

## Burgos, Alexander N

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**Subject:** FW: Notice of Objection to Temporary Rules

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**From:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>

**Sent:** Thursday, August 29, 2024 10:22 AM

**To:** Hayworth, Anna <[Anna.Hayworth@ncagr.gov](mailto:Anna.Hayworth@ncagr.gov)>; McLennan, Christopher <[cmclennan@ncdoj.gov](mailto:cmclennan@ncdoj.gov)>; Hosford, Robert L <[Robert.Hosford@ncagr.gov](mailto:Robert.Hosford@ncagr.gov)>

**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>

**Subject:** RE: Notice of Objection to Temporary Rules

Received. Thank you for your email.

**William W. Peaslee**

**Rules Review Commission Counsel / Legislative Liaison**

Office of Administrative Hearings

1711 New Hope Church Road

Raleigh NC, 27609

(984) 236-1939

[Bill.Peaslee@oah.nc.gov](mailto:Bill.Peaslee@oah.nc.gov)

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**From:** Hayworth, Anna <[Anna.Hayworth@ncagr.gov](mailto:Anna.Hayworth@ncagr.gov)>

**Sent:** Wednesday, August 28, 2024 3:06 PM

**To:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>; McLennan, Christopher <[cmclennan@ncdoj.gov](mailto:cmclennan@ncdoj.gov)>; Hosford, Robert L <[Robert.Hosford@ncagr.gov](mailto:Robert.Hosford@ncagr.gov)>

**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>

**Subject:** RE: Notice of Objection to Temporary Rules

Robert, please forward this onto Keith Beavers.

Mr. Peaslee, we would like to withdraw these rules. We will be resubmitting the temporary rules under the NCAFA.

**Anna R. Hayworth | Agricultural Programs Specialist**

*Office of the Assistant Commissioner of Consumer Protection*

*NC Department of Agriculture and Consumer Services*

1002 Mail Service Center | Raleigh, NC 27699

**Office: (984) 236-4509 (new office)**

Cell: (919) 745-9356

[anna.hayworth@ncagr.gov](mailto:anna.hayworth@ncagr.gov)

## **Burgos, Alexander N**

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**From:** Peaslee, William W  
**Sent:** Wednesday, August 28, 2024 11:41 AM  
**To:** Mclennan, Christopher; Hayworth, Anna  
**Cc:** Hosford, Robert L; Burgos, Alexander N  
**Subject:** Notice of Objection to Temporary Rules  
**Attachments:** 08.2024 NC Ag Fin Authority Objection Letter.docx; 08.24 Staff Opinion 02 NCAC 63 Temp.doc

Good afternoon,

Attache please find the notice of objection to the temporary rules considered at this morning's' Rules Review Commission meeting. Please forward these documents to Chairman Beavers as I do not have his email address. In the alternative please provide me his email address and I will send them to him directly.

As always if you have any questions please let me know.

Thank you.

**William W. Peaslee**  
**Rules Review Commission Counsel / Legislative Liaison**  
Office of Administrative Hearings  
1711 New Hope Church Road  
Raleigh NC, 27609  
(984) 236-1939  
[Bill.Peaslee@oah.nc.gov](mailto:Bill.Peaslee@oah.nc.gov)

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## Burgos, Alexander N

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**From:** Peaslee, William W  
**Sent:** Friday, August 23, 2024 4:41 PM  
**To:** McLennan, Christopher  
**Cc:** Hayworth, Anna; Burgos, Alexander N  
**Subject:** RE: [External] Notice for 02 NCAC 63 .0102, .0104, .0105, and .0106

Thank you for your email. Have a good weekend.

**William W. Peaslee**  
**Rules Review Commission Counsel / Legislative Liaison**  
Office of Administrative Hearings  
1711 New Hope Church Road  
Raleigh NC, 27609  
(984) 236-1939  
[Bill.Peaslee@oah.nc.gov](mailto:Bill.Peaslee@oah.nc.gov)

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**From:** McLennan, Christopher <Cmclennan@ncdoj.gov>  
**Sent:** Friday, August 23, 2024 4:40 PM  
**To:** Peaslee, William W <bill.peaslee@oah.nc.gov>  
**Cc:** Hayworth, Anna <Anna.Hayworth@ncagr.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** [External] Notice for 02 NCAC 63 .0102, .0104, .0105, and .0106

Some people who received this message don't often get email from [cmclennan@ncdoj.gov](mailto:cmclennan@ncdoj.gov). [Learn why this is important](#)

**CAUTION:** External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Mr. Peaslee:

Good afternoon. Pursuant to 26 NCAC 05 .0105(b), the North Carolina Department of Agriculture and Consumer Services (including the Agricultural Finance Authority) hereby gives notice that it would like to make an oral presentation in support of 02 NCAC 63 .0102, .0104, .0105, and .0106 at the Rules Review Commission meeting on August 28, 2024. I will be presenting on behalf of NCDA&CS, AFA and my contact information is listed below.

Please let me know if any additional information is needed.

Best regards,  
Chris McLennan  
919-508-7502



**Christopher R. McLennan**

Special Deputy Attorney General

Services to State Agencies Section

Phone: 919-716-6507 & 919-707-3029

Email: [cmclennan@ncdoj.gov](mailto:cmclennan@ncdoj.gov)

114 W. Edenton St., Raleigh, NC 27603

P.O. Box 629, Raleigh, NC 27602-0629

ncdoj.gov

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## **Burgos, Alexander N**

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**From:** Peaslee, William W  
**Sent:** Friday, August 23, 2024 4:12 PM  
**To:** Hayworth, Anna  
**Cc:** Burgos, Alexander N  
**Subject:** RE: 02 NCAC 63 .0101

Ms. Hayworth,

Thank you for your email.

When temporary rules are filed they must be considered by the RRC with 15 business days pursuant to G.S. 150B-21.1(b). Accordingly, the RRC has decided to consider them at the August RRC meeting rather than hold a special meeting.

I have issued multiple opinions on different rules and one opinion covering all the rules.

The opinions appear on the OAH website after Alex Burgos receives them. It is my practice to send them to him at the same time I notify the agencies. If effect, you know before anyone else does.

**William W. Peaslee**  
**Rules Review Commission Counsel / Legislative Liaison**  
Office of Administrative Hearings  
1711 New Hope Church Road  
Raleigh NC, 27609  
(984) 236-1939  
[Bill.Peaslee@oah.nc.gov](mailto:Bill.Peaslee@oah.nc.gov)

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**From:** Hayworth, Anna <Anna.Hayworth@ncagr.gov>  
**Sent:** Friday, August 23, 2024 4:00 PM  
**To:** Peaslee, William W <bill.peaslee@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: 02 NCAC 63 .0101

Mr. Peaslee,

I was under the impression from the rulemaking calendar that these rules would be considered at the September meeting, not the August meeting. Is this incorrect?

Also, for clarification, is the attached objection the complete and final version that will be considered? There were a few versions that had come through and I want to make sure we have the correct one. I do not believe that the attached version is currently on the OAH website with the agenda for the August meeting.

**NORTH CAROLINA REGISTER**  
Publication Schedule for January 2024 – December 2024

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 <sup>th</sup> day from publication in the Register
38:13	01/02/24	12/06/23	01/17/24	03/04/24	03/20/24	04/30/2024	05/01/24	09/28/24
38:14	01/16/24	12/19/23	01/31/24	03/18/24	03/20/24	04/30/2024	05/01/24	10/12/24
38:15	02/01/24	01/10/24	02/16/24	04/01/24	04/20/24	05/29/2024	06/01/24	10/28/24
38:16	02/15/24	01/25/24	03/01/24	04/15/24	04/20/24	05/29/2024	06/01/24	11/11/24
38:17	03/01/24	02/09/24	03/16/24	04/30/24	05/20/24	06/26/2024	07/01/24	11/26/24
38:18	03/15/24	02/23/24	03/30/24	05/14/24	05/20/24	06/26/2024	07/01/24	12/10/24
38:19	04/01/24	03/08/24	04/16/24	05/31/24	06/20/24	07/31/2024	08/01/24	12/27/24
38:20	04/15/24	03/22/24	04/30/24	06/14/24	06/20/24	07/31/2024	08/01/24	01/10/25
38:21	05/01/24	04/10/24	05/16/24	07/01/24	07/20/24	08/28/2024	09/01/24	01/26/25
38:22	05/15/24	04/24/24	05/30/24	07/15/24	07/20/24	08/28/2024	09/01/24	02/09/25
38:23	06/03/24	05/10/24	06/18/24	08/02/24	08/20/24	09/25/2024	10/01/24	02/28/25
38:24	06/17/24	05/24/24	07/02/24	08/16/24	08/20/24	09/25/2024	10/01/24	03/14/25
39:01	07/01/24	06/10/24	07/16/24	08/30/24	09/20/24	10/30/2024	11/01/24	03/28/25
39:02	07/15/24	06/21/24	07/30/24	09/13/24	09/20/24	10/30/2024	11/01/24	04/11/25
39:03	08/01/24	07/11/24	08/16/24	09/30/24	10/20/24	11/26/2024	12/01/24	04/28/25
39:04	08/15/24	07/25/24	08/30/24	10/14/24	10/20/24	11/26/2024	12/01/24	05/12/25
39:05	09/03/24	08/12/24	09/18/24	11/04/24	11/20/24	12/19/2024	01/01/25	05/31/25
39:06	09/16/24	08/23/24	10/01/24	11/15/24	11/20/24	12/19/2024	01/01/25	06/13/25
39:07	10/01/24	09/10/24	10/16/24	12/02/24	12/20/24	*01/29/2025	02/01/25	06/28/25
39:08	10/15/24	09/24/24	10/30/24	12/16/24	12/20/24	*01/29/2025	02/01/25	07/12/25
39:09	11/01/24	10/11/24	11/16/24	12/31/24	01/20/25	*02/26/2025	03/01/25	07/29/25
39:10	11/15/24	10/24/24	11/30/24	01/14/25	01/20/25	*02/26/2025	03/01/25	08/12/25
39:11	12/02/24	11/06/24	12/17/24	01/31/25	02/20/25	*03/26/2025	04/01/25	08/29/25
39:12	12/16/24	11/21/24	12/31/24	02/14/25	02/20/25	*03/26/2025	04/01/25	09/12/25

\*Dates not approved by the RRC

This document is prepared by the Office of Administrative Hearings as a public service and is not to be deemed binding or controlling.

## **RRC STAFF OPINION**

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

AGENCY: North Carolina Agricultural Finance Authority

RULE CITATION: 02 NCAC 63 .0101, Temporary Rule

RECOMMENDATION DATE: August 23, 2024

RECOMMENDED ACTION:

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

COMMENT:

### Background

The North Carolina Agricultural Finance Authority (hereinafter “the Authority”) was established by Chapter 122D, the 1983 North Carolina Agricultural Finance Act (hereinafter “the Act”), specifically G.S. 122D-4. While the Authority is “a body politic and corporate” “within the Department of Agriculture and Consumer Services” (hereinafter “the Department”), the Authority has rulemaking authority independent of the Department pursuant to G.S. 122D-6(4) to “adopt, promulgate and amend rules for the administration of this Chapter.” <sup>1</sup>

In Part X of Session Law 2023-134 (the “Current Operations Appropriations Act of 2023” more commonly known as the “Budget Bill”), the General Assembly adopted Article 88, titled the “Large Animal Healthcare Enhancement Act,” as part of Chapter 106 of the North Carolina

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<sup>1</sup> THE DEPARTMENT IS ONLY MENTIONED FOUR TIMES IN THE ACT AND DOES NOT APPEAR TO PLAY A SIGNIFICANT ROLE IN THE OPERATIONS OF THE AUTHORITY. IT APPEARS TO HAVE A SIMILAR RELATIONSHIP AS THE OFFICE OF ADMINISTRATIVE HEARINGS HAS TO THE RULE REVIEW COMMISSION.

William W. Peaslee  
Commission Counsel

General Statutes. <sup>2</sup> Part X establishes the Large Animal Healthcare Enhancement Fund within the Department of Agriculture and Consumer Services to be “administered by the Authority.”

In Part X of S.L. 2023-134, the General Assembly mandates that the Authority “adopt rules temporary rules to implement this section as soon as practicable...”<sup>3</sup>

Part X of S.L. 2023-134 further creates G.S. 106-1073 which establishes “The Large Animal Healthcare Enhancement Advisory Committee” (hereinafter, “the Committee”).

Part X of S.L. 2023-134 further creates G.S. 106-1074 which provides in relevant part:

*(e) Limitations. –The Advisory Committee shall review applicants on an annual basis to determine eligibility under the criteria developed under subsection (c) of this section. The Advisory Committee shall also review each recipient of grant funds at the end of each fiscal year. A recipient whose veterinary license expires, is revoked, or is suspended during the fiscal year in which the grant is awarded, or who fails to practice large animal veterinary medicine in the designated counties named in the recipient's application, shall repay the amount received from the Fund.*

The implication is that the Committee will make grant funding decisions.

## I.

The above captioned rule, which is mostly preambulatory in nature and arguably unnecessary pursuant to G.S. 150B021-9(a)(4), states that the Committee and its Chair<sup>4</sup> is “under the guidance of the [Department]” implying that the Department has some managerial authority over the Committee.

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<sup>2</sup> CHAPTER 106 IS ENTITLED “AGRICULTURE.”

<sup>3</sup> In the History Note for each rule the Authority cites G.S. 106-1074 as its authority to adopt rules. The language of G.S. 106-1074 does not contain rulemaking authority; only Section 10.1(c) of S.L. 2023-134 does. This error can and should be easily remedied. The Authority may want to consider asking the General Assembly to write its rulemaking authority into Article 88 of Chapter 106 of the North Carolina General Statutes rather than just the Session Law.

<sup>4</sup> THE COMMISSIONER OF AGRICULTURE OR AN EMPLOYEE OF THE DEPARTMENT SHALL SERVE AT THE CHAIR OF THE COMMITTEE PURSUANT TO G.S. 106-1073(A)(1) AS ADOPTED IN PART X OF S.L. 2023-134.

William W. Peaslee  
Commission Counsel

Staff sees no language which places either the Committee or its Chair under any authority of the Department.

Staff counsel inquired about this issue in the request for changes. As of the issuance of this opinion, the Authority has not responded.

Further, it is under clear what the Authority means by “guidance.”

Accordingly, staff recommends objection to the temporary rules pursuant to G.S. 150B-21.9(a)(1) for the Authority adopting a rule which exceeds its authority and (a)(2) for the ambiguity of the language.

## II.

The above captioned rule also states that, “Procedures and guidelines for participating applicants shall also be described [in the Section.]” “Guidelines” do not meet the definition of “rules” and therefore cannot be adopted as rules and entered into the North Carolina Administrative Code. Staff’s recommendation is consistent with the Commission’s previous decisions.

Accordingly, staff recommends objection to the temporary rules pursuant to G.S. 150B-21.9(a)(1) for the Authority adopting a rule which exceeds its authority and (a)(4) for the ambiguity of the language.

**§ 150B-21.9. Standards and timetable for review by Commission.**

(a) Standards. - The Commission must determine whether a rule meets all of the following criteria:

- (1) It is within the authority delegated to the agency by the General Assembly.
- (2) It is clear and unambiguous.
- (3) It is reasonably necessary to implement or interpret an enactment of the General Assembly, or of Congress, or a regulation of a federal agency. The Commission shall consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed.
- (4) It was adopted in accordance with Part 2 of this Article.

The Commission shall not consider questions relating to the quality or efficacy of the rule but shall restrict its review to determination of the standards set forth in this subsection.

The Commission may ask the Office of State Budget and Management to determine if a rule has a substantial economic impact and is therefore required to have a fiscal note. The Commission must ask the Office of State Budget and Management to make this determination if a fiscal note was not prepared for a rule and the Commission receives a written request for a determination of whether the rule has a substantial economic impact.

(a1) Entry of a rule in the North Carolina Administrative Code after review by the Commission creates a rebuttable presumption that the rule was adopted in accordance with Part 2 of this Article.

(b) Timetable. - The Commission must review a permanent rule submitted to it on or before the twentieth of a month by the last day of the next month. The Commission must review a rule submitted to it after the twentieth of a month by the last day of the second subsequent month. The Commission must review a temporary rule in accordance with the timetable and procedure set forth in G.S. 150B-21.1. (1991, c. 418, s. 1; 1995, c. 507, s. 27.8(f); 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2003-229, s. 9.)

## **§ 150B-2. Definitions.**

As used in this Chapter, the following definitions apply:

- (1) Administrative law judge. - A person appointed under G.S. 7A-752, 7A-753, or 7A-757.
- (1a) Adopt. - To take final action to create, amend, or repeal a rule.
- (1b) Agency. - An agency or an officer in the executive branch of the government of this State. The term includes the Council of State, the Governor's Office, a board, a commission, a department, a division, a council, and any other unit of government in the executive branch. A local unit of government is not an agency.
- (1c) Codifier of Rules. - The person appointed by the Chief Administrative Law Judge of the Office of Administrative Hearings pursuant to G.S. 7A-760(b).
- (1d) Commission. - The Rules Review Commission.
- (2) Contested case. - An administrative proceeding pursuant to this Chapter to resolve a dispute between an agency and another person that involves the person's rights, duties, or privileges, including licensing or the levy of a monetary penalty. The term does not include rulemaking, declaratory rulings, or the award or denial of a scholarship, a grant, or a loan.
- (2a) Repealed by Session Laws 1991, c. 418, s. 3.
- (2b) Hearing officer. - A person or group of persons designated by an agency that is subject to Article 3A of this Chapter to preside in a contested case hearing conducted under that Article.
- (3) License. - Any certificate, permit, or other evidence, by whatever name called, of a right or privilege to engage in any activity, except licenses issued under Chapter 20 and Subchapter I of Chapter 105 of the General Statutes, occupational licenses, and certifications of electronic poll books, ballot duplication systems, or voting systems under G.S. 163-165.7.
- (4) Licensing. - Any administrative action issuing, failing to issue, suspending, or revoking a license or occupational license. The term does not include controversies over whether an examination was fair or whether the applicant passed the examination.
- (4a) Occupational license. - Any certificate, permit, or other evidence, by whatever name called, of a right or privilege to engage in a profession, occupation, or field of endeavor that is issued by an occupational licensing agency.
- (4b) Occupational licensing agency. - Any board, commission, committee, or other agency of the State that is established for the primary purpose of regulating the entry of persons into, or the conduct of persons within a particular profession, occupation, or field of endeavor, and that is authorized to issue and revoke licenses. The term does not include State agencies or departments that may as only a part of their regular function issue permits or licenses.
- (5) Party. - Any person or agency named or admitted as a party or properly seeking as of right to be admitted as a party and includes the agency as appropriate.
- (5a) Person. - Any natural person, partnership, corporation, body politic, and any unincorporated association, organization, or society that may sue or be sued under a common name.

- (6) Person aggrieved. - Any person or group of persons of common interest directly or indirectly affected substantially in his, her, or its person, property, or employment by an administrative decision.
- (7) Recodified as subdivision (5a) of this section by Session Laws 2021-88, s. 16(a), effective July 22, 2021.
- (7a) Policy. - Any nonbinding interpretive statement within the delegated authority of an agency that merely defines, interprets, or explains the meaning of a statute or rule. The term includes any document issued by an agency that is intended and used purely to assist a person to comply with the law, such as a guidance document.
- (8) Residence. - Domicile or principal place of business.
- (8a) Rule. - Any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency. The term includes the establishment of a fee and the amendment or repeal of a prior rule. The term does not include the following:
- a. Statements concerning only the internal management of an agency or group of agencies within the same principal office or department enumerated in G.S. 143A-11 or 143B-6, including policies and procedures manuals, if the statement does not directly or substantially affect the procedural or substantive rights or duties of a person not employed by the agency or group of agencies.
  - b. Budgets and budget policies and procedures issued by the Director of the Budget, by the head of a department, as defined by G.S. 143A-2 or G.S. 143B-3, or by an occupational licensing board, as defined by G.S. 93B-1.
  - c. Nonbinding interpretative statements within the delegated authority of an agency that merely define, interpret, or explain the meaning of a statute or rule.
  - d. A form, the contents or substantive requirements of which are prescribed by rule or statute.
  - e. Statements of agency policy made in the context of another proceeding, including:
    1. Declaratory rulings under G.S. 150B-4.
    2. Orders establishing or fixing rates or tariffs.
  - f. Requirements, communicated to the public by the use of signs or symbols, concerning the use of public roads, bridges, ferries, buildings, or facilities.
  - g. Statements that set forth criteria or guidelines to be used by the staff of an agency in performing audits, investigations, or inspections; in settling financial disputes or negotiating financial arrangements; or in the defense, prosecution, or settlement of cases.
  - h. Scientific, architectural, or engineering standards, forms, or procedures, including design criteria and construction standards used to construct or maintain highways, bridges, or ferries.



