18 NCAC 01A .0101 is repealed as published in 41:01 NCR 24 as follows:

18 NCAC 01A .0101 SECRETARY OF STATE

History Note: *Authority G.S. 143A-19; 147-34;*
Eff. February 1, 1976;
Amended Eff. April 1, 2003; September 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017;
Transferred from 18 NCAC 02 .0102 Eff. April 1, ~~2024.~~ 2024;
Transferred from 18 NCAC 01 Eff. April 1, 2026;
Repealed Eff. December 1, 2026.

18 NCAC 01A .0103 is repealed as published in 41:01 NCR 24-25 as follows:

SECTION .0200 – PETITIONS FOR RULEMAKING

18 NCAC 01A .0103 PETITION FOR RULE-MAKING OR DECLARATORY RULING

History Note: *Authority G.S. 150B-18; 150B-20;*
Eff. December 10, 1980;
Amended Eff. April 1, 2003; November 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, ~~2015.~~ 2015;
Transferred from 18 NCAC 01 Eff. April 1, 2026;
Repealed Eff. December 1, 2026.

18 NCAC 01B .0101 is adopted with changes as published in 41:01 NCR 25 as follows:

SUBCHAPTER 01B - GENERALLY APPLICABLE ~~RUL~~ RULES ~~(RESERVED)~~

SECTION .0100 GENERAL ~~(RESERVED)~~

18 NCAC 01B .0101 SCOPE

The rules in this Subchapter shall apply to all rules in Title 18 of the North Carolina Administrative Code, unless:

(1) otherwise stated; or

(2) there is a conflict or inconsistency between the rules in this Subchapter and the rules in another Subchapter, in which case the other Subchapter's rules shall prevail.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4;*
Eff. December 1, 2026.

18 NCAC 01B .0102 is adopted with changes as published in 41:01 NCR 25 as follows:

18 NCAC 01B .0102 DEFINITIONS

For purposes of this Title:

(1) "Filer" means a person that ~~submits~~ delivers a filing to the Department.

(2) "Filing" means a form or other document required or permitted to be filed with the Department.

(3) "Form" means a departmental data collection instrument that requires ~~or requests~~ information, without regard to the format.

(4) "Form preparer" means an individual who enters information on a form:

(a) at the direction of another; and

(b) without exercising independent judgment or discretion as to the content entered.

(5) "Person" means the term as set forth in G.S. 12-3(6).

(6) "Secretary" means the North Carolina Secretary of State or the Secretary's designee.

(7) "United States" or "U.S." means the term as defined in G.S. 12-3(11).

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4;*
Eff. December 1, 2026.

18 NCAC 01B .0103 is adopted with changes as published in 41:01 NCR 25 as follows:

18 NCAC 01B .0103 GENERAL CONTACT INFORMATION AND OPERATING HOURS

(a) Physical address: the Department of the Secretary of State is located at 2 South Salisbury Street, Raleigh, North Carolina, 27601-2903.

(b) Mailing address: the Department's mailing address is P.O. Box 29622, Raleigh, North Carolina 27626-0622.

(c) Email address: the Department may be contacted by email for general issues at corpinfo@sosnc.gov. Unless specifically permitted by a rule in this Title, email shall not be used for submitting applications.

(d) Website: the Department's website is: www.sosnc.gov.

(e) Telephone number: the telephone number for the Department's customer service unit is (919) 814-5400.

(f) Hours: departmental hours for the public are 8:00 a.m. to 5:00 p.m., Monday through Friday, with the exception of State holidays.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4;*
Eff. December 1, 2026.

18 NCAC 01B .0104 is adopted with changes as published in 41:01 NCR 25 as follows:

18 NCAC 01B .0104 COMPUTATION OF TIME PERIODS

The Department shall calculate time periods based on G.S. 1A-1, Rule 6(a), (e), and (f).

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4;*
Eff. December 1, 2026.

18 NCAC 01B .0201 is adopted with changes as published in 41:01 NCR 25 as follows:

SECTION .0200 - FEES PAID TO THE DEPARTMENT ~~(RESERVED)~~

18 NCAC 01B .0201 U.S. CURRENCY

~~Filers and other persons paying fees~~ Fees paid to the Department shall ~~pay all fees~~ be tendered in U.S. dollars and cents.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4;*
Eff. December 1, 2026.

