Burgos, Alexander N

Subject: FW: Council of State: Rule Change for July 2026 RRC Meeting

From: Thomas, Blake <blake.thomas@osbm.nc.gov>
Sent: Tuesday, July 14, 2026 4:49 PM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>
Cc: Ventaloro, Julie W <julie.ventaloro@osbm.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: RE: Council of State: Rule Change for July 2026 RRC Meeting

Chris, I've reviewed the updated version of proposed rule 06 NCAC 04 .0103. This version looks good and is consistent with what we submitted in June, plus the actions of the Council at their July meeting removing "proposed" before "rule" and resolving the imprecise wording about the types of declaratory ruling that can be requested. It seems to me that it is ready for the RRC meeting. Thanks for your close attention to the document.

--Blake

Blake Thomas, Agency General Counsel, N.C. Office of State Budget & Management. Phone: (919) 817-3799.

Burgos, Alexander N

Subject: FW: Council of State: Rule Change for July 2026 RRC Meeting
Attachments: 06 NCAC 04 .0103 (as of 2026-07-10 with changes) v4.docx

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From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Friday, July 10, 2026 11:04 AM
To: Thomas, Blake <blake.thomas@osbm.nc.gov>
Cc: Ventaloro, Julie W <julie.ventaloro@osbm.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: RE: Council of State: Rule Change for July 2026 RRC Meeting

Hi Blake,

Thanks for this. I am good with the changes – I think this should address the objection. Regarding formatting, we don't have set guidelines on how to denote additional changes made to rules in response to RRC objections. However, I think it's important that this second round of changes is clear and apparent to the RRC when they review. As such, I've used highlighting and brackets (in addition to the underlining and strikethrough already used in the document) to denote the new changes. Please review the updated version carefully. If you agree, we will use the attached version for the RRC meeting.

Let me know if you have any questions.

Regards,
Chris

Chris Miller
Rules Review Commission Counsel
North Carolina Office of Administrative Hearings | Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
(984) 236-1935

NOTICE: E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by authorized State officials.

06 NCAC 04 .0103 is adopted as published in 40:11 NCR 858-859 with changes following RRC June 25, 2026, objection as follows:

CHAPTER 4 - DECLARATORY RULINGS

06 NCAC 04 .0103 DECLARATORY RULING PROCESS

Any person ~~substantially affected~~ aggrieved by a rule approved or adopted by the Council of State may request a declaratory ruling as to either the manner in which the rule applies to a given factual situation, if at all, or as to whether a particular rule of the Council is valid. Such persons may also request ~~either type of~~ a declaratory ruling concerning the applicability to a given factual situation of a statute ~~under which the rule was adopted.~~ administered by the Council. All requests for declaratory rulings shall be submitted to the executive department responsible for administering the statute to which the rule relates. All such requests shall be in accordance with the administrative procedures of the responsible executive department. The chief executive officer of the responsible executive department shall respond to the request in accord with the applicable administrative procedures of the department. The chief executive officer of the responsible department shall also notify the Council of any such request received and the department's proposed disposition thereof. The Council may, in its discretion, review and amend any such proposed departmental declaratory rulings. In its determination whether to review, whether to amend, and how to amend the proposed declaratory ruling, the Council shall consider at least the following factors: whether there is authority to adopt the rule; the effect of the [~~proposed~~] rule on existing rules, programs, and practices; probable costs and cost factors of the [~~proposed~~] rule; and the impact of the rule on the public and regulated entities. It may also take such other action in regard thereto as it deems necessary.

History Note: *Authority G.S. 147-13; 150B-4;*
Eff. ~~*May*~~ *[*~~*July*~~*] August 1, 2026.*

Burgos, Alexander N

Subject: FW: Council of State: Rule Change for July 2026 RRC Meeting
Attachments: 07-07-26 Changes to CoS Rule Responding to RRC Objection.docx

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From: Thomas, Blake <blake.thomas@osbm.nc.gov>
Sent: Tuesday, July 7, 2026 10:28 AM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>
Cc: Ventaloro, Julie W <julie.ventaloro@osbm.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Liebman, Brian R <brian.liebman@oah.nc.gov>
Subject: Council of State: Rule Change for July 2026 RRC Meeting

Chris,

Thank you for your work on the Council of State rules. Pursuant to G.S. 150B-21.12(a)(1), I've attached changes to Council of State proposed rule 06 NCAC 04 .0103 submitted in response to the Rules Review Commission's June 25 objection. The Council of State made these changes at this morning's meeting.

I've done my best to format this correctly based on the Rule Format Examples page and the Commission for Public Health rule that was submitted and approved in a similar situation in August 2025. But this is my first time trying to format adoption of a new rule with changes following a RRC objection. I added a bubble comment on line 18 regarding a formatting detail that I wanted to make sure I got right. Please let me know if I've formatted anything incorrectly; I'm happy to resend with the appropriate formatting changes made.

Best wishes,
--Blake

Blake Thomas, Agency General Counsel, N.C. Office of State Budget & Management. Phone: (919) 817-3799.

06 NCAC 04 .0103 is adopted as published in 40:11 NCR 858-859 with changes following RRC June 25, 2026 objection as follows:

CHAPTER 4 - DECLARATORY RULINGS

06 NCAC 04 .0103 DECLARATORY RULING PROCESS

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History Note: *Authority G.S. 147-13; 150B-4;*
Eff. ~~July~~ August 1, 2026.

Commented [BT1]: Removed the word "proposed" here, which was added after publication in response to earlier comments. If I'm reading the formatting instructions correctly, the word "proposed" is now removed entirely from the proposed rule as formatted for RRC review and potential publication in the Administrative Code. In case I'm reading the formatting instructions wrong, though, I wanted to add this comment to highlight that I removed that word here.

Burgos, Alexander N

Subject: FW: Council of State: Rules for April 2026 RRC Meeting
Attachments: 06 NCAC 01 .0108 v2.docx; 06 NCAC 01 .0110 v2.docx; 06 NCAC 01 .0111 (as of 2026-06-12, with changes) v2.docx; 06 NCAC 01 .0112 (as of 2026-06-12, with changes) v2.docx; 06 NCAC 01 .0113 (as of 2026-06-12, with changes) v2.docx; 06 NCAC 01 .0114 v2.docx; 06 NCAC 02 .0105 v2.docx; 06 NCAC 02 .0106 (as of 2026-06-12, with changes) v2.docx; 06 NCAC 02 .0107 (as of 2026-06-12, with changes) v2.docx; 06 NCAC 02 .0108 (as of 2026-06-12, with changes) v2.docx; 06 NCAC 04 .0103 (as of 2026-06-12, with changes) v2.docx; 06 NCAC 04 .0104 v2.docx

From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Tuesday, June 23, 2026 11:01 AM
To: Thomas, Blake <blake.thomas@osbm.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Cc: Ventaloro, Julie W <julie.ventaloro@osbm.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: RE: Council of State: Rules for April 2026 RRC Meeting

Thanks, Blake. The attached rule versions will be posted to the Agenda and used for Thursday's meeting. I'll be recommending approval for all rules except for 06 NCAC 04 .0103 (as discussed).
Let me know if you have any questions before the meeting.
Best,
Chris

Chris Miller
Rules Review Commission Counsel
North Carolina Office of Administrative Hearings | Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
(984) 236-1935

NOTICE: E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by authorized State officials.

