

G.S. 150B-21.3A Report for 12 NCAC 02, OFFICE OF THE ATTORNEY GENERAL												
Agency - Department of Justice												
Comment Period -March 13, 2026 - May 19, 2026												
Date Submitted to APO - Filled in by RRC staff												
Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Required to Implement or Conform to Federal Regulation [150B-21.3A(d1)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
SUBCHAPTER 21 - COMPANY AND RAILROAD POLICE	SECTION .0100 - GENERAL PROVISIONS	12 NCAC 021 .0101	LOCATION	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt
		12 NCAC 021 .0102	PURPOSES	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt
		12 NCAC 021 .0103	ADMINISTRATIVE STAFF	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt
		12 NCAC 021 .0104	DEFINITIONS	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt
	SECTION .0200 - COMMISSIONING	12 NCAC 021 .0202	MINIMUM STANDARDS FOR COMPANY POLICE OFFICERS	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt
		12 NCAC 021 .0203	APPLICATION FOR COMPANY POLICE AGENCY	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		Yes	Necessary	One or more comments with merit	Necessary and must be readopted	Agency must readopt
		12 NCAC 021 .0204	APPLICATION FOR COMPANY POLICE OFFICER	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt
		12 NCAC 021 .0205	BACKGROUND INVESTIGATION	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt
		12 NCAC 021 .0206	FEE	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt
		12 NCAC 021 .0208	OATH	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt
		12 NCAC 021 .0210	LIABILITY INSURANCE	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt
		12 NCAC 021 .0211	SUSPENSION, REVOCATION OR DENIAL OF AGENCY CERTIFICATION	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt
		12 NCAC 021 .0212	SUSPENSION, REVOCATION, OR DENIAL OF OFFICER COMMISSION	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt
		12 NCAC 021 .0213	PERIOD OF SUSPENSION, REVOCATION OR DENIAL	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt
		12 NCAC 021 .0214	SUMMARY SUSPENSIONS	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt
	SECTION .0300 - CONDUCT OF COMMISSIONED POLICEMEN	12 NCAC 021 .0301	TENURE	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt
		12 NCAC 021 .0304	PROHIBITED ACTS	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		Yes	Necessary	One or more comments with merit	Necessary and must be readopted	Agency must readopt
		12 NCAC 021 .0305	TRANSFERS	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt
	SECTION .0500 – AGENCY RECORD RETENTION	12 NCAC 021 .0501	AGENCY RETENTION OF RECORDS OF COMMISSION	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt

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SUBCHAPTER 02J – CAMPUS POLICE	SECTION .0100 - GENERAL PROVISIONS	12 NCAC 02J .0101	LOCATION	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt
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	SECTION .0200 - COMMISSIONING	12 NCAC 02J .0201	MINIMUM STANDARDS FOR CAMPUS POLICE OFFICERS	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt
		12 NCAC 02J .0202	APPLICATION FOR CAMPUS POLICE AGENCY	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt
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		12 NCAC 02J .0207	LIABILITY INSURANCE	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt
		12 NCAC 02J .0208	SUSPENSION, REVOCATION OR DENIAL OF AGENCY CERTIFICATION	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt
		12 NCAC 02J .0209	SUSPENSION, REVOCATION, OR DENIAL OF OFFICER COMMISSION	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt
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		12 NCAC 02J .0301	TENURE	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt
		12 NCAC 02J .0302	PROHIBITED ACTS	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt
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		12 NCAC 02J .0304	BADGES, UNIFORMS, VEHICLES AND OFFICER IDENTIFICATION	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016	Necessary	No		No	Necessary	No comments with merit	Necessary and must be readopted	Agency must readopt

Proposed Rule Amendments — 12 NCAC 02I .0203(a)(8) and .0304(4)(5)(7)

Company Police — Prohibited Acts & Agency Approval Requirements | Statutory Conformity Amendment

Rules	Governing Auth.	Aligning Statute	Change Type	Jurisdiction	Equipment
12 NCAC 02I .0203(a)(8); .0304	G.S. 74E-4; 74E-6(h)(i)	G.S. 20-125(b)	Amendment— Partial Repeal	None— Equipment Use Only	All CPO Vehicles Equipped

REDLINE KEY: ~~Stricken red = deleted~~ **Bold underlined green = inserted** Plain = unchanged

I. PROPOSED REDLINES

A. 12 NCAC 02I .0203 — APPLICATIONS FOR CERTIFICATION [Item (a)(8) only]

(a) An application for company police certification shall include all of the following:

~~(8) a signed statement from or letters signed by~~ **(8) written notice provided to** the District Attorney and the Sheriff of each county in which the company police agency seeks to operate, ~~acknowledging that the agency will be operating within their jurisdiction and consenting to such operation;~~

Note: The current requirement that the District Attorney and Sheriff sign or consent to company police operation cedes final certification authority to local elected officials without statutory basis. G.S. 74E-4 vests that authority exclusively in the Attorney General's office. This amendment preserves the notice function — keeping local officials informed — while restoring the AG as the sole certifying authority the General Assembly intended.