18 NCAC 01B .0202 is adopted with changes as published in 41:01 NCR 25 as follows:

18 NCAC 01B .0202 ONLINE FEE PAYMENT

Persons who pay fees to the Department online shall pay by:

(1) an automated clearinghouse debit account (ACH);

(2) a credit card; or

(3) a debit card.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4;*
Eff. December 1, 2026.

18 NCAC 01B .0203 is adopted with changes as published in 41:01 NCR 25-26 as follows:

18 NCAC 01B .0203 FEES PAID IN PERSON

~~Filers and others who pay fees~~ Fees paid in person shall ~~pay~~ be paid with:

(1) cash;

(2) a credit or debit card;

(3) a money order; or

(4) one of the following types of checks, made payable to the N.C. Department of the Secretary of State:

(a) a personal or business check; or

(b) a cashier's check.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4;*
Eff. December 1, 2026.

18 NCAC 01B .0204 is adopted with changes as published in 41:01 NCR 26 as follows:

18 NCAC 01B .0204 FEES PAID BY USPS OR BY DELIVERY SERVICE

~~Filers and others who pay fees~~ Fees paid to the Department through delivery by United States Postal Service (USPS) or by a designated delivery service authorized pursuant to 26 U.S.C. 7502(f)(2) shall ~~pay~~ be paid using one of the following methods, made payable to the N.C. Department of the Secretary of State:

(1) a personal or business check;

(2) a money order; or

(3) a cashier's check.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4;*
Eff. December 1, 2026.

18 NCAC 01B .0205 is adopted with changes as published in 41:01 NCR 26 as follows:

18 NCAC 01B .0205 FEE FOR DISHONORED PAYMENT

Pursuant to G.S. 25-3-506, the Department shall charge a thirty-five dollar ($35.00) processing fee to a filer if a payment is dishonored by a bank or financial institution.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4;*
Eff. December 1, 2026.

18 NCAC 01B .0206 is adopted with changes as published in 41:01 NCR 26 as follows:

18 NCAC 01B .0206 NOTICE TO FILER OF DISHONORED PAYMENT

Upon receipt of notice of dishonor of a payment, the Department shall notify a filer orally or in writing that:

(1) the payment the filer submitted has been dishonored; and

(2) the payment and fee set out in Rule .0205 of this Section shall be paid in full within 15 calendar days of the date the Department orally or in writing notifies the filer of the dishonor.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4;*
Eff. December 1, 2026.

18 NCAC 01B .0301 is adopted with changes as published in 41:01 NCR 26 as follows:

SECTION .0300 FILINGS – GENERAL ~~(RESERVED)~~

18 NCAC 01B .0301 FORM USE REQUIRED

In submitting a filing, a filer shall:

(1) use a form specified in the applicable General Statute or rule; or

(2) if there is not a required form in the applicable General Statute or rule, include as an addendum any supplemental information that the filer deems necessary to support a filing made pursuant to rule or statute.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4;*
Eff. December 1, 2026.

18 NCAC 01B .0302 is adopted with changes as published in 41:01 NCR 26 as follows:

18 NCAC 01B .0302 MODE OF FILING

(a) Filers shall submit filings electronically by means established by the Department unless paper filing is specifically permitted pursuant to this Rule.

(b) The Department shall allow filers to submit paper filings if:

(1) allowed pursuant to the General Statutes or the rules in this Title;

(2) the Department has not established electronic means for submitting a filing; or

(3) ~~if~~ a filer lacks the technological capacity to file electronically.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4;*
Eff. December 1, 2026.

18 NCAC 01B .0303 is adopted with changes as published in 41:01 NCR 26 as follows:

18 NCAC 01B .0303 INAPPLICABLE QUESTIONS

If a form question or item is not applicable to a filer making a paper submission, the filer shall not leave the question or item blank but shall respond "not applicable" or "N/A. "

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4;*
Eff. December 1, 2026.

