETERMINING FAULT

(a) In determining whether fault exists in any overpayment of state or federal compensation, the following factors shall be considered:

- (1) whether the claimant made or caused another to make a material statement or representation in connection with the application for federal compensation that resulted in the overpayment, and whether the claimant knew or should have known that the statement or representation was inaccurate;
- (2) whether the claimant failed or caused another to fail to disclose or omit a material fact in connection with an application for the compensation that resulted in the overpayment, and whether the claimant knew or should have known that the fact was material;
- (3) whether the claimant knew or could have been expected to know that he or she was not entitled to the compensation payment; and
- (4) whether there was a determination that the overpayment was the result of fraud as defined under G.S. 96-18.

(b) If any factor in Paragraph (a) of this Rule is confirmed, recovery of the overpayment shall not be waived.

*History Note: Authority G.S. 96-4; 96-18;
 Eff. July 1, 2015.*

1 **SECTION .0800 - INTERSTATE OVERPAYMENT RECOVERY**

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3 04 NCAC 24B .0801 is adopted with changes as published in 29:17 NCR 2046 as follows:

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5 **04 NCAC 24B .0801 DUTIES OF THE REQUESTING STATE**

6 ~~(a)~~ The requesting state shall:

- 7 (1) send the recovering state a request for overpayment recovery assistance that shall include:
- 8 (A) certification that the overpayment is collectible under the requesting state's law;
- 9 (B) certification that the determination is final and that any rights to postpone recoupment of
- 10 the benefits are exhausted or have expired;
- 11 (C) a statement of whether the state is participating in a cross-program offset by agreement
- 12 with the U.S. Secretary of Labor; and
- 13 (D) a copy of the initial overpayment determination and a statement of the outstanding
- 14 balance;
- 15 (2) send notice of the request to the claimant pursuant to Rule .0802 of this Section;
- 16 (3) send the recovering state a new outstanding overpayment balance whenever the requesting state
- 17 receives any amount of repayment from a source other than the recovering state (e.g., interception
- 18 of tax refund); and
- 19 (4) send notice of the request by a method approved by the ~~USDOL~~ United States Department
- 20 of Labor (USDOL).

21
22 *History Note:* *Authority G.S. 96-4; 96-18;*
23 *Eff. July 1, 2015.*

04 NCAC 24B .0802 is adopted with changes as published in 29:17 NCR 2047 as follows:

04 NCAC 24B .0802 DUTIES OF RECOVERING STATE

(a) In recovering state or federal benefit overpayments, the recovering state shall:

(1) issue an overpayment recovery determination to the claimant that shall include the following:

(A) statutory authority for the offset;

(B) identity of the state requesting recoupment;

(C) date of the original overpayment determination;

(D) type of overpayment, such as fraud or non-fraud;

(E) program type;

(F) total amount of offset; and

(G) amount to be offset weekly;

(2) offset any benefits to be paid for each week claimed, in the amount permitted by that state's law;

(3) prepare and forward a check payable to the requesting state, showing the amount recovered, except as provided in Rule .0803 of this ~~Section~~ Section;

(4) retain a record of the overpayment balance in its files no later than the exhaustion of benefits, end of the benefit year, exhaustion or end of an additional or extended benefit period, or other extension of benefits, whichever is later; and

(5) not redetermine the original overpayment determination.

History Note: Authority G.S. 96-4; 96-18;

Eff. July 1, 2015.

04 NCAC 24B .0803 is adopted with changes as published in 29:17 NCR 2047 as follows:

04 NCAC 24B .0803 DUTIES OF PAYING STATE

(a) In recovering outstanding overpayments in the transferring state, the paying state shall:

- (1) offset any outstanding overpayment it receives from a transferring state prior to honoring any request from any other Interstate Reciprocal Overpayment Recovery Arrangement (IRORA) participating state; and
- (2) credit deductions against the benefits paid statement, or forward a check to the transferring state as described Rule .0802 of this Section.

(b) This rule incorporates the National Association of State Workforce Agencies' Interstate Reciprocal Overpayment Recovery Arrangement (2013) by reference and includes subsequent amendments and editions of the referenced material in accordance with G.S. 150B-21.6. Copies of the incorporated material are located at 700 Wade Avenue, in Raleigh, North Carolina, and may be obtained by request at no cost to the public by contacting DES as specified under 04 NCAC 24A .0201.

History Note: *Authority G.S. 96-4; 96-18;*
Eff. July 1, 2015.

04 NCAC 24B .0804 is adopted with changes as published in 29:17 NCR 2047 as follows:

04 NCAC 24B .0804 WITHDRAWALS OF COMBINED WAGE CLAIMS

(a) Withdrawal of a combined wage claim after benefits have been paid shall only be permitted where the combined wage claimant has repaid benefits overpaid, or authorizes the new liable state to offset the overpayment.

(1) The paying state shall issue an overpayment determination and forward a copy, together with an overpayment recovery request and an authorization to offset, with the initial claim to the new liable state.

(2) The recovering state, which is the new liable state, shall:

(A) offset the total amount of any overpayment resulting from withdrawal of a combined wage claim before releasing any payments to the claimant;

(B) offset the total amount of any overpayment resulting from withdrawal of a combined wage claim before honoring a request from any other participating state under IRORA;

(C) provide the claimant with written notice for the amount offset; and

(D) prepare and forward a check representing the amount recovered to the requesting state as described Rule .0802(a) of this Section.

(b) This rule incorporates the National Association of State Workforce Agencies' Interstate Reciprocal Overpayment Recovery Arrangement (2013) by reference and includes subsequent amendments and editions of the referenced material in accordance with G.S. 150B-21.6. Copies of the incorporated material are located at 700 Wade Avenue, in Raleigh, North Carolina, and may be obtained by request at no cost to the public by contacting DES as specified under 04 NCAC 24A .0201.

History Note: Authority G.S. 96-4; 96-18;

Eff. July 1, 2015.

1 **SECTION .0900 - SETOFF DEBT COLLECTION ACT**

2

3 04 NCAC 24B .0901 is adopted with changes as published in 29:17 NCR 2047 as follows:

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5 **04 NCAC 24B .0901 SETOFF DEBT COLLECTION ACT HEARINGS**

6 Hearings pursuant to G.S. 105A-8(B) shall be conducted consistent with the procedures prescribed in ~~04 NCAC~~

7 ~~24C~~, 04 NCAC 24C .0209.

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9 *History Note:* *Authority G.S. 96-4; 105A-8(b);*

10 *Eff. July1, 2015.*

04 NCAC 24B .1002 is adopted with changes as published in 29:17 NCR 2048 as follows:

04 NCAC 24B .1002 REEVALUATION OF DEBT

(a) A claimant requesting a reevaluation of their debt shall submit a written request to DES's Benefits Integrity Unit by mail to Post Office Box 25903, Raleigh, NC 27611-5903, or facsimile to (919) 733-1369.

(1) The written request shall explain why the debt should not be referred to the Treasury Offset Program (TOP) for collection.

(2) The written request shall be accompanied by documents or other clear and convincing evidence that shows:

(A) the identity of the individual to whom the debt is assigned is incorrect; and

(B) the amount of the debt is inaccurate;

(b) The Assistant Secretary or designee shall consider the evidence submitted by the claimant.

(c) The Assistant Secretary or designee shall issue a written decision on the request for reevaluation. The written decision shall be mailed to the claimant and include the following:

(1) whether the debt ~~will~~ shall be referred to TOP; and

(2) reasons for the ~~decision based on the reasons provided by the claimant in the written request for reevaluation-~~ decision.

*History Note: Authority G.S. 96-4; 96-18; 31 CFR 285, 26 U.S.C. § 6402, and 31 U.S.C. § 3716.
Eff. July 1, 2015.*

SUBCHAPTER C - INITIAL APPEALS FROM DETERMINATION AND HIGHER AUTHORITY REVIEW

SECTION .0100 – GENERAL INITIAL APPEALS INFORMATION

04 NCAC 24C .0101 is adopted with changes as published in 29:17 NCR 2048 as follows:

04 NCAC 24C .0101 APPEAL DATE ESTABLISHED BY TESTIMONY

(a) A party shall be allowed to establish an appeal date earlier than a postal meter date, or the date of a document only in the face of clear and convincing evidence.

