

1 21 NCAC 21 .0101 is amended as published in 31: 12 NCR 1235 as follows with changes:

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3 21 NCAC 21 .0101 **AUTHORITY: AUTHORITY, NAME AND LOCATION OF BOARD**

4 The **North Carolina Board for Licensing of Geologists (the "Board")** is governed by **"North Carolina Geologists**  
5 **Licensing Act"**, Chapter 89E of the General Statutes of North **Carolina. Carolina, establishes and authorizes the**  
6 **"North Carolina Board for Licensing of Geologists,"** hereafter called the **"Board"**. Unless otherwise directed, all  
7 communications ~~should~~ **shall** be addressed to the Board at Post Office Box ~~27402, 41225,~~ Raleigh, North Carolina  
8 ~~27611. 27629.~~

9

10 *History Note: Authority G.S. 89E-4;*

11 *Eff. February 1, 1986;*

12 *Amended Eff. [~~June 1, 2017;~~]April 1, 1989;*

13 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
14 *16, ~~2014-2014;~~*

15 *Amended Eff. June 1, 2017.*

1 21 NCAC 21 .0103 is amended as published in 31: 12 NCR 1235 as follows with changes:

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3 21 NCAC 21 .0103 ORGANIZATION OF THE BOARD

4 (a) Meetings shall be open and public except that the Board may meet in closed sessions to prepare, approve,  
5 administer, or grade examinations; to deliberate the qualifications of an applicant for license; or to deliberate on the  
6 disposition of a proceeding to discipline a licensed geologist.

7 (b) The Board shall have power to compel the attendance of witnesses, to administer oaths, and to take testimony  
8 and proofs of all matters within its ~~jurisdiction.~~ jurisdiction as allowed by Article 3A of G.S. 150B.

9 (c) The ~~chairman~~ Chair and ex-officio member shall be full voting members of the Board.

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11 *History Note:* Authority G.S. 89E-4; 89E-5; 143-318.18(6); ~~150B-39; 150B-40;~~

12 Eff. February 1, 1986;

13 Amended Eff. ~~[June 1, 2017; ]~~April 1, 1989;

14 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December  
15 16, ~~2014; 2014.~~

16 Amended Eff. June 1, 2017.

1 21 NCAC 21 .0104 is amended as published in 31: 12 NCR 1235 as follows with changes:

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3 21 NCAC 21 .0104 DUTIES OF OFFICERS

4 (a) ~~Chairman-Board Chair:~~

5 (1) The ~~chairman~~ Chair shall ~~shall, when present,~~ preside at all ~~meetings,~~ meetings when present,  
6 appoint all committees, sign all certificates ~~issued~~ issued, and perform all other duties pertaining  
7 to his office.

8 (2) The ~~[Board-]~~Chair, together with the Board Counsel and Board Executive Director, shall  
9 determine if a [Complaint]-complaint submitted to the Board is complete pursuant to the  
10 requirements of G.S. 89-17 and Rules .0501 and .0514 of this Chapter [and should be forwarded  
11 ]and, if so, shall forward it to an investigator. In addition, the Chair shall be responsible for  
12 evaluating the investigative report and proposing further action as authorized by [Rule .05105]  
13 Rule .0515 of this Chapter. [-Should] If the Chair [-identify-]identifies a conflict of [interest,-]  
14 interest as defined by G.S.138A-36(a) or Rule .0513 of this Chapter, the Vice-Chair shall review  
15 the Complaint. If both Chair and Vice-Chair have a conflict of interest, the Secretary-Treasurer  
16 shall review the Complaint. If none of these persons can serve, then the Chair shall designate  
17 another Board member to review the Complaint.

18 (b) ~~Board Vice-Chair. Vice-chairman.~~ The ~~vice-chairman~~ Vice-Chair, in the absence of the Chair, ~~chairman,~~ shall  
19 perform all of the duties of the Chair. ~~chairman.~~ The Vice-Chair shall sign all certificates issued.

20 (c) ~~Secretary-treasurer~~Treasurer:

21 (1) The ~~secretary-treasurer,~~ Secretary-Treasurer, with the assistance of an ~~executive director~~  
22 Executive Director or such other officers or employees as may be approved by the Board, shall  
23 conduct and care for all the correspondence of the Board, keep the minutes of all the meetings,  
24 keep all books and records, and ~~shall~~ sign all certificates issued. ~~He~~ The Secretary-Treasurer shall  
25 have charge, care and custody of the official documents ~~by order~~ of the Board. ~~He~~ The Secretary-  
26 Treasurer shall provide due notice of the time and place of all meetings of the Board to each  
27 member of the Board.

28 (2) The ~~secretary-treasurer,~~ Secretary-Treasurer, with the assistance of an ~~executive director~~  
29 Executive Director or such other officers or employees as may be approved by the Board, shall  
30 receive all moneys from applicants for annual renewal or other fees and deposit them in an  
31 authorized depository of the Board. The ~~secretary-treasurer~~ Secretary-Treasurer shall give bond to  
32 be conditioned on the faithful performance of the duties of this office and on the faithful  
33 accounting of all monies and other property as shall come into ~~his~~ this officer's hands.

34 (3) The ~~secretary-treasurer,~~ Secretary-Treasurer, with the assistance of an ~~executive director~~  
35 Executive Director or such other officers or employees as may be approved by the Board, shall  
36 provide to each applicant for a license or registration a current copy of G.S. 89E and the rules of  
37 this Chapter. Copies of the Geologists Licensing Act and the rules of this Chapter shall be

1 provided by mail with the application packet or in electronic format on the Board's Internet  
2 website (www.ncblg.org) with the on-line application packet.

3

4 *History Note:* Authority G.S. ~~89E-4; 89E-5~~; 89E-4; 89E-5; 89-17;

5 *Eff. February 1, 1986;*

6 *Amended Eff. [June 1, 2017]; April 1, 2003, April 1, 1989;*

7 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
8 *16, 2014; 2014.*

9 *Amended Eff. June 1, 2017.*

1 21 NCAC 21 .0301 is amended as published in 31: 12 NCR 1235-1236 as follows with changes:

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4 21 NCAC 21 .0301 REQUIREMENTS FOR LICENSING

5 (a) Education. In determining whether an applicant meets the ~~minimum~~ education requirements of the Geologists  
6 Licensing Act, the Board shall accept transcripts from colleges and universities that are accredited by a national or  
7 regional accrediting organization such as the Southern Association of Colleges and Schools. ~~The Board requires 30~~  
8 ~~hours of geological study, with 24 hours of upper level~~ An applicant shall have:

9 ~~(1) The Board requires that an applicant have graduated from an accredited college or university and~~  
10 ~~have a degree with a major in geology, engineering geology or geological [engineering]~~  
11 ~~engineering, or related geological science; or [science. If the applicant does not have a degree in~~  
12 ~~any of the listed majors, the applicant must have]~~

13 ~~(2) completed 30 hours of geological study or the equivalent in geological science courses~~  
14 ~~leading to a major in geology, of which at least 24 hours of the equivalent [were] shall have been~~  
15 ~~upper-level undergraduate courses or graduate courses in areas such as including: geology,~~  
16 ~~geophysics, geochemistry, oceanography, paleontology, hydrology, soil science, economic~~  
17 ~~geology-geology, and engineering geology.~~

18 (b) References. Five letters of reference submitted to the Board which shall satisfy the Board as to the character,  
19 reputation, responsibility, integrity and competence of the applicant. These letters of reference must be submitted by  
20 licensed ~~or qualified~~ geologists or ~~professional~~ engineers. No member of the Board shall act as a reference for any  
21 applicant for licensing. At least two of the five letters of reference must be submitted by licensed ~~or qualified~~  
22 geologists who are familiar with the applicant's work in the field of geology.

23 (c) Written Examination. Except as provided in Paragraph (e) of this Rule, ~~all~~ applicants shall pass the written  
24 examination administered by the Board in conjunction with the National Association of State Boards of Geology  
25 (A.S.B.O.G.). The applicant shall be notified, not less than 30 days before the examination, ~~as to of~~ the time and  
26 place of the examination. ~~A person who has failed an examination is allowed to take the examination again at the~~  
27 ~~next regularly scheduled examination period. A person~~ An applicant having a record of three failures shall not be  
28 allowed to take that examination again until the applicant makes a written appeal ~~is made~~ to the Board and the Board  
29 confirms the applicant is qualified ~~qualifications~~ for examination pursuant to the rules in this Section. ~~are reviewed~~  
30 ~~and reaffirmed by the Board.~~ The applicant shall demonstrate to the Board that actions have been taken to improve  
31 the applicant's possibility of passing the ~~exam-exam, such as taking additional classes or gaining additional~~  
32 experience in the field.