06 NCAC 01 .0108 is adopted with changes as published in 40:11 NCR 858-859 as follows:

CHAPTER 01 - DEPARTMENTAL RULES

06 NCAC 01 .0108 ADMINISTRATION

The Council shall be served by a secretary who shall be appointed by the Governor. In the absence of the Governor, the Lieutenant Governor shall preside. In the absence of the Lieutenant Governor, the Council shall be chaired by a member of the Council to be determined by the order in which members are listed in Article III, Section 7 of the North Carolina Constitution.

History Note: *Authority North Carolina Constitution, Article III, Section 2,7,8;*
Eff. ~~May~~ July 1, 2026.

06 NCAC 01 .0110 is adopted with changes as published in 40:11 NCR 858-859 as follows:

06 NCAC 01 .0110 MEETINGS

The Council of State shall convene at such times and places, as the Governor shall deem necessary.

History Note: *Authority G.S. 147-13;*
Eff. ~~*May*~~ *July 1, 2026.*

06 NCAC 01 .0111 is adopted with changes as published in 40:11 NCR 858-859 as follows:

06 NCAC 01 .0111 LOCATION

The Council of State has no permanent office or staff. Matters to be brought before the Council of State ~~should~~ shall be submitted to the Council's Secretary through the Office of the Governor unless by statute or specific rule they must first be presented to an executive department for transmittal to the Council.

History Note: *Authority G.S. 147-13;*
Eff. ~~*May*~~ *July 1, 2026.*

06 NCAC 01 .0112 is adopted with changes as published in 40:11 NCR 858-859 as follows:

06 NCAC 01 .0112 PROXIES

No proxies ~~will~~ shall be counted in order to establish a quorum for conducting business.

History Note: *Authority G.S. 147-13;*
Eff. ~~*May*~~ *July 1, 2026.*

06 NCAC 01 .0113 is adopted with changes as published in 40:11 NCR 858-859 as follows:

06 NCAC 01 .0113 AGENDA

The agenda for each Council of State meeting shall be compiled by the Council's Secretary. The Secretary is authorized to make sufficient inquiries and request sufficient information to ~~insure~~ ensure that the Council will have adequate information with which to consider any agenda item. On each agenda there shall be an occasion provided for any individual Council of State member to bring before the Council any other matter desired.

History Note: *Authority G.S. 147-13;*
Eff. ~~*May*~~ *July 1, 2026.*

06 NCAC 01 .0114 is adopted with changes as published in 40:11 NCR 858-859 as follows:

06 NCAC 01 .0114 RECORDS OF MEETINGS

The minutes of the Council of State meetings shall be kept by the Secretary and shall be compiled into the journal of the Council of State. The journal shall be kept in the Office of the Governor and shall be open to public inspection during regular business hours.

History Note: *Authority G.S. 132-1; 147-13;*
Eff. ~~May~~ July 1, 2026.

06 NCAC 02 .0105 is adopted with changes as published in 40:11 NCR 858-859 as follows:

CHAPTER 2 - RULE-MAKING PROCEDURES

06 NCAC 02 .0105 PRELIMINARY STEPS FOR RULE-MAKING

In those instances where the Council of State must approve a rule adopted by an executive department or when it adopts a rule itself, proposed text for the rule must be submitted to the Council for review beforehand. The proposed text shall be submitted by the executive department responsible for administering the statute to which the proposed rule relates. The executive department must follow Chapter 150B of the General Statutes on rule-making before submitting its recommendation to the Council. The hearing procedures applicable to that executive department apply. The Council may initiate rule-making in those matters which require its approval.

History Note: *Authority G.S. 126-12; 143-260.8(g); 143-341(4),(8)(k); 143-345.1; 146-1;*
Eff. ~~May~~ July 1, 2026.

06 NCAC 02 .0106 is adopted with changes as published in 40:11 NCR 858-859 as follows:

06 NCAC 02 .0106 PETITIONS FOR RULE-MAKING HEARINGS

Whenever any person submits a petition for rule-making relating to matters for which the Council of State must approve or promulgate rules, the chief executive official of the responsible department shall determine if the public interest will be served by granting the request. If the request is denied, the petitioning party may appeal that decision as stated in G.S. 150B-20(d). ~~to the Council of State by filing a request for review of the denial decision with the secretary to the Council within 15 days after receipt of the notice of denial. If the Council determines that a hearing would serve the public interest, it may direct the chief executive official of the responsible executive department to designate a hearing officer and conduct a rule-making hearing or the Council itself may conduct a rule-making hearing.~~

History Note: *Authority G.S. 126-12; 143-260.8(g); 143-341(4),(8)(k); 143-345.1; 146-1; 150B-20;*
Eff. ~~*May*~~ *July 1, 2026.*

06 NCAC 02 .0107 is adopted with changes as published in 40:11 NCR 858-859 as follows:

06 NCAC 02 .0107 ADOPTION OR APPROVAL OF RULES

Upon completion of the departmental rule-making process, the department ~~will~~ shall forward proposed rules which must be approved or adopted by the Council, along with a record or minutes of the rule-making hearing and any other written submissions desired, to the Council's secretary for inclusion on the agenda of the Council's next meeting. The Council may request such other information as it deems necessary and appropriate from the department.

History Note: *Authority G.S. 126-12; 143-260.8(g); 143-341(4),(8)(k); 143-345.1; 146-1; 147-13; 150B-18;*
Eff. ~~*May*~~ *July 1, 2026.*

06 NCAC 02 .0108 is adopted with changes as published in 40:11 NCR 858-859 as follows:

06 NCAC 02 .0108 FILING OF RULES

Rules adopted by the Council of State are recorded in the journal of the Council and are codified pursuant to the provisions of the North Carolina Administrative Procedure ~~Act~~ Act, Chapter 150B of the North Carolina General Statutes, with the rules of the executive department responsible for administering the rules and related statutes.