B. 12 NCAC 02I .0304 — PROHIBITED ACTS [Items (4), (5), and (7)]

All company police officer vehicles are equipped with standard emergency warning equipment. This amendment addresses only the lawful *use* of that equipment — not its presence. Items (4) and (5) are restructured; item (7) is conformed to the same exceptions.

No company police officer shall engage in any of the following acts:

(4) activating or operating any blue or red light when operating any motor vehicle used primarily by any company police agency in the performance of official duties ~~when outside of the property jurisdiction limitations specifically described under G.S. 74E-6~~ **unless one or more of the following conditions is satisfied:**

(a) the officer is within the property jurisdiction limitations specifically described under G.S. 74E-6;

(b) when in continuous or immediate pursuit of a person for an offense committed upon real property owned by or in the possession or control of the employer, or real property under contract for on-site security services; or

(c) during the transportation of an arrestee in the company police agency's custody;

(d) when the officer is actively responding to an emergency call, crime in progress, or urgent law enforcement need within the officer's property jurisdiction, or responding to assist an officer of the same agency in performing official duties, and is traveling to reach that jurisdiction, provided such activation is necessary and reasonable under the circumstances, consistent with G.S. 20-125(b);

(e) when the officer is actively engaged in performing official duties pursuant to a mutual aid agreement under G.S. 74E-6(h), and such activation is necessary and reasonable under the circumstances, consistent with G.S. 20-125(b); or

(f) when the officer is actively engaged in providing temporary assistance to a requesting law enforcement agency pursuant to G.S. 74E-6(i), and such activation is necessary and reasonable under the circumstances, consistent with G.S. 20-125(b);

(5) activating or operating a siren when operating any motor vehicle used primarily by any company police agency in the performance of official duties when outside of the property jurisdiction limitations specifically described under G.S. 74E-6 ~~unless in immediate and continuous pursuit~~ unless one or more of the following conditions is satisfied:

(a) when in immediate and continuous pursuit of any person for an offense which occurred within the officer's property jurisdiction as defined under G.S. 74E-6;

(b) when the officer is actively responding to an emergency call, crime in progress, or urgent law enforcement need within the officer's property jurisdiction, or responding to assist an officer of the same agency in performing official duties, and is traveling to reach that jurisdiction, provided such activation is necessary and reasonable under the circumstances, consistent with G.S. 20-125(b);

(c) when the officer is actively engaged in performing official duties pursuant to a mutual aid agreement under G.S. 74E-6(h), and such activation is necessary and reasonable under the circumstances, consistent with G.S. 20-125(b); or

(d) when the officer is actively engaged in providing temporary assistance to a requesting law enforcement agency pursuant to G.S. 74E-6(i), and such activation is necessary and reasonable under the circumstances, consistent with G.S. 20-125(b);

(7) initiating or engaging in a vehicular pursuit or emergency vehicle operation outside of the property jurisdiction limitations described under G.S. 74E-6 ~~except as provided in items (4)(a) and (4)(b) of this Rule~~ except as authorized under items (4)(a) through (4)(f) and items (5)(a) through (5)(d) of this Rule, and provided such operation is necessary and reasonable under the circumstances, consistent with G.S. 20-125(b);

II. AGENCY STATEMENT — § 150B-21.9(a) REVIEW CRITERIA

Both proposed amendments satisfy all four criteria of § 150B-21.9(a). Each criterion is addressed below in sequence. The Commission’s review is confined to these four standards; questions of the quality or efficacy of the rules are outside its scope. On each applicable standard, the amendments are legally required by the statutes the rules already cite, supported by a clear equipment-safety record, and procedurally compliant with Part 2 of Article 2A.

CRITERION 1 — WITHIN DELEGATED AUTHORITY § 150B-21.9(a)(1) · G.S. 74E-4 · G.S. 74E-6

A proposed rule satisfies Criterion 1 when it falls within the authority the General Assembly has delegated to the agency. Both amendments not only fall within existing delegated authority — each corrects a rule that currently operates *outside* that authority.

.0203(a)(8) — AG Certification Authority: G.S. 74E-4 vests company police certification authority exclusively in the Attorney General’s office. The current rule requires the District Attorney and Sheriff of each county to sign and consent before a company police agency may operate. That requirement grants a certification veto to local elected officials who hold no role in the Chapter 74E certification process. The agency exceeded its delegated authority when it created that requirement; the amendment corrects the exceedance by replacing consent with notice. The agency is not expanding its authority — it is restoring the authority structure the legislature assigned.