33 (d) Experience. In determining whether an applicant meets the ~~minimum~~ experience requirements of the Geologists  
34 Licensing Act, the Board shall consider the total work experience record of the applicant. The Board shall look for  
35 the applicant's ability to conduct geological work in a satisfactory manner with little or no supervision.

1 (e) Certificate by comity. The Board shall grant a license without further examination to a person ~~holding a license~~  
2 ~~who has been licensed by another jurisdiction~~ to engage in the practice of geology ~~geology, which license has been~~  
3 ~~issued by another jurisdiction~~, when the applicant meets the following conditions:

- 4 (1) the applicant has filed an application for license and paid the fee required by Rule .0107 of this  
5 Chapter;
- 6 (2) the applicant has provided evidence of education and experience equal to the requirements of  
7 Paragraphs (a), (b), and (d) of this Rule as indicated in Rule .0302 of this Section;
- 8 (3) the applicant is in good standing with the agency regulating the practice of geology in any  
9 jurisdiction in which the applicant holds a license to practice geology; and
- 10 (4) the applicant has successfully passed a written examination ~~deemed to be equal or~~-equivalent to  
11 the examination required by the Board pursuant to G.S. 89E-9 and Paragraph (c) of this Rule.

12  
13 *History Note: Authority G.S. 89E-7; 89E-8; 89E-9; 89E-11;*  
14 *Eff. February 1, 1986;*  
15 *Amended Eff. [~~June 1, 2017;~~]April 1, 2003; April 1, 1990; April 1, 1989;*  
16 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
17 *16, ~~2014, 2014;~~*  
18 *Amended Eff. June 1, 2017.*

1 21 NCAC 21 .0302 is amended as published in 31: 12 NCR 1236 as follow with changes:

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3 21 NCAC 21 .0302 APPLICATION PROCEDURE

4 (a) All applicants for licensing ~~shall are required to~~ furnish ~~with their applications~~ the ~~following:~~ following with  
5 their applications:

6 (1) ~~A legible, an~~ official copy of their college ~~transcript(s), transcript(s) transcript~~ and verification of  
7 graduation sent directly from the institution to the Board;

8 (2) ~~Verification verification~~ of experience in the practice of geology on forms provided by the ~~Board;~~  
9 Board and available on the Board's website, stating:

10 (A) the dates of employment;

11 (B) the name and contact information for the applicant's supervisor at each place of  
12 employment;

13 (C) a brief description of the applicant's duties and responsibilities at each place of  
14 employment; and

15 (D) each employer's opinion of the applicant's competency;

16 (3) ~~Five-five~~ references as defined in Rule .0301(b) of this Section;

17 (4) ~~a A-~~notarized copy of a completed application form as prescribed by the ~~Board;~~ Board and  
18 available on the Board's website, stating:

19 A. the applicant's name and contact information, birth date, and social security number;

20 (B) professional experience and education;

21 (C) information as to whether the applicant has ever been convicted of a felony or  
22 misdemeanor;

23 (D) a list of references,

24 (E) list of other licenses or registrations held by the applicant;

25 (F) the applicant's professional affiliations; and

26 (G) whether the applicant has been denied a license or certification or been subject to a  
27 disciplinary action; and

28 (5) ~~the The~~ application fee as prescribed in Rule .0107 of this Chapter.

29 (b) Applicants for reinstatement of an ~~expired-expired, suspended, or inactive~~ license or registration shall submit a  
30 reinstatement application and shall submit the fee as provided by Rule .0107 of this Chapter.

31 (c) Applicants for reinstatement of a revoked license or registration shall submit such information as is required by  
32 the Board to determine eligibility for reinstatement pursuant to ~~G.S. 89E-21~~ G.S. 9E-21, such as an explanation of  
33 why the license was revoked and information showing the applicant has cured the situation that resulted in the  
34 revocation of the license or registration, and shall submit the fee as provided by Rule .0107 of this Chapter.

35 (d) Additional information required by the Board to approve or deny approval on any application shall be filed with  
36 the Board within 60 days of the applicant's receipt of notice to provide such information. This may include any of  
37 the applicant's written reports, maps, published ~~articles-articles,~~ or other materials the Board determines are

1 appropriate to document the applicant's experience as a geologist. Failure to submit the supplemental information  
2 requested within the time specified by this Rule may result in the Board's rejection of the application without further  
3 notice prior to such rejection. Examples of factors that may result in the rejection of an application include  
4 information that another state has revoked applicant's license to practice geology or information that an applicant by  
5 comity is unable to show that the exam taken was equivalent to that required by the Board.

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7 *History Note: Authority G.S. 89E-7; 89E-8; 89E-9; 89E-11; 89E-12; 89E-21;*  
8 *Eff. February 1, 1986;*  
9 *Amended Eff. June 1, 2017; ~~April 1, 2003; April 1, 1990; April 1, 1989; March 1, 1988;~~*  
10 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
11 *16, ~~2014, 2014;~~*  
12 *Amended Eff. June 1, 2017.*



1 **21 NCAC 21 .0303 is adopted as published in 31: 12 NCR 1236-1237 as follows with changes:**

2  
3 **21 NCAC 21 .0303 Inactive Status**

4 (a) ~~A licensee may request inactive status by following this process:~~ The board shall grant inactive status to a  
5 licensee if:

6 (1) ~~the licensee~~ Licensee shall submit submits a letter in writing to the Board before the current  
7 license has ~~expired, expired~~ requesting inactive status; and

8 (2) ~~At~~ at the time the letter request is submitted, the licensee's license ~~licensee must be in good~~  
9 ~~standing with the Board (that is, the license has not been suspended, surrendered, or~~ revoked,  
10 revoked);

11 ~~—(3)—~~ The Board shall ~~will~~ notify the licensee that he or she has been granted inactive status or the  
12 reason the request was not granted. ~~granted;~~

13 (b) ~~(4) Should~~ If the licensee seeking inactive status be the person identified as the North Carolina licensed  
14 ~~geologists~~ geologist for a corporation registered with the Board, ~~The Professional Corporation Act (G.S. § 55B)~~  
15 ~~requires that~~ another licensee who meets the statutory requirements shall be identified in order to maintain the  
16 professional corporation's registration with the Board. If this is not done before the licensee is granted inactive  
17 status, the Board shall suspend the professional corporation's ~~corporation will be notified by the Board that its~~  
18 registration and shall send notification of this suspension to the professional corporation by certified mail the same  
19 day the licensee is notified that the request for inactive status was granted. ~~is suspended.~~

20 (c) ~~(b)~~—A geologist or registered corporation with an inactive or suspended license shall not engage in the public  
21 practice of geology in North Carolina.

22 (d) ~~(e)~~—A geologist with an inactive license shall no longer seal and certify documents with his or her seal.

23 (e) ~~(d)~~—The Board shall ~~will~~ maintain a list of all inactive licensees.

24 (f) ~~(e)~~—Any reference to an inactive geologist on a letter, title, sign, card, or devise shall list such geologist as  
25 “Retired Geologist” or “N.C. Geology License No. \_\_ (inactive).”

26 (g) ~~(f)~~—An individual who wishes to convert their license from inactive to active status shall submit ~~is on inactive~~  
27 ~~status may convert his or her license to active status by submission of an application for~~ reinstatement,  
28 reinstatement of license and proof of 12 hours of continuing education taken in the 12 months prior to the  
29 reinstatement request, and payment of the reinstatement fee set forth in 21 NCAC 21 .0107.

30 (h) ~~(g)~~—In no case ~~may~~ shall an individual remain on inactive status for more than five years without permission of  
31 the Board. If an individual has been on inactive status for five years and does not request additional time to hold an  
32 inactive license, the license shall expire. ~~will be expired.~~

33 (i) ~~(h)~~—A ~~Any~~ geologist who has been granted inactive status is not required to fulfill continuing education  
34 requirements.

35  
36 *History Note:* Authority G.S. 89E-4; 89E-5;

37 *Eff. June 1, 2017.*

1 **21 NCAC 21 .0403 is adopted as published in 31: 12 NCR 1237 as follows with changes:**

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**SECTION .0400 – CONTINUING EDUCATION**

4 **21 NCAC 21 .0403 INTRODUCTION**

5 ~~The following continuing education requirements are established by the Board in accordance with G.S. 89E-2 and~~  
6 ~~89E-5 to protect the life, property, health and public welfare through the regulation of the practice of geology in the~~  
7 ~~State of North Carolina. Beginning July 1, 2018-2017 and before July 1, 2018,~~ each person holding an active  
8 geology license ~~must~~ shall complete 12 hours of continuing professional education relating to geology as a  
9 condition for licensure renewal.