(b) When a party alleges filing an appeal that DES never received, the party shall present clear and convincing evidence of a timely filing, which may be corroborated by testimony or physical evidence linked to the appeal in question.

(c) The Appeals Referee shall allow cross-examination to establish timeliness of an ~~appeal~~, appeal consistent with 04 NCAC 24A .0106.

History Note: Authority G.S. 96-4; 96-15;

Eff. July 1, 2015.

04 NCAC 24C .0102 is adopted with changes as published in 29:17 NCR 2048 as follows:

04 NCAC 24C .0102 EXCEPTION TO TIMELINESS REQUIREMENT

~~(a)~~ Timeliness sanctions shall be waived when DES or an agent state representative gives misleading information on appeal rights to a party, if the party:

- (1) establishes what he or she was told ~~that~~ was misleading and how he or she was misled;
- ~~(3)~~ (2) identifies, if possible, the individual who misled him or her; and
- ~~(4)~~ (3) ~~establishes that no contrary written instructions were available to the party. no written instructions~~
contrary to the misleading information were provided by DES to the party with service of the
order being appealed.

History Note: Authority G.S. 96-4; 96-15;

Eff. July 1, 2015.

04 NCAC 24C .0104 is adopted with changes as published in 29:17 NCR 2048 as follows:

04 NCAC 24C .0104 EMPLOYER PARTY TO DETERMINATION

An employer may file an appeal from a determination that affects a claimant's entitlement to benefits if the employer is a party to the determination. Only one employer ~~can~~ shall be a party with appeal rights to a proceeding.

- (1) An employer named as the last employer on an initial claim ~~is~~ shall be a party to a determination ruling on the merits of the claimant's separation from employment and other specific issues raised by the employer regarding the claimant's entitlement to benefits.
- (2) An employer named as the last employer on an additional or continued claim ~~is~~ shall be a party to a determination ruling on the merits of that additional or continued claim regarding separation from employment or other specific issues raised by the employer if the employer:
 - (A) was the employer named as the last ~~work~~ employer on the claimant's initial claim; or
 - (B) is a base period employer whose account has been ruled subject to charging of benefits.
- (3) A reimbursing employer named as the last employer on an additional or continued claim ~~is~~ shall be a party to a determination ruling on the merits of that additional or continued claim regarding separation from employment or other specific issues raised by the employer if the employer:
 - (A) was the employer named as the last ~~work~~ employer on the claimant's initial claim; or
 - (B) is a base period employer.
- (4) If an employer, during a claimant's benefits year, provides DES with information that raises specific issues, including a potential disqualification, ineligibility, allegations of fraud, or other issues that affect a claimant's entitlement to benefits, the employer ~~is~~ shall be a party with appeal rights to a determination ruling on the merits of the specific issue raised by the employer if the employer is:
 - (A) named as the last employer on the claimant's initial claim;
 - (B) a base period taxed employer whose account has been ruled subject to charging of benefits, even if that employer was named as the last employer on the claimant's initial claim and did not timely respond to notice of the claimant's initial claim; or
 - (C) a base period reimbursing employer.
- (5) An employer against whom a claimant has alleged entitlement to additional base period wages ~~is~~ shall be a party with appeal rights to that issue.

History Note: Authority G.S. 96-4; 96-11.3; 96-11.4; 96-15;
Eff. July 1, 2015.

SECTION .0200 – INITIAL APPEALS HEARING

04 NCAC 24C .0201 is adopted with changes as published in 29:17 NCR 2049 as follows:

04 NCAC 24C .0201

An appearance by a party to an appeals hearing includes offering testimony, questioning witnesses, and presenting oral argument.

- (1) A party shall appear by telephone when the party participates in the telephone conference call with the Appeals Referee on the date and time of the hearing and participates in the proceedings.
- (2) A party shall appear in person at the location on the date and times scheduled for the in-person hearing, and participate in the proceedings.

Mere submission of written documents or observation of the proceedings does not constitute an appearance.

History Note: Authority G.S. 96-4; 96-15;

Eff. July 1, 2015.

04 NCAC 24C .0202 is adopted with changes as published in 29:17 NCR 2049 as follows:

04 NCAC 24C .0202 PRESENTING AND SCHEDULING APPEALED CLAIMS

A party wishing to appeal from an adjudicator's determination shall file an appeal by mail, facsimile, or email pursuant to Rule ~~04 NCAC 24A .0104.~~ 04 NCAC 24A .0104(b).

History Note: Authority G.S. 96-4; 96-15;

Eff. July 1, 2015.

04 NCAC 24C .0204 is adopted with changes as published in 29:17 NCR 2049 as follows:

04 NCAC 24C .0204 APPEALS HEARING NOTICE

(a) The Appeals Section shall mail notice of the hearing to each party at least 14 days before the hearing date.

(b) Notice of the hearing shall include:

- (1) the determination appealed;
- (2) the appealing party;
- (3) the time of the hearing;
- (4) the date of the hearing;
- (5) if requested at the time of filing the appeal, the physical location of an in-person hearing;
- (6) the telephone number of each party for telephone hearings;
- (7) each issue, with statutory reference, to be heard and decided;
- (8) the name and contact information of the designated Appeals Referee;
- (9) the manner by which witnesses may offer evidence and participate in the hearing;
- (10) each party's right to legal representation;
- (11) instructions for requesting a rescheduling of the hearing;
- (12) each party's right and instructions for requesting the issuance of a subpoena for the production of records or individuals to appear to testify;
- (13) instructions on how to request an in-person hearing; and
- (14) instructions on how to give evidence for a hearing.

(c) The determination, the written appeal, and any additional documents provided to the Appeals Section by either party, shall accompany the hearing notice.

History Note: Authority G.S. 96-4; 96-15;

Eff. July 1, 2015.

04 NCAC 24C .0205 is adopted with changes as published in 29:17 NCR 2049 as follows:

04 NCAC 24C .0205 TELEPHONE HEARINGS

(a) Hearings shall be conducted by telephone conference call, unless a request is made for an in-person hearing at the time the appeal is filed or an objection is made pursuant to Rule .0206 of this Section.

(b) In cases of telephone hearings, the Appeals Section shall provide a Telephone Hearing Questionnaire for a party to use to submit each telephone number to be called by the Appeals Referee for the hearing. In the absence of the submission by a party of any telephone number to be called for the hearing, the Appeals Referee shall call a party at the telephone number listed on the hearing notice.

History Note: Authority G.S. 96-4; 96-15;
Eff. July 1, 2015.

04 NCAC 24C .0209 is adopted with changes as published in 29:17 NCR 2050 as follows:

04 NCAC 24C .0209 CONDUCT OF HEARINGS

(a) Consistent with G.S. 96-15(f), all hearings shall be conducted in a manner to preserve the substantial rights of the parties.

(1) The parties to an appeal before an Appeals Referee have the right to present relevant and material evidence as determined by the Appeals Referee.

(2) The Appeals Referee may ask questions to develop the record as to the relevant facts, circumstances, and issues presented at the hearing.

(3) The Appeals Referee may examine parties and witnesses, and shall allow cross-examination to the extent necessary to afford the parties due process.

(4) All issues relevant to the appeal shall be considered and ruled upon.

(b) The Appeals Referee shall give each party ten minutes from the time of the scheduled hearing to appear for the hearing. If the appealing party fails to appear at the hearing and a continuance had not been previously granted the Appeals Referee shall issue an Appeals Decision dismissing the appeal.

(c) A party desiring to introduce documents or other evidence at a hearing shall provide an authenticated copy plus one copy for the Appeals Referee to include in the official record, and a copy to each party to the proceeding. Documents or other evidence shall be provided to the opposing party prior to the hearing.

(d) A party offering numerous documents into evidence shall prepare a list of documents in the order of their presentation. The list shall be provided to the Appeals Referee and opposing party before the hearing, to become part of the official hearing record.

(e) Official notice may be taken of all facts for which judicial notice may be taken and of other facts within the specialized knowledge of the DES. The ~~noticed fact~~ official notice and its source shall be stated on the record and made known to the parties at the earliest practicable time. A party shall be given an opportunity to dispute the noticed fact by argument and submission of evidence.