- i. Job classification standards, job qualifications, and salaries established for positions under the jurisdiction of the State Human Resources Commission.
  - j. Establishment of the interest rate that applies to tax assessments under G.S. 105-241.21.
  - k. The State Medical Facilities Plan, if the Plan has been prepared with public notice and hearing as provided in G.S. 131E-176(25), reviewed by the Commission for compliance with G.S. 131E-176(25), and approved by the Governor.
  - l. Standards adopted by the State Chief Information Officer and applied to information technology as defined in G.S. 143B-1320.
- (8b) Repealed by Session Laws 2011-398, s. 61.2, effective July 25, 2011.
- (8c) Substantial evidence. - Relevant evidence a reasonable mind might accept as adequate to support a conclusion.
- (9) Repealed by Session Laws 1991, c. 418, s. 3. (1973, c. 1331, s. 1; 1975, 2nd Sess., c. 983, ss. 61, 62; 1977, c. 915, s. 5; 1983, c. 641, s. 1; 1985, c. 746, s. 1; 1985 (Reg. Sess., 1986), c. 1022, s. 1(2)-1(5); 1987, c. 878, ss. 1, 2, 21; 1987 (Reg. Sess., 1988), c. 1111, s. 17; 1991, c. 418, s. 3; c. 477, ss. 3.1, 3.2, 9; 1995, c. 390, s. 29; 1996, 2nd Ex. Sess., c. 18, s. 7.10(g); 1997-456, s. 27; 2003-229, s. 12; 2007-491, s. 44(1)b; 2011-13, s. 2; 2011-398, ss. 15, 61.2; 2013-188, s. 7; 2013-382, s. 9.1(c); 2013-413, s. 1; 2015-2, s. 2.2(c); 2015-241, ss. 7A.3, 30.16(a); 2017-6, s. 3; 2018-13, s. 3.8(b); 2018-146, ss. 3.1(a), (b), 4.5(b); 2021-88, s. 16(a), (b).)

**§ 122D-4. North Carolina Agricultural Finance Authority.**

(a) The North Carolina Agricultural Finance Authority, a body politic and corporate, is hereby created within the Department of Agriculture and Consumer Services. The Authority shall be constituted a public agency and an instrumentality of the State for the performance of essential public functions.

(b) The Authority shall be composed of 10 members appointed to three-year terms as follows:

- (1) One member appointed by the Governor to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by three.
- (2) One member appointed by the Governor to a term that expires on 1 July of years that are evenly divisible by three.
- (3) One member appointed by the Governor to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by three.
- (4) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by three.
- (5) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that are evenly divisible by three.
- (6) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by three.
- (7) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by three.
- (8) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that are evenly divisible by three.
- (9) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by three.
- (10) The Commissioner or the Commissioner's designee shall serve ex officio, with the same rights and privileges, including voting rights, as other members.

(c) A member appointed under subdivisions (1) through (9) of subsection (b) of this section may be reappointed to no more than two successive three-year terms. Upon the expiration of a three-year term, a member shall continue to serve until a successor is appointed and duly qualified as provided by G.S. 128-7.

(d) Vacancies in the offices of any appointed members of the Authority shall be filled in accordance with G.S. 120-122 for the remainder of the unexpired term. No vacant office shall be included in the determination of a quorum. No vacancy in office shall impair the rights of the members to exercise all rights and to conduct official business of the Authority.

(e) The domicile of the Authority shall be the City of Raleigh.

(f) A majority of the members shall constitute a quorum for the transaction of official business. All official actions of the Authority shall require an affirmative vote of a majority of the members present and voting at any meeting.

(g) Members of the Authority shall not receive any salary for the performance of their duties as members. Appointed members may receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(h) The Authority shall meet quarterly and may meet more frequently upon call.

(i) The Authority may delegate to one or more of its members, officers, employees or agents such powers and duties as it may deem proper. (1983, c. 789, s. 1; 1985, c. 583, s. 2; 1985 (Reg. Sess., 1986), c. 1011, s. 1; 1989, c. 500, s. 109(e); 1989 (Reg. Sess., 1990), c. 1074, s. 32(b); 1995, c. 490, s. 4; 1997-261, s. 109; 2004-195, s. 5.1.)

#### **§ 122D-6. General powers of Authority.**

The Authority shall have all the powers necessary to give effect to and carry out the purposes and provisions of this Chapter, including the following powers in addition to all other powers granted by other provisions of this Chapter, to:

- (1) Sue and be sued in its own name and in the name of any subsidiary corporation or entity which may be created pursuant to paragraph (19) of this section;
- (2) Have a seal and alter the same at its pleasure;
- (3) Adopt bylaws for the internal organization and government of the Authority;
- (4) **Adopt, promulgate and amend rules for the administration of the Chapter;**
- (4a) Limit the definition of agricultural loan under G.S. 122D-3(1);
- (5) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this Chapter with any federal or State governmental agency, public or private corporation, lending institution or other entity or person, and each and any North Carolina governmental agency is hereby authorized to enter into contracts and otherwise cooperate with the agency to facilitate the purposes of this Chapter;
- (6) Accept, administer and expend donations of movable or immovable property from any source, and receive, administer and expend appropriations from the legislature and financial assistance, guarantees, insurance or subsidies from the federal or State government;
- (7) Subject to the rights of holders of bonds of the Authority, to renegotiate, refinance or foreclose on any mortgage, security interest or lien; or commence any action to protect or enforce any right or benefit conferred upon the Authority by any law, mortgage, security interest, lien, contract or other agreement; and bid for and purchase property at any foreclosure or at any other sale or otherwise acquire or take possession of any property; and in any such event, the Authority may complete, administer, pay the principal of and interest on any obligation incurred in connection with such property, dispose of and otherwise deal with such property in such manner as may be necessary or desirable to protect the interest of the Authority or of holders of its bonds therein;
- (8) Procure or provide for the procurement of insurance or reinsurance against any loss in connection with its property or operations, including but not limited to insurance, reinsurance or other guarantees from any federal or State governmental agency or private insurance company for the payment of any bonds issued by the Authority, or bond, notes or any other obligations or evidences of indebtedness issued or made by any subsidiary corporation or entity created pursuant to subdivision (19) of this section or by any lending institution or other entity or person, or insurance or reinsurance against loss with respect to agricultural loans, mortgages or mortgage loans, or any other type of loans, including the power to pay premiums on such insurance or reinsurance;
- (9) Make, insure, coinsure, reinsure, or cause to be insured, coinsured or reinsured, agricultural loans, mortgage loans or mortgages, or any other type of loans and pay or receive premiums on such insurance, coinsurance or reinsurance, and establish reserves for losses, and participate in the insurance, coinsurance or reinsurance of agricultural loans, mortgage loans or mortgages, or any other type of loans with the federal or State government or any private insurance company;

- (10) Undertake and carry out or authorize the completion of studies and analyses of agricultural conditions and needs within the State and needs relating to the promotion of agricultural exports and ways of meeting such needs, and make such studies and analyses available to the public and to the agricultural industry, and to engage in research or disseminate information on agriculture and agricultural exports;
- (11) Accept federal, State or private financial or technical assistance and comply with any conditions for such assistance, provided such conditions are not in conflict with the intent of this Chapter;
- (12) Establish, pay and collect fees and charge in connection with its loans, deposits, insurance commitments and services, including but not limited to, reimbursement of costs of issuing bonds, origination and servicing fees, and insurance premiums;
- (13) Make loans to or deposits with lending institutions and purchase or sell agricultural loans;
- (14) Acquire or contract to acquire from any person, firm, corporation, municipality, federal or State agency, by grant, purchase or otherwise, movable or immovable property or any interest therein; own, hold, clear, improve, lease, construct or rehabilitate, and sell, invest, assign, exchange, transfer, convey, lease, mortgage or otherwise dispose of or encumber the same, subject to the rights of holders of the bonds of the Authority, at public or private sale, with or without public bidding;
- (15) Borrow money, issue bonds, and provide for the rights of the lenders or holders thereof and purchase, discount, sell, negotiate and guarantee, insure, coinsure and reinsure note, drafts, checks, bills of exchange, acceptances, bankers acceptances, cable transfers, letters of credit and other evidence of indebtedness with or without credit enhancement devices;
- (16) Subject to the rights of holders of the bonds of the Authority, consent to any modification with respect to the rate of interest, time, payment of any installment of principal or interest, security or any other term or condition of any loan, contract, mortgage, mortgage loan or commitment therefor or agreement of any kind to which the Authority is a party or beneficiary;
- (17) Maintain an office at such place or places as the Authority shall determine;
- (18) Serve as the beneficiary of any public trust;
- (19) After reporting to the agriculture committees of the House of Representatives and the Senate, to create such subsidiary corporations or entities as may be necessary to borrow money, insure or reinsure agricultural loans, or issue bonds in the international financial market; and
- (20) Purchase or participate in the purchase and enter into commitments by itself or together with others for the purchase of federally issued securities; provided that the proceeds of such securities will be utilized in accordance with the provisions of this Chapter.

PART X. AGRICULTURE AND CONSUMER SERVICES

LARGE ANIMAL HEALTH ENHANCEMENT FUND

SECTION 10.1.(a) Funds appropriated in this act to the Department of Agriculture and Consumer Services for the enhancement of large animal veterinary services in the State shall be allocated to the Large Animal Healthcare Enhancement Fund created in Article 88 of Chapter 106 of the General Statutes, as enacted by subsection (b) of this section, for the purposes set forth therein.

SECTION 10.1.(b) Chapter 106 of the General Statutes is amended by adding a new Article to read:

"Article 88.

"Large Animal Healthcare Enhancement Act.

**"§ 106-1071. Title.**

This Article shall be known and may be cited as the "Large Animal Healthcare Enhancement Act of 2023."

**"§ 106-1072. Definitions.**

The following definitions apply in this Article:

- (1) Advisory Committee. – The Large Animal Healthcare Enhancement Advisory Committee, as established by G.S. 106-1073.
- (2) Authority. – The North Carolina Agricultural Finance Authority, as created by G.S. 122D-4.
- (3) Board. – The North Carolina Board of Agriculture, as created by G.S. 106-2.
- (4) Commissioner. – The Commissioner of Agriculture.
- (5) Department. – The Department of Agriculture and Consumer Services.
- (6) Designated county. – A county in this State with a population of less than 100,000 people according to the latest decennial census.
- (7) Fund. – The Large Animal Healthcare Enhancement Fund, as created by G.S. 106-1074.
- (8) Large animal veterinarian. – A person who is actively engaged in and is licensed to practice veterinary medicine pursuant to Article 11 of Chapter 90 of the General Statutes and whose specialties include livestock, poultry, or equine animals.
- (9) Large animal veterinary medicine. – The practice of veterinary medicine, as defined in G.S. 90-181, for livestock, poultry, or equine animals.

**"§ 106-1073. Advisory Committee.**

(a) Committee Established. – The Large Animal Healthcare Enhancement Advisory Committee is established within the North Carolina Agricultural Finance Authority and shall consist of membership as follows:

- (1) The Commissioner of Agriculture or an employee of the Department designated by the Commissioner, who shall serve as chair.
- (2) The State Veterinarian or the State Veterinarian's designee.
- (3) A member of the Food Animal Scholars Program steering and mentoring committee.
- (4) Two practicing large animal veterinarians, to be appointed by the Commissioner. The veterinarians shall have different specialties in their practice.
- (5) Two representatives of the livestock industry, to be appointed by the Commissioner. The representatives shall represent different segments of the livestock industry.
- (6) The Executive Director of the Authority or the Executive Director's designee, who shall not be a voting member.

The Commissioner and the State Veterinarian may each designate one additional at-large member of the Advisory Committee.

(b) Terms of Members. – Members of the Advisory Committee shall serve terms of four years, beginning effective July 1 of the year of appointment.

(c) Vacancies. – Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be made by the original appointing authority and shall be for the balance of the unexpired term.

(d) Removal. – The appointing authority shall have the power to remove any member of the Commission appointed by that authority from office for misfeasance, malfeasance, or nonfeasance.

(e) Reimbursement. – The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(f) Meetings. – The Advisory Committee shall meet at least once every six months and may meet more often upon the call of the chair. A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(g) Ethics. – Members of the Advisory Committee are public servants as defined by G.S. 138A-3(70).

(h) Staff. – The staff of the Authority shall serve as staff to assist the Advisory Committee in carrying out administrative functions in the discharge of its duties and responsibilities.

#### **"§ 106-1074. Large Animal Healthcare Enhancement Fund.**

(a) Fund Created. – The Large Animal Healthcare Enhancement Fund is created as a special fund within the Department of Agriculture and Consumer Services. The Fund shall be administered by the Authority. The purpose of the fund is to make grants to encourage veterinary students to enter and stay in large animal veterinarian practice and to support large animal veterinarian practices to enable them to better serve their designated counties.

(b) Fund Sources. – The Fund shall consist of any money appropriated to it by the General Assembly and any money received from public or private sources. Unexpended, unencumbered money in the Fund from sources other than appropriations from the General Assembly shall not revert and shall remain available for expenditure in accordance with this section. The Authority may use up to five percent (5%) of General Fund appropriations in each fiscal year for administrative support.

(c) Grant Eligibility. – A large animal veterinarian who practices or plans to practice in one or more designated counties may be eligible for a grant of up to twenty-five thousand dollars (\$25,000) per fiscal year. Applicants shall apply in a format to be determined by the Advisory Commission, but the application shall require the applicant to state the designated counties in which the large animal veterinarian is practicing or plans to practice, the amount of funding requested, and the approved use for which the applicant intends to use the funds. When determining which applicants shall be awarded grant funds, the Advisory Committee shall consider all of the following criteria:

- (1) The geographic area of the State that an applicant serves or would serve and the need for large animal veterinary services in that area of the State.
- (2) The number of designated counties that an applicant serves or would serve.
- (3) The number of different large animal veterinarian specialties in which the applicant practices.
- (4) The percentage of time the applicant devotes to large animal veterinary services.
- (5) Any additional criteria the Advisory Committee determines to be appropriate.

(d) Uses of Grant Funds. – The grant recipient may use the funds to support the recipient's large animal veterinary practice, including any of the following:

- (1) The repayment of educational loans related to the recipient's veterinary degree.
- (2) The purchase of equipment or technology for use in the recipient's large animal veterinary practice.
- (3) Any additional uses the Advisory Committee determines is appropriate to promote and develop large animal veterinarians to practice in designated counties.

(e) Limitations. –The Advisory Committee shall review applicants on an annual basis to determine eligibility under the criteria developed under subsection (c) of this section. The Advisory Committee shall also review each recipient of grant funds at the end of each fiscal year. A recipient whose veterinary license expires, is revoked, or is suspended during the fiscal year in which the grant is awarded, or who fails to practice large animal veterinary medicine in the designated counties named in the recipient's application, shall repay the amount received from the Fund.



(f) Report. – The Agricultural Finance Authority shall report no later than October 1 each year to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division of the General Assembly regarding the implementation of this section during the previous fiscal year. The report shall include a list of the recipients of grants from the Fund for the previous fiscal year, the amount of the grants received, how recipients used awarded grant funds, and whether any awarded funds were required to be repaid by recipients."

**SECTION 10.1.(c)** The Agricultural Finance Authority, in consultation with the Large Animal Healthcare Enhancement Advisory Committee established by G.S. 106-1073, as enacted by subsection (b) of this section, shall adopt temporary rules to implement this section as soon as practicable and shall concurrently begin adopting permanent rules to replace the temporary rules.

**SECTION 10.1.(d)** This section is effective when it becomes law.



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

North Carolina Finance Authority

**2. Rule citation & name:**

02 NCAC 63 .0101: PURPOSE

**3. Action:** ☒ Adoption

☐ Amendment

☐ Repeal

Temporary adoption

**4. Was this an Emergency Rule:** ☐ Yes

☒ No

Effective date: 10/01/24

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: 6/11/24

b. Proposed Temporary Rule published on the OAH website: 6/12/24

c. Public Hearing date: 6/25/24

d. Comment Period: 6/13/24 - 7/5/24

e. Notice pursuant to G.S. 150B-21.1(a3)(2): 6/11/24

f. Adoption by agency on: 8/8/24

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/24

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: House Bill 259, Session Law 2023-134  
Effective date: October 3rd, 2023
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ Other:

**Explain:**

The 2023 Appropriations Act - House Bill 259 became law on October 3, 2023. The Large Animal Healthcare Enhancement Fund language can be found at the below link beginning on page 322.

H259v7.pdf (ncleg.gov)

<https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Anna R. Hayworth

Phone:

(919) 745-9356

E-Mail:

anna.hayworth@ncagr.gov

Agency contact, if any:

Robert Hosford

Phone:

n/a

E-Mail: robert.hosford@ncagr.gov

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Anna Hayworth

Title:

Rule-making coordinator

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

02 NCAC 63 .0101 is proposed for adoption under temporary procedures as follows:

**CHAPTER 63 – LARGE ANIMAL HEALTHCARE ENHANCEMENT ADVISORY COMMITTEE**

**SECTION .0100 - GENERAL PROVISIONS**

**02 NCAC 63 .0101 PURPOSE**

This Chapter describes the operating procedures for the Large Animal Healthcare Enhancement Advisory Committee and the Chair under the guidance of the North Carolina Department of Agriculture and Consumer Services, and the North Carolina Agricultural Finance Authority implementing the Large Animal Healthcare Enhancement Fund for the enhancement of large animal veterinary services in North Carolina. Procedures and guidelines for participating applicants are also described. The purpose of the program is to provide grants to encourage veterinary students to sustainably serve as large or mixed animal veterinarians in underserved areas in the state and to provide additional resources for large or mixed animal veterinary practices that operate in underserved areas to help them to better serve their communities.

History Note: Authority G.S. 106-1074;

Temporary Adoption Eff.

**Anna R. Hayworth | Agricultural Programs Specialist**

*Office of the Assistant Commissioner of Consumer Protection*

*NC Department of Agriculture and Consumer Services*

1002 Mail Service Center | Raleigh, NC 27699

**Office: (984) 236-4509 (new office)**

Cell: (919) 745-9356

[anna.hayworth@ncagr.gov](mailto:anna.hayworth@ncagr.gov)

---

**From:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>

**Sent:** Friday, August 23, 2024 3:20 PM

**To:** Hayworth, Anna <[Anna.Hayworth@ncagr.gov](mailto:Anna.Hayworth@ncagr.gov)>

**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>

**Subject:** 02 NCAC 63 .0101

Good afternoon,

Attached please find the staff opinion on the above captioned rule which will be reviewed at the August 2024 RRC meeting.

**William W. Peaslee**

**Rules Review Commission Counsel / Legislative Liaison**

Office of Administrative Hearings

1711 New Hope Church Road

Raleigh NC, 27609

(984) 236-1939

[Bill.Peaslee@oah.nc.gov](mailto:Bill.Peaslee@oah.nc.gov)

---

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

**Burgos, Alexander N**

---

**From:** Peaslee, William W  
**Sent:** Friday, August 23, 2024 3:20 PM  
**To:** Hayworth, Anna  
**Cc:** Burgos, Alexander N  
**Subject:** 02 NCAC 63 .0101  
**Attachments:** 08.24 Staff Opinion 02 NCAC 63 .0101 Temp.doc

Good afternoon,

Attached please find the staff opinion on the above captioned rule which will be reviewed at the August 2024 RRC meeting.

**William W. Peaslee**  
**Rules Review Commission Counsel / Legislative Liaison**  
Office of Administrative Hearings  
1711 New Hope Church Road  
Raleigh NC, 27609  
(984) 236-1939  
[Bill.Peaslee@oah.nc.gov](mailto:Bill.Peaslee@oah.nc.gov)

---

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## **Burgos, Alexander N**

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**From:** Peaslee, William W  
**Sent:** Friday, August 23, 2024 4:04 PM  
**To:** Hayworth, Anna  
**Cc:** Burgos, Alexander N  
**Subject:** 02 NCAC 63 .0102, .0104, .0105, and .0106  
**Attachments:** 08.24 Staff Opinion 02 NCAC 63 .0102 .0104 .0105 .0106 Temp.doc

Good afternoon,

Attached please find the staff opinion on the above captioned rule which will be reviewed at the August 2024 RRC meeting.

**William W. Peaslee**  
**Rules Review Commission Counsel / Legislative Liaison**  
Office of Administrative Hearings  
1711 New Hope Church Road  
Raleigh NC, 27609  
(984) 236-1939  
[Bill.Peaslee@oah.nc.gov](mailto:Bill.Peaslee@oah.nc.gov)

---

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## **Burgos, Alexander N**

---

**Subject:** FW: Recommendation of Counsel

---

**From:** Peaslee, William W <bill.peaslee@oah.nc.gov>  
**Sent:** Friday, August 23, 2024 10:17 AM  
**To:** Hayworth, Anna <Anna.Hayworth@ncagr.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: Recommendation of Counsel

Good morning,

In response to your question whether the attached changes to the Forms 500 resolve the recommendation for objection dated August 16, 2024, they do not. While the Forms 500 contained errors, they were not the bases for the recommendation. But thank you for fixing them.

As I have not received a response to the request for changes by the deadline, I will begin drafting recommendations for objection on other bases as well.

Thank you.