10

11 *History Note: Authority G.S. 89E-4; 89E-5;*

12 *Eff. June 1, 2017.*

1 **21 NCAC 21 .0404 is adopted as published in 31: 12 NCR 1237 as follows with changes:**

2

3 **21 NCAC 21 .0404 REQUIREMENTS**

4 (a) Each application for renewal shall include ~~information~~information, attested to by the licensee under penalty of  
5 perjury on a form provided by the Board and available on the Board's website, establishing that the licensee has  
6 completed the minimum required contact hours of approved continuing ~~education~~education, and shall state the  
7 following information:

8           (1) the licensee's name;

9           (2) the licensee number;

10          (3) the licensee contact information;

11          (4) the name of entity providing continuing education;

12          (5) a description of continuing education taken;

13          (6) the dates and hours the licensee participated in continuing education; and,

14          (7) the amount of continuing education credit claimed.

15 (b) ~~Each~~ Every licensee shall obtain 12 contact hours of continuing education during each renewal period. If a  
16 licensee exceeds the annual requirement in any renewal period, a maximum of 12 hours may be carried forward to  
17 the next renewal period.

18 (c) A contact hour is defined as actual instruction time (credited to the nearest one-quarter of an hour) received in-  
19 person ~~in person~~, or through an online class that includes interaction between the teacher and student~~student~~, or  
20 through any other similar format.

21 (d) In order to meet the requirements of this Section, courses and activities shall be in accordance with the Selection  
22 of courses and activities that meet the requirements of this Section are the responsibility of the licensee and shall be  
23 in accordance with any continuing education Guidelines approved by the Board. The Board will provide a list posted  
24 on the Board's website of the professional societies whose courses have been preapproved for continuing education  
25 credit. In general, continuing Continuing education credit may be earned through ~~by~~ any of the following activities:

26 (1) ~~Teaching-teaching~~ Teaching-teaching or completing for-credit courses at any accredited university or college;

27 (2) ~~Teaching-teaching~~ Teaching-teaching or completing ~~for credit continuing education~~ continuing education courses,  
28 seminars, field trips, or workshops sponsored by a professional geological ~~societies~~society or an  
29 accredited university or college;

30 (3) ~~Teaching-teaching~~ Teaching-teaching or completing ~~for credit~~ of course work sponsored by other professional or  
31 educational organizations approved by the Board;

32 (4) ~~Presenting-presenting~~ Presenting-presenting or attending seminars, workshops, or professional or technical presentations  
33 made at conventions, conferences of professional ~~organizations; and organizations~~, or at  
34 accredited universities or colleges;

35 (5) presenting or attending seminars, workshops, or professional or technical presentations made by or  
36 sponsored by employers who apply geoscience skills to accomplish their organizational missions;

1           (6) ~~(5)~~ ~~Licensee~~ a licensee may receive double credits for each hour ~~they~~ he or she teaches or presents.  
2           Teaching credit is valid for teaching a course or seminar for the first time only; and only. ~~Teaching~~  
3           ~~credit does not apply to full time faculty, as defined by the institution where a licensee is teaching.~~

4           (7) a licensee may receive a maximum of six hours continuing education credit for a published peer  
5           reviewed book or article.

6 (e) Courses offered by professional societies that have not been pre-approved by the Board may be ~~submitted~~  
7 submitted, by either the licensee or course provider, for review and approval within 90 days before or 180 days after  
8 the licensee takes the course.

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11 *History Note:*     *Authority G.S. 89E-4; 89E-5;*  
12                         *Eff. June 1, 2017.*

1    **21 NCAC 21 .0405 is adopted as published in 31: 12 NCR 1237 as follows with changes:**

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3    **21 NCAC 21 .0405            DETERMINATION OF CREDIT**

4    (a) The Board shall review all information provided by the licensee on the form required by Rule .0404(a) of this  
5    Section ~~the Board~~ as part of the annual license renewal. The Board may request additional information from the  
6    licensee as required to verify the continuing education earned.

7    (b) The Board ~~has final authority to~~ shall determine the amount of continuing education credit earned by each  
8    ~~licensee~~ licensee, based on materials submitted. The Board determination of credit shall consider the following  
9    factors:

10              (1)        the relevance of course material to the practice of geology, and

11              (2)        the number of credit hours requested.

12

13    *History Note:     Authority G.S. 89E-4; 89E-5;*

14                        *Eff. June 1, 2017.*

1 **21 NCAC 21 .0406 is adopted as published in 31: 12 NCR 1237-1238 as follows with changes:**

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3 **21 NCAC 21 .0406 RECORDKEEPING**

4 (a) Records substantiating ~~the Board-approved continuing education~~ continuing education activities ~~shall may~~  
5 ~~include, include but are not limited to~~ the following:

6 (1) ~~A~~ a log that shows the type of activity claimed; title or specific subject; the name of the  
7 organization that provided the continuing education; the location, duration, date, and instructor's or  
8 speaker's name; ~~credits~~ credit hours earned; and other information on a form as prescribed by the  
9 Board;

10 (2) ~~Copies~~ copies of registration receipts and brochures identifying the continuing-education activities  
11 attended by the licensee;

12 (3) ~~Attendance~~ attendance verification records in the form of completion certificates; and

13 (4) ~~Other~~ other documents that support evidence of attendance.

14 (b) The licensee ~~is responsible for maintaining~~ shall maintain records that support the claimed credit hours for ~~the~~  
15 ~~Board-approved~~ Board-approved continuing education activities. These records ~~must~~ shall be maintained for a  
16 period of three years and copies may be requested by the Board for audit verification purposes. ~~The Board may~~  
17 ~~approve other records that contain the information required by this Rule.~~

18 (c) The licensee shall ~~be responsible for providing~~ provide to the Board's Executive Director electronic copies of  
19 the records substantiating the continuing education activities for which he or she is claiming credit. ~~credit to the~~  
20 ~~Board's Executive Director.~~

21

22 *History Note: Authority G.S. 89E-4; 89E-5;*

23 *Eff. June 1, 2017.*

1 **21 NCAC 21 .0407 is adopted as published in 31: 12 NCR 1238 as follows with changes:**

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3 **21 NCAC 21 .0407 EXEMPTIONS**

4 A licensee is exempt from the annual continuing education ~~continuing education~~ requirements as long as any of the  
5 following exceptions apply:

- 6 (1) New licensees by way of examination shall be required to show proof of 12 hours of continuing  
7 education when his or her ~~their~~ geology license is renewed for the second time.
- 8 (2) New licensees by way of comity shall ~~be required to~~ show proof of 12 hours of continuing  
9 education the first time his or her ~~the~~ North Carolina license is renewed.
- 10 (3) If currently licensed by and in good standing (license is not ~~surrendered, suspended, suspended~~ or  
11 revoked) with the Board, a licensee who is serving on active duty as a member of ~~in~~ the armed  
12 forces of the United States and who is eligible for an extension of time to file a tax return pursuant  
13 to G.S. 105-249.2 may request a waiver of the mandatory continuing education ~~continuing~~  
14 ~~education~~ requirements for the time period disregarded pursuant to the Internal Revenue Code,  
15 ~~Code~~ 26 U.S.C. 7508, 7508 as follows:
- 16 (a) The licensee shall notify the Board of eligibility before the current license expires. Upon  
17 such notification, the Board shall maintain the license in active status through the  
18 extension period.
- 19 (b) If the licensee fails to notify the Board of eligibility for the extension period before the  
20 current license expires, upon receipt and acceptance of a renewal application within the  
21 extension period and presentation of proof that the licensee was ~~is~~ eligible on the date  
22 that is the deadline for renewal, the expired license or registration shall be deemed  
23 retroactively to have not expired.
- 24 (c) The licensee who submits a renewal application within the extension period shall not be  
25 deemed to hold a lapsed license subject to reinstatement fees.
- 26 (d) The licensee may renew the license within the extension period despite failing to  
27 complete the specified continuing education ~~continuing education~~ requirements.
- 28 (e) A licensee shall provide proof of eligibility for the extension period when the licensee or  
29 registrant submits the renewal ~~application.~~ application, which shall include: (1) a copy of  
30 military orders denoting the respective active duty period; or (2) a copy of form DD-214  
31 denoting each respective active duty period.
- 32 (4) If currently licensed by and in good standing (license is not surrendered, suspended, or revoked)  
33 with the Board, a licensee who is serving in a reserve component of the armed forces of the United  
34 States and completes an aggregate of 90 days active duty in a given calendar year in accordance  
35 with 10 USC 12301(a); 10 USC 12302; 10 USC 12304; or 14 USC 712 may request a waiver of  
36 the mandatory continuing education requirements during the year in which the 90-day aggregate  
37 active duty occurred, as follows:

1 (a) The licensee shall notify the Board of eligibility before the current license expires. Upon  
2 such notification, the Board shall maintain the license in active status through the  
3 extension period.

