

Burgos, Alexander N

Subject: FW: NC OSH Review Commission 23 NCAC 03 .0101

From: Ascher, Seth M <seth.ascher@oah.nc.gov>

Sent: Thursday, September 11, 2025 2:19 PM

To: Sluss, Karissa <karissa.sluss@oshrc.labor.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>

Cc: Hoover, Felicia <felicia.hoover@oshrc.labor.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: Re: NC OSH Review Commission 23 NCAC 03 .0101

Yes, that also needs to be struck through, and replaced with corrected underlined text, with both highlighted. The way our digital system works requires the changes to be precisely formatted or it can create errors.

Thanks for catching that.

Seth Ascher

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

(984) 236-1934

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24 NCAC 03 .0101 is adopted with changes as published in 39:24 NCR 1624 as follows:

24 NCAC 03 .0101 DEFINITIONS

As used herein:

- (1) "Act" means the Occupational Safety and Health Act of North Carolina, Article 16, Chapter 95 of the General Statutes.
- (2) "Affected employee" means an employee of a cited employer who is exposed to or has access to the alleged hazard described in the citation.
- (3) "Hearing ~~examiner~~ Examiner" is synonymous with the "Administrative Law Judge" and means a person appointed by the Chairman of the ~~Safety and Health Review Board of North Carolina, North Carolina Occupational Safety and Health Review Commission~~ pursuant to G.S. 95-135(c).
- (4) "Authorized employee representative" means a labor organization whether local or international which has a collective bargaining relationship with the cited employer and which represents affected employees. Such an organization may appear through an authorized representative. Affected employees may appear pro se (unrepresented by counsel), through an attorney at law law, or through an authorized employee representative. See Rules .0202 and .0203 of this Chapter.
- (5) "Authorized representative" includes an authorized employee representative; a bona fide full-time officer or employee of a party or intervenor which is an association, partnership, corporation, or other business entity entity; and, for a cited employer, includes its attorney at law of record but excludes private safety consultants.
- (6) "Citation" means a written communication issued by the Commissioner of Labor to an employer pursuant to G.S. 95-137, G.S. 95-137.
- (7) "Notification of proposed penalty" means a written communication issued by the Commissioner of Labor to an employer pursuant to G.S. 95-137, G.S. 95-137.
- (8) "Day" means a calendar day.
- (9) "Working day" means all days except Saturdays, Sundays, and days which North Carolina observes as holidays, which may differ from Federal holidays.
- (10) "Proceeding" means any proceeding before the ~~Safety and Health Review Board of North Carolina~~ North Carolina Occupational Safety and Health Review Commission or ~~hearing examiner. Hearing Examiner.~~
- (11) "Respondent" means an employer who has been issued a citation.
- (12) "Complainant" means the Commissioner of Labor of North Carolina.
- (13) "Pleadings" are complaints and answers filed under Rule .0304 of this Chapter, petitions for modification of abatement and objecting parties' responses filed under Rule .0305 of this Chapter, and statements of reasons and contestants' responses filed under Rule .0306 of this Chapter. A "motion" is not a pleading within the meaning of these Rules.

1 (14) “E-File System” means to file documents with the Occupational Safety and Health Review
2 Commission by email to the Review Commission’s filing email address:
3 NCOSHRC@oshrc.labor.nc.gov.

4 (14)(15) Unless otherwise specified, definitions set forth in G.S. 95-127 are hereby adopted.

5
6 *History Note: Authority G.S. 95-135;*
7 *Temporary Rule Eff. October 2, 1991 For a Period of 180 Days to Expire on March 30, 1992;*
8 *Eff. February 3, 1992;*
9 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest ~~Eff. December~~*
10 *~~16, 2014~~ Eff. December 16, 2014;*
11 *Amendment Eff. October 1, 2025.*

Burgos, Alexander N

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Burgos, Alexander N

Subject: FW: NC OSH Review Commission 23 NCAC 03 .0101
Attachments: 24 NCAC 03 .0101.docx

From: Sluss, Karissa <karissa.sluss@oshrc.labor.nc.gov>
Sent: Thursday, September 11, 2025 1:36 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Cc: Hoover, Felicia <felicia.hoover@oshrc.labor.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: NC OSH Review Commission 23 NCAC 03 .0101

Mr. Ascher,

I believe we have addressed the issues with the attached rule, per our discussion below. For the correction of the typo in the statutory reference (p1 22 and 24), do I need to use underlining and highlighting as well? If not, I believe our revised rule text is ready for consideration.