**William W. Peaslee**  
**Rules Review Commission Counsel / Legislative Liaison**  
Office of Administrative Hearings  
1711 New Hope Church Road  
Raleigh NC, 27609  
(984) 236-1939  
[Bill.Peaslee@oah.nc.gov](mailto:Bill.Peaslee@oah.nc.gov)

---

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## Burgos, Alexander N

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**Subject:** FW: Recommendation of Counsel  
**Attachments:** Aug 22 2024 - NCAFA - Rulemaking Coordinator - AHayworth-signed.pdf

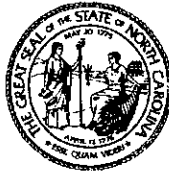
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**From:** Hayworth, Anna <Anna.Hayworth@ncagr.gov>  
**Sent:** Friday, August 23, 2024 9:05 AM  
**To:** Peaslee, William W <bill.peaslee@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Hosford, Robert L <Robert.Hosford@ncagr.gov>; McLennan, Christopher <cmclennan@ncdoj.gov>  
**Subject:** RE: Recommendation of Counsel

Mr. Peaslee,

Please see the attached. Let me know if there is anything further that I can provide to assist in this.

**Anna R. Hayworth | Agricultural Programs Specialist**  
*Office of the Assistant Commissioner of Consumer Protection*  
*NC Department of Agriculture and Consumer Services*  
1002 Mail Service Center | Raleigh, NC 27699  
**Office: (984) 236-4509 (new office)**  
Cell: (919) 745-9356  
[anna.hayworth@ncagr.gov](mailto:anna.hayworth@ncagr.gov)



**Robert Hosford**  
Executive Director

## **NORTH CAROLINA AGRICULTURAL FINANCE AUTHORITY**

August 22, 2024

VIA E-Mail

Ashley Snyder  
Codifier of Rules  
Office of Administrative Hearings

Dear Ashley,

This letter serves to designate Anna Hayworth as the Rule-making Coordinator for the North Carolina Agricultural Finance Authority (NCAFA). Ms. Hayworth can be reached at 919-745-9356 or [anna.hayworth@ncagr.gov](mailto:anna.hayworth@ncagr.gov). Her mailing address is 1002 Mail Services Center, Raleigh, NC 27699.

This letter also serves as written delegation of authority for Ms. Hayworth to sign off on behalf of the North Carolina Agricultural Finance Authority (NCAFA), pursuant to G.S. 143B-10(a).

If you have any questions, please contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith Ray Beavers".

**Keith Ray Beavers**  
Chairman of the NCAFA Board

## **Burgos, Alexander N**

---

**Subject:** FW: Recommendation of Counsel

---

**From:** Peaslee, William W <bill.peaslee@oah.nc.gov>

**Sent:** Wednesday, August 21, 2024 4:55 PM

**To:** Hayworth, Anna <Anna.Hayworth@ncagr.gov>

**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Hosford, Robert L <Robert.Hosford@ncagr.gov>

**Subject:** RE: Recommendation of Counsel

Ms. Hayworth:

Despite being named as the rulemaking coordinator for the AFA, you still need to submit a written delegation of authority pursuant to G.S. 143B-10(a) signed by Keith Beavers.

Thank you.

**William W. Peaslee**

**Rules Review Commission Counsel / Legislative Liaison**

Office of Administrative Hearings

1711 New Hope Church Road

Raleigh NC, 27609

(984) 236-1939

[Bill.Peaslee@oah.nc.gov](mailto:Bill.Peaslee@oah.nc.gov)

---

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## Burgos, Alexander N

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**Subject:** FW: Recommendation of Counsel  
**Attachments:** 08.24 Staff Opinion 02 NCAC 63 Temp.doc; form-0500-temporary form\_LAHC\_0101.pdf; form-0500-temporary form\_LAHC\_0102.pdf; form-0500-temporary form\_LAHC\_0103.pdf; form-0500-temporary form\_LAHC\_0104.pdf; form-0500-temporary form\_LAHC\_0105.pdf; form-0500-temporary form\_LAHC\_0106.pdf; 2021 July 22 - RulemakingCoordinator Anna Hayworth-NCDA&CS.pdf; img-240821121651-0001.pdf

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**From:** Hayworth, Anna <[Anna.Hayworth@ncagr.gov](mailto:Anna.Hayworth@ncagr.gov)>  
**Sent:** Wednesday, August 21, 2024 1:18 PM  
**To:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>  
**Subject:** FW: Recommendation of Counsel

Mr. Peaslee,

Please see the attached submission form with the changes you requested, a letter designating me as the rule-making coordinator for NCAFA, and a letter from the Commissioner granting my ability to sign on behalf of NCDA&CS.

Please let me know if this satisfies your proposed objections based upon NCGS 150B-21.9(a)(4). I understand that there are still proposed technical changes/questions/objections to the language of the proposed rules themselves that still need to be addressed.

**Anna R. Hayworth | Agricultural Programs Specialist**  
*Office of the Assistant Commissioner of Consumer Protection*  
*NC Department of Agriculture and Consumer Services*  
1002 Mail Service Center | Raleigh, NC 27699  
**Office: (984) 236-4509 (new office)**  
Cell: (919) 745-9356  
[anna.hayworth@ncagr.gov](mailto:anna.hayworth@ncagr.gov)

---

**From:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>  
**Sent:** Friday, August 16, 2024 3:06 PM  
**To:** Hayworth, Anna <[Anna.Hayworth@ncagr.gov](mailto:Anna.Hayworth@ncagr.gov)>; Hosford, Robert L <[Robert.Hosford@ncagr.gov](mailto:Robert.Hosford@ncagr.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** Recommendation of Counsel

Good afternoon,

Attached please find the recommendation of counsel for all temporary rules from the NC Agricultural Finance Authority before the RRC.

I will be reading the rules next so there may be further recommendations for objection forthcoming.

As always if you have any questions please let me know.

Have a good weekend.

**William W. Peaslee**  
**Rules Review Commission Counsel / Legislative Liaison**  
Office of Administrative Hearings  
1711 New Hope Church Road  
Raleigh NC, 27609  
(984) 236-1939  
[Bill.Peaslee@oah.nc.gov](mailto:Bill.Peaslee@oah.nc.gov)

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**Steven W. Troxler**  
Commissioner

**North Carolina Department of Agriculture  
and Consumer Services**

July 22, 2021

VIA E-Mail

Ashley Snyder  
Codifier of Rules  
Office of Administrative Hearings

Dear Ashley,

This letter serves to designate Anna Hayworth as the Rulemaking Coordinator for the following Boards/Individuals:

- North Carolina Board of Agriculture
- North Carolina Gas and Oil Inspection Board
- NC Seed Board
- Commissioner of Agriculture

Ms. Hayworth can be reached at 919-707-3011 or [anna.hayworth@ncagr.gov](mailto:anna.hayworth@ncagr.gov). Her mailing address is 1001 Mail Services Center, Raleigh, NC 27699-1001.

If you have any questions, please contact my office.

Sincerely,

Steven W. Troxler  
Commissioner



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

North Carolina Finance Authority

**2. Rule citation & name:**

02 NCAC 63 .0101: PURPOSE

**3. Action:** ☒ Adoption

☐ Amendment

☐ Repeal

Temporary adoption

**4. Was this an Emergency Rule:** ☐ Yes

☒ No

Effective date: 10/01/24

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: 6/11/24

b. Proposed Temporary Rule published on the OAH website: 6/12/24

c. Public Hearing date: 6/25/24

d. Comment Period: 6/13/24 - 7/5/24

e. Notice pursuant to G.S. 150B-21.1(a3)(2): 6/11/24

f. Adoption by agency on: 8/8/24

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/24

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: House Bill 259, Session Law 2023-134  
Effective date: October 3rd, 2023
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ Other:

**Explain:**

The 2023 Appropriations Act - House Bill 259 became law on October 3, 2023. The Large Animal Healthcare Enhancement Fund language can be found at the below link beginning on page 322.

H259v7.pdf (ncleg.gov)

<https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Anna R. Hayworth

Phone:

(919) 745-9356

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anna.hayworth@ncagr.gov

Agency contact, if any:


Robert Hosford

Phone:

n/a

E-Mail: robert.hosford@ncagr.gov

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Anna Hayworth

Title:

Rule-making coordinator

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:



02 NCAC 63 .0101 is proposed for adoption under temporary procedures as follows:

**CHAPTER 63 – LARGE ANIMAL HEALTHCARE ENHANCEMENT ADVISORY COMMITTEE**

**SECTION .0100 - GENERAL PROVISIONS**

**02 NCAC 63 .0101 PURPOSE**

This Chapter describes the operating procedures for the Large Animal Healthcare Enhancement Advisory Committee and the Chair under the guidance of the North Carolina Department of Agriculture and Consumer Services, and the North Carolina Agricultural Finance Authority implementing the Large Animal Healthcare Enhancement Fund for the enhancement of large animal veterinary services in North Carolina. Procedures and guidelines for participating applicants are also described. The purpose of the program is to provide grants to encourage veterinary students to sustainably serve as large or mixed animal veterinarians in underserved areas in the state and to provide additional resources for large or mixed animal veterinary practices that operate in underserved areas to help them to better serve their communities.

History Note: Authority G.S. 106-1074;

Temporary Adoption Eff.



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

North Carolina Finance Authority

**2. Rule citation & name:**

02 NCAC 63 .0102: DEFINITIONS

**3. Action:** ☒ Adoption

☐ Amendment

☐ Repeal

Temporary adoption

**4. Was this an Emergency Rule:** ☐ Yes

☒ No

Effective date: 10/01/24

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: 6/11/24

b. Proposed Temporary Rule published on the OAH website: 6/12/24

c. Public Hearing date: 6/25/24

d. Comment Period: 6/13/24 - 7/5/24

e. Notice pursuant to G.S. 150B-21.1(a3)(2): 6/11/24

f. Adoption by agency on: 8/8/24

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/24

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: House Bill 259, Session Law 2023-134  
Effective date: October 3rd, 2023
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ Other:

**Explain:**

The 2023 Appropriations Act - House Bill 259 became law on October 3, 2023. The Large Animal Healthcare Enhancement Fund language can be found at the below link beginning on page 322.

H259v7.pdf (ncleg.gov)

<https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Anna R. Hayworth

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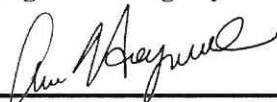
Robert Hosford

Phone:

n/a

E-Mail: robert.hosford@ncagr.gov

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Anna Hayworth

Title:

Rule-making coordinator

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

02 NCAC 63 .0102 is proposed for adoption under temporary procedures as follows:

**02 NCAC 63 .0102 DEFINITIONS**

In addition to the terms defined in Article 88 of Chapter 106 of the North Carolina General Statutes, the following terms used in this Chapter have the following meanings:

- (1) “Applicant” means a large animal veterinarian who applies for funds from the Large Animal Healthcare Enhancement Fund.
- (2) “Application” means a form developed and made available by the Large Animal Healthcare Enhancement Advisory Committee, including, but not limited to, any attachments and other information or documentation required by the form, for an applicant to complete and submit to the advisory committee to request a grant from the fund.
- (3) “Chair” or “Commissioner” means the chair of the advisory committee who is also the Commissioner of Agriculture.
- (4) “Grant” means an amount of money designated by the advisory committee to be given to a qualified applicant who has been chosen by the advisory committee.
- (5) “Grant recipient” means a qualified applicant who has received a grant.
- (6) “Large animal” means any of the animals referenced in G.S. 106-1072(8) and (9).
- (7) “Qualified applicant” means a large animal veterinarian (as defined in G.S. 106-1072(8)) and who otherwise meets the criteria described in this Rule and in Article 88 of Chapter 106 of the North Carolina General Statutes.

History Note: Authority G.S. 106-1074;  
Temporary Adoption Eff.



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

North Carolina Finance Authority

**2. Rule citation & name:**

02 NCAC 63 .0103: EVALUATION OF APPLICATIONS

**3. Action:**

☒ Adoption

☐ Amendment

☐ Repeal

Temporary adoption

**4. Was this an Emergency Rule:**

☐ Yes

Effective date: 10/01/24

☒ No

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: 6/11/24

b. Proposed Temporary Rule published on the OAH website: 6/12/24

c. Public Hearing date: 6/25/24

d. Comment Period: 6/13/24 - 7/5/24

e. Notice pursuant to G.S. 150B-21.1(a3)(2): 6/11/24

f. Adoption by agency on: 8/8/24

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/24

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: House Bill 259, Session Law 2023-134  
Effective date: October 3rd, 2023
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ Other:

**Explain:**

The 2023 Appropriations Act - House Bill 259 became law on October 3, 2023. The Large Animal Healthcare Enhancement Fund language can be found at the below link beginning on page 322.

H259v7.pdf (ncleg.gov)

<https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Anna R. Hayworth

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Agency contact, if any:

Robert Hosford

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n/a

E-Mail: robert.hosford@ncagr.gov

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Anna Hayworth

Title:

Rule-making coordinator

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

02 NCAC .0103 is proposed for adoption under temporary procedures as follows:

**02 NCAC .0103 EVALUATION OF APPLICATIONS**

(a) Applicants for funding from the fund shall submit a completed application within 60 days from the date of the public announcement of requests for proposals (the “application deadline”).

(b) Applications and instructions shall be available online at [www.ncagr.gov](http://www.ncagr.gov).

(c) To be eligible for consideration for funding, applicants shall complete the application, which shall be titled the “Large Animal Healthcare Enhancement Fund Application Form,” and which shall contain the following information:

(1) identifying information such as location, business name, and contact information;

(2) statement from the applicant that acknowledges and agrees that in the event that the applicant’s veterinary license expires, is revoked, or is suspended during the fiscal year in which the grant is awarded, or if the applicant fails to practice at least 30% large animal veterinary medicine in the designated counties named in the applicant’s application, the applicant shall repay the entire amount received from the fund;

(3) statement from the applicant that the applicant shall have no conflicting service obligation that would prevent the State from benefitting from the applicant’s services, with the exception of service in the National Guard or military reserve;

(4) an essay which describes the applicant’s professional ambition and how those professional goals fit with the intent of the fund (eight hundred word maximum, typed in 12-point Times New Roman font, and double-spaced);

(5) three personal or professional references listing the individual’s name, telephone number, and email address; and

(7) Certification that the applicant currently practices a minimum of 30% large animal veterinary medicine in at least one designated county.

(d) Each completed application shall be evaluated by the advisory committee staff based on the information provided in the application and in accordance with the fund criteria described in this rule and in Article 88 of Chapter 106 of the North Carolina General Statutes.

(e) The staff shall review all applications for completeness. If staff deems an application incomplete in that it does not contain information required by statute or these rules, the applicant may be asked by the authority staff to complete the application within seven days if the application deadline has expired.

(f) After the staff has reviewed each application for completeness, the advisory committee shall then review the applications prepared by each applicant and shall make recommendations to the Commissioner on applicants for funding.

(g) Grants shall be awarded contingent on the availability of sufficient funds to do so. Grants shall be conveyed to grant recipient(s) through contracts with the North Carolina Agricultural Finance Authority. If the North Carolina Agricultural Finance Authority determines that grants are not being used for the purpose for which they were awarded, the fund shall immediately cease making payments under the grant schedule and shall demand return of all amounts

1 from the grant pursuant to G.S. 106-1074. Grant recipient(s) must reimburse the fund all funds that the North Carolina  
2 Agricultural Finance Authority determines to have been spent in violation of G.S. 106-1074(e).  
3  
4 History Note: Authority G.S. 106-1074;  
5 Temporary Adoption Eff.





# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

North Carolina Finance Authority

**2. Rule citation & name:**

02 NCAC 63 .0104: GRANT AGREEMENT

**3. Action:** ☒ Adoption ☐ Amendment ☐ Repeal

Temporary adoption

**4. Was this an Emergency Rule:** ☐ Yes ☒ No **Effective date:** 10/01/24

**5. Provide dates for the following actions as applicable:**

- a. Proposed Temporary Rule submitted to OAH: 6/11/24
- b. Proposed Temporary Rule published on the OAH website: 6/12/24
- c. Public Hearing date: 6/25/24
- d. Comment Period: 6/13/24 - 7/5/24
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 6/11/24
- f. Adoption by agency on: 8/8/24
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/24

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
**Cite:** House Bill 259, Session Law 2023-134  
**Effective date:** October 3rd, 2023
- ☐ A recent change in federal or state budgetary policy.  
**Effective date of change:**
- ☐ A recent federal regulation.  
**Cite:**  
**Effective date:**
- ☐ A recent court order.  
**Cite order:**
- ☐ Other:

**Explain:**

The 2023 Appropriations Act - House Bill 259 became law on October 3, 2023. The Large Animal Healthcare Enhancement Fund language can be found at the below link beginning on page 322.

H259v7.pdf (ncleg.gov)

<https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Anna R. Hayworth

Phone:

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E-Mail:

anna.hayworth@ncagr.gov

Agency contact, if any:

Robert Hosford

Phone:

n/a

E-Mail: robert.hosford@ncagr.gov

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Anna Hayworth

Title:

Rule-making coordinator

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

02 NCAC 63 .0104 is proposed for adoption under temporary procedures as follows:

**02 NCAC 63 .0104 GRANT AGREEMENT**

(a) Upon approval, a written agreement shall be executed between the grant recipient(s) and the North Carolina Finance Authority.

(b) The agreement shall define the North Carolina Finance Authority's and grant recipient's responsibilities and obligations, the project period, project scope, and the amount of grant assistance.

(c) The approved application and any support documentation submitted by the applicant shall become a part of the grant agreement.

(d) The grant agreement may be amended upon mutual consent and approval by the North Carolina Finance Authority and the grant recipient(s). The grant recipient(s) shall submit a written request for amendment to the North Carolina Finance Authority..

(e) Grant payments shall be made only for activities within the grant contract period and projects may not begin until the North Carolina Finance Authority and grant recipient(s) sign the agreement.

(f) The grant agreement shall include a requirement that the grant recipient(s) understands, acknowledges, and agrees that in the event that the grant recipient'(s') veterinary license expires, is revoked, or is suspended during the fiscal year in which the grant is awarded, or the grant recipient(s) fails to practice a minimum of 30% large animal veterinary medicine in at least one designated county named in the grant recipient'(s') application, the grant recipient(s) shall repay the entire amount received from the Fund.

*History Note: Authority G.S. 106-1074;*

*Temporary Adoption Eff.*



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

North Carolina Finance Authority

**2. Rule citation & name:**

02 NCAC 63 .0105: REPORTING

**3. Action:**

☒ Adoption

☐ Amendment

☐ Repeal

Temporary adoption

**4. Was this an Emergency Rule:**

☐ Yes

Effective date: 10/01/24

☒ No

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: 6/11/24

b. Proposed Temporary Rule published on the OAH website: 6/12/24

c. Public Hearing date: 6/25/24

d. Comment Period: 6/13/24 - 7/5/24

e. Notice pursuant to G.S. 150B-21.1(a3)(2): 6/11/24

f. Adoption by agency on: 8/8/24

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/24

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: House Bill 259, Session Law 2023-134  
Effective date: October 3rd, 2023
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ Other:

**Explain:**

The 2023 Appropriations Act - House Bill 259 became law on October 3, 2023. The Large Animal Healthcare Enhancement Fund language can be found at the below link beginning on page 322.

H259v7.pdf (ncleg.gov)

<https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Anna R. Hayworth

Phone:

(919) 745-9356

E-Mail:

anna.hayworth@ncagr.gov

Agency contact, if any:

Robert Hosford

Phone:

n/a

E-Mail: robert.hosford@ncagr.gov

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Anna Hayworth

Title:

Rule-making coordinator

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

02 NCAC 63 .0105 is proposed for adoption under temporary procedures as follows:

**02 NCAC 63 .0105       REPORTING**

(a) Grant recipients shall submit to the North Carolina Agricultural Finance Authority a written progress report within 180 days of receipt of the grant.

(b) Written reports shall describe the status of the project, progress toward achieving program objectives, notable occurrences, any problems encountered, and steps taken to overcome the problems, and an affidavit from the grant recipient stating under oath or affirmation that, during the fiscal year in which the grant is awarded, and a statement of affirmation that supports the following:

(1) the grant recipient's veterinary license has not expired, been revoked, or been suspended, and

(2) the grant recipient(s) is currently practicing a minimum of 30% large animal veterinary medicine in at least one designated county named in the grant recipient's(s') application.

(c) Upon completion of the project, the grant recipient must make a final written report to the North Carolina Agricultural Finance Authority that shall include project accomplishments and benefits, all expenditures by line item as established in the application, and an affidavit from the grant recipient stating under oath or affirmation that, during the fiscal year in which the grant is and a statement of affirmation that supports the following:

(1) the grant recipient's veterinary license has not expired, been revoked, or been suspended, and

(2) the grant recipient(s) practiced a minimum of 30% large animal veterinary medicine in at least one designated county named in the grant recipient's(s') application.

(d) The North Carolina Agricultural Finance Authority shall review the progress reports for completeness, which shall include a showing of how the project is meeting its stated goals and performance standards. If the North Carolina Agricultural Finance Authority finds that the report is deficient in showing how the project is meeting its stated goals and performance standards, the grant recipient(s) shall be notified of the deficiency and must provide a changed and corrected report within 30 business days. A corrected or changed report shall be submitted to the North Carolina Agricultural Finance Authority within 30 business days. All grant funds shall be spent within 180 days of receipt by the grant recipient. If grant funds are not spent by the grant recipient by the end of this 180-day period, the grant funds shall be returned to the North Carolina Agricultural Finance Authority.