*History Note: Authority G.S. 96-4; 96-15; 20 C.F.R. 650.2;
Eff. July 1, 2015.*

04 NCAC 24C .0211 is adopted with changes as published in 29:17 NCR 2051 as follows:

04 NCAC 24C .0211 CONTROLLED SUBSTANCE RESULTS

(a) In lieu of live testimony from a laboratory representative at a contested claims hearing, an affidavit from an authorized representative of the laboratory may be presented to prove controlled substance examination results, chain of custody, or compliance with all testing or retesting required by federal or state law.

(1) When a party desires to introduce the affidavit at the hearing, a copy of the affidavit shall be received by the party against whom the affidavit will be offered at least two days before the hearing.

(2) If the party who desires to introduce the affidavit is unable, despite reasonable efforts, to accomplish the required service within the time specified, the Appeals Referee may adjourn or continue the hearing to allow such service to be accomplished. However, the Appeals Referee shall not continue the hearing if the party against whom the affidavit is offered has refused to accept service or has taken other steps to avoid or delay receipt of the affidavit.

(3) At the hearing, the party shall offer an authenticated copy of the affidavit as an exhibit.

(4) If the party against whom the affidavit is offered objects to the entry of the affidavit into the official record, the objecting party may request an adjournment or continuance of the hearing to subpoena the author of the affidavit. The affidavit's author ~~will~~ shall be permitted to testify by telephone at the reconvened hearing.

(5) Once the affidavit is made a part of the official record of evidence compiled by the Appeals Referee, the Appeals Referee may in their discretion, base findings of fact on the affidavit.

(6) The results of the controlled substance examination and compliance with any applicable statutory or regulatory procedural requirements shall be deemed proven if the claimant admits or stipulates to them during the hearing or by affidavit.

History Note: Authority ~~G.S. 95-230 through 95-235; 95-230; 95-231; 95-232; 95-233; 95-234; 96-235; 96-4; 96-15;~~

Eff. July 1, 2015.

04 NCAC 24C .0302 is adopted with changes as published in 29:17 NCR 2051 as follows:

04 NCAC 24C .0302 NOTICES AND SERVICE TO PARTY

(a) Notices or certification of ~~attorney supervision~~ legal representation shall be in writing and presented to the Appeals Referee to become part of the official record, and shall contain:

- (1) the name of the supervising attorney;
- (2) the name of the person being supervised;
- (3) the supervising attorney's active North Carolina State Bar number; and
- (4) the phone and address information of the supervising attorney.

(b) When a party has a legal representative, all documents or information required to be provided to the party shall only be provided to the legal representative, unless otherwise instructed on the record during the hearing. An address provided to an Appeals Referee for mailing of an Appeals Decision does not constitute a change of address with DES ~~for purposes of DES's official records.~~ as set forth in 04 NCAC 24A .0102.

History Note: *Authority G.S. 84; 96-4; 96-15; 96-17;*
Eff. July 1, 2015.

04 NCAC 24C .0402 is adopted with changes as published in 29:17 NCR 2052 as follows:

04 NCAC 24C .0402 OBJECTION TO SUBPOENA

(a) Any party or person receiving a subpoena may serve a written objection to the issuance of a subpoena. The objection shall be addressed to the designated Appeals Referee, sent prior to the hearing, and contain the following:

(1) ~~be addressed to the designated Appeals Referee prior to the hearing;~~ the reasons for the objection;

and

(2) ~~shall provide reasons for the objection and~~ the relief sought by the objecting party.

(b) The Appeals Referee shall rule on the objection and notify the parties of the ruling before the hearing. The Appeals Referee's ruling shall be in writing or recorded as part of the official hearing record.

History Note: Authority G.S. 96-4; 96-15;

Eff. July 1, 2015.

04 NCAC 24C .0502 is adopted with changes as published in 29:17 NCR 2052 as follows:

04 NCAC 24C .0502 ACKNOWLEDGMENT OF APPEAL

(a) The receipt of a party's appeal from an Appeals Decision shall be acknowledged in writing by the Appeals Section and sent to all parties of record.

(b) The notice acknowledging receipt of an appeal shall inform each party of the following:

(1) the right to request oral arguments;

(2) the deadline to request oral arguments;

(3) the right to submit written arguments regarding the appeal;

(4) the deadline for submitting written arguments; and

(5) that the party may submit a written request for a record of the hearing proceeding pursuant to G.S. ~~96-15~~; 96-15(f); and the procedures for obtaining a record of the hearing, including recordings or transcripts.

(c) Records shall be provided in accordance with G.S. ~~96-4~~ 96-4(x) and ~~04 NCAC 24A. Section .0200 of 04 NCAC 24A.~~

History Note: Authority G.S. 96-4; 96-15; 20 C.F.R. 603;

Eff. July 1, 2015.

04 NCAC 24C .0503 is adopted with changes as published in 29:17 NCR 2052 as follows:

04 NCAC 24C .0503 ORAL ARGUMENTS

(a) Oral arguments shall be granted at the discretion of the Board of Review.

(b) A written request for oral arguments shall include the following:

(1) ~~be in writing; and~~

(2) (1) be directed to the Board of Review, North Carolina Department of Commerce by mail, facsimile, or email pursuant to ~~04 NCAC 24A .0104; 04 NCAC 24A .0104(1);~~

(3) (2) be received within 15 days of the date on the notice acknowledging receipt of an appeal from an Appeals Decision; and

(4) (3) contain a statement that a copy of the request was mailed or personally delivered to the opposing party, if one exists.

(c) If the request is granted, the Board of Review shall give written notice to each interested party to appear before the Board of Review.

(d) Notice to appear before the Board of Review to present oral arguments shall contain:

(1) the Higher Authority Decision docket number;

(2) the Lower Appeals Decision docket ~~number at issue; number;~~

(3) the identity of the party requesting oral arguments;

(4) the right of the non-requesting party to appear and present oral arguments;

(5) the date and time for oral arguments;

(6) the physical address where oral arguments are scheduled to be held; and

(7) each party's right to legal representation.

(e) The notice to appear for oral arguments shall be mailed to each party at least 14 calendar days before the date scheduled for arguments.

(f) Any request to reschedule oral arguments shall be sent by mail, fax, or email to the Board of Review pursuant to ~~04 NCAC 24A .0104; 04 NCAC 24A .0104(1);~~ and to each party to the proceeding by mail, fax, or delivery service as defined under 04 NCAC 24A .0105. A request to reschedule oral arguments shall state the reason(s) for the request.

History Note: Authority G.S. 96-4; 96-15;

Eff. July 1, 2015.

04 NCAC 24C .0504 is adopted with changes as published in 29:17 NCR 2053 as follows:

04 NCAC 24C .0504 LEGAL REPRESENTATION

(a) An individual who is a party to a proceeding may represent himself or herself before the Board of Review.

(b) A partnership or association may be represented by any of its members.

(c) A corporation may be represented by an officer.

(d) Any party may be represented by a legal representative as defined in 04 NCAC 24A .0105.

(e) Notices or certification of attorney supervision shall be in writing and presented to the Board of Review to become part of the official record and shall contain:

(1) the name and business address of the supervising attorney; and

(2) the supervising attorney's active North Carolina State Bar number.

(f) When a party has a legal representative, all documents or information required to be provided to the party shall be provided only to the legal representative, unless otherwise requested in writing to the Board of Review. An address provided to the Board of Review for mailing shall not constitute a change of address with DES for purposes of DES's official records. 04 NCAC 24A .0102.

(g) Any information provided to a party's legal representative shall have the same force and effect as if it had been sent to the party.

History Note: Authority G.S. 96-4; 96-15; 96-17;

Eff. July 1, 2015.

SECTION .0600 - POST-DECISION RELIEF

04 NCAC 24C .0601 is adopted with changes as published in 29:17 NCR 2053 as follows:

04 NCAC 24C .0601 POST-DECISION RELIEF

(a) A written request for reconsideration or post-decision relief shall:

- (1) be in the form of a motion or petition, and shall be clearly identified as a Request for Reconsideration or a Motion or Petition for Post-Decision Relief;
- (2) identify the party seeking post-decision relief;
- (3) contain the name of each party, and the docket number of the Higher Authority Decision;
- (4) contain a statement that a copy was mailed or personally delivered to each party to the proceedings; and
- (5) explain the reasons why post-decision relief should be granted.

(b) The written request shall be filed no later than 30 days after the Higher Authority Decision was mailed to each party, and the timeliness requirements of ~~04 NCAC 24A.0100~~ 04 NCAC 24A.0106 apply.