History Note: *Authority G.S. 147-13; 150B-21.18; 150B-21.19;*
Eff. ~~*May*~~ *July 1, 2026.*

06 NCAC 04 .0103 is adopted with changes as published in 40:11 NCR 858-859 as follows:

CHAPTER 4 - DECLARATORY RULINGS

06 NCAC 04 .0103 DECLARATORY RULING PROCESS

Any person ~~substantially affected~~ aggrieved by a rule approved or adopted by the Council of State may request a declaratory ruling as to either the manner in which the rule applies to a given factual situation, if at all, or as to whether a particular rule of the Council is valid. Such persons may also request either type of declaratory ruling concerning the statute under which the rule was adopted. All requests for declaratory rulings shall be submitted to the executive department responsible for administering the statute to which the rule relates. All such requests shall be in accordance with the administrative procedures of the responsible executive department. The chief executive officer of the responsible executive department shall respond to the request in accord with the applicable administrative procedures of the department. The chief executive officer of the responsible department shall also notify the Council of any such request received and the department's proposed disposition thereof. The Council may, in its discretion, review and amend any such proposed departmental declaratory rulings. In its determination whether to review, whether to amend, and how to amend the proposed declaratory ruling, the Council shall consider at least the following factors: whether there is authority to adopt the rule; the effect of the proposed rule on existing rules, programs, and practices; probable costs and cost factors of the proposed rule; and the impact of the rule on the public and regulated entities. It may also take such other action in regard thereto as it deems necessary.

History Note: *Authority G.S. 147-13; 150B-4;*
Eff. ~~May~~ July 1, 2026.

06 NCAC 04 .0104 is adopted with changes as published in 40:11 NCR 858-859 as follows:

06 NCAC 04 .0104 RECORDS OF DECLARATORY RULINGS

A record of all declaratory ruling proceedings shall be maintained in the executive department responsible for administering the statute to which the questioned rule relates. The record shall be maintained in accordance with the department's administrative procedures. Also, a record of the dispositions of all such declaratory ruling proceedings shall be kept in the Council journal.

History Note: *Authority G.S. 147-13; 150B-4;*
Eff. ~~May~~ July 1, 2026.

Burgos, Alexander N

Subject: FW: Council of State: Rules for April 2026 RRC Meeting
Attachments: 06 NCAC 04 .0103 (as of 2026-06-12, with changes) v2.docx; 06 NCAC 04 .0103 (as of 2026-06-19 with changes) v3.docx

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From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Monday, June 22, 2026 2:40 PM
To: Thomas, Blake <blake.thomas@osbm.nc.gov>
Cc: Ventaloro, Julie W <julie.ventaloro@osbm.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: RE: Council of State: Rules for April 2026 RRC Meeting

Blake, Please see my responses below in red. Let me know if you want to discuss.
Thanks!
Chris

From: Thomas, Blake <blake.thomas@osbm.nc.gov>
Sent: Friday, June 19, 2026 4:58 PM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>
Cc: Ventaloro, Julie W <julie.ventaloro@osbm.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: Council of State: Rules for April 2026 RRC Meeting

Chris, thanks for your notes and attention on all these issues. Below, I'm going to copy each segment of your message, then give my response.

- **Withdrawal of 06 NCAC 01 .0109:** Thanks for your response on this rule. Because this rule is being withdrawn by the Council, it will not be posted for RRC review at the June 25th meeting. But we will make note of the withdrawal on the meeting agenda and in my comments at the meeting.

Thanks; that will work well.

- **Formatting Changes for All Rules:** Because these rules are now *adoptions with changes from publication*, changes do not need to be denoted with highlighting. Rather, any text to be deleted shall be struck through and new text shall be underlined. The unchanged text shall not be underlined. I have made these formatting changes for all 12 attached rules. Please use these versions going forward.

Thanks. Here are two very technical questions in response, so that I can (hopefully) do the formatting correctly next time. First, so that I'm rooted in the right section of the rules, the relevant formatting rule here is 26 NCAC 02C .0405(b)(1), right? Yes, that is the correct rule. Second, could you help me understand the situation where the formatting rules in 26 NCAC 02C .0405(b)(2) would apply? (b)(2) would apply to rule amendments for the Code (rather than rule adoptions). So, if the agency made changes to proposed rule amendments after the initial publication (either because the agency made additional changes on their own or they made them in response to RRC Staff feedback), then those would

be subject to the additional highlighting and bracketing requirements. We have better guidance on this on our website, so if you ever have questions, look to: https://www.oah.nc.gov/rule-format-examples.

- **Effective Dates for All Rules:** For rules 01 .0108, 01 .0110, 01 .0114, .02 .0105, and .04 .0104, I updated the effective dates from May 1 to July 1.

Thank you; that's great.

- **06 NCAC 04 .0103:**
  - On lines 8-9, the rule states, "Such persons may also request either type of declaratory ruling concerning the statute under which the rule was adopted." What exactly does this mean? Are you saying that a person can make a request for the Council to determine whether a *statute* is valid? I'm not sure that aligns with the language of G.S. 150B-4.

I see your point. It would be better for that sentence on lines 8-9 to read, "Such persons may also request a declaratory ruling concerning the applicability to a given factual situation of a statute administered by the Council." The edits look good to me.

  - In the added text on lines 15-18, the language you use seems to focus primarily on *proposed* rules. However, can't these declaratory ruling requests also relate to the application of *existing* rules? Consider revising this language to include both situations.

Yes, a request for declaratory ruling could relate to an existing rule. As a result, it would be clearer if "proposed" was removed in the phrase "proposed rule." The edits look good to me.

I've attached a version of rule 06 NCAC 04 .0103 with these changes made. (It remains formatted as an adoption with changes from publication, which I hope is correct.)

Of course, I can't convene the Council of State to consider either of these changes. What is the best mechanism for resolving this point in these circumstances? The next meeting will likely be on July 7, 2026. Given the time constraints, I think the only option is to move forward with v2 (attached) for Thursday's meeting. And given that v2 is missing these last changes, I think I'll have to object to the rule on the basis of clarity and statutory authority issues. Assuming the Commission agrees, you'd then have 30 days from Thursday to address that objection and get sign off from the Council on these final changes (hopefully giving you enough time). 06 NCAC 04 .0103 would then be re-reviewed at the July RRC Meeting. This is all assuming that there's no way for you to get v3 in front of the Council and approved prior to Thursday's meeting.

In addition to making any new rule edits, please carefully review the attached versions of the rules for any discrepancies.

I've reviewed all the versions that you attached and found no discrepancies. Thanks again for taking the time to correct the formatting.