(e) Grant recipient(s) shall submit monitoring reports to the North Carolina Agricultural Finance Authority by email at [largeanimalvetgrants@ncagr.gov](mailto:largeanimalvetgrants@ncagr.gov) or by hand delivery at 1101 Spring Forest Road, Suite 150, Raleigh, North Carolina 27615.

*History Note: Authority G.S. 106-1074;*

*Temporary Adoption Eff.*



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

North Carolina Finance Authority

**2. Rule citation & name:**

02 NCAC 63 .0106: RECORDS

**3. Action:**

☒ Adoption

☐ Amendment

☐ Repeal

Temporary adoption

**4. Was this an Emergency Rule:**

☐ Yes

Effective date: 10/01/24

☒ No

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: 6/11/24

b. Proposed Temporary Rule published on the OAH website: 6/12/24

c. Public Hearing date: 6/25/24

d. Comment Period: 6/13/24 - 7/5/24

e. Notice pursuant to G.S. 150B-21.1(a3)(2): 6/11/24

f. Adoption by agency on: 8/8/24

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/24

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: House Bill 259, Session Law 2023-134  
Effective date: October 3rd, 2023
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ Other:

**Explain:**

The 2023 Appropriations Act - House Bill 259 became law on October 3, 2023. The Large Animal Healthcare Enhancement Fund language can be found at the below link beginning on page 322.

H259v7.pdf (ncleg.gov)

<https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Anna R. Hayworth

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E-Mail:

anna.hayworth@ncagr.gov

Agency contact, if any:

Robert Hosford

Phone:

n/a

E-Mail: robert.hosford@ncagr.gov

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Anna Hayworth

Title:

Rule-making coordinator

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:



02 NCAC 63 .0106 is proposed for adoption under temporary procedures as follows:

**02 NCAC 63 .0106        RECORDS**

Grant recipients must keep financial and other records of the project for a period of five years, following completion of the project, or until audited. The records shall be made available to the Commissioner and the North Carolina Agricultural Finance Authority upon request. Recipients shall contact the Authority before destroying records or in the event that records are destroyed. The North Carolina Agricultural Finance Authority shall maintain and dispose of paper and electronic records in accordance with the approved Functional Schedule for North Carolina State Agencies, Program Record Retention and Disposition Schedule and Electronic Records and Imaging Policy, incorporated by reference with subsequent editions and amendments. The policy can be accessed free of charge at <https://archives.ncdcr.gov/documents/functional-schedule-state-agencies>.

*History Note:        Authority G.S. 106-1074;*

*Temporary Adoption Eff.*



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:

2. Rule citation & name:

3. Action: ☐ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☐ No Effective date:

5. Provide dates for the following actions as applicable:

a. Proposed Temporary Rule submitted to OAH:

b. Proposed Temporary Rule published on the OAH website:

c. Public Hearing date:

d. Comment Period:

e. Notice pursuant to G.S. 150B-21.1(a3)(2):

f. Adoption by agency on:

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☐ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite:  
Effective date:
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ Other:

Explain:

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☐ No

9. Rule-making Coordinator:

Phone:

E-Mail:

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Title:

E-Mail:

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:

2. Rule citation & name:

3. Action: ☐ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☐ No Effective date:

5. Provide dates for the following actions as applicable:

a. Proposed Temporary Rule submitted to OAH:

b. Proposed Temporary Rule published on the OAH website:

c. Public Hearing date:

d. Comment Period:

e. Notice pursuant to G.S. 150B-21.1(a3)(2):

f. Adoption by agency on:

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]:

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Typed Name:

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E-Mail:

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

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# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

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E-Mail:

**RULES REVIEW COMMISSION USE ONLY**

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# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

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1. Rule-Making Agency:

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f. Adoption by agency on:

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]:

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Agency contact, if any:

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10. Signature of Agency Head\*:



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Typed Name:

Title:

E-Mail:

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:

2. Rule citation & name:

3. Action: ☐ Adoption ☐ Amendment ☐ Repeal

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g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]:

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- ☐ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
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Effective date:
- ☐ A recent court order.  
Cite order:
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Explain:

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Consultation not required. Cite authority:

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9. Rule-making Coordinator:

Phone:

E-Mail:

Agency contact, if any:

Phone:

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10. Signature of Agency Head\*:



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Typed Name:

Title:

E-Mail:

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:



ROBERT HOSFORD  
CHIEF EXECUTIVE OFFICER

## NORTH CAROLINA AGRICULTURAL FINANCE AUTHORITY

August 16, 2024

Dana McGhee Publication Coordinator  
Office of Administrative Hearings

Dear Ms. McGhee,

Ms. Anna Hayworth is the new Rulemaking Coordinator for the NC Agricultural Finance Authority. The contact information for Ms. Hayworth is:

Agricultural Finance Authority  
24 NCAC 02  
Anna Hayworth, Agricultural Programs Specialist  
1002 Mail Service Center  
Raleigh, NC  
Phone - (984)236-4509  
[anna.hayworth@ncagr.gov](mailto:anna.hayworth@ncagr.gov)

Sincerely,

A handwritten signature in black ink, appearing to read "Keith Beavers".

Keith Beavers  
Chairman of the NCAFA Board

## Burgos, Alexander N

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**Subject:** FW: Recommendation of Counsel  
**Attachments:** 08.24 Staff Opinion 02 NCAC 63 Temp.doc; form-0500-temporary form\_LAHC\_0101.pdf; form-0500-temporary form\_LAHC\_0102.pdf; form-0500-temporary form\_LAHC\_0103.pdf; form-0500-temporary form\_LAHC\_0104.pdf; form-0500-temporary form\_LAHC\_0105.pdf; form-0500-temporary form\_LAHC\_0106.pdf; 2021 July 22 - RulemakingCoordinator Anna Hayworth-NCDA&CS.pdf; img-240821121651-0001.pdf

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**From:** Hayworth, Anna <[Anna.Hayworth@ncagr.gov](mailto:Anna.Hayworth@ncagr.gov)>  
**Sent:** Wednesday, August 21, 2024 1:18 PM  
**To:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>  
**Subject:** FW: Recommendation of Counsel

Mr. Peaslee,

Please see the attached submission form with the changes you requested, a letter designating me as the rule-making coordinator for NCAFA, and a letter from the Commissioner granting my ability to sign on behalf of NCDA&CS.

Please let me know if this satisfies your proposed objections based upon NCGS 150B-21.9(a)(4). I understand that there are still proposed technical changes/questions/objections to the language of the proposed rules themselves that still need to be addressed.

**Anna R. Hayworth | Agricultural Programs Specialist**  
*Office of the Assistant Commissioner of Consumer Protection*  
*NC Department of Agriculture and Consumer Services*  
1002 Mail Service Center | Raleigh, NC 27699  
**Office: (984) 236-4509 (new office)**  
Cell: (919) 745-9356  
[anna.hayworth@ncagr.gov](mailto:anna.hayworth@ncagr.gov)

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**From:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>  
**Sent:** Friday, August 16, 2024 3:06 PM  
**To:** Hayworth, Anna <[Anna.Hayworth@ncagr.gov](mailto:Anna.Hayworth@ncagr.gov)>; Hosford, Robert L <[Robert.Hosford@ncagr.gov](mailto:Robert.Hosford@ncagr.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** Recommendation of Counsel

Good afternoon,

Attached please find the recommendation of counsel for all temporary rules from the NC Agricultural Finance Authority before the RRC.

I will be reading the rules next so there may be further recommendations for objection forthcoming.

As always if you have any questions please let me know.

Have a good weekend.

**William W. Peaslee**  
**Rules Review Commission Counsel / Legislative Liaison**  
Office of Administrative Hearings  
1711 New Hope Church Road  
Raleigh NC, 27609  
(984) 236-1939  
[Bill.Peaslee@oah.nc.gov](mailto:Bill.Peaslee@oah.nc.gov)

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Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.





**Steven W. Troxler**  
Commissioner

**North Carolina Department of Agriculture  
and Consumer Services**

July 22, 2021

VIA E-Mail

Ashley Snyder  
Codifier of Rules  
Office of Administrative Hearings

Dear Ashley,

This letter serves to designate Anna Hayworth as the Rulemaking Coordinator for the following Boards/Individuals:

- North Carolina Board of Agriculture
- North Carolina Gas and Oil Inspection Board
- NC Seed Board
- Commissioner of Agriculture

Ms. Hayworth can be reached at 919-707-3011 or [anna.hayworth@ncagr.gov](mailto:anna.hayworth@ncagr.gov). Her mailing address is 1001 Mail Services Center, Raleigh, NC 27699-1001.

If you have any questions, please contact my office.

Sincerely,

Steven W. Troxler  
Commissioner

## **RRC STAFF OPINION**

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

AGENCY: North Carolina Agricultural Finance Authority

RULE CITATION: 02 NCAC 63 .0101, .0102, .0103, .0104, .0105, & .0106 Temporary Rules

RECOMMENDATION DATE: August 16, 2024

RECOMMENDED ACTION:

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

### COMMENT:

The North Carolina Agricultural Finance Authority (hereinafter “the Authority”) was established by Chapter 122D, the 1983 North Carolina Agricultural Finance Act (hereinafter “the Act”), specifically G.S. 122D-4. While the Authority is “a body politic and corporate” “within the Department of Agriculture and Consumer Services” (hereinafter “the Department”), the Authority has rulemaking authority independent of the Department pursuant to G.S. 122D-6(4) to “adopt, promulgate and amend rules for the administration of this Chapter.” <sup>1</sup>

In Part X of Session Law 2023-134 (the “Current Operations Appropriations Act of 2023” more commonly known as the “Budget Bill”), the General Assembly adopted Article 88, titled the “Large Animal Healthcare Enhancement Act,” as part of Chapter 106 of the North Carolina

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<sup>1</sup> THE DEPARTMENT IS ONLY MENTIONED FOUR TIMES IN THE ACT AND DOES NOT APPEAR TO PLAY A SIGNIFICANT ROLE IN THE OPERATIONS OF THE AUTHORITY. IT APPEARS TO HAVE A SIMILAR RELATIONSHIP AS THE OFFICE OF ADMINISTRATIVE HEARINGS HAS TO THE RULE REVIEW COMMISSION.

William W. Peaslee  
Commission Counsel

General Statutes. <sup>2</sup> Part X establishes the Large Animal Healthcare Enhancement Fund within the Department of Agriculture and Consumer Services to be “administered by the Authority.”

Part X of S.L. 2023-134, the General Assembly mandates that the Authority “adopt rules temporary rules to implement this section as soon as practicable...”<sup>3</sup>

S.L. 2023-134 became effective October 3, 2023.

Pursuant to G.S. 150B-21.1(a3) the Authority is required to submit proposed temporary rules and a notice of public hearing to the Codifier of Rules who shall then publish the same on the Internet.

On June 11, 2024 the Department, not the Authority, submitted the temporary rules and notice to the Codifier. The following statement was published by the Codifier.

“Notice is hereby given in accordance with G.S. 150B-21.1(a3) that the Department of Agriculture and Consumer Services intends to adopt the rules cited as 02 NCAC 63 .0101-.0106.”

As published, the temporary rules cite Title 02 of the North Carolina Administrative Code which is entitled “Agriculture and Consumer Services.” However, the Authority’s existing rules are in Title 24, entitled “Independent Agencies,” specifically Chapter 02, entitled “NC Agricultural Finance Authority.”

Thereafter, the temporary rules were adopted by the Authority on August 8, 2024 and submitted to the Rules Review Commission for review on August 12, 2024 by the Department rule-making coordinator who is different from the Authority rule-making coordinator.

## I.

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<sup>2</sup> CHAPTER 106 IS ENTITLED “AGRICULTURE.”

<sup>3</sup> In the History Note for each rule the Authority cites G.S. 106-1074 as its authority to adopt rules. The language of G.S. 106-1074 does not contain rulemaking authority; only Section 10.1(c) of S.L. 2023-134 does. This error can and should be easily remedied. The Authority may want to consider asking the General Assembly to write its rulemaking authority into Article 88 of Chapter 106 of the North Carolina General Statutes rather than just the Session Law.

Pursuant to G.S. 150B-21.1(a3) the Authority, not the Department, was required to submit temporary rules and a notice of public hearing to the Codifier of Rules. Consequently, these rules were published as Department temporary rules, not Authority temporary rules. (See the attached exhibit.) Anyone looking for Authority rulemaking could easily have not seen the proposed temporary rules as they were published and cited as Department rules. Accordingly, staff recommends objection to the temporary rules pursuant to G.S. 150B-21.9(a)(4) for the Authority's failure to adopt the rules in accordance with the Administrative Procedures Act.

## II.

Pursuant to G.S. 150B-21.1(a), to engage in temporary rulemaking the immediate adoption of a rule must be required by listed circumstances including "the effective date of a recent act of the General Assembly..." It is on this basis that the Authority claims authority to engage in temporary rulemaking as it cited on the Form 0500.

"Recent act" is defined in G.S. 150B-21.1(a2) as adoption within 210 days of the effective date of the act. The effective date of S.L. 2023-134 was October 3, 2023. The authority adopted these temporary rules on August 8, 2024, 310 days after the effective date of the act.

Accordingly, staff recommends objection to the temporary rules pursuant to G.S. 150B-21.9(a)(4) for the Authority's failure to adopt the rules in accordance with the Administrative Procedures Act.

**Note from the Codifier:** The OAH website includes notices and the text of proposed temporary rules as required by G.S. 150B-21.1(a1). Prior to the agency adopting the temporary rule, the agency must hold a public hearing no less than five days after the rule and notice have been published and must accept comments for at least 15 business days.  
For questions, you may contact the Office of Administrative Hearings at 984-236-1850 or email [oah.postmaster@oah.nc.gov](mailto:oah.postmaster@oah.nc.gov).

## TITLE 02 – DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

**Notice** is hereby given in accordance with G.S. 150B-21.1(a3) that the Department of Agriculture and Consumer Services intends to adopt the rules cited as 02 NCAC 63 .0101-.0106.

**Codifier of Rules** received for publication the following notice and proposed temporary rule(s) on: June 11, 2024.

**Public Hearing:**

**Date:** June 25, 2024

**Time:** 10:00 a.m.

**Location:** Steve Troxler Agricultural Sciences Center: 4400 Reedy Creek Road, Raleigh NC (Room A201A)

**Reason for Proposed Temporary Action:** The effective date of a recent act of the General Assembly or of the U.S. Congress, cite: G.S. 106-1073, effective date: September 22, 2023. The NCGA stood up the Large Animal Healthcare Enhancement Advisory Committee in the 2023 General Assembly session. This "Temporary Rule" has been discussed and voted on by the Large Animal Healthcare Enhancement Advisory Committee on June 10, 2024. This "Temporary Rule" has subsequently been voted on by the Board of Directors of the North Carolina Agricultural Finance Authority on June 11, 2024, which G.S. 106-1073 housed the Large Animal Health Enhancement Advisory Committee.

**Comment Procedures:** Comments from the public shall be directed to: Robert Hosford, 1101 Spring Forest Road, Suite 150, Raleigh, NC 27615; email [largeanimalvetgrants@ncagr.gov](mailto:largeanimalvetgrants@ncagr.gov). The comment period begins June 13, 2024 and ends July 5, 2024.

## CHAPTER 63 – LARGE ANIMAL HEALTHCARE ENHANCEMENT ADVISORY COMMITTEE

### SECTION .0100 - GENERAL PROVISIONS

#### 02 NCAC 63 .0101      PURPOSE

This Chapter describes the operating procedures for the Large Animal Healthcare Enhancement Advisory Committee and the Chair under the guidance of the North Carolina Department of Agriculture and Consumer Services, and the North Carolina Agricultural Finance Authority implementing the Large Animal Healthcare Enhancement Fund for the enhancement of large animal veterinary services in North Carolina. Procedures and guidelines for participating applicants are also described. The purpose of the program is to provide grants to encourage veterinary students to sustainably serve as large or mixed animal veterinarians in underserved areas in the state and to provide additional resources for large or mixed animal veterinary practices that operate in underserved areas to help them to better serve their communities.

Authority G.S. 106-1074.

#### 02 NCAC 63 .0102      DEFINITIONS

In addition to the terms defined in Article 88 of Chapter 106 of the North Carolina General Statutes, the following terms used in this Chapter have the following meanings:

- (1) "Applicant" means a large animal veterinarian who applies for funds from the Large Animal Healthcare Enhancement Fund.
- (2) "Application" means a form developed and made available by the Large Animal Healthcare Enhancement Advisory Committee, including, but not limited to, any attachments and other information or documentation required by the form, for an applicant to complete and submit to the advisory committee to request a grant from the fund.
- (3) "Chair" or "Commissioner" means the chair of the advisory committee who is also the Commissioner of Agriculture.
- (4) "Grant" means an amount of money designated by the advisory committee to be given to a qualified applicant who has been chosen by the advisory committee.
- (5) "Grant recipient" means a qualified applicant who has received a grant.
- (6) "Large animal" means any of the animals referenced in G.S. 106-1072(8) and (9).
- (7) "Qualified applicant" means a large animal veterinarian (as defined in G.S. 106-1072(8)) and who otherwise meets the criteria described in this Rule and in Article 88 of Chapter 106 of the North Carolina General Statutes.

Authority G.S. 106-1074.

#### 02 NCAC 63 .0103      EVALUATION OF APPLICATIONS

(a) Applicants for funding from the fund shall submit a completed application within 60 days from the date of the public announcement of requests for proposals (the "application deadline").

(b) Applications and instructions shall be available online at [www.ncagr.gov](http://www.ncagr.gov).

William W. Peaslee  
Commission Counsel

**§ 150B-21.9. Standards and timetable for review by Commission.**

(a) Standards. - The Commission must determine whether a rule meets all of the following criteria:

- (1) It is within the authority delegated to the agency by the General Assembly.
- (2) It is clear and unambiguous.
- (3) It is reasonably necessary to implement or interpret an enactment of the General Assembly, or of Congress, or a regulation of a federal agency. The Commission shall consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed.
- (4) It was adopted in accordance with Part 2 of this Article.

The Commission shall not consider questions relating to the quality or efficacy of the rule but shall restrict its review to determination of the standards set forth in this subsection.

The Commission may ask the Office of State Budget and Management to determine if a rule has a substantial economic impact and is therefore required to have a fiscal note. The Commission must ask the Office of State Budget and Management to make this determination if a fiscal note was not prepared for a rule and the Commission receives a written request for a determination of whether the rule has a substantial economic impact.

(a1) Entry of a rule in the North Carolina Administrative Code after review by the Commission creates a rebuttable presumption that the rule was adopted in accordance with Part 2 of this Article.

(b) Timetable. - The Commission must review a permanent rule submitted to it on or before the twentieth of a month by the last day of the next month. The Commission must review a rule submitted to it after the twentieth of a month by the last day of the second subsequent month. The Commission must review a temporary rule in accordance with the timetable and procedure set forth in G.S. 150B-21.1. (1991, c. 418, s. 1; 1995, c. 507, s. 27.8(f); 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2003-229, s. 9.)

**§ 150B-21.1. Procedure for adopting a temporary rule.**

(a) Adoption. - An agency may adopt a temporary rule when it finds that adherence to the notice and hearing requirements of G.S. 150B-21.2 would be contrary to the public interest and that the immediate adoption of the rule is required by one or more of the following:

- (1) A serious and unforeseen threat to the public health, safety, or welfare.
- (2) The effective date of a recent act of the General Assembly or the United States Congress.
- (3) A recent change in federal or State budgetary policy.
- (4) A recent federal regulation.
- (5) A recent court order.
- (6) The need for a rule establishing review criteria as authorized by G.S. 131E-183(b) to complement or be made consistent with the State Medical Facilities Plan approved by the Governor, if the rule addresses a matter included in the State Medical Facilities Plan, and the proposed rule and a notice of public hearing is submitted to the Codifier of Rules prior to the effective date of the Plan.
- (7) The need for the Wildlife Resources Commission to establish any of the following:
  - a. No wake zones.
  - b. Hunting or fishing seasons, including provisions for manner of take or any other conditions required for the implementation of such season.
  - c. Hunting or fishing bag limits.
  - d. Management of public game lands as defined in G.S. 113-129(8a).
- (8) The need for the Secretary of State to implement the certification technology provisions of Article 11A of Chapter 66 of the General Statutes, to adopt uniform Statements of Policy that have been officially adopted by the North American Securities Administrators Association, Inc., for the purpose of promoting uniformity of state securities regulation, and to adopt rules governing the conduct of hearings pursuant to this Chapter.
- (9) The need for the Commissioner of Insurance to implement the provisions of G.S. 58-2-205.
- (10) The need for the State Chief Information Officer to implement the information technology procurement provisions of Article 15 of Chapter 143B of the General Statutes.
- (11) The need for the State Board of Elections to adopt a temporary rule after prior notice or hearing or upon any abbreviated notice or hearing the agency finds practical for one or more of the following:
  - a. In accordance with the provisions of G.S. 163-22.2.
  - b. To implement any provisions of state or federal law for which the State Board of Elections has been authorized to adopt rules.
  - c. The need for the rule to become effective immediately in order to preserve the integrity of upcoming elections and the elections process.
- (12) Repealed by Session Laws 2015-264, s. 22, effective October 1, 2015.
- (13), (14) Reserved.
- (15) Expired pursuant to Session Laws 2002-164, s. 5, effective October 1, 2004.
- (16) Expired pursuant to Session Laws 2003-184, s. 3, effective July 1, 2005.
- (17) To maximize receipt of federal funds for the Medicaid or NC Health Choice programs within existing State appropriations, to reduce Medicaid or NC Health

Choice expenditures, and to reduce Medicaid and NC Health Choice fraud and abuse.