(c) The written request shall be filed with the Board of Review pursuant to ~~04 NCAC 24A .0104(n)~~; 04 NCAC 24A .0104(m).

(d) Any order granting or denying a party's request for post-decision relief shall contain the following notices:

- (1) that a party has a right to petition for judicial review by appealing the original Higher Authority Decision to the superior court; and
- (2) that claims filed on or after June 30, 2013 shall be subject to repayment of overpayment of benefits resulting from any decision that is later reversed on appeal.

History Note: Authority G.S. 96-4; 96-11.4; 96-15;

Eff. July 1, 2015.

04 NCAC 24D .0102 is adopted with changes as published in 29:17 NCR 2054 as follows:

04 NCAC 24D .0102 NOTICE TO EMPLOYER OF POTENTIAL CHARGES

(a) DES shall notify each employer in writing of potential charges to the employer's account. The notice shall contain the:

- (1) date of the notice;
- (2) claimant's name and social security number;
- (3) date the claimant's benefit year began;
- (4) claimant's weekly benefit amount and weekly earnings allowance;
- (5) employer's reporting number used to report wages for the claimant;
- (6) base period wages reported by the employer by calendar quarter and dollar amount;
- (7) employer's percentage of total base period wages reported;
- (8) maximum potential charge amount that can be applied to the employer's experience rating account if the claimant exhausts his or her benefits;
- (9) a statement containing the employer's right to protest the notice; and
- (10) the time period within which a protest shall be filed pursuant to G.S. ~~96-15~~. 96-15(b)(2).

(b) Notice of potential charges to the employer's account shall be provided using the following forms, as applicable:

- (1) Notice of Combined Wage Claim and Potential Charges to Your Account (Form NCUI 551C);
- (2) Notice of Unemployment Claim, Wages Reported and Potential Charges (Form NCUI 551L);
- (3) Notice of Initial Claim and Potential Charges to Reimbursable Employer (Form NCUI 551R);
- (4) Notice of Initial Claim and Potential Charges for Claimants on Temporary Layoff (Form NCUI 551T);
- (5) Reversal of Previously Allowed Noncharging (Form NCUI 553A);
- (6) Reversal of Previously Denied Noncharging (Form NCUI 554);
- (7) Administrative Determination Disallowing Noncharging (Form NCUI 570); ~~and~~ or
- (8) List of Charges to Your Account (Form NCUI 626).

*History Note: Authority G.S. 96-4; 96-11.1; 96-11.2; 96-11.3; 96-11.4; 96-15;
Eff. July 1, 2015.*

04 NCAC 24D .0103 is adopted with changes as published in 29:17 NCR 2054 as follows:

04 NCAC 24D .0103 REQUIREMENTS FOR FILING PROTESTS

(a) An employer who protests the benefit charges to its account shall make the protest as follows:

- (1) in writing within ~~fourteen~~ 14 days of the mailing date of the notice of potential charges;
- (2) by mail to: DES Employer Benefit Charges/Benefit Charges Unit, Post Office Box 25903, Raleigh, North Carolina 27611-5903; or facsimile to 919-733-1126; and
- (3) list all grounds for the protest as prescribed under Rule .0105 of this Section.

(b) Any of the following forms, when completed with the information indicated in Paragraph (a) of this Rule, shall constitute compliance with this Rule:

- (1) Notice of Combined Wage Claim and Potential Charges to Your Account (Form NCUI 551C);
- (2) Administrative Determination Disallowing Noncharging (Form NCUI 570);
- (3) List of Charges to Your Account (Form NCUI 626); or
- (4) Unemployment Tax Rate Assignment (Form NCUI 104).

History Note: *Authority G.S. 96-4; 96-11.3; 96-11.4;*
Eff. July 1, 2015.

04 NCAC 24D .0104 is adopted with changes as published in 29:17 NCR 2054 as follows:

04 NCAC 24D .0104 TIME FOR FILING PROTESTS

The provisions of ~~04 NCAC 24A .0100~~ 04 NCAC 24A .0106 shall apply in determining timeliness of a protest.

History Note: Authority G.S. 96-4; 96-11.3; 96-11.4;

Eff. July 1, 2015.

04 NCAC 24D .0105 is adopted with changes as published in 29:17 NCR 2054 as follows:

04 NCAC 24D .0105 GROUNDS FOR PROTEST

(a) An employer shall only file protests for the following reasons:

- (1) clerical errors in the list of charges;
- (2) charges resulting from individuals who were never employed by the employer;
- (3) charges resulting from individuals who remain employed by the employer; or
- (4) errors in adding charges to an incorrect account.

History Note: Authority G.S. 96-4; 96-11.3; 96-11.4; 96-11.5;
Eff. July 1, 2015.

04 NCAC 24D .0107 is adopted with changes as published in 29:17 NCR 2054 as follows:

04 NCAC 24D .0107 DETERMINATION ON GROUNDS CONTAINED IN PROTEST

(a) The determination by DES shall contain:

- (1) notice of whether the relief sought by the employer in the protest was granted or denied;
- (2) any adjustments that have been made to the list of charges if the relief sought in the protest was granted, or the reasons for denial if the relief sought in the protest was denied;
- (3) the date the determination was mailed to the employer;
- (4) the employer's right to appeal the determination ~~pursuant to 04 NCAC 24C .0200~~; consistent with 04 NCAC 24C .0203 and
- (5) the time period within which an appeal shall be filed.

History Note: Authority G.S. 96-4; 96-11.3; 96-11.4;

Eff. July 1, 2015.

1 **SECTION .0200 - REQUEST FOR NONCHARGING OF BENEFITS PAYMENTS**

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3 04 NCAC 24D .0201 is adopted with changes as published in 29:17 NCR 2055 as follows:

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5 **04 NCAC 24D .0201 MAKING THE REQUEST FOR NONCHARGING**

6 ~~(a)~~ An employer who requests noncharging of benefit charges shall make the request as follows:

- 7 (1) by stating the reason(s) for the request in writing;
- 8 (2) within 15 days of the mailing date of the notice of potential charges; and
- 9 (3) sent by mail to: DES Employer Benefit Charges/Benefit Charges Unit, Post Office Box 25903,
- 10 Raleigh, North Carolina 27611-5903; or by facsimile to 919-733-1126.

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12 *History Note:* *Authority G.S. 96-4, 96-11.3, 96-11.4;*

13 *Eff. July 1, 2015.*

04 NCAC 24D .0202 is adopted with changes as published in 29:17 NCR 2055 as follows:

04 NCAC 24D .0202 DETERMINATION ON REQUESTS FOR NONCHARGING

~~(a)~~ DES shall render a determination in writing as to each request for noncharging. The determination shall contain notice of whether the request for noncharging has been granted or denied.

(1) Where a request for noncharging is granted, the employer's account shall be protected from benefit charges for benefit payments made after the last day that the claimant worked, based on wages reported by the employer before the claimant separated from the employer.

(2) Where a request for noncharging is denied, the determination shall contain:

(A) the reason(s) for denying the request;

(B) the mailing date of the determination;

(C) the time period within which a protest of the denial must be filed; and

(D) instructions for protesting the denial to the Employer Benefit Charges/Benefit Charges Unit by mail to Post Office Box 25903, Raleigh, North Carolina 27611-5903, or facsimile to (919) 733-1126.

History Note: Authority G.S. 96-4; 96-11.1; 96-11.3; 96-11.4;

Eff. July 1, 2015.

04 NCAC 24D .0203 is adopted with changes as published in 29:17 NCR 2055 as follows:

04 NCAC 24D .0203 APPEALING DENIAL OF REQUEST FOR NONCHARGING

(a) The employing unit may file an appeal following an unsuccessful protest of a request for noncharging.

(b) Employers shall direct all appeals from denials of a request for noncharging to the Appeals Section.

The provisions of ~~04 NCAC 24A .0100~~ 04 NCAC 24A .0106 shall apply in determining timeliness of an appeal.

(c) Hearings on the denial of noncharging shall be conducted pursuant to the provisions of ~~04 NCAC 24C. 04~~
NCAC 24C .0209.

History Note: *Authority G.S. 96-4; 96-11.3; 96-11.4;*

Eff. July 1, 2015.

