

RRC Guidance on Form Requirements for Rules

Please Note: This draft guidance is being distributed for the purpose of inviting public comment. It is intended to provide general guidance that would be applicable to most situations, but the factual or legal circumstances of a particular rule may lead to a different recommended approach. The Commission has reviewed this recommendation but has not adopted it or otherwise taken formal action.

RECOMMENDATION DATE: March 26, 2026

The North Carolina Bar Association's (NCBA) Administrative Law Section requested guidance on the Rules Review Commission's interpretation of G.S. 150B-2(8a)d. This memo summarizes the NCBA's questions and outlines the Commission's general responses.

At issue is G.S. 150B-2(8a)d, which indicates that the APA definition of "rule" does not include "[a] form, the contents or substantive requirements of which are prescribed by rule or statute." The Commission reads this to mean that if a rule requires a form, in order to meet the clarity requirements of G.S. 150B-21.9(b), the contents or substantive requirements must be prescribed by rule or statute. The Commission has identified two ways that agencies can meet this requirement: (1) by itemizing the required fields in the rule requiring the form, or (2) by cross-referencing another rule or statute where the required fields are itemized.

With this understanding in mind, below is a summary of the specific questions the Administrative Law Section asked and the Commission's responses.

1. Can a rule simply require "contact information" on a form without identifying what that means?

Generally, no. Each required form field should be included in the rule or statute describing the form. For example, if a form would be rejected by the agency for failing to include an email address, the rule should specify email address. For the sake of clarity, agencies should err on the side of over-specificity if there is any doubt.

2. Does the requirement for "contact information" differ for an individual or business entity?

No. In each case, the requirements of the form must be specified by rule. If the requirements for an individual or business entity are different, that should be spelled out by rule.

3. Can a rule only require an "address"? Or must it specify "street and mailing address"?

*It depends on what the form requires. If the agency would accept a street **or** mailing address (i.e. a P.O. box, commercial address, or residential address), then "address" is sufficient. If the agency specifically wants a street address, the rule should indicate such.*

4. Can a rule cross-reference the information requirements stated by another rule or statute?

Yes, so long as the cross-referenced rule or statute combined with the original rule specify all required fields of the form. For example, an agency could have a general rule for forms specifying a number of required fields, and a specific rule for each form that references the general rule plus other required fields specific to that form. When cross-referencing, a specific citation is required. Note that the contents of a form only need to be specified once, not in each rule which mentions the form. For example, an agency could have separate rules, one specifying the contents of the form and one describing how the form will be reviewed, without including the required fields or a cross-reference in the review rule.

5. Is adding the substantive requirements of an existing form to a rule a substantial change under G.S. 150B-21.2(g), such that republication would be required?

*Generally, no. Per G.S. 150B-21.2(g), a substantial change is one which affects the interests of a different group of persons than the original rule, addresses a different subject matter than the original rule, or produces an effect that could not have been reasonably expected based on the original rule. If a rule is updated post-publication to reflect an existing form, adding the required fields after rule publication would not be a substantial change. These changes are usually “technical changes,” rather than substantial changes, that more clearly express the intent of the agency when the meaning and application of the rule is already known and understood. Note, this may not be the case for rules requiring **new** forms. Additionally, even if the agency can correct the issue post-publication, it is always preferable for an agency to publish the rule as close to the final form as they can.*