(a1) Recodified as subdivision (a)(16) of this section by Session Laws 2004-156, s. 1.

(a2) A recent act, change, regulation, or order as used in subdivisions (2) through (5) of subsection (a) of this section means an act, change, regulation, or order occurring or made effective no more than 210 days prior to the submission of a temporary rule to the Rules Review Commission.

Upon written request of the agency, the Commission may waive the 210-day requirement upon consideration of the degree of public benefit, whether the agency had control over the circumstances that required the requested waiver, notice to and opposition by the public, the need for the waiver, and previous requests for waivers submitted by the agency.

(a3) Unless otherwise provided by law, the agency shall:

- (1) At least 30 business days prior to adopting a temporary rule, submit the rule and a notice of public hearing to the Codifier of Rules, and the Codifier of Rules shall publish the proposed temporary rule and the notice of public hearing on the Internet to be posted within five business days.
- (2) At least 30 business days prior to adopting a temporary rule, notify persons on the mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a temporary rule and of the public hearing.
- (3) Accept written comments on the proposed temporary rule for at least 15 business days prior to adoption of the temporary rule.
- (4) Hold at least one public hearing on the proposed temporary rule no less than five days after the rule and notice have been published. If notice of a public hearing has been published and that public hearing has been cancelled, the agency shall publish notice at least five days prior to the date of any rescheduled hearing.

(a4) An agency must also prepare a written statement of its findings of need for a temporary rule stating why adherence to the notice and hearing requirements in G.S. 150B-21.2 would be contrary to the public interest and why the immediate adoption of the rule is required. If the temporary rule establishes a new fee or increases an existing fee, the agency shall include in the written statement that it has complied with the requirements of G.S. 12-3.1. The statement must be signed by the head of the agency adopting the temporary rule.

(b) Review. - When an agency adopts a temporary rule it must submit the rule and the agency's written statement of its findings of the need for the rule to the Rules Review Commission. Within 15 business days after receiving the proposed temporary rule, the Commission shall review the agency's written statement of findings of need for the rule and the rule to determine whether the statement meets the criteria listed in subsection (a) of this section and the rule meets the standards in G.S. 150B-21.9. The Commission shall direct a member of its staff who is an attorney licensed to practice law in North Carolina to review the statement of findings of need and the rule. The staff member shall make a recommendation to the Commission, which must be approved by the Commission or its designee. The Commission's designee shall be a panel of at least three members of the Commission. In reviewing the statement, the Commission or its designee may consider any information submitted by the agency or another person. If the Commission or its designee finds that the statement meets the criteria listed in subsection (a) of this section and the rule meets the standards in G.S. 150B-21.9, the Commission or its designee must approve the temporary rule and deliver the rule to the Codifier of Rules within two business days of approval. The Codifier of Rules must enter the rule into the North Carolina Administrative Code on the sixth business day following receipt from the Commission or its designee.



(b1) If the Commission or its designee finds that the statement does not meet the criteria listed in subsection (a) of this section or that the rule does not meet the standards in G.S. 150B-21.9, the Commission or its designee must immediately notify the head of the agency. The agency may supplement its statement of need with additional findings or submit a new statement within 30 days of the notification. If the agency fails to supplement its statement of need with additional findings or submit a new statement to the Commission within 30 days, or submits written notice within 30 days to the Commission that the agency does not intend to supplement its statement of need with additional findings or submit a new statement, the Commission or its designee shall immediately return the rule to the agency. If the agency provides additional findings or submits a new statement within 30 days of the notification, the Commission or its designee must review the additional findings or new statement within five business days after the agency submits the additional findings or new statement. If the Commission or its designee again finds that the statement does not meet the criteria listed in subsection (a) of this section or that the rule does not meet the standards in G.S. 150B-21.9, the Commission or its designee must immediately notify the head of the agency and return the rule to the agency. When the Commission returns a rule to an agency in accordance with this subsection, the agency may file an action for declaratory judgment within 30 days after notification of the return of the rule by the Commission in Wake County Superior Court pursuant to Article 26 of Chapter 1 of the General Statutes.

(b2) If an agency decides not to provide additional findings or submit a new statement when notified by the Commission or its designee that the agency's findings of need for a rule do not meet the required criteria or that the rule does not meet the required standards, the agency must notify the Commission or its designee of its decision. The Commission or its designee shall then return the rule to the agency. When the Commission returns a rule to an agency in accordance with this subsection, the agency may file an action for declaratory judgment in Wake County Superior Court pursuant to Article 26 of Chapter 1 of the General Statutes within 30 days of the date the rule is returned to the agency.

(b3) Notwithstanding any other provision of this subsection, if the agency has not complied with the provisions of G.S. 12-3.1, the Codifier of Rules shall not enter the rule into the Code.

(b4) When the Commission returns to an agency a proposed permanent rule intended to replace a temporary rule, the holder of a permit from the agency may submit revised plans for a revised permit removing the impacts of the returned rule if all of the following conditions apply:

(1) The permit was conditioned upon adherence to the requirements of a temporary rule that the returned proposed permanent rule was intended to replace.

(2) The revised plans comply with all other applicable regulations.

The agency shall review the revised plans and approve or deny the revised permit within 45 days of the receipt of the revised plans. The agency may not impose an additional permit fee for review of a revised plan resulting from the expiration of a temporary rule.

(c) Standing. - A person aggrieved by a temporary rule adopted by an agency may file an action for declaratory judgment in Wake County Superior Court pursuant to Article 26 of Chapter 1 of the General Statutes. In the action, the court shall determine whether the agency's written statement of findings of need for the rule meets the criteria listed in subsection (a) of this section and whether the rule meets the standards in G.S. 150B-21.9. The court shall not grant an ex parte temporary restraining order.

(c1) Filing a petition for rule making or a request for a declaratory ruling with the agency that adopted the rule is not a prerequisite to filing an action under this subsection. A person who files an

action for declaratory judgment under this subsection must serve a copy of the complaint on the agency that adopted the rule being contested, the Codifier of Rules, and the Commission.

(d) Effective Date and Expiration. - A temporary rule becomes effective on the date specified in G.S. 150B-21.3. A temporary rule expires on the earliest of the following dates:

- (1) The date specified in the rule.
- (2) The effective date of the permanent rule adopted to replace the temporary rule, if the Commission approves the permanent rule.
- (3) The date the Commission returns to an agency a permanent rule the agency adopted to replace the temporary rule.
- (4) The effective date of an act of the General Assembly that specifically disapproves a permanent rule adopted to replace the temporary rule.
- (5) 270 days from the date the temporary rule was published in the North Carolina Register, unless the permanent rule adopted to replace the temporary rule has been submitted to the Commission.
- (6) Notwithstanding subdivision (5) of this subsection, 12 months after the effective date of the temporary rule.

(e) Publication. - When the Codifier of Rules enters a temporary rule in the North Carolina Administrative Code, the Codifier must publish the rule in the North Carolina Register.

**§ 122D-4. North Carolina Agricultural Finance Authority.**

(a) The North Carolina Agricultural Finance Authority, a body politic and corporate, is hereby created within the Department of Agriculture and Consumer Services. The Authority shall be constituted a public agency and an instrumentality of the State for the performance of essential public functions.

(b) The Authority shall be composed of 10 members appointed to three-year terms as follows:

- (1) One member appointed by the Governor to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by three.
- (2) One member appointed by the Governor to a term that expires on 1 July of years that are evenly divisible by three.
- (3) One member appointed by the Governor to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by three.
- (4) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by three.
- (5) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that are evenly divisible by three.
- (6) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by three.
- (7) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by three.
- (8) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that are evenly divisible by three.
- (9) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by three.
- (10) The Commissioner or the Commissioner's designee shall serve ex officio, with the same rights and privileges, including voting rights, as other members.

(c) A member appointed under subdivisions (1) through (9) of subsection (b) of this section may be reappointed to no more than two successive three-year terms. Upon the expiration of a three-year term, a member shall continue to serve until a successor is appointed and duly qualified as provided by G.S. 128-7.

(d) Vacancies in the offices of any appointed members of the Authority shall be filled in accordance with G.S. 120-122 for the remainder of the unexpired term. No vacant office shall be included in the determination of a quorum. No vacancy in office shall impair the rights of the members to exercise all rights and to conduct official business of the Authority.

(e) The domicile of the Authority shall be the City of Raleigh.

(f) A majority of the members shall constitute a quorum for the transaction of official business. All official actions of the Authority shall require an affirmative vote of a majority of the members present and voting at any meeting.

(g) Members of the Authority shall not receive any salary for the performance of their duties as members. Appointed members may receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(h) The Authority shall meet quarterly and may meet more frequently upon call.

(i) The Authority may delegate to one or more of its members, officers, employees or agents such powers and duties as it may deem proper. (1983, c. 789, s. 1; 1985, c. 583, s. 2; 1985 (Reg. Sess., 1986), c. 1011, s. 1; 1989, c. 500, s. 109(e); 1989 (Reg. Sess., 1990), c. 1074, s. 32(b); 1995, c. 490, s. 4; 1997-261, s. 109; 2004-195, s. 5.1.)

#### **§ 122D-6. General powers of Authority.**

The Authority shall have all the powers necessary to give effect to and carry out the purposes and provisions of this Chapter, including the following powers in addition to all other powers granted by other provisions of this Chapter, to:

- (1) Sue and be sued in its own name and in the name of any subsidiary corporation or entity which may be created pursuant to paragraph (19) of this section;
- (2) Have a seal and alter the same at its pleasure;
- (3) Adopt bylaws for the internal organization and government of the Authority;
- (4) **Adopt, promulgate and amend rules for the administration of the Chapter;**
- (4a) Limit the definition of agricultural loan under G.S. 122D-3(1);
- (5) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this Chapter with any federal or State governmental agency, public or private corporation, lending institution or other entity or person, and each and any North Carolina governmental agency is hereby authorized to enter into contracts and otherwise cooperate with the agency to facilitate the purposes of this Chapter;
- (6) Accept, administer and expend donations of movable or immovable property from any source, and receive, administer and expend appropriations from the legislature and financial assistance, guarantees, insurance or subsidies from the federal or State government;
- (7) Subject to the rights of holders of bonds of the Authority, to renegotiate, refinance or foreclose on any mortgage, security interest or lien; or commence any action to protect or enforce any right or benefit conferred upon the Authority by any law, mortgage, security interest, lien, contract or other agreement; and bid for and purchase property at any foreclosure or at any other sale or otherwise acquire or take possession of any property; and in any such event, the Authority may complete, administer, pay the principal of and interest on any obligation incurred in connection with such property, dispose of and otherwise deal with such property in such manner as may be necessary or desirable to protect the interest of the Authority or of holders of its bonds therein;
- (8) Procure or provide for the procurement of insurance or reinsurance against any loss in connection with its property or operations, including but not limited to insurance, reinsurance or other guarantees from any federal or State governmental agency or private insurance company for the payment of any bonds issued by the Authority, or bond, notes or any other obligations or evidences of indebtedness issued or made by any subsidiary corporation or entity created pursuant to subdivision (19) of this section or by any lending institution or other entity or person, or insurance or reinsurance against loss with respect to agricultural loans, mortgages or mortgage loans, or any other type of loans, including the power to pay premiums on such insurance or reinsurance;
- (9) Make, insure, coinsure, reinsure, or cause to be insured, coinsured or reinsured, agricultural loans, mortgage loans or mortgages, or any other type of loans and pay or receive premiums on such insurance, coinsurance or reinsurance, and establish reserves for losses, and participate in the insurance, coinsurance or reinsurance of agricultural loans, mortgage loans or mortgages, or any other type of loans with the federal or State government or any private insurance company;

- (10) Undertake and carry out or authorize the completion of studies and analyses of agricultural conditions and needs within the State and needs relating to the promotion of agricultural exports and ways of meeting such needs, and make such studies and analyses available to the public and to the agricultural industry, and to engage in research or disseminate information on agriculture and agricultural exports;
- (11) Accept federal, State or private financial or technical assistance and comply with any conditions for such assistance, provided such conditions are not in conflict with the intent of this Chapter;
- (12) Establish, pay and collect fees and charge in connection with its loans, deposits, insurance commitments and services, including but not limited to, reimbursement of costs of issuing bonds, origination and servicing fees, and insurance premiums;
- (13) Make loans to or deposits with lending institutions and purchase or sell agricultural loans;
- (14) Acquire or contract to acquire from any person, firm, corporation, municipality, federal or State agency, by grant, purchase or otherwise, movable or immovable property or any interest therein; own, hold, clear, improve, lease, construct or rehabilitate, and sell, invest, assign, exchange, transfer, convey, lease, mortgage or otherwise dispose of or encumber the same, subject to the rights of holders of the bonds of the Authority, at public or private sale, with or without public bidding;
- (15) Borrow money, issue bonds, and provide for the rights of the lenders or holders thereof and purchase, discount, sell, negotiate and guarantee, insure, coinsure and reinsure note, drafts, checks, bills of exchange, acceptances, bankers acceptances, cable transfers, letters of credit and other evidence of indebtedness with or without credit enhancement devices;
- (16) Subject to the rights of holders of the bonds of the Authority, consent to any modification with respect to the rate of interest, time, payment of any installment of principal or interest, security or any other term or condition of any loan, contract, mortgage, mortgage loan or commitment therefor or agreement of any kind to which the Authority is a party or beneficiary;
- (17) Maintain an office at such place or places as the Authority shall determine;
- (18) Serve as the beneficiary of any public trust;
- (19) After reporting to the agriculture committees of the House of Representatives and the Senate, to create such subsidiary corporations or entities as may be necessary to borrow money, insure or reinsure agricultural loans, or issue bonds in the international financial market; and
- (20) Purchase or participate in the purchase and enter into commitments by itself or together with others for the purchase of federally issued securities; provided that the proceeds of such securities will be utilized in accordance with the provisions of this Chapter.

**PART X. AGRICULTURE AND CONSUMER SERVICES**

**LARGE ANIMAL HEALTH ENHANCEMENT FUND**

**SECTION 10.1.(a)** Funds appropriated in this act to the Department of Agriculture and Consumer Services for the enhancement of large animal veterinary services in the State shall be allocated to the Large Animal Healthcare Enhancement Fund created in Article 88 of Chapter 106 of the General Statutes, as enacted by subsection (b) of this section, for the purposes set forth therein.

**SECTION 10.1.(b)** Chapter 106 of the General Statutes is amended by adding a new Article to read:

"Article 88.

"Large Animal Healthcare Enhancement Act.

**"§ 106-1071. Title.**

This Article shall be known and may be cited as the "Large Animal Healthcare Enhancement Act of 2023."

**"§ 106-1072. Definitions.**

The following definitions apply in this Article:

- (1) Advisory Committee. – The Large Animal Healthcare Enhancement Advisory Committee, as established by G.S. 106-1073.
- (2) Authority. – The North Carolina Agricultural Finance Authority, as created by G.S. 122D-4.
- (3) Board. – The North Carolina Board of Agriculture, as created by G.S. 106-2.
- (4) Commissioner. – The Commissioner of Agriculture.
- (5) Department. – The Department of Agriculture and Consumer Services.
- (6) Designated county. – A county in this State with a population of less than 100,000 people according to the latest decennial census.
- (7) Fund. – The Large Animal Healthcare Enhancement Fund, as created by G.S. 106-1074.
- (8) Large animal veterinarian. – A person who is actively engaged in and is licensed to practice veterinary medicine pursuant to Article 11 of Chapter 90 of the General Statutes and whose specialties include livestock, poultry, or equine animals.
- (9) Large animal veterinary medicine. – The practice of veterinary medicine, as defined in G.S. 90-181, for livestock, poultry, or equine animals.

**"§ 106-1073. Advisory Committee.**

(a) Committee Established. – The Large Animal Healthcare Enhancement Advisory Committee is established within the North Carolina Agricultural Finance Authority and shall consist of membership as follows:

- (1) The Commissioner of Agriculture or an employee of the Department designated by the Commissioner, who shall serve as chair.
- (2) The State Veterinarian or the State Veterinarian's designee.
- (3) A member of the Food Animal Scholars Program steering and mentoring committee.
- (4) Two practicing large animal veterinarians, to be appointed by the Commissioner. The veterinarians shall have different specialties in their practice.
- (5) Two representatives of the livestock industry, to be appointed by the Commissioner. The representatives shall represent different segments of the livestock industry.
- (6) The Executive Director of the Authority or the Executive Director's designee, who shall not be a voting member.

The Commissioner and the State Veterinarian may each designate one additional at-large member of the Advisory Committee.

(b) Terms of Members. – Members of the Advisory Committee shall serve terms of four years, beginning effective July 1 of the year of appointment.

(c) Vacancies. – Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be made by the original appointing authority and shall be for the balance of the unexpired term.

(d) Removal. – The appointing authority shall have the power to remove any member of the Commission appointed by that authority from office for misfeasance, malfeasance, or nonfeasance.

(e) Reimbursement. – The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(f) Meetings. – The Advisory Committee shall meet at least once every six months and may meet more often upon the call of the chair. A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(g) Ethics. – Members of the Advisory Committee are public servants as defined by G.S. 138A-3(70).

(h) Staff. – The staff of the Authority shall serve as staff to assist the Advisory Committee in carrying out administrative functions in the discharge of its duties and responsibilities.

#### **"§ 106-1074. Large Animal Healthcare Enhancement Fund.**

(a) Fund Created. – The Large Animal Healthcare Enhancement Fund is created as a special fund within the Department of Agriculture and Consumer Services. The Fund shall be administered by the Authority. The purpose of the fund is to make grants to encourage veterinary students to enter and stay in large animal veterinarian practice and to support large animal veterinarian practices to enable them to better serve their designated counties.



(b) Fund Sources. – The Fund shall consist of any money appropriated to it by the General Assembly and any money received from public or private sources. Unexpended, unencumbered money in the Fund from sources other than appropriations from the General Assembly shall not revert and shall remain available for expenditure in accordance with this section. The Authority may use up to five percent (5%) of General Fund appropriations in each fiscal year for administrative support.

(c) Grant Eligibility. – A large animal veterinarian who practices or plans to practice in one or more designated counties may be eligible for a grant of up to twenty-five thousand dollars (\$25,000) per fiscal year. Applicants shall apply in a format to be determined by the Advisory Commission, but the application shall require the applicant to state the designated counties in which the large animal veterinarian is practicing or plans to practice, the amount of funding requested, and the approved use for which the applicant intends to use the funds. When determining which applicants shall be awarded grant funds, the Advisory Committee shall consider all of the following criteria:

- (1) The geographic area of the State that an applicant serves or would serve and the need for large animal veterinary services in that area of the State.
- (2) The number of designated counties that an applicant serves or would serve.
- (3) The number of different large animal veterinarian specialties in which the applicant practices.
- (4) The percentage of time the applicant devotes to large animal veterinary services.
- (5) Any additional criteria the Advisory Committee determines to be appropriate.

(d) Uses of Grant Funds. – The grant recipient may use the funds to support the recipient's large animal veterinary practice, including any of the following:

- (1) The repayment of educational loans related to the recipient's veterinary degree.
- (2) The purchase of equipment or technology for use in the recipient's large animal veterinary practice.
- (3) Any additional uses the Advisory Committee determines is appropriate to promote and develop large animal veterinarians to practice in designated counties.

(e) Limitations. –The Advisory Committee shall review applicants on an annual basis to determine eligibility under the criteria developed under subsection (c) of this section. The Advisory Committee shall also review each recipient of grant funds at the end of each fiscal year. A recipient whose veterinary license expires, is revoked, or is suspended during the fiscal year in which the grant is awarded, or who fails to practice large animal veterinary medicine in the designated counties named in the recipient's application, shall repay the amount received from the Fund.

(f) Report. – The Agricultural Finance Authority shall report no later than October 1 each year to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division of the General Assembly regarding the implementation of this section during the previous fiscal year. The report shall include a list of the recipients of grants from the Fund for the previous fiscal year, the amount of the grants received, how recipients used awarded grant funds, and whether any awarded funds were required to be repaid by recipients."

**SECTION 10.1.(c)** The Agricultural Finance Authority, in consultation with the Large Animal Healthcare Enhancement Advisory Committee established by G.S. 106-1073, as enacted by subsection (b) of this section, shall adopt temporary rules to implement this section as soon as practicable and shall concurrently begin adopting permanent rules to replace the temporary rules.