4 (b) If the licensee fails to notify the Board of eligibility for the extension period before the  
5 current license expires, upon receipt and acceptance of a renewal application within the  
6 extension period and presentation of proof that the licensee was eligible on the date that  
7 is the deadline for renewal, the expired license or registration shall be deemed  
8 retroactively to have not expired.

9 (c) The licensee who submits a renewal application within the extension period shall not be  
10 deemed to hold a lapsed license subject to reinstatement fees.

11 (d) The licensee may renew the license within the extension period despite failing to  
12 complete the specified continuing education requirements.

13 (e) A licensee shall provide proof of eligibility for the extension period when the licensee or  
14 registrant submits the renewal application, which shall include: (1) a copy of military  
15 orders denoting the respective active duty period or (2) a copy of form DD-214 denoting  
16 the respective active duty period.

17 (5) (4) The Board may grant an exemption at a licensee's request if the Board determines that the licensee  
18 is experiencing physical disability, illness, or other extenuating circumstances that prevent the  
19 licensee from obtaining continuing education ~~continuing education~~—hours. Supporting  
20 documentation ~~must~~ shall be furnished to the Board along with a written request.

21 (6) (5) Licensees who list their occupation as "Inactive" on the Board-approved renewal form and who  
22 are no longer providing geological services are not required to earn continuing education credits.  
23 ~~credits each year~~. In the event such a person elects to return to active practice of geology, 12 hours  
24 of continuing education shall ~~must~~ be earned in the year prior to the licensee's return to active  
25 practice.

26  
27 *History Note: Authority G.S. 89E-4; 89E-5;*  
28 *Eff. June 1, 2017.*



1 21 NCAC 21 .0501 is amended as published in 31: 12 NCR 1238-1239 as follows with changes:

2  
3 21 NCAC 21 .0501 FILING OF CHARGES AND DISCIPLINARY ACTIONS

4 (a) Any person may file a complaint ~~[against a geologist]~~ with the Board ~~against a geologist~~ for disciplinary action  
5 ~~[against a geologist]~~ based on a ~~charge of negligence, incompetence, dishonest practice, or other misconduct~~ or of  
6 any ~~[in]~~ violation of G.S. 89E or of these Rules on a form ~~[forms]~~ provided by the Board. ~~[These forms are]~~ This  
7 form is on the Board's website at www.ncblg.org and may be requested from the Board. ~~The complainant shall~~  
8 ~~provide the following information:~~

9 (1) the name and contact information of the person making the complaint;

10 (2) the name and contact information of persons with information about the incident leading to the  
11 complaint;

12 (3) information regarding the complaint, such as the address where work was performed, a description  
13 of the work performed, and the specific plan, survey, or report documenting the work performed;

14 and

15 (4) the statute or rule which was allegedly violated.

16 (b) The complaint shall set forth the facts upon which the complaint is based. The complainant shall swear or  
17 affirm that the facts stated in the complaint are true. ~~[true, and that he or she is prepared to prove them at a hearing.]~~

18 ~~(b)~~(c) Upon receipt of a ~~[such]~~ charge complaint or upon its the Board's own initiative, ~~the Board may~~ the Board's  
19 Executive Director, Board Chair, and counsel to the Board shall meet to determine whether the Board has  
20 jurisdiction over the complaint and whether there is good cause to proceed with an investigation.

21 (d) If it is determined there are grounds to proceed, the Board's professional staff shall open a case file, notify the  
22 complainant that the complaint has been received and a file opened, notify and provide a copy of the complaint to  
23 the respondent-licensee named in the complaint and request a response, and initiate an investigation of the  
24 allegations in the complaint.

25 (e) Based upon a review of the complaint ~~[and/or]~~ or the results of the investigation, and consistent with procedures  
26 required by G.S. 150B, the Board may suspend or revoke the license or certificate of registration, may issue a  
27 reprimand as provided in Rule .0502 of this Section, ~~Section~~ or may, upon a statement of the reasons therefore,  
28 dismiss the charge as unfounded or trivial, which statement shall be mailed to the geologist and the complainant.  
29 ~~person who filed the charge.~~ If the Board determines that a licensee is professionally incompetent, the Board may  
30 require the licensee to demonstrate fitness to practice as allowed in G.S. 89E-19(b). ~~In making this determination,~~  
31 ~~the Board shall consider whether the licensee acted in conformance with the requirements of G.S. 89E and 21~~  
32 ~~NCAC, Chapter 21.~~ In addition to issuing a reprimand or suspending or revoking a license or certificate of  
33 registration, the Board, ~~pursuant to G.S. 89E-19,~~ may impose a civil penalty ~~pursuant to the requirements set forth in~~  
34 ~~G.S. 89-19E.~~ for any violation of G.S. 89E or these Rules.

35 ~~(e)~~(f) The Board shall notify the complainant and the respondent-licensee in any complaint filed with the Board of  
36 the disposition of the case and may publish in the Board's newsletter or other public media any ~~[final]~~ disciplinary  
37 action taken against a licensee or registrant or any legal action taken against any person found to be in violation of  
38 G.S. 89E or these Rules. ~~Rules after all rights to appeal have been exhausted.~~

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*History Note: Authority G.S. 89E-5; 89E-17; 89E-19; 89E-20;*  
*Eff. February 1, 1986;*  
*Amended Eff. April 1, 1989;*  
*Temporary Amendment Eff. November 24, 1999;*  
*Amended Eff. ~~June 1, 2017;~~ April 1, 2003: August 1, 2000;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
*16, 2014.*  
*Amended Eff. June 1, 2017.*

1 **21 NCAC 21 .0502 is amended as published in 31: 12 NCR 1239 as follows with changes:**

2

3 **21 NCAC 21 .0502 REPRIMAND**

4 (a) If evidence of a violation is found, but it is determined that a disciplinary hearing is not warranted, the Board  
5 may issue a reprimand to the accused party. A record of such reprimand shall be mailed to the accused party, and  
6 within 15 days after receipt of the reprimand the accused party may refuse the reprimand and request that a ~~Hearing~~  
7 hearing be held pursuant to G.S. 150B. Such refusal and request shall be addressed to the Board and filed with the  
8 Executive Director of the Board.

9 (b) Upon timely filing of a notice refusing the reprimand and requesting a hearing, the Board shall determine  
10 whether the Board shall conduct the evidentiary hearing or whether it shall refer the matter to the Office of  
11 Administrative Hearings for designation of an administrative law judge to conduct the hearing. If the Board elects to  
12 conduct the hearing, the legal counsel for the Board shall ~~thereafter~~ prepare and file a Notice of Hearing. ~~If the~~  
13 ~~Board refers the matter to the Office of Administrative Hearings, that agency shall prepare and serve all subsequent~~  
14 ~~notices related to the evidentiary hearing, including the Notice of Hearing.~~

15 (c) If the Letter of Reprimand is accepted, a copy of the reprimand shall be maintained in the office of the Board. If  
16 a party receiving a reprimand wishes ~~merely~~ to file a letter rebutting his or her reprimand, he or she may in writing  
17 waive his or her right to hearing and submit a letter of rebuttal to be placed in his or her file.

18

19 *History Note: Authority G.S. 89E-5; 89E-19; 89E-20;*  
20 *Eff. February 1, 1986;*  
21 *Amended Eff April 1, 1989;*  
22 *Temporary Amendment Eff. November 24, 1999;*  
23 *Amended Eff. [~~June 1, 2017;~~]April 1, 2003; August 1, 2000;*  
24 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
25 *16, ~~2014;2014.~~*  
26 *Amended Eff. June 1, 2017.*

1 21 NCAC 21 .0505 is amended as published in 31: 12 NCR 1239 as follows with changes:

2

3 21 NCAC 21 .0505 RIGHT TO HEARING

4 When the Board, other than in a rulemaking or declaratory ruling proceeding, Board initiates a disciplinary action  
5 that affects or may affect a licensee pursuant to Sections .0500 and .0600 of these rules, the Board acts or proposes  
6 to act in a manner which will affect the rights, duties, or privileges of a specific identifiable person or persons, those  
7 persons have a right to an administrative hearing. When the Board proposes to act in such manner, it shall give, give  
8 to any such person or persons notice of their right to a hearing by mailing by certified mail to such person to each  
9 affected licensee at his or her last known address, address a notice of the proposed action and of his or her a notice  
10 of a right to a hearing.