18 NCAC 01B .0304 is adopted with changes as published in 41:01 NCR 26-27 as follows:

18 NCAC 01B .0304 ATTACHMENTS

If a form does not include enough space to provide a complete and accurate response to a question or request for information from the Department, a filer shall:

(1) include with the form an attachment containing the information that did not fit on the form;

(2) make a note at the location of a question or request for information that an attachment has been added in order to fully respond. Note: An example is "See Attachment 1"; and

(3) identify on the attachment ~~to which~~ the question or request for information that the additional information addresses. ~~relates.~~

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4;*
Eff. December 1, 2026.

18 NCAC 01B .0305 is adopted with changes as published in 41:01 NCR 27 as follows:

18 NCAC 01B .0305 SIGNATURE FOR ENTITY

(a) If an individual is signing a form or other filing for a business entity:

(1) the signer shall be duly authorized by law and the entity to sign; and

(2) the signer shall include the signer's title, position, and authorization to sign.

(b) For purposes of this Rule, "duly authorized by law" means as required by G.S. 55D-10(b)(5) for an entity, by the owner for a sole proprietorship, or by a general partner for a general partnership.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4;*
Eff. December 1, 2026.

18 NCAC 01B .0306 is adopted with changes as published in 41:01 NCR 27 as follows:

18 NCAC 01B .0306 FORM PREPARER SIGNATURE REQUIRED

A form preparer who is not the authorized signer pursuant to Rule .0305 of this Section shall:

(1) sign in the space provided for a preparer's signature on a form; or

(2) sign below the authorized signer ~~document~~ and note "form preparer" next to the signature.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4;*
Eff. December 1, 2026.

18 NCAC 01B .0307 is adopted with changes as published in 41:01 NCR 27 as follows:

18 NCAC 01B .0307 INCOMPLETE FILINGS

The Department shall consider a filing incomplete for:

(1) failure to provide information or a fee required pursuant to the General Statutes or the applicable rules;

(2) lack of a signature required by the General Statutes or the rules; or

(3) lack of a notarial act where required by the General Statutes or the rules.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4;*
Eff. December 1, 2026.

18 NCAC 01B .0308 is adopted with changes as published in 41:01 NCR 27 as follows:

18 NCAC 01B .0308 REJECTION OF INCOMPLETE FILINGS

The Department shall reject a filing if it is incomplete and not remedied by the filer within the time specified by the Department.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4;*
Eff. December 1, 2026.

18 NCAC 01B .0309 is adopted with changes as published in 41:01 NCR 27 as follows:

18 NCAC 01B .0309 PROOF OF SUBMISSION

(a) Where the Department makes a filing available online in a format that allows a person to view the public record and print or save it, that shall constitute proof of submission.

(b) A person may obtain proof of submission of a filing to the Department by:

(1) providing a duplicate of the filing at the time of hand delivery and requesting at that time that the Department file stamp a copy; or

(2) requesting that a file-stamped copy be returned and supplying to the Department both a copy of the form and a self-addressed, stamped envelope (SASE) or prepaid delivery service envelope in which to return the file-stamped copy.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4;*
Eff. December 1, 2026.

18 NCAC 01B .0401 is adopted with changes as published in 41:01 NCR 27 as follows:

SECTION .0400 – WAIVERS AND EXTENSIONS ~~(RESERVED)~~

18 NCAC 01B .0401 WAIVER

Based on the factors in Rule .0404 of this Section, the Department may waive any rule in this Title on request of a filer or on its own initiative.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-19(6);*
Eff. December 1, 2026.