**SECTION 10.1.(d)** This section is effective when it becomes law.

## **Request for Changes Pursuant to N.C. Gen. Stat. § 150B-21.10**

Staff reviewed these Rules to ensure that each Rule is within the agency's statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

Questions contained herein suggest that the rule as written is unclear or there is some ambiguity. If this document includes questions and you do not understand the question, please contact the reviewing attorney to discuss. Failure to respond may result in a staff opinion recommending objection.

Staff may suggest the agency "consider" an idea or language in this document. This is in no way a formal request that the agency adopt the idea or language but rather is offered merely for the agency's consideration which the agency may find preferable and clarifying.

To properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

### **Note the following general instructions:**

1. You must submit the revised rule via email to [oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov) and copy RRC Counsel. The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
  - Wrong: "a~~A~~ssociation"
  - Right: "~~association~~ Association"
6. Treat punctuation as part of a word. For example:
  - Wrong: "day;~~;~~and"
  - Right: "~~day,~~ day; and"
7. Formatting instructions and examples may be found at:  
[www.ncoah.com/rules/examples.html](http://www.ncoah.com/rules/examples.html)

William W. Peaslee  
Commission Counsel

Date submitted to agency: August 19, 2024

If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.

William W. Peaslee  
Commission Counsel

Date submitted to agency: August 19, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Agricultural Finance Authority

RULE CITATION: 02 NCAC 63 Generally

**DEADLINE FOR RECEIPT: August 22, 2024**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*In the History Note the agency cites G.S. 106-1074 as its rulemaking authority. G.S. 106-1074 does not grant rulemaking authority. Section 10.1(c) of S.L. 2023-134 does.*

*Please explain why these rules are to go into Title 02 of the NC Code.*

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

William W. Peaslee  
Commission Counsel

Date submitted to agency: August 19, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Agricultural Finance Authority

RULE CITATION: 02 NCAC 63 .0101

**DEADLINE FOR RECEIPT: August 22, 2024**

**PLEASE NOTE:** *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*Line 9: Explain the agency's authority to place the LAHEAC under the "guidance of the [Department]*

*Line 11: "Guidelines" are suggestions and do not belong in the Code. Do you mean "requirements?"*

*Line 12: Is the agency "describing" the procedures and requirements or establishing them?*

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

William W. Peaslee  
Commission Counsel

Date submitted to agency: August 19, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Agricultural Finance Authority

RULE CITATION: 02 NCAC 63 .0102

**DEADLINE FOR RECEIPT: August 22, 2024**

**PLEASE NOTE:** *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*Line 6: Consider adding "as defined in G.S. 106-1072" after "large animal veterinarian."*

*Line 8-11: It cannot be just any form. Please cite Rule .0103(c).*

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Agricultural Finance Authority

RULE CITATION: 02 NCAC 63 .0103

**DEADLINE FOR RECEIPT: August 22, 2024**

**PLEASE NOTE:** *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*Lines 19-20: Please see the RRC [style guide](#) regarding the use of parentheses*

*Line 8-11: It cannot be just any form. Please cite Rule .0103(c).*

*Line 29: Change “may” to “shall.”*

*Lines 32-33: Explain the authority for the Authority to empower the Commissioner to make the final decision when G.S. 106-1074(c) vests the authority in the Committee.*

*Page 1, Lines 35-37, and Page 2, Lines 1-2: Is there a rule which sets out the process for this?*

*Page 1, Lines 35-37, and Page 2, Lines 1-2: Explain the authority to empower the Authority to make this determination when G.S. 106-1074(e) states that the Committee shall do this.*

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

William W. Peaslee  
Commission Counsel

Date submitted to agency: August 19, 2024



REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Agricultural Finance Authority

RULE CITATION: 02 NCAC 63 .0104

**DEADLINE FOR RECEIPT: August 22, 2024**

**PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*Line 4: Approval by whom?*

*Line 10-11 What criteria will the Authority use in making its determination to amend agreement? Could this amendment alter the eligibility requirements of the statute?*

*Page 1, Lines 35-37, and Page 2, Lines 1-2: Explain the authority to empower the Authority to make this determination when G.S. 106-1074(e) states that the Committee shall do this.*

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

William W. Peaslee  
Commission Counsel

Date submitted to agency: August 19, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Agricultural Finance Authority

RULE CITATION: 02 NCAC 63 .0105

**DEADLINE FOR RECEIPT: August 22, 2024**

**PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*Line 7-8: It is unclear what the affidavit is required to state.*

*Line 8: The agency is requiring an affidavit and statement of affirmation?*

*Line 11-12: This is unclear. If a recipient has designed four counties, but his/her practice per county is less than 30%, do they qualify? Is the measure per county? Or cumulative? Eg If 10% of my practice in Wake is large animal , 10% in Durham, 5% in Harnett, and 6% in Lee, do I qualify? Or is it 30% of my practice as a whole?*

*Line 13: Change "must" to "shall."*

*Line 16: See comments from Lines 7-8.*

*Lines 18-19: See comments for Lines 11-12.*

*Line 23: Change "must" to "shall."*

*Lines 25-27: Ought this not be a new Paragraph?*

*Lines 28-30: How often?*

*Lines 28-30: What is required in the "monitoring reports?"*

*Lines 28-30: US Post is not available?*

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

William W. Peaslee  
Commission Counsel

Date submitted to agency: August 19, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Agricultural Finance Authority

RULE CITATION: 02 NCAC 63 .0106

**DEADLINE FOR RECEIPT: August 22, 2024**

**PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*Line 4: Change "must" to "shall."*

*Line 4: Be specific about what must be kept.*

*Line 6-7: Even after the deadline?*

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

William W. Peaslee  
Commission Counsel

Date submitted to agency: August 19, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Agricultural Finance Authority

RULE CITATION: 02 NCAC 63 Generally

**DEADLINE FOR RECEIPT: August 22, 2024**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*In the History Note the agency cites G.S. 106-1074 as its rulemaking authority. G.S. 106-1074 does not grant rulemaking authority. Section 10.1(c) of S.L. 2023-134 does.*

*Please explain why these rules are to go into Title 02 of the NC Code.*

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



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

<b>1. Rule-Making Agency:</b> North Carolina Finance Authority	
<b>2. Rule citation &amp; name:</b> 02 NCAC 63 .0101: PURPOSE	
<b>3. Action:</b> <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal Temporary adoption	
<b>4. Was this an Emergency Rule:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <b>Effective date:</b> 10/01/24	
<b>5. Provide dates for the following actions as applicable:</b> a. Proposed Temporary Rule submitted to OAH: 6/11/24 b. Proposed Temporary Rule published on the OAH website: 6/12/24 c. Public Hearing date: 6/25/24 d. Comment Period: 6/13/24 - 7/5/24 e. Notice pursuant to G.S. 150B-21.1(a3)(2): 6/11/24 f. Adoption by agency on: 8/8/24 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/24	
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b>  <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: House Bill 259, Session Law 2023-134 Effective date: October 3rd, 2023 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> Other:  <b>Explain:</b>  The 2023 Appropriations Act - House Bill 259 became law on October 3, 2023. The Large Animal Healthcare Enhancement Fund language can be found at the below link beginning on page 322.  H259v7.pdf (ncleg.gov)  <a href="https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf">https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf</a>	

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Anna R. Hayworth

Phone:

(919) 745-9356

E-Mail:

anna.hayworth@ncagr.gov

Agency contact, if any:

Robert Hosford

Phone:

n/a

E-Mail: robert.hosford@ncagr.gov

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Anna Hayworth

Title:

Rule-making coordinator

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Agricultural Finance Authority

RULE CITATION: 02 NCAC 63 .0101

**DEADLINE FOR RECEIPT: August 22, 2024**

**PLEASE NOTE:** *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*Line 9: Explain the agency's authority to place the LAHEAC under the "guidance of the [Department]*

*Line 11: "Guidelines" are suggestions and do not belong in the Code. Do you mean "requirements?"*

*Line 12: Is the agency "describing" the procedures and requirements or establishing them?*

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

William W. Peaslee  
Commission Counsel

Date submitted to agency: August 19, 2024

02 NCAC 63 .0101 is proposed for adoption under temporary procedures as follows:

**CHAPTER 63 – LARGE ANIMAL HEALTHCARE ENHANCEMENT ADVISORY COMMITTEE**

**SECTION .0100 - GENERAL PROVISIONS**

**02 NCAC 63 .0101 PURPOSE**

This Chapter describes the operating procedures for the Large Animal Healthcare Enhancement Advisory Committee and the Chair under the guidance of the North Carolina Department of Agriculture and Consumer Services, and the North Carolina Agricultural Finance Authority implementing the Large Animal Healthcare Enhancement Fund for the enhancement of large animal veterinary services in North Carolina. Procedures and guidelines for participating applicants are also described. The purpose of the program is to provide grants to encourage veterinary students to sustainably serve as large or mixed animal veterinarians in underserved areas in the state and to provide additional resources for large or mixed animal veterinary practices that operate in underserved areas to help them to better serve their communities.

History Note: Authority G.S. 106-1074;

Temporary Adoption Eff.





# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

North Carolina Finance Authority

**2. Rule citation & name:**

02 NCAC 63 .0102: DEFINITIONS

**3. Action:** ☒ Adoption

☐ Amendment

☐ Repeal

Temporary adoption

**4. Was this an Emergency Rule:** ☐ Yes  
☒ No

Effective date: 10/01/24

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: 6/11/24

b. Proposed Temporary Rule published on the OAH website: 6/12/24

c. Public Hearing date: 6/25/24

d. Comment Period: 6/13/24 - 7/5/24

e. Notice pursuant to G.S. 150B-21.1(a3)(2): 6/11/24

f. Adoption by agency on: 8/8/24

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/24

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: House Bill 259, Session Law 2023-134  
Effective date: October 3rd, 2023
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ Other:

**Explain:**

The 2023 Appropriations Act - House Bill 259 became law on October 3, 2023. The Large Animal Healthcare Enhancement Fund language can be found at the below link beginning on page 322.

H259v7.pdf (ncleg.gov)

<https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Anna R. Hayworth

Phone:

(919) 745-9356

E-Mail:

anna.hayworth@ncagr.gov

Agency contact, if any:

Robert Hosford

Phone:

n/a

E-Mail: robert.hosford@ncagr.gov

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Anna Hayworth

Title:

Rule-making coordinator

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Agricultural Finance Authority

RULE CITATION: 02 NCAC 63 .0102

**DEADLINE FOR RECEIPT: August 22, 2024**

**PLEASE NOTE:** *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*Line 6: Consider adding "as defined in G.S. 106-1072" after "large animal veterinarian."*

*Line 8-11: It cannot be just any form. Please cite Rule .0103(c).*

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

William W. Peaslee  
Commission Counsel

Date submitted to agency: August 19, 2024

02 NCAC 63 .0102 is proposed for adoption under temporary procedures as follows:

**02 NCAC 63 .0102 DEFINITIONS**

In addition to the terms defined in Article 88 of Chapter 106 of the North Carolina General Statutes, the following terms used in this Chapter have the following meanings:

- (1) “Applicant” means a large animal veterinarian who applies for funds from the Large Animal Healthcare Enhancement Fund.
- (2) “Application” means a form developed and made available by the Large Animal Healthcare Enhancement Advisory Committee, including, but not limited to, any attachments and other information or documentation required by the form, for an applicant to complete and submit to the advisory committee to request a grant from the fund.
- (3) “Chair” or “Commissioner” means the chair of the advisory committee who is also the Commissioner of Agriculture.
- (4) “Grant” means an amount of money designated by the advisory committee to be given to a qualified applicant who has been chosen by the advisory committee.
- (5) “Grant recipient” means a qualified applicant who has received a grant.
- (6) “Large animal” means any of the animals referenced in G.S. 106-1072(8) and (9).
- (7) “Qualified applicant” means a large animal veterinarian (as defined in G.S. 106-1072(8)) and who otherwise meets the criteria described in this Rule and in Article 88 of Chapter 106 of the North Carolina General Statutes.

History Note: Authority G.S. 106-1074;  
Temporary Adoption Eff.



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

North Carolina Finance Authority

**2. Rule citation & name:**

02 NCAC 63 .0103: EVALUATION OF APPLICATIONS

**3. Action:** ☒ Adoption ☐ Amendment ☐ Repeal

Temporary adoption

**4. Was this an Emergency Rule:** ☐ Yes ☒ No **Effective date:** 10/01/24

**5. Provide dates for the following actions as applicable:**

- a. Proposed Temporary Rule submitted to OAH: 6/11/24
- b. Proposed Temporary Rule published on the OAH website: 6/12/24
- c. Public Hearing date: 6/25/24
- d. Comment Period: 6/13/24 - 7/5/24
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 6/11/24
- f. Adoption by agency on: 8/8/24
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/24

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
**Cite:** House Bill 259, Session Law 2023-134  
**Effective date:** October 3rd, 2023
- ☐ A recent change in federal or state budgetary policy.  
**Effective date of change:**
- ☐ A recent federal regulation.  
**Cite:**  
**Effective date:**
- ☐ A recent court order.  
**Cite order:**
- ☐ Other:

**Explain:**

The 2023 Appropriations Act - House Bill 259 became law on October 3, 2023. The Large Animal Healthcare Enhancement Fund language can be found at the below link beginning on page 322.

H259v7.pdf (ncleg.gov)

<https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Anna R. Hayworth

Phone:

(919) 745-9356

E-Mail:

anna.hayworth@ncagr.gov

Agency contact, if any:

Robert Hosford

Phone:

n/a

E-Mail: robert.hosford@ncagr.gov

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Anna Hayworth

Title:

Rule-making coordinator

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Agricultural Finance Authority

RULE CITATION: 02 NCAC 63 .0103

**DEADLINE FOR RECEIPT: August 22, 2024**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*Lines 19-20: Please see the RRC [style guide](#) regarding the use of parentheses*

*Line 8-11: It cannot be just any form. Please cite Rule .0103(c).*

*Line 29: Change “may” to “shall.”*

*Lines 32-33: Explain the authority for the Authority to empower the Commissioner to make the final decision when G.S. 106-1074(c) vests the authority in the Committee.*

*Page 1, Lines 35-37, and Page 2, Lines 1-2: Is there a rule which sets out the process for this?*

*Page 1, Lines 35-37, and Page 2, Lines 1-2: Explain the authority to empower the Authority to make this determination when G.S. 106-1074(e) states that the Committee shall do this.*

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

William W. Peaslee  
Commission Counsel

Date submitted to agency: August 19, 2024

02 NCAC .0103 is proposed for adoption under temporary procedures as follows:

**02 NCAC .0103 EVALUATION OF APPLICATIONS**

(a) Applicants for funding from the fund shall submit a completed application within 60 days from the date of the public announcement of requests for proposals (the “application deadline”).

(b) Applications and instructions shall be available online at [www.ncagr.gov](http://www.ncagr.gov).

(c) To be eligible for consideration for funding, applicants shall complete the application, which shall be titled the “Large Animal Healthcare Enhancement Fund Application Form,” and which shall contain the following information:

(1) identifying information such as location, business name, and contact information;

(2) statement from the applicant that acknowledges and agrees that in the event that the applicant’s veterinary license expires, is revoked, or is suspended during the fiscal year in which the grant is awarded, or if the applicant fails to practice at least 30% large animal veterinary medicine in the designated counties named in the applicant’s application, the applicant shall repay the entire amount received from the fund;

(3) statement from the applicant that the applicant shall have no conflicting service obligation that would prevent the State from benefitting from the applicant’s services, with the exception of service in the National Guard or military reserve;

(4) an essay which describes the applicant’s professional ambition and how those professional goals fit with the intent of the fund (eight hundred word maximum, typed in 12-point Times New Roman font, and double-spaced);

(5) three personal or professional references listing the individual’s name, telephone number, and email address; and

(7) Certification that the applicant currently practices a minimum of 30% large animal veterinary medicine in at least one designated county.

(d) Each completed application shall be evaluated by the advisory committee staff based on the information provided in the application and in accordance with the fund criteria described in this rule and in Article 88 of Chapter 106 of the North Carolina General Statutes.

(e) The staff shall review all applications for completeness. If staff deems an application incomplete in that it does not contain information required by statute or these rules, the applicant may be asked by the authority staff to complete the application within seven days if the application deadline has expired.

(f) After the staff has reviewed each application for completeness, the advisory committee shall then review the applications prepared by each applicant and shall make recommendations to the Commissioner on applicants for funding.

(g) Grants shall be awarded contingent on the availability of sufficient funds to do so. Grants shall be conveyed to grant recipient(s) through contracts with the North Carolina Agricultural Finance Authority. If the North Carolina Agricultural Finance Authority determines that grants are not being used for the purpose for which they were awarded, the fund shall immediately cease making payments under the grant schedule and shall demand return of all amounts



1 from the grant pursuant to G.S. 106-1074. Grant recipient(s) must reimburse the fund all funds that the North Carolina  
2 Agricultural Finance Authority determines to have been spent in violation of G.S. 106-1074(e).

3  
4 *History Note: Authority G.S. 106-1074;*  
5 *Temporary Adoption Eff.*



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

North Carolina Finance Authority

**2. Rule citation & name:**

02 NCAC 63 .0104: GRANT AGREEMENT

**3. Action:**

☒ Adoption

☐ Amendment

☐ Repeal

Temporary adoption

**4. Was this an Emergency Rule:**

☐ Yes

Effective date: 10/01/24

☒ No

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: 6/11/24

b. Proposed Temporary Rule published on the OAH website: 6/12/24

c. Public Hearing date: 6/25/24

d. Comment Period: 6/13/24 - 7/5/24

e. Notice pursuant to G.S. 150B-21.1(a3)(2): 6/11/24

f. Adoption by agency on: 8/8/24

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/24

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: House Bill 259, Session Law 2023-134  
Effective date: October 3rd, 2023
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ Other:

**Explain:**

The 2023 Appropriations Act - House Bill 259 became law on October 3, 2023. The Large Animal Healthcare Enhancement Fund language can be found at the below link beginning on page 322.

H259v7.pdf (ncleg.gov)

<https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Anna R. Hayworth

Phone:

(919) 745-9356

E-Mail:

anna.hayworth@ncagr.gov

Agency contact, if any:

Robert Hosford

Phone:

n/a

E-Mail: robert.hosford@ncagr.gov

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Anna Hayworth

Title:

Rule-making coordinator

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Agricultural Finance Authority

RULE CITATION: 02 NCAC 63 .0104

**DEADLINE FOR RECEIPT: August 22, 2024**

**PLEASE NOTE:** *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*Line 4: Approval by whom?*

*Line 10-11 What criteria will the Authority use in making its determination to amend agreement? Could this amendment alter the eligibility requirements of the statute?*

*Page 1, Lines 35-37, and Page 2, Lines 1-2: Explain the authority to empower the Authority to make this determination when G.S. 106-1074(e) states that the Committee shall do this.*

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

William W. Peaslee  
Commission Counsel

Date submitted to agency: August 19, 2024

02 NCAC 63 .0104 is proposed for adoption under temporary procedures as follows:

**02 NCAC 63 .0104 GRANT AGREEMENT**

(a) Upon approval, a written agreement shall be executed between the grant recipient(s) and the North Carolina Finance Authority.

(b) The agreement shall define the North Carolina Finance Authority's and grant recipient's responsibilities and obligations, the project period, project scope, and the amount of grant assistance.

(c) The approved application and any support documentation submitted by the applicant shall become a part of the grant agreement.

(d) The grant agreement may be amended upon mutual consent and approval by the North Carolina Finance Authority and the grant recipient(s). The grant recipient(s) shall submit a written request for amendment to the North Carolina Finance Authority..

(e) Grant payments shall be made only for activities within the grant contract period and projects may not begin until the North Carolina Finance Authority and grant recipient(s) sign the agreement.

(f) The grant agreement shall include a requirement that the grant recipient(s) understands, acknowledges, and agrees that in the event that the grant recipient'(s') veterinary license expires, is revoked, or is suspended during the fiscal year in which the grant is awarded, or the grant recipient(s) fails to practice a minimum of 30% large animal veterinary medicine in at least one designated county named in the grant recipient'(s') application, the grant recipient(s) shall repay the entire amount received from the Fund.

History Note: Authority G.S. 106-1074;

Temporary Adoption Eff.



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

North Carolina Finance Authority

**2. Rule citation & name:**

02 NCAC 63 .0105: REPORTING

**3. Action:**

☒ Adoption

☐ Amendment

☐ Repeal

Temporary adoption

**4. Was this an Emergency Rule:**

☐ Yes

Effective date: 10/01/24

☒ No

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: 6/11/24

b. Proposed Temporary Rule published on the OAH website: 6/12/24

c. Public Hearing date: 6/25/24

d. Comment Period: 6/13/24 - 7/5/24

e. Notice pursuant to G.S. 150B-21.1(a3)(2): 6/11/24

f. Adoption by agency on: 8/8/24

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/24

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: House Bill 259, Session Law 2023-134  
Effective date: October 3rd, 2023
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ Other:

**Explain:**

The 2023 Appropriations Act - House Bill 259 became law on October 3, 2023. The Large Animal Healthcare Enhancement Fund language can be found at the below link beginning on page 322.