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12 *History Note: Authority G.S. 89E-20; 150B-11; 150B-38;*

13 *Eff. February 1, 1986;*

14 *Amended Eff. [June 1, 2017; ]April 1, 1989;*

15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
16 *16, 2014; 2014.*

17 *Amended Eff. June 1, 2017.*

1 21 NCAC 21 .0506 is amended as published in 31: 12 NCR 1239 as follows with changes:

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3 21 NCAC 21 .0506 REQUEST FOR HEARING

4 (a) When an individual believes his or her rights, ~~duties~~ ~~duties~~, or privileges have been or may be affected by the  
5 Board's administrative action, but has not received notice of a right to an administrative hearing, he or she may file a  
6 ~~formal~~ request for a hearing.

7 (b) The ~~formal~~ request shall bear the notation: RE: REQUEST FOR ADMINISTRATIVE HEARING. That request  
8 ~~should shall~~ contain the following information:

- 9 (1) name and address of the petitioner;
- 10 (2) a concise statement of the action taken by the Board which is challenged;
- 11 (3) a concise statement of the way in which the petitioner has been aggrieved; and
- 12 (4) a clear and specific ~~statement of~~ request for a hearing.

13 (c) Such a request ~~shall will~~ be acknowledged ~~promptly~~ and, if deemed appropriate under Rule 21 NCAC 21 .0507,  
14 a hearing ~~shall will~~ be scheduled.

15

16 *History Note: Authority G.S. 89E-20; 150B-11; 150B-38;*

17 *Eff. February 1, 1986;*

18 *Amended Eff. [~~June 1, 2017;~~] April 1, 1989;*

19 *Pursuant to G.S. 150B 21.3A, rule is necessary without substantive public interest Eff. December*  
20 *16, ~~2014; 2014.~~*

21 *Amended Eff. June 1, 2017.*

1 21 NCAC 21 .0511 is amended as published in 31: 12 NCR 1239 as follows with changes:

2

3 21 NCAC 21 .0511 TYPES OF INTERVENTION

4 The Board shall allow intervention as provided by Rule 24 of the North Carolina Rules of Civil Procedure.

5 ~~(a) Intervention of Right. A petition to intervene of right, as provided in the North Carolina Rules of Civil~~  
6 ~~Procedure, Rule 24, will be granted if the petitioner meets the criteria of that Rule and his or her petition is timely.~~

7 ~~(b) Permissive Intervention. A petition to intervene permissively as provided in the North Carolina Rules of Civil~~  
8 ~~Procedure, Rule 24, will be granted if the petitioner meets the criteria of that Rule and the Board determines that:~~

9 ~~(1) there is sufficient legal or factual similarity between the petitioner's claimed rights, privileges, or~~  
10 ~~duties and those of the parties to the hearings; and~~

11 ~~(2) permitting intervention by the petitioner as a party would aid the purpose of the hearing.~~

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14 *History Note: Authority G.S. 89E-20; 150B-38;*

15 *Eff. February 1, 1986;*

16 *Amended Eff. ~~June 1, 2017;~~ April 1, 1989;*

17 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
18 *16, ~~2014;~~ 2014.*

19 *Amended Eff. June 1, 2017.*

1 **21 NCAC 21 .0513 is amended as published in 31: 12 NCR 1239-1240 as follows with changes:**

2

3 **21 NCAC 21 .0513 DISQUALIFICATION OF BOARD MEMBERS**

4 (a) Self-disqualification. If for any reason a Board member determines that personal bias or other factors render him  
5 or her unable to participate in a contested case hearing and perform all duties in an impartial manner, he or she shall  
6 submit, in writing, to the Board, his or her disqualification and the reasons.

7 (b) Petition for Disqualification. If for any reason any party in a contested case believes that a Board member is  
8 personally biased or otherwise unable to participate in a contested case hearing and perform all duties in an impartial  
9 manner, the party may file a sworn, notarized affidavit with the Board. The title of such affidavit should-shall bear  
10 the notation: AFFIDAVIT OF DISQUALIFICATION OF BOARD MEMBER IN THE CASE OF (name-[name of  
11 case].case).

12 (c) Contents of Affidavit. The affidavit must-shall state all facts the party deems relevant to the disqualification of  
13 the Board member.

14 (d) Timeliness and Effect of Affidavit. An affidavit of disqualification will-shall be considered timely if filed ten  
15 days before the commencement of the hearing. Any other affidavit will be considered timely provided it is filed  
16 hearing or at the first opportunity after the party becomes aware of facts set forth in the affidavit, facts which give  
17 rise to a reasonable belief that the Board member may be disqualified under this Rule. Where a petition for  
18 disqualification is filed less than ten days before or during the course of a hearing, the hearing shall continue with  
19 the challenged Board member sitting. Petitioner shall have the opportunity to present evidence supporting his or her  
20 petition, and the petition and any evidence relative thereto presented at the hearing shall be made a part of the  
21 record. The Board, before rendering its decision, shall decide whether the evidence justifies disqualification. In the  
22 event of disqualification, the disqualified member will-shall not participate in further deliberation or decision of the  
23 case.

24 (e) Procedure for Determining Disqualification:

- 25 (1) the Board will-shall appoint a Board member to investigate the allegations of the affidavit;
- 26 (2) the investigator will-shall report to the Board the findings of the investigation;
- 27 (3) the Board shall decide whether to disqualify the challenged individual;
- 28 (4) the person whose disqualification is to be determined will-shall not participate in the decision but  
29 may be called upon to furnish information to the other members of the Board;
- 30 (5) when a Board member is disqualified prior to the commencement of the hearing or after the  
31 hearing has begun, such hearing will-shall continue with the remaining members sitting provided  
32 that the remaining members still constitute a majority of the ~~Board~~. Board; and
- 33 (6) if three or more members of the Board are disqualified pursuant to this Rule, the Board shall  
34 petition the Office of Administrative Hearings to appoint an administrative law judge to hear the  
35 contested case pursuant to G.S. 150B-40(e).
- 36

37 *History Note: Authority G.S. 89E-20; 150B-11; 150B-38; 150B-40;*

1                   *Eff. February 1, 1986;*  
2                   *Amended Eff. [~~June 1, 2017;~~]April 1, 1989;*  
3                   *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
4                   *16, ~~2014;~~ ~~2014;~~*  
5                   *Amended Eff. June 1, 2017.*



1 21 NCAC 21 .0514 is amended as published in 31: 12 NCR 1240 as follows with changes:

2  
3 21 NCAC 21 .0514 INVESTIGATION

4 (a) ~~As provided in G.S. 89E-17, valid complaints~~ Complaints received by the Board which are determined to be  
5 valid and within the jurisdiction of the Board following review by the Board Chair, the Executive Director, and the  
6 Board's Counsel and to provide the information required by rule .0501 shall be forwarded to an investigator for  
7 further inquiry as to whether the acts or omissions alleged violate the provisions of G.S. 89E, the Board's ~~Rules~~ code  
8 of Professional Conduct, ~~professional conduct~~, or any other rules of this Chapter. The Board's ~~executive director~~  
9 Executive Director shall notify the licensee or corporate registrant of the complaint ~~and advise the licensee or~~  
10 corporate registrant that:

11 (1) ~~He~~ The ~~the~~ licensee or corporate registrant has a duty to cooperate fully with the investigation by  
12 the Board; and

13 (2) ~~He~~ The ~~the~~ licensee or corporate registrant may submit a written response to the complaint.

14 (b) The investigator shall collect all information needed to determine whether a violation has occurred and the  
15 nature and severity of the violation. Information gathered during the course of an investigation shall be treated by  
16 the Board as confidential information in accordance with G.S. 89E-17(c) until the Board takes disciplinary action  
17 against the licensee or ~~registrant; registered corporation.~~ corporation; ~~however, the Board cannot ensure the~~  
18 confidentiality of any information introduced into evidence in a hearing conducted by the Office of Administrative  
19 Hearings upon referral from the Board, because the information becomes part of the public record of that agency at  
20 the time of introduction.

21 (c) After collecting information relevant to the complaint, the investigator shall submit a report ~~consisting that~~  
22 consists of the complaint, information gathered in the course of investigation, and the investigator's conclusion to a  
23 peer-review committee for evaluation. The peer-review committee shall consist of at least two licensed geologists.  
24 ~~professional geologists each of whom hold a currently valid license issued by the Board.~~ The peer reviewers and  
25 investigator ~~[investigators]~~ may consult to discuss the investigation into the complaint and their conclusions  
26 regarding the complaint. The peer reviewers shall prepare a written evaluation that documents whether any violation  
27 of the provisions of G.S. 89E, the Board's Rules of Professional Conduct, or any other rules of this Chapter ~~[Board's~~  
28 rules] has occurred.