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04 NCAC 24D .0301 ADEQUACY THRESHOLD DETERMINATION

(b) In determining the timeliness of an employer response, DES shall consider the following:

- (c) In determining the adequacy of an employer response, DES shall consider the following:

- (d) An employer who fails to submit timely or adequate responses to ~~two percent or two, two or two-percent,~~ whichever is greater, of the total requests for separation information (Form NCUI 500AB) under G.S. 96-11.4 during the reporting cycle, shall not be relieved of erroneous payments in the following charging cycle as defined under 04 NCAC 24A .0105.

(e) DES shall review each employer's account every reporting cycle to determine whether the employer has a pattern of failing to respond timely or adequately to requests for separation information under G.S. 96-11.4, and shall issue an Adequacy Threshold Determination at the conclusion of the reporting year cycle if the employer has met the criteria defined under Paragraph (d) of this Rule.

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04 NCAC 24D .0302 is adopted with changes as published in 29:17 NCR 2055 as follows:

04 NCAC 24D .0302 ADEQUACY THRESHOLD DETERMINATION

(a) The Adequacy Threshold Determination shall include:

- (1) the effect of the determination on the employer's account;
- (2) the reasons for the determination;
- (3) the date the determination was mailed to the employer;
- (4) instructions for protesting the determination; and
- (5) the time period within which a protest must be filed.

(b) An employer may protest its Adequacy Threshold Determination and shall file its written request with DES's Tax Administration Section by ~~mail to Post Office Box 26504, Raleigh, NC 27611, mail, facsimile facsimile, or email pursuant to (919) 733-1255, or email to des.tax.customerservice@nccommerce.com.~~ 04 NCAC 24A .0104(n).

(1) The request shall include the following:

- (A) the name of the employing unit;
- (B) the address of the employing unit;
- (C) the account number of the employing unit;
- (D) a brief statement of the question involved and reasons for the request; and
- (E) the name, address, and official position of the individual making the request.

(2) The written request shall be filed within ~~fifteen~~ 15 days after the date that the Adequacy Threshold Determination notice was mailed to the employer, and the timeliness requirements of ~~04 NCAC 24A .0100~~ 04 NCAC 24A .0106 shall apply.

(c) Following the written request, the Tax Administration Section shall review the employer's request for review and issue a written determination. The determination shall contain the following:

- (1) notify the employing unit of whether its application was granted or denied;
- (2) indicate whether additional information from the employing unit is required; and
- (3) explain the reasons for the ruling and what information was considered.

(d) No further right of appeal from an unfavorable written determination of a protest of an adequacy threshold determination shall exist unless and until an Adequacy Penalty Determination, as defined under Rule .0303 of this Section is subsequently issued at the conclusion of the employer's charging year.

History Note: *Authority G.S. 96-4; 96-11.3; 96-11.4; 23 U.S.C. 3303;*
Eff. July 1, 2015.

04 NCAC 24D .0303 is adopted with changes as published in 29:17 NCR 2056 as follows:

04 NCAC 24D .0303 ADEQUACY PENALTY DETERMINATION

(a) DES shall issue an Adequacy Penalty Determination at the end of each charging year cycle if the employer's account is not relieved of charges for untimely or inadequate responses for particular claims during that charging year cycle, resulting from an adequacy threshold determination in the prior charging year cycle that the employer met or exceeded the adequacy threshold.

(b) The Adequacy Penalty Determination shall include the following:

- (1) a listing containing the specific claims that would have resulted in a relief from charges as a result of erroneous unemployment insurance payments that were later reversed on appeal; and
- (2) instructions for protesting the Adequacy Penalty Determination;

(c) An employer may protest its ~~adequacy penalty determination~~ Adequacy Penalty Determination and shall file its written request with DES's Tax Administration Section by ~~mail to Post Office Box 26504, Raleigh, NC 27611, mail, facsimile facsimile, or email pursuant to (919) 733-1255, or email to des.tax.customerservice@nccommerce.com.~~ 04 NCAC 24A .0104(n).

(1) The request shall include:

- (A) the name of the employing unit;
- (B) the address of the employing unit;
- (C) the account number of the employing unit;
- (D) a brief statement of the question involved and reasons for the request; and
- (E) the name, address, and official position of the individual making the request.

(2) The written request shall be filed within 15 days after the date that the Adequacy Penalty Determination was mailed to the employer, and the timeliness requirements of ~~04 NCAC 24A .0100~~ 04 NCAC 24A .0106 shall apply.

(3) Following the written request, the Tax Administration Section shall review the employer's request and issue a written determination. The determination shall include the following:

- (A) notify the employing unit of whether its application was granted or denied;
- (B) ~~alternatively~~ indicate whether additional information from the employing unit is required;
- (C) explain the reasons for the ruling and identify the information considered; and
- (D) instructions for appealing the denial to the Board of Review.

History Note: Authority G.S. 96-4; 96-11.3; 96-11.4; 23 U.S.C. 3303;
Eff. July 1, 2015.

04 NCAC 24D .0304 is adopted with changes as published in 29:17 NCR 2056 as follows:

04 NCAC 24D .0304 APPEALING ADEQUACY PENALTY DETERMINATIONS

(a) ~~The employing unit~~ An employer may file an appeal of ~~the adequacy penalty determination~~ its Adequacy Penalty Determination and request a hearing. The appeal shall be filed ~~by mail to~~ with DES's Tax Administration Section ~~at Post Office Box 26504, Raleigh, North Carolina 27611, by mail, facsimile~~ facsimile, or email pursuant to (919) 733-1255, or email to des.tax.customerservice@nccommerce.com. 04 NCAC 24A .0104(n).

(b) The appeal shall contain the following:

- (1) the date of the appeal;
- (2) the identity of the determination, decision or result being appealed;
- (3) a clear statement of the party's intent to appeal;
- (4) reasons for the appeal; and
- (5) the name of the party appealing the determination, decision, or result.

(c) The provisions of ~~04 NCAC 24A .0100~~ 04 NCAC 24A .0106 apply in determining the timeliness of an appeal.

(d) Appeal hearings from Adequacy Penalty Determinations shall be conducted as set forth in Section .1100 of this Subchapter.

History Note: *Authority G.S. 96-4; 96-11.3; 96-11.4; 23 U.S.C. 3303;*

Eff. July 1, 2015.

04 NCAC 24D .0402 is adopted with changes as published in 29:17 NCR 2057 as follows:

04 NCAC 24D .0402 ELECTION TO REIMBURSE IN LIEU OF CONTRIBUTIONS

(a) An employer electing to pay reimbursements for benefits, rather than contributions who meets the requirements of Rule .0401 of this Section, shall make the election by completing the Employer Status Report (Form NCUI 604) as set forth in Rule .0602 of this Subchapter, ~~available on DES's website at www.ncese.com~~; and mailing it to DES's Tax Administration at Post Office Box 26504, Raleigh, NC 27611.

~~(b) The information provided in the Employer Status Report (Form NCUI 604) shall be provided in the same manner as described under Rule .0602 of this Subchapter.~~

(c) A qualifying employer under G.S. 96-9.6 electing to pay reimbursements for benefits, rather than contributions, shall make the election:

- (1) by writing a letter stating their election to the Tax Administration Section of DES at Post Office Box 26504, Raleigh, NC 27611 within 30 days after the employer receives written notification from the Division that it is eligible to make an election as defined under G.S. 96-9.6.

History Note: *Authority G.S. 96-4; 96-9.6; 96-9.8; 26 U.S.C. 3309;*
Eff. July 1, 2015.

04 NCAC 24D .0403 is adopted with changes as published in 29:17 NCR 2057 as follows:

04 NCAC 24D .0403 PAYMENT OF EMPLOYER TAXES

(a) Taxes shall be due and payable to the DES's administrative office in Raleigh, North Carolina, or to an agent of DES ~~authorized~~ designated to accept payments.

(b) Tax payments shall be made as follows:

- (1) electronic check;
- (2) credit card;
- (3) Automated Clearing House (ACH) credit;
- (4) business check with funds drawn from a U.S. financial institution;
- (5) cashier's check from a U.S. financial institution; or
- (6) cash.

(c) Payments shall be made payable to the Division of Employment Security and sent by U.S. mail or delivery service to DES Tax Administration at Post Office Box 26504, Raleigh North Carolina 27611.

(d) Timeliness of payments ~~is~~ shall be determined pursuant to the ~~04 NCAC 24A .0100.~~ 04 NCAC 24A .0106.