H259v7.pdf (ncleg.gov)

<https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Anna R. Hayworth

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(919) 745-9356

E-Mail:

anna.hayworth@ncagr.gov

Agency contact, if any:

Robert Hosford

Phone:

n/a

E-Mail: robert.hosford@ncagr.gov

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Anna Hayworth

Title:

Rule-making coordinator

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Agricultural Finance Authority

RULE CITATION: 02 NCAC 63 .0105

**DEADLINE FOR RECEIPT: August 22, 2024**

**PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*Line 7-8: It is unclear what the affidavit is required to state.*

*Line 8: The agency is requiring an affidavit and statement of affirmation?*

*Line 11-12: This is unclear. If a recipient has designed four counties, but his/her practice per county is less than 30%, do they qualify? Is the measure per county? Or cumulative? Eg If 10% of my practice in Wake is large animal , 10% in Durham, 5% in Harnett, and 6% in Lee, do I qualify? Or is it 30% of my practice as a whole?*

*Line 13: Change "must" to "shall."*

*Line 16: See comments from Lines 7-8.*

*Lines 18-19: See comments for Lines 11-12.*

*Line 23: Change "must" to "shall."*

*Lines 25-27: Ought this not be a new Paragraph?*

*Lines 28-30: How often?*

*Lines 28-30: What is required in the "monitoring reports?"*

*Lines 28-30: US Post is not available?*

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

William W. Peaslee  
Commission Counsel

Date submitted to agency: August 19, 2024



02 NCAC 63 .0105 is proposed for adoption under temporary procedures as follows:

**02 NCAC 63 .0105       REPORTING**

(a) Grant recipients shall submit to the North Carolina Agricultural Finance Authority a written progress report within 180 days of receipt of the grant.

(b) Written reports shall describe the status of the project, progress toward achieving program objectives, notable occurrences, any problems encountered, and steps taken to overcome the problems, and an affidavit from the grant recipient stating under oath or affirmation that, during the fiscal year in which the grant is awarded, and a statement of affirmation that supports the following:

(1) the grant recipient's veterinary license has not expired, been revoked, or been suspended, and

(2) the grant recipient(s) is currently practicing a minimum of 30% large animal veterinary medicine in at least one designated county named in the grant recipient's(s') application.

(c) Upon completion of the project, the grant recipient must make a final written report to the North Carolina Agricultural Finance Authority that shall include project accomplishments and benefits, all expenditures by line item as established in the application, and an affidavit from the grant recipient stating under oath or affirmation that, during the fiscal year in which the grant is and a statement of affirmation that supports the following:

(1) the grant recipient's veterinary license has not expired, been revoked, or been suspended, and

(2) the grant recipient(s) practiced a minimum of 30% large animal veterinary medicine in at least one designated county named in the grant recipient's(s') application.

(d) The North Carolina Agricultural Finance Authority shall review the progress reports for completeness, which shall include a showing of how the project is meeting its stated goals and performance standards. If the North Carolina Agricultural Finance Authority finds that the report is deficient in showing how the project is meeting its stated goals and performance standards, the grant recipient(s) shall be notified of the deficiency and must provide a changed and corrected report within 30 business days. A corrected or changed report shall be submitted to the North Carolina Agricultural Finance Authority within 30 business days. All grant funds shall be spent within 180 days of receipt by the grant recipient. If grant funds are not spent by the grant recipient by the end of this 180-day period, the grant funds shall be returned to the North Carolina Agricultural Finance Authority.

(e) Grant recipient(s) shall submit monitoring reports to the North Carolina Agricultural Finance Authority by email at [largeanimalvetgrants@ncagr.gov](mailto:largeanimalvetgrants@ncagr.gov) or by hand delivery at 1101 Spring Forest Road, Suite 150, Raleigh, North Carolina 27615.

*History Note: Authority G.S. 106-1074;*

*Temporary Adoption Eff.*



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

North Carolina Finance Authority

**2. Rule citation & name:**

02 NCAC 63 .0106: RECORDS

**3. Action:**

☒ Adoption

☐ Amendment

☐ Repeal

Temporary adoption

**4. Was this an Emergency Rule:**

☐ Yes

Effective date: 10/01/24

☒ No

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: 6/11/24

b. Proposed Temporary Rule published on the OAH website: 6/12/24

c. Public Hearing date: 6/25/24

d. Comment Period: 6/13/24 - 7/5/24

e. Notice pursuant to G.S. 150B-21.1(a3)(2): 6/11/24

f. Adoption by agency on: 8/8/24

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/24

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: House Bill 259, Session Law 2023-134  
Effective date: October 3rd, 2023
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ Other:

**Explain:**

The 2023 Appropriations Act - House Bill 259 became law on October 3, 2023. The Large Animal Healthcare Enhancement Fund language can be found at the below link beginning on page 322.

H259v7.pdf (ncleg.gov)

<https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Anna R. Hayworth

Phone:

(919) 745-9356

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anna.hayworth@ncagr.gov

Agency contact, if any:

Robert Hosford

Phone:

n/a

E-Mail: robert.hosford@ncagr.gov

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Anna Hayworth

Title:

Rule-making coordinator

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Agricultural Finance Authority

RULE CITATION: 02 NCAC 63 .0106

**DEADLINE FOR RECEIPT: August 22, 2024**

**PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*Line 4: Change "must" to "shall."*

*Line 4: Be specific about what must be kept.*

*Line 6-7: Even after the deadline?*

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

William W. Peaslee  
Commission Counsel  
Date submitted to agency: August 19, 2024

02 NCAC 63 .0106 is proposed for adoption under temporary procedures as follows:

**02 NCAC 63 .0106        RECORDS**

Grant recipients must keep financial and other records of the project for a period of five years, following completion of the project, or until audited. The records shall be made available to the Commissioner and the North Carolina Agricultural Finance Authority upon request. Recipients shall contact the Authority before destroying records or in the event that records are destroyed. The North Carolina Agricultural Finance Authority shall maintain and dispose of paper and electronic records in accordance with the approved Functional Schedule for North Carolina State Agencies, Program Record Retention and Disposition Schedule and Electronic Records and Imaging Policy, incorporated by reference with subsequent editions and amendments. The policy can be accessed free of charge at <https://archives.ncdcr.gov/documents/functional-schedule-state-agencies>.

*History Note:        Authority G.S. 106-1074;*

*Temporary Adoption Eff.*



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

North Carolina Finance Authority

**2. Rule citation & name:**

02 NCAC 63 .0101: PURPOSE

**3. Action:** ☒ Adoption

☐ Amendment

☐ Repeal

Temporary adoption

**4. Was this an Emergency Rule:** ☐ Yes

☒ No

Effective date: 10/01/24

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: 6/11/24

b. Proposed Temporary Rule published on the OAH website: 6/12/24

c. Public Hearing date: 6/25/24

d. Comment Period: 6/13/24 - 7/5/24

e. Notice pursuant to G.S. 150B-21.1(a3)(2): 6/11/24

f. Adoption by agency on: 8/8/24

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/24

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: House Bill 259, Session Law 2023-134  
Effective date: October 3rd, 2023
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ Other:

**Explain:**

The 2023 Appropriations Act - House Bill 259 became law on October 3, 2023. The Large Animal Healthcare Enhancement Fund language can be found at the below link beginning on page 322.

H259v7.pdf (ncleg.gov)

<https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Anna R. Hayworth

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E-Mail:

anna.hayworth@ncagr.gov

Agency contact, if any:

Robert Hosford

Phone:

n/a

E-Mail: robert.hosford@ncagr.gov

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Anna Hayworth

Title:

Rule-making coordinator

E-Mail:

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

02 NCAC 63 .0101 is proposed for adoption under temporary procedures as follows:

**CHAPTER 63 – LARGE ANIMAL HEALTHCARE ENHANCEMENT ADVISORY COMMITTEE**

**SECTION .0100 - GENERAL PROVISIONS**

**02 NCAC 63 .0101 PURPOSE**

This Chapter describes the operating procedures for the Large Animal Healthcare Enhancement Advisory Committee and the Chair under the guidance of the North Carolina Department of Agriculture and Consumer Services, and the North Carolina Agricultural Finance Authority implementing the Large Animal Healthcare Enhancement Fund for the enhancement of large animal veterinary services in North Carolina. Procedures and guidelines for participating applicants are also described. The purpose of the program is to provide grants to encourage veterinary students to sustainably serve as large or mixed animal veterinarians in underserved areas in the state and to provide additional resources for large or mixed animal veterinary practices that operate in underserved areas to help them to better serve their communities.

History Note: Authority G.S. 106-1074;

Temporary Adoption Eff.





# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

North Carolina Finance Authority

**2. Rule citation & name:**

02 NCAC 63 .0102: DEFINITIONS

**3. Action:** ☒ Adoption

☐ Amendment

☐ Repeal

Temporary adoption

**4. Was this an Emergency Rule:** ☐ Yes

☒ No

Effective date: 10/01/24

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: 6/11/24

b. Proposed Temporary Rule published on the OAH website: 6/12/24

c. Public Hearing date: 6/25/24

d. Comment Period: 6/13/24 - 7/5/24

e. Notice pursuant to G.S. 150B-21.1(a3)(2): 6/11/24

f. Adoption by agency on: 8/8/24

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/24

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: House Bill 259, Session Law 2023-134  
Effective date: October 3rd, 2023
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ Other:

**Explain:**

The 2023 Appropriations Act - House Bill 259 became law on October 3, 2023. The Large Animal Healthcare Enhancement Fund language can be found at the below link beginning on page 322.

H259v7.pdf (ncleg.gov)

<https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Anna R. Hayworth

Phone:

(919) 745-9356

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anna.hayworth@ncagr.gov

Agency contact, if any:

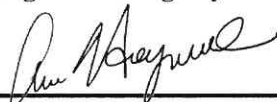
Robert Hosford

Phone:

n/a

E-Mail: robert.hosford@ncagr.gov

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Anna Hayworth

Title:

Rule-making coordinator

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

02 NCAC 63 .0102 is proposed for adoption under temporary procedures as follows:

**02 NCAC 63 .0102 DEFINITIONS**

In addition to the terms defined in Article 88 of Chapter 106 of the North Carolina General Statutes, the following terms used in this Chapter have the following meanings:

- (1) “Applicant” means a large animal veterinarian who applies for funds from the Large Animal Healthcare Enhancement Fund.
- (2) “Application” means a form developed and made available by the Large Animal Healthcare Enhancement Advisory Committee, including, but not limited to, any attachments and other information or documentation required by the form, for an applicant to complete and submit to the advisory committee to request a grant from the fund.
- (3) “Chair” or “Commissioner” means the chair of the advisory committee who is also the Commissioner of Agriculture.
- (4) “Grant” means an amount of money designated by the advisory committee to be given to a qualified applicant who has been chosen by the advisory committee.
- (5) “Grant recipient” means a qualified applicant who has received a grant.
- (6) “Large animal” means any of the animals referenced in G.S. 106-1072(8) and (9).
- (7) “Qualified applicant” means a large animal veterinarian (as defined in G.S. 106-1072(8)) and who otherwise meets the criteria described in this Rule and in Article 88 of Chapter 106 of the North Carolina General Statutes.

History Note: Authority G.S. 106-1074;

Temporary Adoption Eff.



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

North Carolina Finance Authority

**2. Rule citation & name:**

02 NCAC 63 .0103: EVALUATION OF APPLICATIONS

**3. Action:** ☒ Adoption ☐ Amendment ☐ Repeal

Temporary adoption

**4. Was this an Emergency Rule:** ☐ Yes ☒ No **Effective date:** 10/01/24

**5. Provide dates for the following actions as applicable:**

- a. Proposed Temporary Rule submitted to OAH: 6/11/24
- b. Proposed Temporary Rule published on the OAH website: 6/12/24
- c. Public Hearing date: 6/25/24
- d. Comment Period: 6/13/24 - 7/5/24
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 6/11/24
- f. Adoption by agency on: 8/8/24
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/24

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
**Cite:** House Bill 259, Session Law 2023-134  
**Effective date:** October 3rd, 2023
- ☐ A recent change in federal or state budgetary policy.  
**Effective date of change:**
- ☐ A recent federal regulation.  
**Cite:**  
**Effective date:**
- ☐ A recent court order.  
**Cite order:**
- ☐ Other:

**Explain:**

The 2023 Appropriations Act - House Bill 259 became law on October 3, 2023. The Large Animal Healthcare Enhancement Fund language can be found at the below link beginning on page 322.

H259v7.pdf (ncleg.gov)

<https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Anna R. Hayworth

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Agency contact, if any:

Robert Hosford

Phone:

n/a

E-Mail: robert.hosford@ncagr.gov

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Anna Hayworth

Title:

Rule-making coordinator

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

02 NCAC .0103 is proposed for adoption under temporary procedures as follows:

**02 NCAC .0103                      EVALUATION OF APPLICATIONS**

(a) Applicants for funding from the fund shall submit a completed application within 60 days from the date of the public announcement of requests for proposals (the “application deadline”).

(b) Applications and instructions shall be available online at [www.ncagr.gov](http://www.ncagr.gov).

(c) To be eligible for consideration for funding, applicants shall complete the application, which shall be titled the “Large Animal Healthcare Enhancement Fund Application Form,” and which shall contain the following information:

(1) identifying information such as location, business name, and contact information;

(2) statement from the applicant that acknowledges and agrees that in the event that the applicant’s veterinary license expires, is revoked, or is suspended during the fiscal year in which the grant is awarded, or if the applicant fails to practice at least 30% large animal veterinary medicine in the designated counties named in the applicant’s application, the applicant shall repay the entire amount received from the fund;

(3) statement from the applicant that the applicant shall have no conflicting service obligation that would prevent the State from benefitting from the applicant’s services, with the exception of service in the National Guard or military reserve;

(4) an essay which describes the applicant’s professional ambition and how those professional goals fit with the intent of the fund (eight hundred word maximum, typed in 12-point Times New Roman font, and double-spaced);

(5) three personal or professional references listing the individual’s name, telephone number, and email address; and

(7) Certification that the applicant currently practices a minimum of 30% large animal veterinary medicine in at least one designated county.

(d) Each completed application shall be evaluated by the advisory committee staff based on the information provided in the application and in accordance with the fund criteria described in this rule and in Article 88 of Chapter 106 of the North Carolina General Statutes.

(e) The staff shall review all applications for completeness. If staff deems an application incomplete in that it does not contain information required by statute or these rules, the applicant may be asked by the authority staff to complete the application within seven days if the application deadline has expired.

(f) After the staff has reviewed each application for completeness, the advisory committee shall then review the applications prepared by each applicant and shall make recommendations to the Commissioner on applicants for funding.

(g) Grants shall be awarded contingent on the availability of sufficient funds to do so. Grants shall be conveyed to grant recipient(s) through contracts with the North Carolina Agricultural Finance Authority. If the North Carolina Agricultural Finance Authority determines that grants are not being used for the purpose for which they were awarded, the fund shall immediately cease making payments under the grant schedule and shall demand return of all amounts

1 from the grant pursuant to G.S. 106-1074. Grant recipient(s) must reimburse the fund all funds that the North Carolina  
2 Agricultural Finance Authority determines to have been spent in violation of G.S. 106-1074(e).  
3  
4 History Note: Authority G.S. 106-1074;  
5 Temporary Adoption Eff.



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

North Carolina Finance Authority

**2. Rule citation & name:**

02 NCAC 63 .0104: GRANT AGREEMENT

**3. Action:**

☒ Adoption

☐ Amendment

☐ Repeal

Temporary adoption

**4. Was this an Emergency Rule:**

☐ Yes

Effective date: 10/01/24

☒ No

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: 6/11/24

b. Proposed Temporary Rule published on the OAH website: 6/12/24

c. Public Hearing date: 6/25/24

d. Comment Period: 6/13/24 - 7/5/24

e. Notice pursuant to G.S. 150B-21.1(a3)(2): 6/11/24

f. Adoption by agency on: 8/8/24

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/24

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: House Bill 259, Session Law 2023-134  
Effective date: October 3rd, 2023
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ Other:

**Explain:**

The 2023 Appropriations Act - House Bill 259 became law on October 3, 2023. The Large Animal Healthcare Enhancement Fund language can be found at the below link beginning on page 322.

H259v7.pdf (ncleg.gov)

<https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>



7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Anna R. Hayworth

Phone:

(919) 745-9356

E-Mail:

anna.hayworth@ncagr.gov

Agency contact, if any:

Robert Hosford

Phone:

n/a

E-Mail: robert.hosford@ncagr.gov

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Anna Hayworth

Title:

Rule-making coordinator

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

02 NCAC 63 .0104 is proposed for adoption under temporary procedures as follows:

**02 NCAC 63 .0104 GRANT AGREEMENT**

(a) Upon approval, a written agreement shall be executed between the grant recipient(s) and the North Carolina Finance Authority.

(b) The agreement shall define the North Carolina Finance Authority's and grant recipient's responsibilities and obligations, the project period, project scope, and the amount of grant assistance.

(c) The approved application and any support documentation submitted by the applicant shall become a part of the grant agreement.

(d) The grant agreement may be amended upon mutual consent and approval by the North Carolina Finance Authority and the grant recipient(s). The grant recipient(s) shall submit a written request for amendment to the North Carolina Finance Authority..

(e) Grant payments shall be made only for activities within the grant contract period and projects may not begin until the North Carolina Finance Authority and grant recipient(s) sign the agreement.

(f) The grant agreement shall include a requirement that the grant recipient(s) understands, acknowledges, and agrees that in the event that the grant recipient'(s') veterinary license expires, is revoked, or is suspended during the fiscal year in which the grant is awarded, or the grant recipient(s) fails to practice a minimum of 30% large animal veterinary medicine in at least one designated county named in the grant recipient'(s') application, the grant recipient(s) shall repay the entire amount received from the Fund.

*History Note: Authority G.S. 106-1074;*

*Temporary Adoption Eff.*



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

North Carolina Finance Authority

**2. Rule citation & name:**

02 NCAC 63 .0105: REPORTING

**3. Action:**

☒ Adoption

☐ Amendment

☐ Repeal

Temporary adoption

**4. Was this an Emergency Rule:**

☐ Yes

Effective date: 10/01/24

☒ No

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: 6/11/24

b. Proposed Temporary Rule published on the OAH website: 6/12/24

c. Public Hearing date: 6/25/24

d. Comment Period: 6/13/24 - 7/5/24

e. Notice pursuant to G.S. 150B-21.1(a3)(2): 6/11/24

f. Adoption by agency on: 8/8/24

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/24

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: House Bill 259, Session Law 2023-134  
Effective date: October 3rd, 2023
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ Other:

**Explain:**

The 2023 Appropriations Act - House Bill 259 became law on October 3, 2023. The Large Animal Healthcare Enhancement Fund language can be found at the below link beginning on page 322.

H259v7.pdf (ncleg.gov)

<https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Anna R. Hayworth

Phone:

(919) 745-9356

E-Mail:

anna.hayworth@ncagr.gov

Agency contact, if any:

Robert Hosford

Phone:

n/a

E-Mail: robert.hosford@ncagr.gov

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Anna Hayworth

Title:

Rule-making coordinator

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

02 NCAC 63 .0105 is proposed for adoption under temporary procedures as follows:

**02 NCAC 63 .0105       REPORTING**

(a) Grant recipients shall submit to the North Carolina Agricultural Finance Authority a written progress report within 180 days of receipt of the grant.

(b) Written reports shall describe the status of the project, progress toward achieving program objectives, notable occurrences, any problems encountered, and steps taken to overcome the problems, and an affidavit from the grant recipient stating under oath or affirmation that, during the fiscal year in which the grant is awarded, and a statement of affirmation that supports the following:

(1) the grant recipient's veterinary license has not expired, been revoked, or been suspended, and

(2) the grant recipient(s) is currently practicing a minimum of 30% large animal veterinary medicine in at least one designated county named in the grant recipient's(s') application.

(c) Upon completion of the project, the grant recipient must make a final written report to the North Carolina Agricultural Finance Authority that shall include project accomplishments and benefits, all expenditures by line item as established in the application, and an affidavit from the grant recipient stating under oath or affirmation that, during the fiscal year in which the grant is and a statement of affirmation that supports the following:

(1) the grant recipient's veterinary license has not expired, been revoked, or been suspended, and

(2) the grant recipient(s) practiced a minimum of 30% large animal veterinary medicine in at least one designated county named in the grant recipient's(s') application.

(d) The North Carolina Agricultural Finance Authority shall review the progress reports for completeness, which shall include a showing of how the project is meeting its stated goals and performance standards. If the North Carolina Agricultural Finance Authority finds that the report is deficient in showing how the project is meeting its stated goals and performance standards, the grant recipient(s) shall be notified of the deficiency and must provide a changed and corrected report within 30 business days. A corrected or changed report shall be submitted to the North Carolina Agricultural Finance Authority within 30 business days. All grant funds shall be spent within 180 days of receipt by the grant recipient. If grant funds are not spent by the grant recipient by the end of this 180-day period, the grant funds shall be returned to the North Carolina Agricultural Finance Authority.

(e) Grant recipient(s) shall submit monitoring reports to the North Carolina Agricultural Finance Authority by email at [largeanimalvetgrants@ncagr.gov](mailto:largeanimalvetgrants@ncagr.gov) or by hand delivery at 1101 Spring Forest Road, Suite 150, Raleigh, North Carolina 27615.