29 (d) The investigation report ~~(including, but not limited to,~~ (including the supporting information relevant to the  
30 complaint) and the written evaluation of the peer-review committee shall be submitted to the Executive Director of  
31 the Board to be added to ~~combined with~~ the licensee's written response to the complaint, if any, for further  
32 proceedings in accordance with Rule .0515 of this Section.

33  
34 *History Note:* Authority G.S. 89E-5; 89E-17; 89E-20;  
35 Temporary Adoption Eff. November 24, 1999;  
36 Eff. August 1, 2000;  
37 Amended Eff. ~~[June 1, 2017;]~~ April 1, 2003;

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*Pursuant to G.S. 150B 21.3A, rule is necessary without substantive public interest Eff. December  
16, ~~2014,2014;~~  
Amended Eff. June 1, 2017.*

1 21 NCAC 21 .0515 is amended as published in 31: 12 NCR 1240-1241 as follows with changes:

2  
3 21 NCAC 21 .0515 DISCIPLINARY PROCEDURE

4 (a) Upon receipt of an investigation report and evaluation from the Board's investigator and peer review committee  
5 in accordance with Rule .0514 of this Section, the Board's Executive Director shall forward to the ~~Chairman~~ Chair  
6 of the Board (or to a member of the Board designated by the ~~Chairman~~ Chair) and the Board's ~~[counsel,]~~ counsel the  
7 investigation report, evaluation, and the supporting documentation along with the licensee's or registrant's written  
8 response to the complaint, if any.

9 (b) The ~~Chairman~~ Chair or his or her designee, ~~(or a member of the Board designated by the Chairman), [Chair],~~ in  
10 consultation with the Board's counsel, shall propose the disciplinary action for the ~~violation~~ violation(s)-revealed by  
11 the ~~investigation~~ investigation, consistent with the provisions of G.S. 89E-19. The ~~Chairman~~ Chair (or a member of  
12 the Board designated by the ~~Chairman~~ Chair) may issue a summary suspension pursuant to G.S. 150B-3(c). The  
13 ~~Chairman~~ Chair or his or her designee, may also propose dismissal of the complaint.

14 (c) After review of the investigation report, evaluation, and supporting documentation, the ~~Chair~~ ~~Chairman~~ shall  
15 notify the licensee or registrant of the proposed disciplinary action by certified mail sent to the last known address of  
16 the licensee or registrant as indicated ~~by~~ in the Board's official roster. This notification shall contain a summary of  
17 the alleged facts or conduct upon which the proposed disciplinary action is based, the effective date of the proposed  
18 disciplinary action, and an explanation of the licensee's or registrant's hearing rights pursuant to G.S. 150B, Article  
19 3A. Notification for summary suspensions shall meet the requirements of G.S. 150B-3(c).

20 (d) ~~The licensee or registrant has 15 days from receipt of notification of proposed disciplinary action to file with the~~  
21 ~~Board a written request for hearing.~~ Requests for hearing shall ~~must~~ be submitted, in writing, ~~received~~ at the Board's  
22 office ~~no later than~~ by 5:00 p.m. on the ~~15<sup>th</sup> day after receipt of notification of proposed disciplinary action.~~ ~~date~~  
23 ~~due.~~ If the licensee or registrant does not file a written request for hearing with the Board, the Board shall receive the  
24 ~~Chairman's~~ Chair's recommendation on disciplinary action at its next meeting. If, after ~~limited~~ review of ~~a summary~~  
25 ~~of the facts of the case,~~ case that does not include identifying information such as the licensee's name or license  
26 number, a majority of the Board agrees with the ~~Chairman's~~ Chair's recommendation, the proposed disciplinary  
27 action shall ~~become~~ become a final agency decision. If a majority of the Board does not agree with the ~~Chairman's~~  
28 Chair's recommendation, the Board shall review of the investigator's report without supporting documentation for  
29 the purpose of proposing an appropriate disciplinary action or dismissal. The ~~Chairman~~ Chair shall ~~will~~ not  
30 participate in the deliberations or the voting with regard to either his or her recommendation or the Board's decision  
31 regarding a substitute disciplinary action. A new notice of proposed disciplinary action ~~will~~ shall be sent to the  
32 licensee or registrant, if necessary, in accordance with the procedure set out in Paragraph (c) of this Rule, and the  
33 licensee or registrant ~~may file a request for hearing, in writing, at the Board's office no later than 5:00 p.m. on the~~  
34 ~~15<sup>th</sup> day after receipt of the new notice of proposed disciplinary action.~~ ~~has 15 days from receipt of the new notice of~~  
35 ~~proposed disciplinary action to file with the Board a written request for a hearing.~~ Requests for hearing ~~must be~~  
36 ~~received at the Board's office by 5:00 p.m. on the date due.~~

1 (e) The licensee or registrant may request a settlement conference; however, neither the request for settlement  
2 conference nor the Board's agreement to enter into settlement negotiations ~~will~~ shall extend the 15-day deadline for  
3 requesting an opportunity for a hearing or any other deadlines in the hearing process. The ~~Chairman~~ Chair or his or  
4 her designee ~~(or a member of the Board designated by the Chairman) (Chair)~~ is delegated authority to negotiate a  
5 settlement; however, the settlement agreement ~~must~~ shall be approved by a majority of the members of the Board  
6 before the proposed disciplinary action will be rescinded.

7 (f) Upon receipt of written request for hearing, the Board may conduct an administrative hearing as authorized by  
8 G.S. 150B-38 or the Board may request the Office of Administrative Hearings to conduct the hearing as authorized  
9 by G.S. 150B-40. Hearings shall be conducted in accordance with the rules of this Chapter.

10 (g) A majority of the members of the Board ~~other than the Chair or his or her designee~~ shall render the final agency  
11 decision, in accordance with G.S. 150B-42, after a hearing on the proposed disciplinary action. The ~~Chair or his or~~  
12 ~~her designee~~ Chairman, ~~(Chair,)~~ or if applicable the designated member, who proposed the disciplinary action after  
13 a full review of the facts available to the investigator and peer review committee shall not participate in the  
14 discussion of the contested case and shall not vote on the final decision for disciplinary action. Nothing in this Rule  
15 shall prevent members of the Board from participating in the discussion and vote on a final agency decision with  
16 regard to proposed disciplinary action if they have reviewed the investigator's report without supporting  
17 documentation solely for the purpose of determining whether probable cause existed to support the allegations of  
18 violation and for the purpose of proposing an appropriate disciplinary action.

19  
20 *History Note:* Authority G.S. 89E-5; 89E-19; 89E-20; 150B-3; 150B-38 through 150B-42;  
21 *Temporary Adoption Eff. November 24, 1999;*  
22 *Eff. August 1, 2000;*  
23 *Amended Eff. [June 1, 2017;] April 1, 2003;*  
24 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
25 *16, 2014; 2014.*  
26 *Amended Eff. June 1, 2017.*

1 21 NCAC 21 .0803 is amended as published in 31: 12 NCR 1241 as follows with changes:

2

3 21 NCAC 21 .0803 PETITION FOR RULEMAKING HEARINGS

4 (a) Any person wishing to submit a petition requesting the adoption, amendment, or repeal of a rule (the "proposed  
5 rule") by the Board shall file the petition with the Board. The first page of the petition shall clearly bear the notation:  
6 RULEMAKING PETITION RE and then state [state] the subject area [area]. The Petition shall contain the following  
7 information:

- 8 (1) the text of the proposed rule rule(s) for adoption or amendment;
- 9 ~~(2) the statutory authority for the agency to promulgate the rule(s);~~
- 10 ~~(3)~~(2) a statement of the reasons for adoption or amendment of the proposed rule(s); [rule(s);] rule or the  
11 repeal of an existing rule; [rule(s);]
- 12 ~~(4)~~(3) a statement of the proposed rule's effect on existing rules or orders;
- 13 ~~(5) copies of any documents and data supporting that support the proposed rule(s);~~
- 14 ~~(6) a statement of the effect of the proposed rule(s) on existing practices in the area involved,~~  
15 ~~including which may include cost factors for persons affected by the proposed rule(s);~~
- 16 ~~(7) a statement explaining that explains the computation of the cost factors;~~
- 17 ~~(8) a description, including the names and addresses, if known, of those most likely to be affected by~~  
18 ~~the proposed rule(s); and~~
- 19 ~~(9)~~(4) the name name(s) and address address(es) of the petitioner(s): petitioner(s); petitioner, and
- 20 (5) a request to present the petition to the Board, if desired.