18 NCAC 01B .0402 is adopted with changes as published in 41:01 NCR 27-28 as follows:

18 NCAC 01B .0402 CONTENTS OF WAIVER REQUEST

A request for waiver of a rule shall be in writing and shall include:

(1) the subject line "request for rule waiver";

(2) the name of the person submitting the waiver request;

(3) the typewritten or printed name of the person signing the waiver request;

(4) the authority of the ~~signatory~~ signer to sign the waiver request on behalf of the person making the request if the ~~signatory~~ signer is not the same;

(5) contact information for the person requesting the waiver and any person signing the waiver request, including:

(a) mailing address;

(b) email address; and

(c) telephone number;

(6) if the person requesting the waiver is an entity:

(a) the state of formation; and

(b) the precise name of the entity as it appears in the records of the filing office of the state of formation;

(7) whether the request is for waiver of an entire rule or a portion of a rule;

(8) the specific rule for which waiver is requested, including:

(a) the rule title;

(b) the citation for the rule as it appears in the North Carolina Administrative Code; and

(c) if the request is for less than an entire rule, the specific paragraph or item numbers for which waiver is requested;

(9) an explanation of the reasons for the request, including facts supporting the request;

(10) information related to the factors in Rule .0404 of this Section that the requestor asks the Department to consider;

(11) supporting documentation, if any;

(12) whether the person or entity making the request has previously filed a waiver request with the Department;

(13) a description of any previous waiver requests or the date of the requests; and

(14) the signature of the person making the request verifying that the request is true and correct and the date signed.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-*

1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-19(6);

Eff. December 1, 2026.

18 NCAC 01B .0403 is adopted with changes as published in 41:01 NCR 28 as follows:

18 NCAC 01B .0403 SUBMISSION OF WAIVER REQUEST

A waiver request shall be submitted to the Department at the physical ~~address found in Rule .0103(a) of this Subchapter~~ or ~~at the~~ mailing address found in ~~Rule .0103(b)~~ Rule .0103 of this Subchapter and be addressed to:

(1) the Secretary of State by name and title; ~~and~~

(2) ~~copy both:~~

~~(a)~~ the Department's General Counsel; and

~~(b)~~(3) the ~~Director~~ director of the ~~Division~~ division to whose rules the proposed waiver request applies.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-19(6);*
Eff. December 1, 2026.

18 NCAC 01B .0404 is adopted with changes as published in 41:01 NCR 28-29 as follows:

18 NCAC 01B .0404 FACTORS USED IN CONSIDERING WAIVER REQUESTS

(a) The Department shall consider the following factors, as applicable, when considering whether to grant or deny a waiver request:

(1) information about the requestor and the request, including the requestor's:

(A) explanation of the reasons for the request;

(B) control over the circumstances leading to the request;

(C) experience with the law and the rules related to the request;

(D) record of timeliness, completeness, and accuracy of filings with the Department;

(E) history of waiver requests, if any; and

(F) impact on the requestor of granting or denying the request;

(2) impact on the public of granting or denying the request, including:

(A) harm or benefit to the public; and

(B) consistency of implementation and enforcement of the General Statutes and the rule for which a waiver is requested;

(3) impact on the Department of granting or denying the request, including:

(A) impact on processing of other filings pursuant to the rule for which waiver is requested;

(B) availability of departmental resources;

(C) impact of the waiver on others subject to the rule for which waiver is requested; and

(D) impact on the likelihood of similar additional waiver requests; and

(4) any disaster declarations made pursuant to state or federal law.

(b) For purposes of this Rule, "harm" shall include:

(1) loss or damage to a person affecting:

(A) liberty;

(B) child custody, parental rights, child support, or visitation;

(C) reputation;

(D) money;

(E) real or intangible property;

(F) time; or

(G) a contract, permit, license, certification, approval, or transaction; or

(2) an act that undermines public confidence in the Department or its actions.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-19(6);*

Eff. December 1, 2026.

18 NCAC 01B .0405 is adopted with changes as published in 41:01 NCR 29 as follows:

18 NCAC 01B .0405 DEPARTMENT-INITIATED WAIVERS

If the Department waives a rule on its own initiative, it shall consider the factors in Rule .0404 of this Section, and upon initiating the waiver shall provide notice to persons known to it to be affected by the waiver:

(1) directly if the waiver affects a single person; and

(2) by a posting on its website.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-19(6);*
Eff. December 1, 2026.