--Blake

Blake Thomas, Agency General Counsel, N.C. Office of State Budget & Management. Phone: (919) 817-3799.

Burgos, Alexander N

Subject: FW: Council of State: Rules for April 2026 RRC Meeting
Attachments: 06 NCAC 04 .0103 (as of 2026-06-19 with changes) v3.docx

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Sent: Friday, June 19, 2026 4:58 PM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>
Cc: Ventaloro, Julie W <julie.ventaloro@osbm.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: Council of State: Rules for April 2026 RRC Meeting

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Thanks; that will work well.

- **Formatting Changes for All Rules:** Because these rules are now *adoptions with changes from publication*, changes do not need to be denoted with highlighting. Rather, any text to be deleted shall be struck through and new text shall be underlined. The unchanged text shall not be underlined. I have made these formatting changes for all 12 attached rules. Please use these versions going forward.

Thanks. Here are two very technical questions in response, so that I can (hopefully) do the formatting correctly next time. First, so that I'm rooted in the right section of the rules, the relevant formatting rule here is 26 NCAC 02C .0405(b)(1), right? Second, could you help me understand the situation where the formatting rules in 26 NCAC 02C .0405(b)(2) would apply?

- **Effective Dates for All Rules:** For rules 01 .0108, 01 .0110, 01 .0114, .02 .0105, and .04 .0104, I updated the effective dates from May 1 to July 1.

Thank you; that's great.

- **06 NCAC 04 .0103:**
  - On lines 8-9, the rule states, "Such persons may also request either type of declaratory ruling concerning the statute under which the rule was adopted." What exactly does this mean? Are you saying that a person can make a request for the Council to determine whether a *statute* is valid? I'm not sure that aligns with the language of G.S. 150B-4.

I see your point. It would be better for that sentence on lines 8-9 to read, "Such persons may also request a declaratory ruling concerning the applicability to a given factual situation of a statute administered by the Council."

- In the added text on lines 15-18, the language you use seems to focus primarily on *proposed* rules. However, can't these declaratory ruling requests also relate to the application of *existing* rules? Consider revising this language to include both situations.

Yes, a request for declaratory ruling could relate to an existing rule. As a result, it would be clearer if "proposed" was removed in the phrase "proposed rule."

I've attached a version of rule 06 NCAC 04 .0103 with these changes made. (It remains formatted as an adoption with changes from publication, which I hope is correct.)

Of course, I can't convene the Council of State to consider either of these changes. What is the best mechanism for resolving this point in these circumstances? The next meeting will likely be on July 7, 2026.

> In addition to making any new rule edits, please carefully review the attached versions of the rules for any discrepancies.

I've reviewed all the versions that you attached and found no discrepancies. Thanks again for taking the time to correct the formatting.

--Blake

Blake Thomas, Agency General Counsel, N.C. Office of State Budget & Management. Phone: (919) 817-3799.

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CHAPTER 4 - DECLARATORY RULINGS

06 NCAC 04 .0103 DECLARATORY RULING PROCESS

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History Note: *Authority G.S. 147-13; 150B-4;*
Eff. ~~*May*~~ *July 1, 2026.*

Burgos, Alexander N

Subject: FW: Council of State: Rules for April 2026 RRC Meeting
Attachments: 06 NCAC 01 .0108 v2.docx; 06 NCAC 01 .0110 v2.docx; 06 NCAC 01 .0111 (as of 2026-06-12, with changes) v2.docx; 06 NCAC 01 .0112 (as of 2026-06-12, with changes) v2.docx; 06 NCAC 01 .0113 (as of 2026-06-12, with changes) v2.docx; 06 NCAC 01 .0114 v2.docx; 06 NCAC 02 .0105 v2.docx; 06 NCAC 02 .0106 (as of 2026-06-12, with changes) v2.docx; 06 NCAC 02 .0107 (as of 2026-06-12, with changes) v2.docx; 06 NCAC 02 .0108 (as of 2026-06-12, with changes) v2.docx; 06 NCAC 04 .0103 (as of 2026-06-12, with changes) v2.docx; 06 NCAC 04 .0104 v2.docx

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From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Tuesday, June 16, 2026 12:43 PM
To: Thomas, Blake <blake.thomas@osbm.nc.gov>
Cc: Ventaloro, Julie W <julie.ventaloro@osbm.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: RE: Council of State: Rules for April 2026 RRC Meeting

Blake, Thanks for this. Please see a few additional comments below.

- **Withdrawal of 06 NCAC 01 .0109:** Thanks for your response on this rule. Because this rule is being withdrawn by the Council, it will not be posted for RRC review at the June 25th meeting. But we will make note of the withdrawal on the meeting agenda and in my comments at the meeting.
- **Formatting Changes for All Rules:** Because these rules are now *adoptions with changes from publication*, changes do not need to be denoted with highlighting. Rather, any text to be deleted shall be struck through and new text shall be underlined. The unchanged text shall not be underlined. I have made these formatting changes for all 12 attached rules. Please use these versions going forward.
- **Effective Dates for All Rules:** For rules 01 .0108, 01 .0110, 01 .0114, .02 .0105, and .04 .0104, I updated the effective dates from May 1 to July 1.
- **06 NCAC 04 .0103:**
    - On lines 8-9, the rule states, "Such persons may also request either type of declaratory ruling concerning the statute under which the rule was adopted." What exactly does this mean? Are you saying that a person can make a request for the Council to determine whether a *statute* is valid? I'm not sure that aligns with the language of G.S. 150B-4.
    - In the added text on lines 15-18, the language you use seems to focus primarily on *proposed* rules. However, can't these declaratory ruling requests also relate to the application of *existing* rules? Consider revising this language to include both situations.

In addition to making any new rule edits, please carefully review the attached versions of the rules for any discrepancies.

Let me know if you have any questions. Please respond as soon as possible.

Thanks,
Chris

From: Thomas, Blake <blake.thomas@osbm.nc.gov>
Sent: Friday, June 12, 2026 6:58 AM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>
Cc: Ventaloro, Julie W <julie.ventaloro@osbm.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: Council of State: Rules for April 2026 RRC Meeting

Chris,

Here are the changes made by the Council of State to its proposed rules in response to the Request for Changes.

The first attachment to this message contains some brief responses to the Request for Changes that you sent. The remaining attachments are individual Word files for each of the proposed rules with changes. (If it's helpful for me to resubmit the files for the proposed rules that don't have changes, let me know.)

In response to the suggestion from a commissioner that you sent regarding proposed rule 06 NCAC 01 .0109, the Council of State approved withdrawing its proposal to adopt that rule, so the text that the commissioner identified is no longer part of the proposed rule set.