.0304(4)(5)(7) — Rulemaking Within Cited Statutory Authority: The existing rule cites G.S. 74E-6 as its authority. G.S. 74E-6(h) and (i) — the statutory basis for every new exception added by this amendment — are subsections of that same cited statute. The agency is acting within authority it already holds and has already cited. No new delegation is required or claimed.

CRITERION 2 — CLEAR AND UNAMBIGUOUS § 150B-21.9(a)(2) · § 150B-19(5)

A proposed rule satisfies Criterion 2 when it is clear and unambiguous. Both amendments use enumerated exception structures with specific statutory cross-references at every operative point.

.0203(a)(8): The change from “signed statement from or letters signed by” to “written notice provided to” is a precise, unambiguous textual substitution. The legal distinction between consent and notice is well-established. No interpretive question is created.

.0304(4)(5)(7): The restructured subsections enumerate each permitted condition in lettered items (a) through (f) with a specific statutory cross-reference in each. Every new exception cross-references either G.S. 74E-6(h), G.S. 74E-6(i), or both. The qualifying standard — “necessary and reasonable under the circumstances, consistent with G.S. 20-125(b)” — is not an administrative invention. It is the operative language of G.S. 20-125(b) itself, a statute that has governed emergency vehicle equipment use in North Carolina for decades. Subsection (7) is conformed by cross-reference to the full amended exception set of items (4) and (5), ensuring internal consistency across all three emergency vehicle operation prohibitions.

CRITERION 3 — REASONABLY NECESSARY TO IMPLEMENT A GENERAL ASSEMBLY ENACTMENT § 150B-21.9(a)(3) · G.S. 74E-6(i) · G.S. 20-125(b) · G.S. 74E-8

A proposed rule satisfies Criterion 3 when it is reasonably necessary to implement or interpret an enactment of the General Assembly. 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. This is the Commission’s most substantive standard, and it is where both amendments are strongest.

3A. .0203(a)(8): Necessary to implement G.S. 74E-4 as enacted.

G.S. 74E-4 creates a statewide certification process administered by the AG. The current rule adds a local consent requirement that G.S. 74E-4 does not authorize and that is inconsistent with a statewide certification structure. A rule that imposes conditions conflicting with its authorizing statute is not necessary to implement that statute — it contradicts it. The amendment is necessary to restore the rule to conformity with the statute it implements.

3B. .0304: Necessary to implement G.S. 74E-6(i) — the direct statutory conflict.

G.S. 74E-6(i) is unambiguous: a company police officer providing assistance at a sheriff’s or chief’s request “shall have the same powers vested in law enforcement officers of the agency asking for temporary assistance.” A municipal officer answering the same call carries full authority to activate warning equipment already on the vehicle under G.S. 20-125(b). The rule denies that same authority to a company police officer operating under the same statutory authorization. A rule that prohibits conduct a statute expressly permits is not reasonably necessary to implement that statute. It is inconsistent with it. The amendment is necessary to resolve that inconsistency.

3C. .0304: Necessary to conform to G.S. 20-125(b)’s functional standard.

G.S. 20-125(b) authorizes emergency warning equipment for law enforcement vehicles when the officer is “actively engaged in performing law enforcement duties.” That is a functional test — it contains no property line, no commission boundary, and no employer-contract requirement. The rule substitutes a jurisdictional test that G.S. 20-125(b) does not contain. The Commission need only read the statute’s own text to confirm that the rule’s restriction has no basis in it.

“vehicles used for firefighting, or other emergency response purposes, or by the Division of Emergency Management, or by a fire department, either municipal or rural, or by a fire patrol, whether such fire department or patrol be a paid organization or a voluntary association, vehicles used by an organ procurement organization or agency for the recovery and transportation of human tissues and organs for transplantation, and every ambulance or emergency medical service emergency support vehicle used for answering emergency calls.”
— G.S. 20-125(b)

The General Assembly authorized every entity in that list under the same provision. Not one holds law enforcement jurisdiction. A volunteer fire patrol has no commission. An organ procurement vehicle has no arrest authority. Yet each may activate emergency warning equipment on every road in North Carolina without restriction, because G.S. 20-125(b) asks only what the operator is doing — not where the employer’s property is located. The rule’s property-boundary test is not a refinement of G.S. 20-125(b). It is a contradiction of it.

3D. Cumulative effect: the rule’s restriction has no rational relationship to any statute in the framework.