18 NCAC 01B .0406 is adopted with changes as published in 41:01 NCR 29 as follows:

18 NCAC 01B .0406 NOTICE TO REQUESTOR OF WAIVER

Within five business days of its decision on a waiver request, the Department shall notify the requestor in writing of:

(1) its decision whether to grant the waiver request, grant a modified version of the waiver request, or deny the request; and

(2) that a granted waiver request:

(a) is based upon the information provided in the request;

(b) is valid only with respect to the specific rule for which waiver was requested; and

(c) may be withdrawn if the Department later learns that the requestor omitted ~~information or~~ information, provided incorrect information, or if the Department receives other information that would have impacted the Department's decision on the request.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-19(6);*
Eff. December 1, 2026.

18 NCAC 01B .0407 is adopted with changes as published in 41:01 NCR 29 as follows:

18 NCAC 01B .0407 EXTENSION REQUESTS

(a) A person responding to any request for information from the Department may submit a written request for an extension of time to respond.

(b) A request pursuant to Paragraph (a) of this Rule shall:

(1) be for an extension lasting no more than 30 days; and

(2) include the reason an extension is necessary.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-19(6);*
Eff. December 1, 2026.

18 NCAC 01B .0408 is adopted with changes as published in 41:01 NCR 29 as follows:

18 NCAC 01B .0408 RESPONSE TO EXTENSION REQUESTS

The Department shall consider the following, as applicable, when deciding on its response to an extension request:

(1) the nature of the information requested;

(2) the reasons stated in the extension request;

(3) the urgency of the Department's need for the information;

(4) the anticipated ease of production by the recipient of the request; and

(5) applicable factors for waivers listed in Rule .0404 of this Section.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-19(6);*
Eff. December 1, 2026.

18 NCAC 01C .0101 is adopted with changes as published in 41:01 NCR 29 as follows:

SUBCHAPTER 01C - PETITIONS FOR RULEMAKING ~~(RESERVED)~~

SECTION .0100 – GENERAL PROCEDURES ~~(RESERVED)~~

18 NCAC 01C .0101 DEFINITIONS

(a) "Complete petition" means that a petition for rulemaking includes all information required by the applicable rules in this Subchapter.

(b) "Submitted" means that a petition for rulemaking has been delivered to the Department and has been determined to be complete.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-20;*
Eff. December 1, 2026.

18 NCAC 01C .0102 is adopted with changes as published in 41:01 NCR 29 as follows:

18 NCAC 01C .0102 PETITIONS FOR RULEMAKING GENERALLY

(a) A petition for rulemaking shall be in writing and shall specifically request that the Department engage in rulemaking to:

(1) amend one or more existing rules; or

(2) adopt one or more new rules.

(b) A petition may combine a request for one or more of the rulemaking actions in Paragraph (a) of this Rule. A combined request shall include the information required by the rules in this Subchapter for each type of rulemaking requested.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-20;*
Eff. December 1, 2026.

18 NCAC 01C .0103 is adopted with changes as published in 41:01 NCR 30 as follows:

18 NCAC 01C .0103 METHOD OF ~~SUBMISSION~~ DELIVERY OF PETITION FOR RULEMAKING

Petitions for rulemaking shall be delivered to the Department at the physical or mailing address in ~~either 18 NCAC 01B .0103(a) or (b).~~ 18 NCAC 01B .0103. Petitions for rulemaking shall not be ~~submitted~~ delivered to the Department by email.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-20;*
Eff. December 1, 2026.

18 NCAC 01C .0104 is adopted with changes as published in 41:01 NCR 30 as follows:

18 NCAC 01C .0104 PETITION ADDRESSEES

A petitioner shall:

(1) address the petition to the Secretary of State by name and title; ~~and~~

(2) ~~copy both:~~

~~(a)~~ the Department's General Counsel; and

~~(b)~~(3) the ~~Director~~ director of the ~~Division~~ division to whose rules the proposed rulemaking would apply.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-20;*
Eff. December 1, 2026.

18 NCAC 01C .0105 is adopted with changes as published in 41:01 NCR 30 as follows:

18 NCAC 01C .0105 FORM OF PETITION

The Department shall deem a petition as having been submitted if the document:

(1) is complete; and

(2) is designated "petition for rulemaking" in the subject, header, or title line and on any container envelope.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-20;*
Eff. December 1, 2026.