*History Note: Authority G.S. 106-1074;*

*Temporary Adoption Eff.*



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

**1. Rule-Making Agency:**

North Carolina Finance Authority

**2. Rule citation & name:**

02 NCAC 63 .0106: RECORDS

**3. Action:**

☒ Adoption

☐ Amendment

☐ Repeal

Temporary adoption

**4. Was this an Emergency Rule:**

☐ Yes

Effective date: 10/01/24

☒ No

**5. Provide dates for the following actions as applicable:**

a. Proposed Temporary Rule submitted to OAH: 6/11/24

b. Proposed Temporary Rule published on the OAH website: 6/12/24

c. Public Hearing date: 6/25/24

d. Comment Period: 6/13/24 - 7/5/24

e. Notice pursuant to G.S. 150B-21.1(a3)(2): 6/11/24

f. Adoption by agency on: 8/8/24

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 10/01/24

**6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.**

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite: House Bill 259, Session Law 2023-134  
Effective date: October 3rd, 2023
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ Other:

**Explain:**

The 2023 Appropriations Act - House Bill 259 became law on October 3, 2023. The Large Animal Healthcare Enhancement Fund language can be found at the below link beginning on page 322.

H259v7.pdf (ncleg.gov)

<https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

Anna R. Hayworth

Phone:

(919) 745-9356

E-Mail:

anna.hayworth@ncagr.gov

Agency contact, if any:


Robert Hosford

Phone:

n/a

E-Mail: robert.hosford@ncagr.gov

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Anna Hayworth

Title:

Rule-making coordinator

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

02 NCAC 63 .0106 is proposed for adoption under temporary procedures as follows:

**02 NCAC 63 .0106        RECORDS**

Grant recipients must keep financial and other records of the project for a period of five years, following completion of the project, or until audited. The records shall be made available to the Commissioner and the North Carolina Agricultural Finance Authority upon request. Recipients shall contact the Authority before destroying records or in the event that records are destroyed. The North Carolina Agricultural Finance Authority shall maintain and dispose of paper and electronic records in accordance with the approved Functional Schedule for North Carolina State Agencies, Program Record Retention and Disposition Schedule and Electronic Records and Imaging Policy, incorporated by reference with subsequent editions and amendments. The policy can be accessed free of charge at <https://archives.ncdcr.gov/documents/functional-schedule-state-agencies>.

*History Note:        Authority G.S. 106-1074;*

*Temporary Adoption Eff.*





# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:

2. Rule citation & name:

3. Action: ☐ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☐ No Effective date:

5. Provide dates for the following actions as applicable:

a. Proposed Temporary Rule submitted to OAH:

b. Proposed Temporary Rule published on the OAH website:

c. Public Hearing date:

d. Comment Period:

e. Notice pursuant to G.S. 150B-21.1(a3)(2):

f. Adoption by agency on:

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☐ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite:  
Effective date:
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ Other:

Explain:

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☐ No

9. Rule-making Coordinator:

Phone:

E-Mail:

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Title:

E-Mail:

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:

2. Rule citation & name:

3. Action: ☐ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☐ No Effective date:

5. Provide dates for the following actions as applicable:

a. Proposed Temporary Rule submitted to OAH:

b. Proposed Temporary Rule published on the OAH website:

c. Public Hearing date:

d. Comment Period:

e. Notice pursuant to G.S. 150B-21.1(a3)(2):

f. Adoption by agency on:

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☐ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite:  
Effective date:
- ☐ A recent change in federal or state budgetary policy.  
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Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
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Explain:

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☐ No

9. Rule-making Coordinator:

Phone:

E-Mail:

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Title:

E-Mail:

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:	
2. Rule citation & name:	
3. Action: <input type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
4. Was this an Emergency Rule: <input type="checkbox"/> Yes <input type="checkbox"/> No Effective date:	
5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: b. Proposed Temporary Rule published on the OAH website: c. Public Hearing date: d. Comment Period: e. Notice pursuant to G.S. 150B-21.1(a3)(2): f. Adoption by agency on: g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]:	
6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: Effective date: <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> Other:  Explain:	

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☐ No

9. Rule-making Coordinator:

Phone:

E-Mail:

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Title:

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**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:

2. Rule citation & name:

3. Action: ☐ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☐ No Effective date:

5. Provide dates for the following actions as applicable:

a. Proposed Temporary Rule submitted to OAH:

b. Proposed Temporary Rule published on the OAH website:

c. Public Hearing date:

d. Comment Period:

e. Notice pursuant to G.S. 150B-21.1(a3)(2):

f. Adoption by agency on:

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]:

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- ☐ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
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Effective date:
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Explain:

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8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☐ No

9. Rule-making Coordinator:

Phone:

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Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Title:

E-Mail:

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:





# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:

2. Rule citation & name:

3. Action: ☐ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☐ No Effective date:

5. Provide dates for the following actions as applicable:

a. Proposed Temporary Rule submitted to OAH:

b. Proposed Temporary Rule published on the OAH website:

c. Public Hearing date:

d. Comment Period:

e. Notice pursuant to G.S. 150B-21.1(a3)(2):

f. Adoption by agency on:

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

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- ☐ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite:  
Effective date:
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Cite:  
Effective date:
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Cite order:
- ☐ Other:

Explain:

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☐ No

9. Rule-making Coordinator:

Phone:

E-Mail:

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Title:

E-Mail:

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:

2. Rule citation & name:

3. Action: ☐ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☐ No Effective date:

5. Provide dates for the following actions as applicable:

a. Proposed Temporary Rule submitted to OAH:

b. Proposed Temporary Rule published on the OAH website:

c. Public Hearing date:

d. Comment Period:

e. Notice pursuant to G.S. 150B-21.1(a3)(2):

f. Adoption by agency on:

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☐ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite:  
Effective date:
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ Other:

Explain:

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

☐ No

9. Rule-making Coordinator:

Phone:

E-Mail:

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head\*:



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Title:

E-Mail:

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:



ROBERT HOSFORD  
CHIEF EXECUTIVE OFFICER

**NORTH CAROLINA  
AGRICULTURAL FINANCE AUTHORITY**

August 16, 2024

Dana McGhee Publication Coordinator  
Office of Administrative Hearings

Dear Ms. McGhee,

Ms. Anna Hayworth is the new Rulemaking Coordinator for the NC Agricultural Finance Authority. The contact information for Ms. Hayworth is:

Agricultural Finance Authority  
24 NCAC 02  
Anna Hayworth, Agricultural Programs Specialist  
1002 Mail Service Center  
Raleigh, NC  
Phone - (984)236-4509  
[anna.hayworth@ncagr.gov](mailto:anna.hayworth@ncagr.gov)

Sincerely,

A handwritten signature in black ink, appearing to read "Keith Beavers".

Keith Beavers  
Chairman of the NCAFA Board

## **Burgos, Alexander N**

---

**From:** Peaslee, William W  
**Sent:** Friday, August 16, 2024 3:06 PM  
**To:** Hayworth, Anna; Hosford, Robert L  
**Cc:** Burgos, Alexander N  
**Subject:** Recommendation of Counsel  
**Attachments:** 08.24 Staff Opinion 02 NCAC 63 Temp.doc

Good afternoon,

Attached please find the recommendation of counsel for all temporary rules from the NC Agricultural Finance Authority before the RRC.

I will be reading the rules next so there may be further recommendations for objection forthcoming.

As always if you have any questions please let me know.

Have a good weekend.

**William W. Peaslee**  
**Rules Review Commission Counsel / Legislative Liaison**  
Office of Administrative Hearings  
1711 New Hope Church Road  
Raleigh NC, 27609  
(984) 236-1939  
[Bill.Peaslee@oah.nc.gov](mailto:Bill.Peaslee@oah.nc.gov)

---

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

## Burgos, Alexander N

---

**Subject:** FW: 02 NCAC 63 Section .0100 temporary rule.

---

**From:** Peaslee, William W <bill.peaslee@oah.nc.gov>

**Sent:** Thursday, August 15, 2024 4:01 PM

**To:** Hayworth, Anna <Anna.Hayworth@ncagr.gov>

**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Hosford, Robert L <Robert.Hosford@ncagr.gov>

**Subject:** RE: 02 NCAC 63 Section .0100 temporary rule.

Ms. Hayworth:

Please be advised that the Authority's temporary rules propose they be added to Title 02 of the North Carolina Administrative Code which is the title for Agriculture and Consumer Services.

The Authority's rules are currently under [Title 24](#) for Independent Agencies, specifically [Chapter 2](#).

So, the rules were published as Ag. Department rules, submitted to the RRC by the Ag. Department but labeled as Authority rules to be placed, not in the Authority's Title, but in the Ag. Department's Title.

I am compelled to agree with you about there being confusion. Please let me know what whoever is proposing these rules intends to do.

Thank you.

**William W. Peaslee**

**Rules Review Commission Counsel / Legislative Liaison**

Office of Administrative Hearings

1711 New Hope Church Road

Raleigh NC, 27609

(984) 236-1939

[Bill.Peaslee@oah.nc.gov](mailto:Bill.Peaslee@oah.nc.gov)

---

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

## Burgos, Alexander N

---

**From:** Peaslee, William W  
**Sent:** Thursday, August 15, 2024 3:19 PM  
**To:** Hayworth, Anna  
**Cc:** Burgos, Alexander N; Hosford, Robert L  
**Subject:** RE: 02 NCAC 63 Section .0100 temporary rule.  
**Attachments:** Agricultural Finance Authority 2.13.23.pdf

Ms. Hayworth:

Should you decide to reach out to Keith Beavers you should have him designate you as the rule-making coordinator for the Authority if that is what he desires. Presently the coordinator for the Authority is Mr. Hosford.

Thank you.

**William W. Peaslee**  
**Rules Review Commission Counsel / Legislative Liaison**  
Office of Administrative Hearings  
1711 New Hope Church Road  
Raleigh NC, 27609  
(984) 236-1939  
[Bill.Peaslee@oah.nc.gov](mailto:Bill.Peaslee@oah.nc.gov)

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**From:** Peaslee, William W  
**Sent:** Thursday, August 15, 2024 2:46 PM  
**To:** Hayworth, Anna <Anna.Hayworth@ncagr.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: 02 NCAC 63 Section .0100 temporary rule.

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Please see [26 NCAC 02C .0113\(a\)](#).

The form 0500 needs to be signed by Keith Beavers, Chairman of the Authority.

Thank you.

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S.L. 2023-134 was ratified by the General Assembly on September 22, 2023. Section 10.1(c) provides the authority/requirement for temporary rule making.

**Anna R. Hayworth | Agricultural Programs Specialist**

*Office of the Assistant Commissioner of Consumer Protection*

*NC Department of Agriculture and Consumer Services*

1002 Mail Service Center | Raleigh, NC 27699

**Office: (984) 236-4509 (new office)**

Cell: (919) 745-9356

[anna.hayworth@ncagr.gov](mailto:anna.hayworth@ncagr.gov)

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**Subject:** 02 NCAC 63 Section .0100 temporary rule.

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Thank you.

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2-13-23

24 NCAC 02

ROBERT HOSFORD  
EXECUTIVE DIRECTOR



**NORTH CAROLINA  
AGRICULTURAL FINANCE AUTHORITY**

March 4, 2021

Dana McGhee  
Publication Coordinator  
Office of Administrative Hearings

Dear Ms. McGhee,

Mr. Robert Hosford is the new Rulemaking Coordinator for the NC Agricultural Finance Authority. The contact information for Mr. Hosford is:

Agricultural Finance Authority  
24 NCAC 02  
Robert Hosford  
1101 Spring Forest Road, Suite 150  
Raleigh, NC 27615  
Phone – (919) 790-3949  
[Robert.Hosford@ncagr.gov](mailto:Robert.Hosford@ncagr.gov)

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen E. Emory".  
Stephen E. Emory  
Chairman of the NCAFA Board

**MAILING ADDRESS:**  
1101 SPRING FOREST ROAD, SUITE 150  
RALEIGH, NC 27615

**PHONE:** (919) 790-3949 – **FAX** (919) 790-3954  
[www.ncagr.gov/agfinance](http://www.ncagr.gov/agfinance)  
**E-MAIL:** [Robert.Hosford@ncagr.gov](mailto:Robert.Hosford@ncagr.gov)

## **Burgos, Alexander N**

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**Subject:** FW: 02 NCAC 63 Section .0100 temporary rule.

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**Attachments:** 2021 July 22 - RulemakingCoordinator Anna Hayworth-NCDACS.pdf

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**Anna R. Hayworth | Agricultural Programs Specialist**

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1002 Mail Service Center | Raleigh, NC 27699

**Office: (984) 236-4509 (new office)**

Cell: (919) 745-9356

[anna.hayworth@ncagr.gov](mailto:anna.hayworth@ncagr.gov)



**Steven W. Troxler**  
Commissioner

**North Carolina Department of Agriculture  
and Consumer Services**

July 22, 2021

VIA E-Mail

Ashley Snyder  
Codifier of Rules  
Office of Administrative Hearings

Dear Ashley,

This letter serves to designate Anna Hayworth as the Rulemaking Coordinator for the following Boards/Individuals:

- North Carolina Board of Agriculture
- North Carolina Gas and Oil Inspection Board
- NC Seed Board
- Commissioner of Agriculture

Ms. Hayworth can be reached at 919-707-3011 or [anna.hayworth@ncagr.gov](mailto:anna.hayworth@ncagr.gov). Her mailing address is 1001 Mail Services Center, Raleigh, NC 27699-1001.

If you have any questions, please contact my office.

Sincerely,

Steven W. Troxler  
Commissioner



## **Burgos, Alexander N**

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**From:** Peaslee, William W  
**Sent:** Tuesday, August 13, 2024 4:22 PM  
**To:** Hayworth, Anna  
**Cc:** Burgos, Alexander N  
**Subject:** 02 NCAC 63 Section .0100 temporary rule.

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

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**From:** Peaslee, William W  
**Sent:** Thursday, August 15, 2024 3:19 PM  
**To:** Hayworth, Anna  
**Cc:** Burgos, Alexander N; Hosford, Robert L  
**Subject:** RE: 02 NCAC 63 Section .0100 temporary rule.  
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24 NCAC 02

ROBERT HOSFORD  
EXECUTIVE DIRECTOR



**NORTH CAROLINA  
AGRICULTURAL FINANCE AUTHORITY**

March 4, 2021

Dana McGhee  
Publication Coordinator  
Office of Administrative Hearings

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Agricultural Finance Authority  
24 NCAC 02  
Robert Hosford  
1101 Spring Forest Road, Suite 150  
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Sincerely,

A handwritten signature in black ink, appearing to read "Stephen E. Emory".  
Stephen E. Emory  
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**MAILING ADDRESS:**  
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**Sent:** Wednesday, August 14, 2024 4:25 PM  
**To:** Peaslee, William W <bill.peaslee@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: 02 NCAC 63 Section .0100 temporary rule.

Mr. Peaslee,

I believe there may be a bit of a misunderstanding, I hope this clears up any confusion:

1. *Form Temporary Rule 0500 was signed by the agency rule-making coordinator. G.S. 150B-21.1(a4) requires the form to be signed by the head of the agency.*

Pursuant to NCGS § 143B-10(a), “Except as otherwise provided by this Chapter, the head of each principal State department may assign or reassign any function vested in him or in his department to any subordinate officer or employee of his department.” I have been designated as the rule-making coordinator for NCDA&CS that is responsible for submitting and signing this type of document. I have been signing off on these forms as the designee since I was designated as the rule-making coordinator and have never received any feedback from OAH staff that this was incorrect procedure. Attached is a copy of the letter from the Commissioner of Agriculture designating me as NCDA&CS’s rule-making coordinator.

2. *S.L 2023-134, from which the Authority claims as the basis for its authority to adopt temporary rules on the Form 0500, became law on October 3, 2023. Section 10.1(d) of the Session Law states that Section 10.1(c) becomes effective “when it becomes law.” G.S. 150B-21.1(a2) defines a recent act, change regulation, or order as being one which occurred “no more than 201 days prior to submission of a temporary rule to the Rules Review Commission (RRC) . The above captioned rules were submitted to the RRC for review on August 12, 2024, 315 days after the Session Law became effective.*

S.L. 2023-134, Section 10.1(c) specifically requires that The Agricultural Finance Authority “shall adopt temporary rules to implement this section as soon as practicable . . . .”

1. *On June 11, 2024, the Department of Agriculture and Consumer Services (DACS) gave notice to the Codifier pursuant to G.S. 150B-21.1(a3) of its intention to adopt the above captioned rules. The Form .0500 lists the rule-making agency as the NCFA. It does not appear that the NCFA, the rule-making authority, gave notice pursuant to G.S. 150B-21.1(a3).*

This may be a simple confusion. There was a small mistake on the submitted form, it should say the North Carolina **Agricultural** Finance Authority (NCAFA).

NCGS § 122D-4(a) creates The North Carolina Agricultural Finance Authority within the Department of Agriculture and Consumer Services. Thus, the coordination of these rules fall within NCDA&CS,

similar to the Board of Agriculture, Pesticide Board, etc. Notice was given and posted to the NCDA&CS website as required, and as is commonly followed and previously accepted practice.

2. *The notice filed with the Codifier by DACS on the June 11, 2024 states the effective date of the recent enactment of the General Assembly as September 22, 2023. I cannot find any evidence of this. Further, I do not believe G.S. 106-1073 triggers temporary rule-making authority in and of itself, particularly since G.S. 106-1078 already established the Advisory Committee.*

S.L. 2023-134 was ratified by the General Assembly on September 22, 2023. Section 10.1(c) provides the authority/requirement for temporary rule making.

**Anna R. Hayworth | Agricultural Programs Specialist**

*Office of the Assistant Commissioner of Consumer Protection*

*NC Department of Agriculture and Consumer Services*

1002 Mail Service Center | Raleigh, NC 27699

**Office: (984) 236-4509 (new office)**

Cell: (919) 745-9356

[anna.hayworth@ncagr.gov](mailto:anna.hayworth@ncagr.gov)



**Steven W. Troxler**  
Commissioner

## North Carolina Department of Agriculture and Consumer Services

July 22, 2021

VIA E-Mail

Ashley Snyder  
Codifier of Rules  
Office of Administrative Hearings

Dear Ashley,

This letter serves to designate Anna Hayworth as the Rulemaking Coordinator for the following Boards/Individuals:

- North Carolina Board of Agriculture
- North Carolina Gas and Oil Inspection Board
- NC Seed Board
- Commissioner of Agriculture

Ms. Hayworth can be reached at 919-707-3011 or [anna.hayworth@ncagr.gov](mailto:anna.hayworth@ncagr.gov). Her mailing address is 1001 Mail Services Center, Raleigh, NC 27699-1001.

If you have any questions, please contact my office.

Sincerely,

Steven W. Troxler  
Commissioner

## **Burgos, Alexander N**

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**From:** Peaslee, William W  
**Sent:** Tuesday, August 13, 2024 4:22 PM  
**To:** Hayworth, Anna  
**Cc:** Burgos, Alexander N  
**Subject:** 02 NCAC 63 Section .0100 temporary rule.

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Good afternoon Anna,

I have been assigned to review the above captioned temporary rules filed by the North Carolina Finance Authority (NCFA).

Before sending you a request for changes, I wanted to bring to your attention several issues regarding the adoption of these rules.

- Form Temporary Rule 0500 was signed by the agency rule-making coordinator. G.S. 150B-21.1(a4) requires the form to be signed by the head of the agency.
- S.L 2023-134, from which the Authority claims as the basis for its authority to adopt temporary rules on the Form 0500, became law on October 3, 2023. Section 10.1(d) of the Session Law states that Section 10.1(c) becomes effective “when it becomes law.” G.S. 150B-21.1(a2) defines a recent act, change regulation, or order as being one which occurred “no more than 201 days prior to submission of a temporary rule to the Rules Review Commission (RRC) . The above captioned rules were submitted to the RRC for review on August 12, 2024, 315 days after the Session Law became effective.
- On June 11, 2024, the Department of Agriculture and Consumer Services (DACs) gave notice to the Codifier pursuant to G.S. 150B-21.1(a3) of its intention to adopt the above captioned rules. The Form .0500 lists the rule-making agency as the NCFA. It does not appear that the NCFA, the rule-making authority, gave notice pursuant to G.S. 150B-21.1(a3).
- The notice filed with the Codifier by DACs on the June 11, 2024 states the effective date of the recent enactment of the General Assembly as September 22, 2023. I cannot find any evidence of this. Further, I do not believe G.S. 106-1073 triggers temporary rule-making authority in and of itself, particularly since G.S. 106-1078 already established the Advisory Committee.

It is my present intention to recommend objection pursuant to G.S. 150B-21.9(a)(4) unless you can explain or cure these issues. As our time is short, please reply no later than COB April 15, 2024.

Thank you.

**William W. Peaslee**  
**Rules Review Commission Counsel / Legislative Liaison**  
Office of Administrative Hearings  
1711 New Hope Church Road  
Raleigh NC, 27609  
(984) 236-1939

[Bill.Peaslee@oah.nc.gov](mailto:Bill.Peaslee@oah.nc.gov)

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