21 (b) In its review of the proposed rule, the Board shall consider whether it has authority to adopt the rule; the effect  
22 of the proposed rule on existing rules, programs, and practices; probable costs and cost factors of the proposed rule;  
23 and the impact of the rule on the public and licensees. The petitioner may include the following information with  
24 within the request:

- 25 (1) the statutory authority for the agency to promulgate the rule; [rules(s);]
- 26 (2) a statement of the effect of the proposed rule(s) on existing practices in the area involved,  
27 including the cost [factors] for persons affected by the proposed rule; [rules(s);]
- 28 (3) a statement explaining the computation of the cost; [cost factors;]
- 29 (4) a description, including the names and addresses, if known, of those most likely to be affected by  
30 the proposed rule; [rules(s);] and
- 31 (5) documents and data supporting the proposed rule. [rule(s);]

32 ~~(b)(c)~~ An original and eight copies of the petition and supporting documents shall be filed with the Board.

33 ~~(c)(d)~~ Filings that do not failing to contain the information required by this Rule shall not be accepted and accepted.  
34 Incomplete filings shall be returned by the Chairman Chair to the person [person(s)] making the filing.

35

36 *History Note: Authority G.S. 89E-5; 150B-20;*

37 *Eff. February 1, 1986;*

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*Amended Eff. [~~June 1, 2017~~]April 1, 2003.*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, ~~2014-2014~~;*

*Amended Eff. June 1, 2017.*

1 21 NCAC 21 .0804 is amended as published in 31: 12 NCR 1242 as follows with changes:

2

3 21 NCAC 21 .0804 DISPOSITION OF PETITIONS **FOR RULEMAKING**

4 (a) The ~~Chairman~~ Chair may request additional information from the ~~petitioner(s), petitioner,~~ may contact any  
5 interested person or persons likely to be affected by the proposed rule and request comments, and may use any other  
6 appropriate method ~~for obtaining to obtain~~ additional information.

7 (b) When deemed complete by the ~~Chairman~~ Chair, petitions for rulemaking shall be presented to the Board for its  
8 consideration and determination at a ~~regularly schedule~~ **regularly-scheduled** meeting of the Board within 120 days  
9 following submission of the complete petition. The ~~Chairman~~ Chair shall determine the order and duration of  
10 discussion regarding the petition, including discussion by members of the public if any.

11 (c) Within 120 days following submission of the complete petition requesting rulemaking, unless the parties have  
12 agreed to an extension of time, the Board shall:

13 (1) initiate rulemaking proceedings in accordance with G.S. 150B-20 and notify the ~~person(s) who~~  
14 ~~submitted the petition of the decision~~ ~~petitioner~~ in ~~writing, writing;~~ or

15 (2) deny the petition in ~~writing, stating~~ ~~writing with~~ the ~~reason(s) reason~~ for the ~~denial, denial~~ and  
16 send the written denial to the ~~person(s) who submitted the petition, petitioner.~~

17

18 *History Note: Authority G.S. 89E-5; 150B-20;*

19 *Eff. February 1, 1986;*

20 *Amended Eff. [ ~~June 1, 2017;~~ ]April 1, 2003; April 1, 1989.*

21 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
22 *16, ~~2014-2014;~~*

23 *Amended Eff. June 1, 2017.*

1 21 NCAC 21 .0903 is amended as published in 31: 12 NCR 1242 as follows with changes:

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3 21 NCAC 21 .0903 DISPOSITION OF REQUESTS

4 (a) The Board's ~~Chairman~~ Chair shall make a determination on the completeness of the request for declaratory  
5 ruling based on the requirements of Rule .0902 of this Section, and he or she shall make a recommendation to the  
6 Board on whether to issue or decline to issue a declaratory ruling.

7 (b) Before deciding the merits of the request, the Board may:

- 8 (1) request additional written submissions from petitioner(s);  
9 (2) request a written response from any other person; or  
10 (3) hear oral argument upon written request from the petitioner ~~and~~ or other persons on the issues  
11 raised by the ~~request.~~ request if the Board determines oral argument would be helpful to its  
12 consideration of the request.

13 (c) Upon written request, the party requesting ~~[that requested]~~ the declaratory ruling and any other person by leave  
14 of the Board may be allowed to present oral arguments to the Board at a regularly scheduled meeting or special  
15 meeting called for the purpose of considering the request for declaratory ruling. No party ~~may~~ shall offer testimony  
16 or conduct cross-examination before the Board in a declaratory ruling proceeding.

17 (d) Whenever the Board determines for good cause ~~"good cause"~~ that the issuance of a declaratory ruling is  
18 undesirable, the Board may refuse to issue such ruling. The Board shall notify in writing the person ~~requesting that~~  
19 ~~requested the ruling,~~ ruling of ~~stating~~ the reasons for the refusal to issue a ruling on the request.

20 (e) For purposes of Paragraph ~~(e)~~ (d) of this Rule, the Board shall determine whether good cause exists by  
21 considering factors such as the following: ~~will ordinarily refuse to issue a ruling on a request for declaratory ruling~~  
22 ~~on finding that:~~

- 23 (1) whether the facts are in dispute;  
24 (2) whether there has been a similar determination in a previous contested case or declaratory ruling;  
25 (3) whether the matter is the subject of a pending contested case hearing or litigation in any North  
26 Carolina or federal court;  
27 (4) whether the factual context put forward as the subject of the declaratory ruling was specifically  
28 considered upon the adoption of the rule being questioned, as evidenced by the rulemaking record;  
29 and  
30 (5) whether no genuine controversy exists as to the application of a statute or rule to the specific  
31 factual situation ~~presented.~~ presented; or

32 ~~(6) other good cause exists for declining to issue the requested ruling.~~

33 ~~(f) A declaratory ruling is binding on the Board and on the person(s) requesting that requested it unless it is altered~~  
34 ~~or set aside by the court. The Board may not retroactively change a declaratory ruling, but nothing in this Section~~  
35 ~~prevents the Board from prospectively changing a ruling.~~

36 ~~(g) A declaratory ruling shall be deemed to be "in effect" until:~~

- 37 ~~(1) the statute or rule interpreted by the declaratory ruling is amended, altered, or repealed;~~



- 1 ~~(2) the Board changes the declaratory ruling prospectively for good reasons;~~
- 2 ~~(3) any court sets aside the ruling in litigation between the Board and the party requesting the ruling;~~
- 3 ~~or~~
- 4 ~~(4) until any court of the Appellate Division of the General Court of Justice shall construe the statute~~
- 5 ~~or rule which is the subject of the declaratory ruling in a manner plainly irreconcilable with the~~
- 6 ~~declaratory ruling.~~

7 (h) The requesting party may agree to allow the Board to extend the time by which to issue a ruling on the merits of  
8 the request pursuant to ~~beyond the 60 days allowed by~~ G.S. 150B-4.

9  
10 *History Note:* Authority G.S. 89E-5; 89E-20; 150B-4;  
11 Eff. February 1, 1986;  
12 Amended Eff. ~~[June 1, 2014;]~~ April 1, 2003; April 1, 1989;  
13 Pursuant to G.S. 105B 21.3A, rules is necessary without substantive public interest Eff. December  
14 16, ~~2014; 2014.~~  
15 Amended Eff. June 1, 2017.

1 21 NCAC 21 .1101 is amended as published in 31: 12 NCR 1242-1244 as follows with changes:

2  
3 21 NCAC 21 .1101 RULES OF PROFESSIONAL CONDUCT

4 (a) Each geologist licensed by the Board and each partnership, corporation, or other legal entity authorized to offer  
5 or perform geological services in this State shall comply with these Rules of Professional Conduct. ~~In order to~~  
6 ~~safeguard the life, health, property and welfare of the public and to establish and maintain a high standard of~~  
7 ~~integrity, skills, and practice in the profession of geology, these rules [Rules] of professional conduct [Professional~~  
8 ~~Conduct] shall be binding upon every person holding a certificate of license as a geologist, and on all partnerships or~~  
9 ~~corporations or other legal entities authorized to offer or perform geologic [geological] services in this state. All~~  
10 ~~persons licensed or [corporations] registered under the provisions of G.S. 89E are charged with having knowledge of~~  
11 ~~the existence of these Rules of professional conduct. [Professional Conduct.]~~

12 (b) The geologist shall conduct his or her practice in order to protect the public health, safety, and ~~welfare; welfare.~~

13 (1) The geologist shall at all times recognize his or her primary obligation to protect the safety, health,  
14 and welfare of the public in the performance of his or her professional duties. If his or her geologic  
15 judgment is overruled under circumstances where the safety, ~~health-health,~~ and welfare of the  
16 public are endangered, he or she shall inform his or her employer of the possible consequences  
17 and notify other proper authority of the ~~situation, situation, as may be appropriate.~~

18 (2) The geologist shall protect the public health, safety, and welfare by maintaining sufficient personal  
19 on-site involvement and continual direction and review of the activities of subordinates that  
20 constitute public practice of geology while such activities are in progress. The licensee ~~must shall~~  
21 provide such supervision and have sufficient knowledge of the project and site conditions  
22 necessary to assure accuracy and compliance with all applicable laws and ~~regulations, including~~  
23 ~~G.S. 89E and the rules of this Chapter. regulations (including, but not limited to, G.S. 89E and the~~  
24 ~~rules of this Chapter).~~

25 (c) The geologist shall perform his or her services only in areas of his or her competence:

26 (1) The geologist shall undertake to perform geologic assignments only when qualified by education  
27 or experience in the specific technical field of geology involved.