History Note: *Authority G.S. 96-4; 96-9.15;*

Eff. July 1, 2015.

04 NCAC 24D .0502 is adopted with changes as published in 29:17 NCR 2058 as follows:

04 NCAC 24D .0502 WAGE RECORDS

(a) Wages paid for services excluded from the definition of "employment" as defined in G.S. 96-1(b)(12) shall be separately reflected in the employer's records to indicate the following:

- (1) the time of service; and
- (2) remuneration for services that is separate from taxable wages.

(b) Where there are pay periods in which an individual performs services excluded from the term "employment," and any service which is "employment," the employer's record shall reflect the hours spent in the excluded service and the hours spent in "employment."

(c) If any remuneration other than monetary wages is paid to or is received by an individual related to services performed by the individual, the records shall show the total amount of cash wages and the cash value of any other remuneration paid by the employer.

(d) If any part of an individual's wages is not paid in cash, the reasonable cash value of the remuneration other than cash shall be deemed for all relevant purposes as follows:

- (1) the amount that is agreed upon between the employer and the individual if:
 - (A) the terms of the agreement are reported to DES; and
 - (B) DES determines that the agreed value or amount is reasonable pursuant to IRS Publication 15-B; or
- (2) the amount DES determines if:
 - (A) the amount agreed upon is unreasonable; or
 - (B) the employer and the individual fail to agree upon an amount; or
 - (C) the employer fails to report the terms of an agreement to DES; and
 - (D) the employer fails to show the cash value of the noncash remuneration prior to the due date of contributions with respect to the wages.
- (3) DES shall determine an amount by reviewing documents, tax values, internet sites and other available information that reflects the market value.

(e) This rule incorporates material found in the IRS Publication 15-B by reference and includes subsequent amendments and editions of the referenced material in accordance with G.S. ~~150B-14(e)~~ G.S. 150B-21.6. Copies of the incorporated material found in IRS Publication 15-B are located at 700 Wade Avenue, in Raleigh, North Carolina and can may be obtained at no cost to the public by request by contacting DES as specified under ~~04 NCAC 24A .0101~~ 04 NCAC 24A .0201.

History Note: Authority G.S. 96-1(b)(28); 96-4; 26 U.S.C. 3306; IRS Pub. 15-B
Eff. July 1, 2015.

04 NCAC 24D .0503 is adopted as published in 29:17 NCR 2058 as follows:

04 NCAC 24D .0503 ALLOWANCES AND REIMBURSEMENT ADVANCES

(a) Allowances, advances of reimbursements paid to an individual in employment for traveling, and other bona fide expenses incurred or reasonably expected to be incurred in the business of the individual's employer shall not be treated as wages, provided:

- (1) a separate payment is made for the expenses; or
- (2) itemized accounting records are kept indicating the separate amounts where a single payment covers both wages and expenses combined; and
- (3) the amount of payments for expenses excluded from wages ~~will~~ shall not exceed the amounts allowable as deductible expenses by income tax regulations under the United States Internal Revenue Code, 26 U.S.C. §62(2) and §162(a)(2). Where the United States Internal Revenue Service (IRS) has not made a determination, DES shall make an independent determination.

(b) Where an employee must pay traveling and other expenses out of commissions or salary and these amounts are not accounted for separately, the entire amount of commissions or salary ~~will~~ shall be considered wages, unless the employer submits itemized records which show that a certain percentage of commissions or salary is expenses.

- (1) The money value for room and board shall not be included in wages if the room and board is provided to the employee for the convenience of the employer.

(A) If the room and board has been excluded from wages by the IRS for income tax withholdings, FICA and FUTA, it shall be considered to be for the convenience of the employer and excluded from wages.

(c) This rule incorporates 26 U.S.C § 62(2) "Adjusted Gross Income Defined" and 26 U.S.C § 162(a)(2) "Traveling Expenses" by reference and includes subsequent amendments and editions of the referenced material in accordance with G.S.150B-14(c). 150B-21.6. Copies of the incorporated material found in 26 U.S.C § 62(2) and 26 U.S.C § 162(a)(2) are located at 700 Wade Avenue, in Raleigh, North Carolina, and can ~~can~~ may be obtained by request at no cost to the public by contacting DES as specified under ~~04 NCAC 24A .0101.~~ 04 NCAC 24A .0201.

*History Note: Authority G.S. 96-4; 150B-21.6; 26 U.S.C. 62(2); 162(a)(2).
Eff. July 1, 2015.*

04 NCAC 24D .0602 is adopted with changes as published in 29:17 NCR 2059 as follows:

04 NCAC 24D .0602 STATUS REPORTS

(a) Each employing unit shall file ~~a status report~~ an Employer Status Report (Form NCUI 604) with DES within 10 days of becoming subject to the Employment Security Law. The Employer Status Report shall contain the following:

- (1) the name and address of the business;
- (2) names, social security numbers, and addresses of the owners and responsible officers of the business;
- (3) any records pertaining to contracts for business acquisitions ~~which~~ that indicate successorship status; and
- (4) any information about company officers in continuity of control ~~cases~~ cases.

(b) An employing unit that ceases ~~business or transfers, leases~~ business, transfers, leases, or sells all or any part of the assets of its ~~business~~ business, or changes the trade name or address of the business shall give notice to DES within ~~ten~~ 10 days by filing a status report. The status report shall contain, in addition to the requirements listed under Paragraph (a), the former name and address of the business.

History Note: Authority G.S. 96-4; 96-10; 96-11.7;

Eff. July 1, 2015.

04 NCAC 24D .0603 is adopted with changes as published in 29:17 NCR 2060 as follows:

04 NCAC 24D .0603 QUARTERLY REPORTS FROM TAXED EMPLOYERS

(a) Each employer, other than a domestic employer who has elected to report and pay annually under G.S. 96-9.15(f), shall file with DES, within the month during which contributions for any period become due, an Employer's Quarterly Tax and Wage Report (Form NCUI 101) for the preceding calendar quarter ~~which~~ that shall indicate the following:

- (1) the total amount of remuneration paid for employment, or proof that no remuneration was paid during the quarter;
- (2) the total amount of wages paid for employment;
- (3) the amount of wages paid to each individual employee; and
- (4) the name and social security number of each individual to whom the wages were paid and the federal identification number, if one exists.

History Note: *Authority G.S. 96-4; 96-9.6; 96-9.15; 96-10;*
Eff. July 1, 2015.

04 NCAC 24D .0604 is adopted with changes as published in 29:17 NCR 2060 as follows:

04 NCAC 24D .0604 ANNUAL REPORTS FROM DOMESTIC EMPLOYERS

(a) A request by a domestic employer to report wages paid, and pay contributions on an annual basis shall be made in writing and delivered to DES pursuant to 04 NCAC 24A .0104. There is no special form or format required for the written request.

(b) Each qualified domestic employer who has made an election as referenced in Paragraph (a) of this Rule shall file with DES, a domestic Employer's Annual Tax and Wage Report (Form NCUI 101-C), that shall include all information specified under Rule .0603 of this Section and subtotaled for each quarter during the calendar year in which wages were paid.

History Note: Authority G.S. 96-4; 96-9.15; 96-10;

Eff. July 1, 2015.

**Section .0700 - TRANSFER OF EXPERIENCE RATING TO RELATED ENTITY SUCCESSOR
ACCOUNT**

04 NCAC 24D .0701 is adopted with changes as published in 29:17 NCR 2060 as follows:

04 NCAC 24D .0701 TRANSFER OF EXPERIENCE

(a) A new successor employer that acquires a part of an entity related to the transferring employer shall request a percentage of the transferring employer's experience rating when:

- (1) the successor employer is a distinct and severable portion of the transferring employer;
- (2) it is severed from the control of the transferring employer;
- (3) a severable and distinct portion of the successor employer would not be a disregarded entity or subsidiary of the transferring employer but an entity that is operational on its own with no support from the transferring employer;
- (4) the successor employer is comprised of shareholders or owners, or employees from the transferring employer; and
- (5) the successor employer's operations may remain similar to those of the transferring employer (~~i.e., including~~ proprietorships that split between family members as defined in G.S. 96-1(b)(18), spin-off corporations, partnerships that split operations between partners, or any other division in ~~operations~~) operations, that would not result in denial of a new discrete employer number to the successor employer pursuant to G.S. 96-11.7(c).