Thanks again for the review and comments, and please let me know if you need anything more submitted.

Blake Thomas, Agency General Counsel, N.C. Office of State Budget & Management. Phone: (919) 817-3799.

06 NCAC 01 .0108 is adopted with changes as published in 40:11 NCR 858-859 as follows:

CHAPTER 01 - DEPARTMENTAL RULES

06 NCAC 01 .0108 ADMINISTRATION

The Council shall be served by a secretary who shall be appointed by the Governor. In the absence of the Governor, the Lieutenant Governor shall preside. In the absence of the Lieutenant Governor, the Council shall be chaired by a member of the Council to be determined by the order in which members are listed in Article III, Section 7 of the North Carolina Constitution.

History Note: *Authority North Carolina Constitution, Article III, Section 2,7,8;*
Eff. ~~May~~ July 1, 2026.

06 NCAC 01 .0110 is adopted with changes as published in 40:11 NCR 858-859 as follows:

06 NCAC 01 .0110 MEETINGS

The Council of State shall convene at such times and places, as the Governor shall deem necessary.

History Note: *Authority G.S. 147-13;*
Eff. ~~*May*~~ *July 1, 2026.*

06 NCAC 01 .0111 is adopted with changes as published in 40:11 NCR 858-859 as follows:

06 NCAC 01 .0111 LOCATION

The Council of State has no permanent office or staff. Matters to be brought before the Council of State ~~should~~ shall be submitted to the Council's Secretary through the Office of the Governor unless by statute or specific rule they must first be presented to an executive department for transmittal to the Council.

History Note: *Authority G.S. 147-13;*
Eff. ~~*May*~~ *July 1, 2026.*

06 NCAC 01 .0112 is adopted with changes as published in 40:11 NCR 858-859 as follows:

06 NCAC 01 .0112 PROXIES

No proxies ~~will~~ shall be counted in order to establish a quorum for conducting business.

History Note: *Authority G.S. 147-13;*
Eff. ~~*May*~~ *July 1, 2026.*

06 NCAC 01 .0113 is adopted with changes as published in 40:11 NCR 858-859 as follows:

06 NCAC 01 .0113 AGENDA

The agenda for each Council of State meeting shall be compiled by the Council's Secretary. The Secretary is authorized to make sufficient inquiries and request sufficient information to ~~insure~~ ensure that the Council will have adequate information with which to consider any agenda item. On each agenda there shall be an occasion provided for any individual Council of State member to bring before the Council any other matter desired.

History Note: *Authority G.S. 147-13;*
Eff. ~~*May*~~ *July 1, 2026.*

06 NCAC 01 .0114 is adopted with changes as published in 40:11 NCR 858-859 as follows:

06 NCAC 01 .0114 RECORDS OF MEETINGS

The minutes of the Council of State meetings shall be kept by the Secretary and shall be compiled into the journal of the Council of State. The journal shall be kept in the Office of the Governor and shall be open to public inspection during regular business hours.

History Note: *Authority G.S. 132-1; 147-13;*
Eff. ~~May~~ July 1, 2026.

06 NCAC 02 .0106 is adopted with changes as published in 40:11 NCR 858-859 as follows:

06 NCAC 02 .0106 PETITIONS FOR RULE-MAKING HEARINGS

Whenever any person submits a petition for rule-making relating to matters for which the Council of State must approve or promulgate rules, the chief executive official of the responsible department shall determine if the public interest will be served by granting the request. If the request is denied, the petitioning party may appeal that decision as stated in G.S. 150B-20(d). ~~to the Council of State by filing a request for review of the denial decision with the secretary to the Council within 15 days after receipt of the notice of denial. If the Council determines that a hearing would serve the public interest, it may direct the chief executive official of the responsible executive department to designate a hearing officer and conduct a rule-making hearing or the Council itself may conduct a rule-making hearing.~~

History Note: *Authority G.S. 126-12; 143-260.8(g); 143-341(4),(8)(k); 143-345.1; 146-1; 150B-20;*
Eff. ~~*May*~~ *July 1, 2026.*

06 NCAC 02 .0107 is adopted with changes as published in 40:11 NCR 858-859 as follows:

06 NCAC 02 .0107 ADOPTION OR APPROVAL OF RULES

Upon completion of the departmental rule-making process, the department ~~will~~ shall forward proposed rules which must be approved or adopted by the Council, along with a record or minutes of the rule-making hearing and any other written submissions desired, to the Council's secretary for inclusion on the agenda of the Council's next meeting. The Council may request such other information as it deems necessary and appropriate from the department.

History Note: *Authority G.S. 126-12; 143-260.8(g); 143-341(4),(8)(k); 143-345.1; 146-1; 147-13; 150B-18;*
Eff. ~~*May*~~ *July 1, 2026.*

06 NCAC 02 .0108 is adopted with changes as published in 40:11 NCR 858-859 as follows:

06 NCAC 02 .0108 FILING OF RULES

Rules adopted by the Council of State are recorded in the journal of the Council and are codified pursuant to the provisions of the North Carolina Administrative Procedure ~~Act~~ Act, Chapter 150B of the North Carolina General Statutes, with the rules of the executive department responsible for administering the rules and related statutes.

History Note: *Authority G.S. 147-13; 150B-21.18; 150B-21.19;*
Eff. ~~*May*~~ *July 1, 2026.*

06 NCAC 04 .0103 is adopted with changes as published in 40:11 NCR 858-859 as follows:

CHAPTER 4 - DECLARATORY RULINGS

06 NCAC 04 .0103 DECLARATORY RULING PROCESS

Any person ~~substantially affected~~ aggrieved by a rule approved or adopted by the Council of State may request a declaratory ruling as to either the manner in which the rule applies to a given factual situation, if at all, or as to whether a particular rule of the Council is valid. Such persons may also request either type of declaratory ruling concerning the statute under which the rule was adopted. All requests for declaratory rulings shall be submitted to the executive department responsible for administering the statute to which the rule relates. All such requests shall be in accordance with the administrative procedures of the responsible executive department. The chief executive officer of the responsible executive department shall respond to the request in accord with the applicable administrative procedures of the department. The chief executive officer of the responsible department shall also notify the Council of any such request received and the department's proposed disposition thereof. The Council may, in its discretion, review and amend any such proposed departmental declaratory rulings. In its determination whether to review, whether to amend, and how to amend the proposed declaratory ruling, the Council shall consider at least the following factors: whether there is authority to adopt the rule; the effect of the proposed rule on existing rules, programs, and practices; probable costs and cost factors of the proposed rule; and the impact of the rule on the public and regulated entities. It may also take such other action in regard thereto as it deems necessary.