28 (2) The geologist may accept an assignment requiring education or experience outside of his or her  
29 own field of competence, but only to the extent that his or her services are restricted to those  
30 phases of the project in which he or she is qualified. All other phases of such project shall be  
31 performed by qualified associates, consultants, or employees.

32 (3) The geologist shall not affix his or her signature and seal to any document dealing with subject  
33 matter for which he or she lacks competence by virtue of education or experience or to any such  
34 plan or document not prepared under his or her direct supervisory control, except that the geologist  
35 may affix his or her seal and signature to drawings and documents depicting the work of two or  
36 more professionals provided he or she designates by note under his or her seal the specific subject  
37 matter for which he or she is responsible.

- 1 (d) The geologist shall issue public statements only in an objective and truthful manner:
- 2 (1) The geologist shall be completely objective and truthful in all professional reports, statements, or
- 3 testimony. He or she shall include all relevant and pertinent information in such reports,
- 4 ~~statements, statements~~ or testimony.
- 5 (2) The geologist when serving as an expert or technical witness before any court, commission, or
- 6 other tribunal shall express an opinion only when it is founded upon adequate knowledge of the
- 7 facts in issue, upon a background of technical competence in the subject matter, and upon honest
- 8 conviction of the accuracy ~~and propriety~~ of his or her testimony.
- 9 (3) The geologist ~~will~~ shall issue no statements, criticisms, or arguments on geologic matters
- 10 connected with public policy ~~which that~~ are inspired or paid for by an interested party or parties
- 11 unless he or she has prefaced his or her comments by explicitly identifying himself, by disclosing
- 12 the identities of the party or parties on whose behalf he or she is speaking, and by revealing the
- 13 existence of any pecuniary interest he or she may have in the instant matters.
- 14 (4) The geologist shall not attempt to injure, maliciously or falsely, directly or indirectly, the
- 15 professional reputation, prospects, practice, or employment of another geologist, nor shall he or
- 16 she maliciously criticize another geologist's work in public. If he or she believes that another
- 17 geologist is guilty of misconduct or illegal practice, he or she shall present such information to the
- 18 ~~Board. Board for action.~~
- 19 (e) The geologist shall not attempt to supplant another geologist in a particular employment after becoming aware
- 20 that the other has been selected for the employment.
- 21 (f) The geologist shall avoid conflicts of interest:
- 22 (1) The geologist shall conscientiously avoid conflicts of interest with his or her employer or ~~client,~~
- 23 ~~client but, but~~ when unavoidable, the geologist shall ~~forthwith~~ disclose the circumstances to his or
- 24 her employer or client.
- 25 (2) The geologist shall avoid all known conflicts of interest with his or her employer or ~~client client,~~
- 26 and shall promptly inform his or her employer or client of any business association, interest, or
- 27 circumstances which could influence his or her judgment or the quality of his or her services.
- 28 (3) The geologist shall not accept compensation, financial or otherwise, from more than one party for
- 29 services on the same ~~project, project~~ or for services pertaining to the same project, unless the
- 30 circumstances are fully disclosed ~~to,~~ and agreed ~~to to,~~ by all those parties.
- 31 (4) The geologist shall not solicit or accept financial or other valuable ~~considerations consideration~~
- 32 from material or equipment suppliers for specifying their products.
- 33 (5) The geologist shall not solicit or accept ~~any substantial~~ gratuities, directly or indirectly, from
- 34 contractors, their agents, or other parties dealing with his or her client or employer in connection
- 35 with work for which he or she is responsible.

- 1 (6) When in public service as a member, advisor, or employee of a governmental body or department,  
2 the geologist shall not participate in considerations or actions with respect to services provided by  
3 him or his or her organization in private geological practices.
- 4 (7) The geologist shall not solicit or accept a ~~geologic contract~~ contract for geological services from a  
5 governmental body on which a principal or officer of his or her business serves as a member.
- 6 (g) The geologist shall solicit or accept work only on the basis of his or her qualifications:
- 7 (1) The geologist shall not offer to pay, either directly or indirectly, any commission, political  
8 contribution, gift, or other consideration in order to secure work, exclusive of securing salaried  
9 positions through employment agencies.
- 10 (2) The geologist shall compete for professional employment on the basis of qualification and  
11 competence for proper accomplishment of the work. He or she shall not solicit or submit proposals  
12 for professional services ~~containing~~ that contain a false, fraudulent, misleading, deceptive, or  
13 unfair statement or claim regarding the cost, quality quality, or extent of services to be rendered.
- 14 (3) The geologist shall not falsify or permit misrepresentation of ~~his, his~~ or her ~~[her, or of] his [or her]~~  
15 ~~associates'~~ academic or professional qualifications nor of the qualifications of his or her associates.  
16 ~~qualifications.~~ He or she shall not misrepresent or exaggerate his or her degree of responsibility ~~in~~  
17 ~~or~~ for the subject matter of prior assignments. Brochures or other presentations incident to the  
18 solicitation of employment shall not misrepresent pertinent facts concerning employers,  
19 employees, joint ventures, ~~or his~~ or their past accomplishments with the intent and purpose of  
20 enhancing his or her qualifications and those of his or her work associates.
- 21 (h) The geologist shall associate only with reputable persons or organizations:
- 22 (1) The geologist shall not knowingly associate with or permit the use of his or her name or firm name  
23 in a business venture by any person or firm which he or she knows, or has reason to believe, is  
24 engaging in business or professional practices of a fraudulent or dishonest nature.
- 25 (2) If the geologist has knowledge or reason to believe that another person or firm may be in violation  
26 of any of these provisions or of the North Carolina Geologist Licensing Act, he or she shall  
27 present such information to the Board and furnish such further information or assistance as may be  
28 required by the Board.
- 29 (i) Conviction of a felony without restoration of civil ~~rights rights~~, or the revocation or suspension of the license of  
30 a geologist by another jurisdiction, if for a cause which in the State of North Carolina would constitute a violation of  
31 G.S. 89E or of these rules, shall be grounds for a charge of violation of these ~~Rules, for Rules and may result in the~~  
32 ~~revocation of the certificate of licensure or corporate registration issued by this Board, Board~~ and for the imposition  
33 of a civil penalty not to exceed five thousand dollars (\$5,000).

34  
35 *History Note: Authority G.S. 89E-5; 89E-16;*  
36 *Temporary Adoption Eff. November 24, 1999;*  
37 *Eff. August 1, 2000;*

1                    *Pursuant to G.S. 150B 21.3A, rule is necessary without substantive public interest Eff. December*  
2                    *16, 2014;*  
3                    *Amended Eff. June 1, 2017.*

1 **21 NCAC 21 .1102 is amended as published in 31: 12 NCR 1244 as follows with changes:**

2

3 **21 NCAC 21 .1102 RULES OF CONDUCT OF ADVERTISING**

4 (a) The geologist shall not make exaggerated, misleading, ~~deceptive~~deceptive, or false statements or claims  
5 about his or her professional qualifications, ~~experience~~experience, or performance in his or her brochures,  
6 correspondence, listing, or other public communications.

7 (b) The prohibitions listed in this Rule ~~include, but are not limited to, include~~ the use of statements ~~containing that~~  
8 contain a material misrepresentation of fact or omitting a material fact necessary to keep the statement from being  
9 misleading; statements intended or likely to create an unjustified ~~expectation; expectation~~, statements containing  
10 prediction of future ~~success; success~~, or statements containing an opinion as to the quality of services.

11 (c) Consistent with the foregoing, the geologist may advertise for the recruitment of personnel.

12 (d) Consistent with the foregoing, the geologist may prepare articles for the lay or technical press. Such articles  
13 shall not imply credit to the author for work performed by others.

14

15 *History Note: Authority G.S. 89E-5; 89E-16;*

16 *Temporary Adoption Eff. November 24, 1999;*

17 *Eff. August 1, 2000;*

18 *Pursuant to G.S. 21.3A, rule is necessary without substantive public interest Eff. December 16,*

19 *2014;*

20 *Amended Eff. June 1, 2017.*