Thank you for your assistance and kindest regards,

Karissa B. Sluss, NCCP
Docket Administrator
[NC OSH Review Commission](#)
422 N Blount St
Raleigh NC 27601
984-389-4132
karissa.sluss@oshrc.labor.nc.gov

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- (5) "Authorized representative" includes an authorized employee representative; a bona fide full-time officer or employee of a party or intervenor which is an association, partnership, corporation, or other business entity entity; and, for a cited employer, includes its attorney at law of record but excludes private safety consultants.
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7 *Temporary Rule Eff. October 2, 1991 For a Period of 180 Days to Expire on March 30, 1992;*
8 *Eff. February 3, 1992;*
9 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest ~~Eff. December~~*
10 *~~16, 2014~~ Eff. December 16, 2014;*
11 *Amendment Eff. October 1, 2025.*

Amendment for Publication in the Register

24 NCAC 03 .0101 is proposed for amendment as follows:

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Burgos, Alexander N

Subject: FW: NC OSH Review Commission 23 NCAC 03 .0101

From: Ascher, Seth M <seth.ascher@oah.nc.gov>

Sent: Tuesday, September 9, 2025 4:22 PM

To: Sluss, Karissa <karissa.sluss@oshrc.labor.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>

Cc: Hoover, Felicia <felicia.hoover@oshrc.labor.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: Re: NC OSH Review Commission 23 NCAC 03 .0101

Ms. Sluss,

Substantively, your corrections address my concerns. However, you need to update the formatting to account for these post-publication changes. Notably, that includes changes to the introductory line, and highlighting the changes that were made post publication.

You can see examples of this here: <https://www.oah.nc.gov/rule-format-examples#RuleFormatExamplesforPublicationintheNCAdministrativeCode-6063>. Specifically, under "Rule Format Examples for Publication in the Administrative Code" look at "Permanent Amendment with changes from publication".

Sincerely,

Seth Ascher

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

(984) 236-1934

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Burgos, Alexander N

Subject: FW: NC OSH Review Commission 23 NCAC 03 .0101
Attachments: RFC OSHR - September 2025.docx; 24 NCAC 03 .0101.docx

From: Sluss, Karissa <karissa.sluss@oshrc.labor.nc.gov>
Sent: Monday, September 8, 2025 1:47 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Cc: Hoover, Felicia <felicia.hoover@oshrc.labor.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: NC OSH Review Commission 23 NCAC 03 .0101

Per Mr. Ascher's email below and the attached Request for Changes Pursuant to G.S. 150B-21.10, please see the North Carolina Occupational Safety and Health Review Commission's revised rule, attached.

We have one issue with a correction request. The Request for Changes memo said:

"On p.1, line 18, add a semi-colon after officer: "~~officer~~ officer; or".

The term "bona fide full-time" (p.1, line 17) modifies both "officer" and "employee". Inserting a semicolon after officer would imply that "bona fide full-time" does not also apply to the type of employee who is allowed to be an authorized representative. The employee must be "bona fide full-time" as well.

I added a semi-colon between "entity" and "and" (p. 1, line 19) to separate the third and final example in the list of those who are allowed be an authorized representative.

Please let me know if you have any questions or concerns.

Thank you,

Karissa B. Sluss, NCCP
Docket Administrator
[NC OSH Review Commission](#)
422 N Blount St
Raleigh NC 27601
984-389-4132
karissa.sluss@oshrc.labor.nc.gov

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8 *Eff. February 3, 1992;*
9 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest ~~Eff. December~~*
10 *~~16, 2014~~ Eff. December 16, 2014;*
11 *Amendment Eff. October 1, 2025.*

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

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

If the request includes questions, please contact the reviewing attorney to discuss.

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

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

Note the following general instructions:

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

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

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

AGENCY: Department of Revenue

RULE CITATION: 24 NCAC 03 .0101

DEADLINE FOR RECEIPT: Monday, September 15 2025

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:

On p.1, line 15, add a comma between law and or: “at ~~law~~ law, or”.

On p.1, line 18, add a semi-colon after officer: “~~officer~~ officer; or”.

On p.1, line 24, fix your statutory citation.

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

Burgos, Alexander N

From: Sluss, Karissa
Sent: Friday, September 5, 2025 2:27 PM
To: Ascher, Seth M; Hoover, Felicia
Cc: Burgos, Alexander N
Subject: RE: OSHR RFC for September 2025

Follow Up Flag: Follow up
Flag Status: Completed

Received. Thank you.

Karissa B. Sluss, NCCP
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Sent: Friday, September 5, 2025 1:49 PM
To: Hoover, Felicia <felicia.hoover@oshrc.labor.nc.gov>; Sluss, Karissa <karissa.sluss@oshrc.labor.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: OSHR RFC for September 2025

Good afternoon,

I'm the attorney who reviewed the Rules submitted by the OSHR Commission for the September 2025 RRC meeting. The RRC will formally review these Rules at its meeting on September 25, 2025, 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, let me know prior to the meeting, and we will get evites out to them as well.

Attached is the Request for Changes Pursuant to G.S. 150B-21.10. Please submit your responses, the revised Rules, and forms to me via email, no later than 5 p.m. on September 15, 2025. Note that the first request applies to all of the rules.

Please let me know if you have any questions or concerns.

Seth Ascher

Counsel to the North Carolina Rules Review Commission

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