~~(A) — A transferring employer shall be left operational on its own with no support from the successor employer.~~

~~(B) — A successor employer shall request a transfer of experience under conditions described in Rule .0702 of this Section and a transferring employer shall request to retain the remaining experience pursuant to Rule .0702 of this Section.~~

~~(C) The percentage of the experience that is transferred to the successor employer shall be transferred as of the date of acquisition for use in determining the successor's contribution rate.~~

(b) A transferring employer shall be left operational on its own with no support from the successor employer.

(c) A successor employer shall request a transfer of experience under conditions described in Rule .0702 of this Section and a transferring employer shall request to retain the remaining experience pursuant to Rule .0702 of this Section.

(d) The percentage of the experience that is transferred to the successor employer shall be transferred as of the date of acquisition for use in determining the successor's contribution rate.

History Note: Authority G.S. 96-4; 96-10; 96-11.7;

Eff. July 1, 2015.

04 NCAC 24D .0702 is adopted with changes as published in 29:17 NCR 2060 as follows:

04 NCAC 24D .0702 REQUIREMENTS FOR TRANSFER OF EXPERIENCE

(a) ~~An A successor~~ employer shall submit the following information to DES when requesting a partial transfer of experience rating:

(1) the total three-year taxable payroll ending June 30th prior to the last computation date for the transferring employer; and

(2) the total three-year taxable payroll ending June 30th ~~immediately~~ prior to the last computation date for the transferring employer, relating to the severable portion acquired.

(b) Notwithstanding Paragraph (a) ~~above, of this Rule,~~ an alternate three-year payroll may be used when the severed or retained unit was not operated by the transferring employer during the three-year period ending June 30th prior to the last computation date.

(c) A successor employer that acquires the experience rating account, either total or partial, shall be liable for accrued benefits and acquire related rights based on the transferring employer's employment prior to the acquisition. Benefit charges to the transferring or successor employer shall be made in accordance with the percentage used to transfer the experience rating account, based on wages paid prior to the transfer.

(d) The requirements of this Section shall apply to transfers mandated by law, and those requiring DES's approval pursuant to G.S. 96-11.7.

(e) The completion and submission of Form NCUI 603 with the information described in Paragraph (a) of this Rule, and in accordance with Rule 04 NCAC 24A .0104 ~~04 NCAC 24A .0104(o)~~ shall satisfy the requirements of this Rule.

History Note: Authority G.S. 96-4; 96-10; 96-11.7;

Eff. July 1, 2015.

1
2 **SECTION .0800 - AGREEMENTS TO COMPROMISE**
3

4 04 NCAC 24D .0801 is adopted with changes as published in 29:17 NCR 2061 as follows:
5

6 **04 NCAC 24D .0801 APPLICATION**

7 (a) An employing unit may file a request for compromise of its tax debt with DES.

8 (b) A request for compromise shall include the following:

- 9 (1) the name and address of the employing unit;
10 (2) the date the request to compromise is made;
11 (3) the date the requested compromise is requested to be effective;
12 (4) stated reasons for the request to compromise;
13 (5) evidence to support the claim or reasons for the request;
14 (6) the amount and terms offered by the employer to settle the debt; and
15 (7) the signature of a duly authorized representative of the employer.

16 (c) The employer shall provide all information requested by the Department pursuant to Section .0500 of this
17 Section for the determination of the compromise.

18 (d) The request for compromise shall be filed with DES's Tax Administration Section by ~~mail to Post Office Box~~
19 ~~26504, Raleigh, NC 27611, mail, facsimile to (919) 733-1255, facsimile,~~ or email at
20 ~~des.tax.customerservice@necommerce.com.~~ pursuant to 04 NCAC 24A .0104(n).
21

22 *History Note: Authority G.S. 96-4; 96-10; 96-10.1;*

23 *Eff. July 1, 2015.*

1 **SECTION .0900 - SPECIAL TAX INVESTIGATIONS**
2

3 04 NCAC 24D .0901 is adopted with changes as published in 29:17 NCR 2061 as follows:
4

5 **04 NCAC 24D .0901 SPECIAL TAX INVESTIGATIONS**

6 (a) When it is discovered by a representative of DES that a claimant is alleging that he or she was an employee and
7 the employer is alleging that the claimant was not an employee, the matter shall be referred to DES's Assistant
8 Secretary in writing.

9 (b) The Assistant Secretary, on behalf of DES, shall issue a Result of Investigation by the Tax Administration
10 Section upon receipt of the findings of the investigation. The Result of Investigation shall be in writing and mailed
11 to each party to the controversy pursuant to 04 NCAC 24A .0103.

12 (d) The Result of Investigation shall provide notice of each party's rights for filing an appeal to obtain a hearing
13 before the Board of Review, and the time period within which an appeal shall be filed ~~with DES's Tax~~
14 ~~Administration Section by mail, facsimile, or email pursuant by mail to 04 NCAC 24A .0104.~~ the Board of Review,
15 ATTN: Legal Services Section, Post Office Box 25903, Raleigh, 27611-5903.

16 (e) Appeal hearings pursuant to this Section shall be upon order of the Board of Review and conducted pursuant to
17 ~~Section .1100~~ Rule 04 NCAC 24D .1103 of this Subchapter.
18

19 *History Note: Authority G.S. 96-4; 96-9.2;*
20 *Eff. July 1, 2015.*

1 **SECTION .1000 - REQUESTS AND HEARINGS TO REVIEW AND REDETERMINE TAX RATE**

2
3 04 NCAC 24D .1001 is adopted with changes as published in 29:17 NCR 2061 as follows:

4
5 **04 NCAC 24D .1001 REQUEST FOR REDETERMINATION OF TAX RATE**

6 (a) An employer may request a review and redetermination of its tax rate after receiving notice of the tax rate.

7 (b) An employer requesting a review and redetermination of its tax rate shall file its written request with DES's Tax
8 Administration Section by mail to Post Office Box 26504, Raleigh, NC 27611, facsimile to (919) 733-1255, or email
9 to des.tax.customerservice@nccommerce.com.

10 (1) The request shall include the following:

11 (A) the name of the employer;

12 (B) the address of the employer;

13 (C) the account number of the employer;

14 (D) a brief statement of the question involved and reasons for the request; and

15 (E) the name, address, and official position of the individual making the request.

16 ~~(2) The request shall be filed on or before May 1 following the effective date of the contribution rate~~
17 ~~pursuant to G.S. 96-9.2(d).~~

18 (c) The request for a review and redetermination shall be filed on or before prior to May 1 following the effective
19 date of the contribution rate pursuant to G.S. 96-9.2(d).

20
21 *History Note: Authority G.S. 96-4; 96-9.2;*

22 *Eff. July 1, 2015.*

04 NCAC 24D .1002 is adopted with changes as published in 29:17 NCR 2061 as follows:

04 NCAC 24D .1002 DIVISION'S OBLIGATIONS

(a) The Division shall review the employing unit's request to review and redetermine its tax rate and all available facts, and shall issue a written ruling. The ruling shall be mailed to the employing unit's address as set forth in 04 NCAC 24A .0103 and include the following:

- (1) notify the employing unit of whether its application was granted or denied;
- (2) the applicable legal authority, with specific citations, for the ruling;
- ~~(3) be mailed to the employing unit's address as reflected in DES's official records;~~
- ~~(4)~~ (3) contain the mailing date of the notice;
- ~~(5)~~ (4) a statement containing the employer's right to appeal the notice; and
- ~~(6)~~ (5) the time period within which an appeal shall be filed.

(b) ~~If DES's ruling is adverse to the employing unit, the~~ The employing unit may file an appeal of the ruling and request a hearing.

- (1) The appeal shall be filed ~~by mail to~~ with DES's Tax Administration Section by mail, facsimile, or email pursuant to Rule 04 NCAC 24A .0104(o), at Post Office Box 26504, Raleigh, North Carolina 27611, facsimile to (919) 733-1255, or email to des.tax.customerservice@nccommerce.com.
- (2) Hearings requested pursuant to this Section shall be conducted as set forth in ~~Section .1100~~ Rule 04 NCAC 24D .1103 of this Subchapter.

History Note: *Authority G.S. 96-4; 96-9.2;*
 Eff. July 1, 2015.