History Note: *Authority G.S. 147-13; 150B-4;*
Eff. ~~May~~ July 1, 2026.

06 NCAC 04 .0104 is adopted with changes as published in 40:11 NCR 858-859 as follows:

06 NCAC 04 .0104 RECORDS OF DECLARATORY RULINGS

A record of all declaratory ruling proceedings shall be maintained in the executive department responsible for administering the statute to which the questioned rule relates. The record shall be maintained in accordance with the department's administrative procedures. Also, a record of the dispositions of all such declaratory ruling proceedings shall be kept in the Council journal.

History Note: *Authority G.S. 147-13; 150B-4;*
Eff. ~~May~~ July 1, 2026.

Burgos, Alexander N

Subject: FW: Council of State: Rules for April 2026 RRC Meeting
Attachments: Response to Request for Changes - Council of State - June 2026.docx; 06 NCAC 01 .0109 (as of 2026-06-12, withdrawn from proposed rules).docx; 06 NCAC 01 .0111 (as of 2026-06-12, with changes).docx; 06 NCAC 01 .0112 (as of 2026-06-12, with changes).docx; 06 NCAC 01 .0113 (as of 2026-06-12, with changes).docx; 06 NCAC 02 .0106 (as of 2026-06-12, with changes).docx; 06 NCAC 02 .0107 (as of 2026-06-12, with changes).docx; 06 NCAC 02 .0108 (as of 2026-06-12, with changes).docx; 06 NCAC 04 .0103 (as of 2026-06-12, with changes).docx

From: Thomas, Blake <blake.thomas@osbm.nc.gov>
Sent: Friday, June 12, 2026 6:58 AM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>
Cc: Ventaloro, Julie W <julie.ventaloro@osbm.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: Council of State: Rules for April 2026 RRC Meeting

Chris,

Here are the changes made by the Council of State to its proposed rules in response to the Request for Changes.

The first attachment to this message contains some brief responses to the Request for Changes that you sent. The remaining attachments are individual Word files for each of the proposed rules with changes. (If it's helpful for me to resubmit the files for the proposed rules that don't have changes, let me know.)

In response to the suggestion from a commissioner that you sent regarding proposed rule 06 NCAC 01 .0109, the Council of State approved withdrawing its proposal to adopt that rule, so the text that the commissioner identified is no longer part of the proposed rule set.

Thanks again for the review and comments, and please let me know if you need anything more submitted.

Blake Thomas, Agency General Counsel, N.C. Office of State Budget & Management. Phone: (919) 817-3799.

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

AGENCY: Council of State

RULE CITATION: 06 NCAC 01 .0108

DEADLINE FOR RECEIPT: April 20, 2026

***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:

No comments.

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

Response from Council of State Rulemaking Coordinator:

Thank you for your review, and thank you to the Rules Review Commission for extending until the June meeting the time for the Council of State to respond to the Request for Comments. No changes were made to this rule.

Christopher S. Miller
Commission Counsel
Date submitted to agency: April 9, 2026

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

AGENCY: Council of State

RULE CITATION: 06 NCAC 01 .0109

DEADLINE FOR RECEIPT: April 20, 2026

***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:

> *General Comment: The RRC generally frowns upon Purpose rules as they can be unnecessary and more akin to statements of policy. Is this rule necessary? And if so, why?*

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

Response from Council of State Rulemaking Coordinator:

Thank you for your review and comments. In response, the Council of State approved withdrawing its proposal to adopt this rule. I have attached a copy of the proposed rule text for 06 NCAC 01 .0109 with the text of this rule highlighted and struck through.

Christopher S. Miller
Commission Counsel
Date submitted to agency: April 9, 2026

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

AGENCY: Council of State

RULE CITATION: 06 NCAC 01 .0110

DEADLINE FOR RECEIPT: April 20, 2026

***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:

No comments.

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

Response from Council of State Rulemaking Coordinator:

Thank you for your review. No changes were made to this rule.

Christopher S. Miller
Commission Counsel
Date submitted to agency: April 9, 2026

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

AGENCY: Council of State

RULE CITATION: 06 NCAC 01 .0111

DEADLINE FOR RECEIPT: April 20, 2026

***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: "Should" expresses a value judgment about whether a situation is desirable or undesirable. Never use "should" in rules absent a specific statutory directive. Use "shall" or "may" instead.*

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

Response from Council of State Rulemaking Coordinator:

Thank you for your review and comments. In response, the Council of State changed the text from "should" to "shall."

Christopher S. Miller
Commission Counsel
Date submitted to agency: April 9, 2026

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

AGENCY: Council of State

RULE CITATION: 06 NCAC 01 .0112

DEADLINE FOR RECEIPT: April 20, 2026

***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: Consider changing "will" to "shall". "Will" expresses the simple future. It is used to indicate prediction, in contrast to "shall," which indicates command.*

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

Response from Council of State Rulemaking Coordinator:

Thank you for your review and comments. In response, the Council of State changed the text from "will" to "shall."

Christopher S. Miller
Commission Counsel
Date submitted to agency: April 9, 2026

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

AGENCY: Council of State

RULE CITATION: 06 NCAC 01 .0113

DEADLINE FOR RECEIPT: April 20, 2026

***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:

No comments.

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

Response from Council of State Rulemaking Coordinator:

Thank you for your review. While the Council of State and their staff were reviewing the Request for Changes, the attorney for the Department of Insurance suggested that the word "insure" on line 5 be changed to "ensure" in order to match the more common use of those two words. The Council of State approved making this technical change.

Christopher S. Miller
Commission Counsel
Date submitted to agency: April 9, 2026

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

AGENCY: Council of State

RULE CITATION: 06 NCAC 01 .0114

DEADLINE FOR RECEIPT: April 20, 2026

***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:

General Comment: Is the journal also made available online/in electronic format for public inspection? If so, consider including a URL here in your rule.

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

Response from Council of State Rulemaking Coordinator:

Thank you for your review and comments. Because the journal is not currently made available online or in an electronic format for public inspection, no change was made to this rule to add a URL.

Christopher S. Miller
Commission Counsel
Date submitted to agency: April 9, 2026

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

AGENCY: Council of State

RULE CITATION: 06 NCAC 02 .0105

DEADLINE FOR RECEIPT: April 20, 2026

***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:

No comments.

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

Response from Council of State Rulemaking Coordinator:

Thank you for your review. No changes were made to this rule.