18 NCAC 01C .0201 is adopted with changes as published in 41:01 NCR 30 as follows:

SECTION .0200 – PETITION CONTENTS ~~(RESERVED)~~

18 NCAC 01C .0201 PETITION CONTENTS – THE PETITIONER

A complete petition shall state the following information:

(1) the name of the petitioner;

(2) the typewritten or printed name of the individual signing the petition;

(3) the authority of the ~~signatory~~ signer to sign the petition on behalf of the petitioner if the ~~signatory~~ signer is not the same as the petitioner;

(4) Contact information for the petitioner and any individual signing the petition:

(a) mailing address;

(b) email address; and

(c) telephone number; and

(5) if the petitioner is an entity:

(a) the state of formation; and

(b) the precise name of the entity as it appears in the records of the filing office in the state of formation.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-20;*
Eff. December 1, 2026.

18 NCAC 01C .0202 is adopted with changes as published in 41:01 NCR 30-31 as follows:

18 NCAC 01C .0202 PETITION CONTENTS – ALL PETITIONS

A complete petition shall contain the following information for each proposed amendment and adoption:

(1) a statement indicating, to the extent known, whether and how each proposed amendment or adoption would affect, or be affected by, existing:
  (a) rules or orders;
  (b) investigations;
  (c) hearings or judicial proceedings;
  (d) judicial opinions; and
  (e) policies, practices or procedures;

(2) a statement indicating how the proposed changes are aligned with the purposes of applicable statutes;

(3) to the extent known:
  (a) names or classes of persons potentially affected by the proposed rule change, and contact information for them; and
  (b) names of individuals, public interest groups, stakeholders or other identifiable classes with a likely interest in the proposed rule change, and contact information for them;

(4) anticipated fiscal impact of the proposed amendment or adoption including, to the extent known:
  (a) the impact on local governments;
  (b) the impact on the Department and other State agencies;
  (c) the impact on the regulated community or identifiable stakeholders;
  (d) the impact on the general public; and
  (e) any information that the Department should consider when considering any fiscal impact;

(5) to the extent known, rules or regulations similar to the changes requested by the petitioner that have been adopted by other states or the federal government.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-20;*
Eff. December 1, 2026.

18 NCAC 01C .0203 is adopted with changes as published in 41:01 NCR 31 as follows:

18 NCAC 01C .0203 PETITION CONTENTS – PROPOSED AMENDMENTS

For each existing rule for which amendment is requested, a complete petition shall include:

(1) details of the existing rule proposed to be changed, including:

(a) the chapter, subchapter, and rule number which the petitioner proposes for amendment;

(b) the title and text of the rule; and

(c) the rule history note, including statutory authority; and

(2) details of the proposed rule change, including:

(a) the text of the proposed amendment using strikethrough to indicate proposed deletions of existing rule language, and underlining to indicate proposed additional language; and

(b) the statutory authority for each proposed amendment specifying:

(i) whether statutory authority for the existing rule is authority for the proposed amendment; or

(ii) a citation to the specific General Statute or Session Law that the petitioner submits is authority for the proposed change;

(3) a statement specific to each proposed amendment explaining:

(a) why added language is:

(i) necessary; and

(ii) not redundant;

(b) how the amended language would affect the meaning of the existing rule;

(c) the cumulative impact of the requested changes, in context with other related rules;

(d) to the extent available, the sound, reasonably available scientific, technical, economic, and other relevant information on which the petitioner bases the proposed rule changes; and

(e) whether and how the proposed changes would affect other departmental rules; and

(4) an explanation, to the extent known, of how each individual rule change and group of rule changes would affect:

(a) the petitioner;

(b) members of the regulated community;

(c) local governments;

(d) members of the public; and

(e) the Department.

Note: For purposes of this rule "affect" includes the costs and benefits to all parties.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-*

1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-20;

Eff. December 1, 2026.