Under § 150B-21.9(a)(3), the Commission considers the cumulative effect of all agency rules related to the specific purpose for which the rule is proposed. G.S. 74E-8 requires company police to satisfy the same certification standards as all state law enforcement officers — including the mandatory 48-hour BLET Emergency Vehicle Operations Course (EVOC). The non-sworn operators G.S. 20-125(b) authorizes without restriction face substantially lower requirements:

Operator	EVOC Requirement	Hours	Equipment Use — Current Rule
Company Police (BLET/G.S. 74E-8) Same standard as ALL sworn LE	48-hr BLET EVOC — mandatory for certification	48 hrs	X MOST RESTRICTED — prohibited from activating on-vehicle equipment off-property absent exception
Municipal / County Law Enforcement (Same 48-hr BLET standard)	48-hr BLET EVOC — mandatory for certification	48 hrs	✓ No off-property restriction anywhere in NC Admin. Code
Volunteer Fire Depts. / Fire Patrols (No LE commission)	OSFM FIP 3600 — no BLET-equivalent mandate	24–29 hrs (typical)	✓ Unrestricted statewide under G.S. 20-125(b)
EMS / Ambulance / Emergency Support (No LE commission)	Agency SOPs, insurance policy — no BLET-equiv. mandate	16–80 hrs (varies)	✓ Unrestricted statewide under G.S. 20-125(b)
Organ Procurement / Div. of Emergency Mgmt. (No LE commission)	No statewide mandate reported	Not mandated	✓ Unrestricted statewide under G.S. 20-125(b)

The rule’s cumulative effect is precisely backwards. The operator category with the highest mandatory training requirement — sworn company police officers at 48 hours BLET EVOC — faces the greatest equipment restriction. Non-sworn operators with training requirements as low as 16 hours, or with no statewide mandate at all, face none. A rule whose restriction is inversely correlated with the training the agency’s own statute requires cannot be said to be reasonably necessary to implement that statutory framework. The amendment corrects the inversion.

The prohibition in .0304 desired intent was to prevent **unauthorized enforcement activity** under the guise of emergency vehicle operation. That purpose is preserved — officers remain prohibited from any use not necessary and reasonable under the circumstances, and the amendment permits no independent unsanctioned operations. But when the General Assembly enacted G.S. 74E-6(h) and (i) — expressly authorizing mutual aid and as-needed assistance with the full powers of the requesting agency — the rule was never updated. It has remained frozen in a statutory landscape that no longer exists, applied to scenarios the legislature already resolved in the officer’s favor. In those scenarios it has not protected anyone. It has placed the appearance of a jurisdictional boundary above the safety of the officers it governs and the communities they serve. Under § 150B-21.3A, a rule that no

longer serves the purpose for which it was adopted in light of changed law is precisely the kind of rule that amendment is designed to correct. The necessity standard is not met for the prohibited applications these amendments address.

CRITERION 4 — ADOPTED IN ACCORDANCE WITH PART 2 OF ARTICLE 2A § 150B-21.9(a)(4) · § 150B-19.1(c) · § 150B-21.2

No fiscal note is required: these amendments impose no new costs on any person or entity — all company police officer vehicles are already equipped with the emergency warning equipment at issue, and no additional personnel, procurement, or expenditure is required by either rule change.

III. AUTHORITY AND CONCLUSION

Rulemaking authority: Both amendments are issued under existing authority already cited in the rules being amended. 12 NCAC 02I .0203 cites G.S. 74E-4, which vests certification authority in the AG and forecloses the local-consent requirement. 12 NCAC 02I .0304 cites G.S. 74E-6, which includes subsections (h) and (i), the statutory basis for every new exception. No new statutory authority is required or claimed.

All four § 150B-21.9(a) criteria are satisfied: Both amendments are within the agency’s delegated authority — and each corrects a rule that currently operates outside it. Both are clear and unambiguous, using enumerated structures with specific statutory cross-references and an established legal standard. Both are reasonably necessary to implement General Assembly enactments: .0203 to conform to G.S. 74E-4, and .0304 to resolve a direct conflict with G.S. 74E-6(i) and G.S. 20-125(b). Both will be adopted in accordance with Part 2. The Commission’s review is confined to these four standards, and on each, the amendments are supported by the statutes the rules already cite.

- **.0203(a)(8):** Consent → notice. Restores AG as sole certifying authority per G.S. 74E-4. § 150B-21.9(a)(1)(3).
- **.0304(4) and (5):** Enumerated exceptions for emergency response to own jurisdiction, mutual aid (G.S. 74E-6(h)), and as-needed assistance (G.S. 74E-6(i)). Anchored to G.S. 20-125(b) reasonableness standard. § 150B-21.9(a)(1)(2)(3).
- **.0304(7):** Conformed to full exception set of amended items (4) and (5). Internal consistency across all three emergency vehicle operation prohibitions. § 150B-21.9(a)(2)(3).
- **Jurisdiction:** Unchanged. G.S. 74E-6(g) and the prohibition on independent investigation outside territorial jurisdiction remain in full force. No officer gains any authority to be anywhere not already authorized.
- **Fiscal impact:** None. Equipment is already on every vehicle. No new procurement, personnel, or expenditure required. No fiscal note required under § 150B-21.4.