Christopher S. Miller
Commission Counsel
Date submitted to agency: April 9, 2026

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

AGENCY: Council of State

RULE CITATION: 06 NCAC 02 .0106

DEADLINE FOR RECEIPT: April 20, 2026

***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:

> *General Comment, lines 6-8: G.S. 150B-20(d) states, "Denial of a rulemaking petition is a final agency decision and is subject to judicial review under Article 4 of this Chapter." Where does the Council's authority to review appeals of rulemaking determinations made by other departments come from? I did not see anything in the statutes cited in the Authority section of the rule.*

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

Response from Council of State Rulemaking Coordinator:

Thank you for your review and comments. In response, the Council of State changed the text to eliminate the discussion about the Council of State reviewing denials of petitions for rulemaking, and instead simply cite G.S. 150B-20(d).

Christopher S. Miller
Commission Counsel
Date submitted to agency: April 9, 2026

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

AGENCY: Council of State

RULE CITATION: 06 NCAC 02 .0107

DEADLINE FOR RECEIPT: April 20, 2026

***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 "will" to "shall".

History Note, Authority: It looks as if you previously had 150B-9 in here (now repealed). Is there a different APA provision relevant here?

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

Response from Council of State Rulemaking Coordinator:

Thank you for your review and comments.

In response to the comment regarding line 4, the Council of State changed the text from "will" to "shall."

In response to the comment on the Authority section in the History Note, the proposal would add a reference to G.S. 150B-18. As you noted, former rule 06 NCAC 02 .0103 (as adopted in 1976 and amended in 1989) included a reference to former G.S. 150B-9, which was repealed in the 1991 rewrite of the Administrative Procedure Act. Section 150B-18 now states the general principle, formerly found in section 150B-9, that rules must be adopted in accordance with the Administrative Procedure Act.

Christopher S. Miller
Commission Counsel
Date submitted to agency: April 9, 2026

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

AGENCY: Council of State

RULE CITATION: 06 NCAC 02 .0108

DEADLINE FOR RECEIPT: April 20, 2026

***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 5: Add a legal cite following "the North Carolina Administrative Procedure Act".

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

Response from Council of State Rulemaking Coordinator:

Thank you for your review and comments. In response, the Council of State added to the text a citation to Chapter 150B of the General Statutes.

Christopher S. Miller
Commission Counsel
Date submitted to agency: April 9, 2026

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

AGENCY: Council of State

RULE CITATION: 06 NCAC 04 .0103

DEADLINE FOR RECEIPT: April 20, 2026

***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: What does "substantially affected by a rule" mean? Can you be more clear in your rule? § 150B-4 states, "On request of a person aggrieved …". These appear to be two different standards.

Lines 14-16: You indicate that the Council will exercise discretion as to when the Council will review/amend rulings. How and when are these discretionary decisions made by the Council? Is there a process or standard? Are there factors considered? As written, the rule does not provide clear explanation as to what will guide the agency in deciding whether to act.

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

Response from Council of State Rulemaking Coordinator:

Thank you for your review and comments.

In response to the comment regarding line 6, the Council of State changed the text from "substantially affected" to "aggrieved" in order to match the text of G.S. 150B-4.

In response to the comment regarding lines 14 to 16, the Council of State changed the text to add factors if it reviews a proposed declaratory ruling.

Christopher S. Miller
Commission Counsel
Date submitted to agency: April 9, 2026

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

AGENCY: Council of State

RULE CITATION: 06 NCAC 04 .0104

DEADLINE FOR RECEIPT: April 20, 2026

***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:

No comments.

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

Response from Council of State Rulemaking Coordinator:

Thank you for your review. No changes were made to this rule.

Christopher S. Miller
Commission Counsel
Date submitted to agency: April 9, 2026

06 NCAC 01 .0109 is withdrawn from the proposed rules. ~~is adopted as published in 40:11 NCR 858-859 as follows:~~

~~**06 NCAC 01 .0109 PURPOSE**~~

~~The Council of State shall function as an executive advisory committee to aid in the establishment and implementation of policy. It shall also act as statutorily mandated.~~

~~*History Note: Authority North Carolina Constitution, Article III, Section 8;*~~
~~*Eff. May 1, 2026.*~~

06 NCAC 01 .0111 is adopted with changes as published in 40:11 NCR 858-859 as follows:

06 NCAC 01 .0111 LOCATION

The Council of State has no permanent office or staff. Matters to be brought before the Council of State ~~should~~ shall be submitted to the Council's Secretary through the Office of the Governor unless by statute or specific rule they must first be presented to an executive department for transmittal to the Council.

History Note: *Authority G.S. 147-13;*
Eff. ~~May~~ July 1, 2026.

06 NCAC 01 .0112 is adopted with changes as published in 40:11 NCR 858-859 as follows:

06 NCAC 01 .0112 PROXIES

No proxies ~~will~~ shall be counted in order to establish a quorum for conducting business.

History Note: *Authority G.S. 147-13;*
Eff. ~~May~~ July 1, 2026.

06 NCAC 01 .0113 is adopted with changes as published in 40:11 NCR 858-859 as follows:

06 NCAC 01 .0113 AGENDA

The agenda for each Council of State meeting shall be compiled by the Council's Secretary. The Secretary is authorized to make sufficient inquiries and request sufficient information to ~~insure~~ ensure that the Council will have adequate information with which to consider any agenda item. On each agenda there shall be an occasion provided for any individual Council of State member to bring before the Council any other matter desired.

History Note: *Authority G.S. 147-13;*
Eff. ~~May~~ July 1, 2026.

06 NCAC 02 .0106 is adopted with changes as published in 40:11 NCR 858-859 as follows:

06 NCAC 02 .0106 PETITIONS FOR RULE-MAKING HEARINGS

Whenever any person submits a petition for rule-making relating to matters for which the Council of State must approve or promulgate rules, the chief executive official of the responsible department shall determine if the public interest will be served by granting the request. If the request is denied, the petitioning party may appeal that decision as stated in G.S. 150B-20(d). ~~to the Council of State by filing a request for review of the denial decision with the secretary to the Council within 15 days after receipt of the notice of denial. If the Council determines that a hearing would serve the public interest, it may direct the chief executive official of the responsible executive department to designate a hearing officer and conduct a rule-making hearing or the Council itself may conduct a rule-making hearing.~~

History Note: *Authority G.S. 126-12; 143-260.8(g); 143-341(4),(8)(k); 143-345.1; 146-1; 150B-20;*
Eff. ~~May~~ July 1, 2026.

06 NCAC 02 .0107 is adopted with changes as published in 40:11 NCR 858-859 as follows:

06 NCAC 02 .0107 ADOPTION OR APPROVAL OF RULES

Upon completion of the departmental rule-making process, the department ~~will~~ shall forward proposed rules which must be approved or adopted by the Council, along with a record or minutes of the rule-making hearing and any other written submissions desired, to the Council's secretary for inclusion on the agenda of the Council's next meeting. The Council may request such other information as it deems necessary and appropriate from the department.

