REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Commerce

RULE CITATION: All Rules

**DEADLINE FOR RECEIPT: FRIDAY, APRIL 12, 2013**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*Please indicate in Box 6 of your Submission for Permanent Rule Forms when the Notice of Text was published in the Register. In addition, insert the link to the agency notice where indicated on the form.*

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

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Commerce

RULE CITATION: 04 NCA 24E .0101

**DEADLINE FOR RECEIPT: FRIDAY, APRIL 12, 2013**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*Delete or define “worker” on line 5.*

*Please change the citation on line 7 to “Rule .0102 of this Section.”*

*It appears that the reference in the History Note to G.S. 150B-20 is unnecessary. Please remove it.*

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

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Commerce

RULE CITATION: 04 NCA 24E .0102

**DEADLINE FOR RECEIPT: FRIDAY, APRIL 12, 2013**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*In (a), how would an individual know what section of DES the record is in?*

*Change “will” to “shall” on line 5. Delete “to that effect”.*

*Delete the” i.e.” on line 7; I suggest replacing it with “providing sufficient detail”.*

*Delete or define “reasonable” on line 8. Replace “should” on line 8 with “shall”*

*In (b), are you trying to say that each request must include the subject matter, the date, place and name of requester? If so, it should be rewritten to make it clearer. If not, then this language is ambiguous.*

*On line 11, delete or define “professional”, as well as “reasonable” on line 12.*

*In (d), how are you designating the individual responsible for determining the records request? Further, I suggest you clarify that the individual will follow federal and state law and regulations in determining whether the request will be granted.*

*In line 17, rewrite the sentence to state “If the request is denied, the requester will be notified in writing, with a brief statement including the reasons for the denial.”*

*In (e), what is a clearly unwarranted invasion of personal privacy? Give standards or define. In line 21, what details (personal? statistical?) will be deleted?*

*Paragraph (f) is very wordy and unclear. It should not be one sentence. It appears that you are allowing third parties to make a request for these records and you will fulfill them so long as the requester includes his name and address and a statement that the individuals have waived confidentiality. This statement does not have to be given by the individuals affected or provided, but simply included? This does not require a release and is not consistent with 20 CFR 603.5.*

*Paragraph (g) would be much easier to read if it were broken into subparts through line 31. Further, it appears that when DES makes the request, it will provide a form for the party to fill out. Therefore, (g) may be re-written thusly:*

*(g) When DES makes a request to an individual or employing entity to supply information about themselves, it will provide a form to that party. The form will include notice of the following:*

*(1) What the information will be used for;*

*(2) Which persons outside of DES may be …*

*In (g), change “might” on line 30 to “may”. When you refer to “persons” on line 30, are you referring to the specific individuals cited in the statute (the Secretary of HHS)? If so, then you may wish to say “public officials”. If you are referring to other persons, then I do not see that you have the authority to do this without stating who these other people are in the Rule. (And even then, there may not be authority, depending upon who those individuals are.)*

*On 31, remove the “a” before failure.*

*Beginning on line 32, remove the “Furthermore” and re-write the sentence to state, “DES will notify the individual or employing entity that it will take all precautions to keep the information confidential and privileged pursuant to G.S. 96-4(x), but cannot ensure that confidentiality if the information is submitted via the Internet or other electronic means.”*

*In Paragraph (h), line 4, capitalize Rule and change the reference to “Rule .0103 of this Section”. Further, the sentence is much too long and confusing. You need to rewrite it to state in clear language what you are trying to say.*

*I do not see your authority in (h) to allow a third party to seek information for an individual without a signed release, required in 20 CFR 603.5.*

*It appears that the reference in the History Note to G.S. 150B-20 is unnecessary. Further, change your citation to Code of Federal Regulations to 20 CFR 603. [See Rule 26 NCAC 02C .0109(a)]*

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

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REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Commerce

RULE CITATION: 04 NCA 24E .0103

**DEADLINE FOR RECEIPT: FRIDAY, APRIL 12, 2013**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*In (a) and (b), do not use dashes at the end of the word; instead, use colons.*

*In Rule .0101 of the Section, you refer to professional staff determining whether the request can be fulfilled. This rule only charges for the work of custodial or clerical personnel. Is that your intent?*

*In (a)(3), you provide for giving an estimate to the parties. Why are you restricting the estimate to just that one Subparagraph? Further, rewrite this to be in the active voice, “DES will provide the requesting party with an estimate of the cost to produce the information.”*

*It appears that (a)(4) should be its own paragraph, as it appears that the absolute floor will be $15 for any document received. If instead it is meant to state that the search fee will be a minimum of $15.00, then there is some question whether this fee is reasonable.*

*On line 17, replace “subpart” with “Paragraph”, assuming that is what you mean.*

*In (b)(2), what is the “Standard Transcript Fee”? In (b)(4), what is the Duplicate Tape Recording Fee? What are you charging the parties receiving the copies under G.S. 96-15(f)?*

*I assume (b)(5) is the invoice fee for anything, including search fees. If that is the case, it should be its own paragraph.*

*It appears that the reference in the History Note to G.S. 150B-20 and 132-1.10 (which is what I assume you are referring to) is unnecessary.*

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

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Department of Commerce

RULE CITATION: 04 NCA 24E .0104

**DEADLINE FOR RECEIPT: FRIDAY, APRIL 12, 2013**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*In (a) change the reference to “Rule .0103 of this Section.” Change “will” to “shall.” Change “in” to “by.” Put a period after check, and begin the new sentence, “An agency.” What is the “customary draft”?*

*In Paragraph (b), how will you know before the search the time for the search and the copying fee that will be involved? Further, what standards will be used to “assure to the satisfaction of the individual retrieving the information”? What is a “substantial” search?*

*In Paragraph (c), what records or documents are customarily furnished to the parties?*

*On line 10, insert a comma after “matters”*

*One line 13, delete “pursuant above”. What is an “official investigation”? What documentation will be necessary to show it is an official investigation?*

*Why not just rewrite Paragraph (e) to state, “The individual fulfilling the request will send an invoice. The invoice shall instruct the requestor to submit the fee to the North Carolina Department of Commerce, Division of Employment Security, ATTN: Finance and Budget, Post Office Box 25903, Raleigh, NC 27611”?*

*Does the invoice go out with the requested documents, or is it sent before and the documents released upon payment?*

*It appears that the reference in the History Note to G.S. 150B-20 and 132-1.10 (which is what I assume you are referring to) is unnecessary. Correct your citation for the Code of Federal Regulations to 20 CFR and tell what Part or subparts you are referring to.*

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

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.