1 **SECTION .1100 - TAX LIABILITY HEARINGS**

2

3 04 NCAC 24D .1101 is adopted with changes as published in 29:17 NCR 2062 as follows:

4

5 **04 NCAC 24D .1101 APPEALING A TAX MATTER**

6 (a) ~~Employers shall direct all appeals regarding tax matters, or monetary eligibility to~~ All appeals regarding tax
7 matters, or monetary eligibility shall be filed with the DES Tax Administration Section pursuant to 04 NCAC 24A
8 ~~.0104. 04 NCAC 24A .0104(n).~~

9 (b) A written appeal under this rule shall contain the following:

- 10 (1) the date of the appeal;
- 11 (2) the identity of the determination, decision, or result being appealed;
- 12 (3) a clear statement of the party's intent to appeal;
- 13 (4) reasons for the appeal; and
- 14 (5) the name of the party appealing the determination, decision, or result.
- 15

16 *History Note:* *Authority G.S. 96-4;*
17 *Eff. July 1, 2015.*

04 NCAC 24D .1102 is adopted with changes as published in 29:17 NCR 2062 as follows:

04 NCAC 24D .1102 SCHEDULING TAX HEARINGS

(a) A notice of the hearing shall be mailed to each party at least fourteen days before the hearing date.

(b) The hearing notice shall include the following:

- (1) identify the determination, decision, or result being appealed or protested;
- (2) the name of the appealing or protesting party;
- (3) the date and time of the hearing;
- (4) if requested at the time of the filing of the appeal, the physical location of an in-person hearing;
- (5) the telephone number at which each party will be called for a telephone hearing;
- (6) each issue, with statutory reference, to be heard and decided;
- (7) the name and contact information for the Board of Review or designated Hearing Official;
- (8) the manner in which witnesses may offer evidence and participate in the hearing;
- (9) each party's right to obtain a legal representative as defined in 04 NCAC 24A .0105;
- (10) instructions for requesting a rescheduling of the hearing;
- (11) notice that a party may object to a telephone hearing and request an in-person hearing;
- (12) a statement of each party's right to request the issuance of a subpoena for the production of records or individuals to appear to testify, and instructions for how to do so.

History Note: *Authority G.S. 96-4;*

Eff. July 1, 2015.

04 NCAC 24D .1202 is adopted with changes as published in 29:17 NCR 2063 as follows:

04 NCAC 24D .1202 WRITTEN DETERMINATION

(a) DES shall issue a written determination granting or denying the request upon making its determination pursuant to G.S. 96-16(c). The determination shall notify the employer of the following:

- (1) the specific seasonal period assigned by DES;
- (2) the effective date of the determination; and
- (3) the specific filing requirements for seasonal ~~employers;~~ employers.

(b) Any determination that denies the request for a seasonal designation shall state the reasons for the denial.

(c) Each determination shall contain notice of each party's right to appeal the determination and request a hearing, the date the determination was mailed, and the time period within which an appeal shall be filed.

(d) The employer may file its appeal of a denial of a request for seasonal pursuit designation with DES's Tax Administration Section in the same manner as prescribed under Rule .1201 of this Section, by submitting a Form NCUI 611 by mail to Post Office Box 26504, Raleigh, NC 27611, facsimile to (919) 733-1255, or email to des.tax.customerservice@nccommerce.com

(e) Hearings shall be conducted as set forth in ~~Section .1100 of the Subchapter.~~ Rule 04 NCAC 24D .1103 of this Subchapter.

History Note: Authority G.S. 96-4; 96-16;
Eff. July 1, 2015.

04 NCAC 24D .1203 is adopted with changes as published in 29:17 NCR 2063 as follows:

04 NCAC 24D .1203 DISPLAY REQUIRED

(a) Each employer shall display no less than two Notice to Workers of a Seasonal Determination forms in separate locations (Form NCUI 543) on its premises. Form NCUI 543 ~~will~~ shall be sent to employers when approved for Seasonal Pursuit status by ~~mail~~ mail and shall contain:

(1) notice that a seasonal determination was requested by the employer and issued by DES; and

(2) instructions for workers employed by the employer to protest the determination

within 10 days.

(b) The Notice to Workers of a Seasonal Determination (Form NCUI 543) shall be provided by DES and shall be displayed on the employer's premises in such places as:

(1) entry ways used by workers to enter and exit the employer's premises;

(2) in or near an area where a record of time worked is required to be used or frequented by workers;

(3) a bulletin board in places where workers ~~frequent or regularly~~ gather; or

(4) other locations within the place of employment visible to employees.

History Note: Authority G.S. 96-4; 96-16;

Eff. July 1, 2015

04 NCAC 24D .1204 is adopted with changes as published in 29:17 NCR 2063 as follows:

04 NCAC 24D .1204 WAGE RECORDS AND REPORTS REQUIREMENT

(a) Any pursuit that DES determines to be seasonal shall maintain payroll records such that the seasonal wages paid to workers during the active periods of the seasonal pursuit may be distinguished from any non-seasonal wages that are paid to those workers.

(b) Any employer engaged in a seasonal pursuit shall submit quarterly wage reports pursuant to ~~Section .0600~~ Rule 04 NCAC 24D .0603 of this Subchapter, showing the seasonal wages paid to workers during the active periods assigned by DES.

(c) Within 15 days of the date that DES mails notice of a seasonal period, the employer shall complete and submit to DES a Breakdown of Wages Previously Reported for Workers to Show Seasonal and Non-Seasonal Wages (Form NCUI 542) with seasonal wages in the current base period and in intervening quarters between the base period and completed calendar quarters preceding the first day of the active period, which shall include the following:

(1) each worker's social security number, and name; and

(2) each worker's seasonal wages, non-seasonal wages and total wages for each calendar quarter.

(d) Any wages earned by seasonal workers outside the seasonal period assigned by DES shall be reported as non-seasonal wages, even though they may have been earned for seasonal work.

History Note: Authority G.S. 96-4; 96-16;

Eff. July 1, 2015

1 **SECTION .01300 – COLLECTION METHODS OF EMPLOYER DEBT**

2
3 04 NCAC 24D .1301 is adopted with changes as published in 29:17 NCR 2064 as follows:

4
5 **04 NCAC 24D .1301 NOTICE TO EMPLOYER**

6 (a) DES shall serve notice and execution of levy on employer to collect past due unemployment insurance taxes,
7 penalties, ~~interest~~ interest, and costs.

8 (b) Notice shall be written and provided to the employer by U.S. mail.

9 (c) The notice shall state the following:

- 10 (1) that DES is in possession of judgments and executions that were properly docketed and indexed
11 by the clerks of the superior court;
- 12 (2) the county of the superior court where the judgments and executions are docketed;
- 13 (3) that DES mailed previous notice of the debt and the date DES mailed notice to the employer;
- 14 (4) the amount owed by the employer;
- 15 (5) the name of any other individual or entity that will receive notice of the debt;
- 16 (6) the statutory authority for service of execution of levy by DES;
- 17 (7) the relief sought by DES; and
- 18 (8) the name, address and telephone number of an authorized representative of DES who may be
19 contacted regarding the debt.

20
21 *History Note: Authority G.S. 1-359; 96-4; 96-10; 96-18;*

22 *Eff. July 1, 2015.*

1 **SECTION .1400 - RECORDS**

2
3 04 NCAC 24D .1401 is adopted with changes as published in 29:17 NCR 2064 as follows:

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5 **04 NCAC 24D .1401 OFFICIAL FORMS**

6 (a) Unless otherwise provided, all employer forms referenced under ~~this section~~ the Rules of this Chapter are
7 available by contacting the Employer Call Center (ECC) as follows:

- 8 (1) mailing address is Post Office Box 26504, Raleigh, North Carolina 27611;
9 (2) phone number is (919) 707-1150;
10 (3) facsimile number is (919) 715-0780; or
11 (4) email address is des.tax.customerservice@nccommerce.com.

12 (b) Unless otherwise provided, all claimant forms referenced under the Rules of this Chapter are available by
13 contacting the Customer Call Center (CCC) as follows:

- 14 (1) mailing address is P.O. Box 25903, Raleigh, NC 27611-5903;
15 (2) phone number is (888) 737-0259;
16 (3) facsimile number is (919) 250-4315; or
17 (4) email address is des.ui.customerservice@nccommerce.com.

18 *History Note: Authority G.S. 96-4; 96-16;*

19 *Eff. July 1, 2015.*