History Note: *Authority G.S. 126-12; 143-260.8(g); 143-341(4),(8)(k); 143-345.1; 146-1; 147-13; 150B-18; Eff. ~~May~~ July 1, 2026.*

06 NCAC 02 .0108 is adopted with changes as published in 40:11 NCR 858-859 as follows:

06 NCAC 02 .0108 FILING OF RULES

Rules adopted by the Council of State are recorded in the journal of the Council and are codified pursuant to the provisions of the North Carolina Administrative Procedure ~~Act~~ Act, Chapter 150B of the North Carolina General Statutes, with the rules of the executive department responsible for administering the rules and related statutes.

History Note: *Authority G.S. 147-13; 150B-21.18; 150B-21.19;*
Eff. ~~May~~ July 1, 2026.

06 NCAC 04 .0103 is adopted with changes as published in 40:11 NCR 858-859 as follows:

CHAPTER 4 - DECLARATORY RULINGS

06 NCAC 04 .0103 DECLARATORY RULING PROCESS

Any person ~~substantially affected~~ aggrieved by a rule approved or adopted by the Council of State may request a declaratory ruling as to either the manner in which the rule applies to a given factual situation, if at all, or as to whether a particular rule of the Council is valid. Such persons may also request either type of declaratory ruling concerning the statute under which the rule was adopted. All requests for declaratory rulings shall be submitted to the executive department responsible for administering the statute to which the rule relates. All such requests shall be in accordance with the administrative procedures of the responsible executive department. The chief executive officer of the responsible executive department shall respond to the request in accord with the applicable administrative procedures of the department. The chief executive officer of the responsible department shall also notify the Council of any such request received and the department's proposed disposition thereof. The Council may, in its discretion, review and amend any such proposed departmental declaratory rulings. In its determination whether to review, whether to amend, and how to amend the proposed declaratory ruling, the Council shall consider at least the following factors: whether there is authority to adopt the rule; the effect of the proposed rule on existing rules, programs, and practices; probable costs and cost factors of the proposed rule; and the impact of the rule on the public and regulated entities. It may also take such other action in regard thereto as it deems necessary.

History Note: *Authority G.S. 147-13; 150B-4;*
Eff. ~~May~~ July 1, 2026.

Burgos, Alexander N

Subject: FW: Council of State: Rules for April 2026 RRC Meeting

From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Monday, June 1, 2026 10:29 AM
To: Thomas, Blake <blake.thomas@osbm.nc.gov>
Cc: Ventaloro, Julie W <julie.ventaloro@osbm.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: RE: Council of State: Rules for April 2026 RRC Meeting

Good morning, Blake.

Just following up on these rules – I did receive a preliminary comment/suggestion from a commissioner. Please see below.

> In reviewing these proposed rules, let me suggest that in the Purpose Section listed below the phrase "establishment and implementation" be replaced with "promulgation". It says the same thing with fewer words.
>
> 2 06 NCAC 01 .0109 PURPOSE 3 The Council of State shall function as an executive advisory committee to aid in the establishment and implementation 4 of policy. It shall also act as statutorily mandated. 5 6 History Note: Authority North Carolina Constitution, Article III, Section 8; 7 Eff. May 1, 2026. 8

Let me know if you have any questions.

Chris

Chris Miller
Rules Review Commission Counsel
North Carolina Office of Administrative Hearings | Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
(984) 236-1935

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Burgos, Alexander N

Subject: FW: Council of State: Rules for April 2026 RRC Meeting

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From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Tuesday, April 21, 2026 10:45 AM
To: Thomas, Blake <blake.thomas@osbm.nc.gov>; Ventaloro, Julie W <julie.ventaloro@osbm.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: RE: Council of State: Rules for April 2026 RRC Meeting

Blake, thank you for your email. I confirm receipt of your extension request until the June 2026 RRC meeting. I will be recommending approval of the extension at next week's meeting.

Let me know if you have any questions in the meantime.

Best,
Chris

Chris Miller
Rules Review Commission Counsel
North Carolina Office of Administrative Hearings | Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
(984) 236-1935

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From: Thomas, Blake <blake.thomas@osbm.nc.gov>
Sent: Monday, April 20, 2026 2:33 PM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>; Ventaloro, Julie W <julie.ventaloro@osbm.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: Council of State: Rules for April 2026 RRC Meeting

Chris,

Thanks for taking my phone call earlier today. As I forecast on the call, the Council of State requests an extension of the period to review its proposed rules until the Rules Review Commission meeting on June 25, 2026. This would extend the Council of State's time to respond to the Request for Technical Changes until June 12, 2026.

An extension is necessary in order to give the members of the Council of State time to meet, discuss, and take action on the proposed rules in response to Rules Review Commission feedback. The proposed rules would be on the agenda for the May or June Council of State meetings.

An extension until the June RRC meeting avoids a very difficult scheduling interaction if the proposed rules were taken for approval to the May RRC meeting and the RRC members raised an objection. After the May 28 RRC meeting, the next monthly Council of State meeting will take place on June 2. That would require placing on the Council of State agenda, with only two business days' notice, any rule changes resulting from RRC objections. Hearing the Council of State rules at the June 25 RRC meeting allows more time between the RRC meeting and the next Council of State meeting, currently scheduled for July 7.

As I mentioned, I will be attending the April 28 Rules Review Commission meeting, and I will be available if any members of the Commission have any questions or concerns they would like to raise about the proposed rules.

Best wishes,
--Blake

Blake Thomas, Rulemaking Coordinator and Agency General Counsel, N.C. Office of State Budget & Management. Phone: (919) 817-3799.

From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Thursday, April 9, 2026 12:04 PM
To: Thomas, Blake <blake.thomas@osbm.nc.gov>; Ventaloro, Julie W <julie.ventaloro@osbm.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: Council of State: Rules for April 2026 RRC Meeting

Hello,

I'm the staff attorney who reviewed the rules submitted by the Council of State for the April 2026 RRC meeting. The RRC will formally review these rules at its meeting on Tuesday, April 28, 2026, at 10:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get close to the meeting. If there are any other representatives from your agency who want to attend virtually, please let me know prior to the meeting, and we will get evites out to them as well.

Attached is my Request for Changes Pursuant to G.S. 150B-21.10. Please submit the responses and revised rules to me via email, no later than **5 p.m. on April 20, 2026**.

Let me know if you have any questions.

Best,
Chris

Chris Miller
Rules Review Commission Counsel
North Carolina Office of Administrative Hearings | Rules Division
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