18 NCAC 01C .0204 is adopted with changes as published in 41:01 NCR 31 as follows:

18 NCAC 01C .0204 PETITION CONTENTS – PROPOSED NEW RULES

For each new rule that the petitioner proposes, the complete petition shall provide:

(1) details of the rule, including:

(a) the chapter, subchapter, and section in which the petitioner proposes that the new rule be codified; Note: The petitioner shall provide the proposed alphanumeric designation and citation for proposed new chapters, subchapters, and sections;

(b) the proposed rule title;

(c) the proposed rule text, underlined; and

(d) the specific General Statute or Session Law providing authority for the proposed new ~~rule.~~ rule; ~~Note: The petitioner shall provide the proposed alphanumeric designation and citation for proposed new chapters, subchapters, and sections;~~

(2) an explanation of the need for the new rule, including:

(a) why the new rule is:

(i) necessary; and

(ii) not redundant; and

(b) all circumstances creating a need for the rule, including changes in:

(i) the regulated community;

(ii) federal or state law, regulations, policies, procedures or agency orders;

(iii) uniform or model laws; or

(iv) model rules promulgated by national organizations. Note: The North American ~~Association of~~ Securities Administrators Association (NASAA) is an example of a national organization that promulgates model rules; and

(3) a statement, to the extent known, of the effect of the proposed new rule on:

(a) the petitioner;

(b) members of the regulated community;

(c) local governments;

(d) the public; and

(e) the Department.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-20;*
Eff. December 1, 2026.

18 NCAC 01C .0205 is adopted with changes as published in 41:01 NCR 32 as follows:

18 NCAC 01C .0205 PROPOSED NEW RULE STRUCTURES

For each new group of rules for which the petitioner proposes a new chapter, subchapter or section, the petitioner shall explain why the proposed new group of rules should not be codified in an existing chapter, subchapter or section.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-20;*
Eff. December 1, 2026.

18 NCAC 01C .0206 is adopted with changes as published in 41:01 NCR 32 as follows:

18 NCAC 01C .0206 ADDITIONAL PETITION INFORMATION

A petitioner may provide additional information to assist the Department in reviewing the petition, including:

(1) stakeholder comments;

(2) documents and data regarding:

(a) the need for, and the public interest being served by, the proposed rulemaking;

(b) reasons existing rules do not meet the need to be addressed by the proposed rulemaking; and

(c) sound, reasonably available scientific, technical, economic, and other relevant information supporting the proposed rulemaking;

(3) a statement explaining the costs and cost factors, if known;

(4) other information that the petitioner believes will help the Department in its consideration of the request; and

(5) if the petitioner seeks adoption by the Department of a temporary or emergency rule:

(a) an explanation how the proposed rule meets the requirements of G.S. 150B-21.1 or 150B-21.1A respectively;

(b) proposed findings of need for the temporary or emergency rule; and

(c) the proposed temporary rule required to be submitted to the Codifier of Rules simultaneously with the proposed emergency rule.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102 -117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-20;*
Eff. December 1, 2026.

18 NCAC 01C .0301 is adopted with changes as published in 41:01 NCR 32 as follows:

SECTION .0300 – DEPARTMENT ACTION ON PETITIONS ~~(RESERVED)~~

18 NCAC 01C .0301 INCOMPLETE PETITIONS

If a petition for rulemaking is incomplete because it lacks information required by the rules in this Subchapter, the Department shall within three business days after determining the petition is incomplete, notify the petitioner that the petition is incomplete, specifying:

(1) the aspects of the petition that are incomplete;

(2) that the ~~petition is not deemed to have been submitted unless it is completed;~~ petitioner has five calendar days within which to complete the petition; and

(3) ~~a deadline of no less than five business days within which to complete the petition; and~~

~~(4)~~ that the petition will be denied if not completed.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-20;*
Eff. December 1, 2026.

18 NCAC 01C .0302 is adopted with changes as published in 41:01 NCR 32 as follows:

18 NCAC 01C .0302 NOTICE OF COMPLETE PETITION

The Department shall notify the petitioner in writing ~~within three business days~~ after determining that a petition is ~~complete.~~ complete and shall send the revised petition to the Office of Administrative Hearings for posting on its website.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-20;*
Eff. December 1, 2026.

18 NCAC 01C .0303 is adopted with changes as published in 41:01 NCR 32 as follows:

18 NCAC 01C .0303 ADDITIONAL INFORMATION

(a) The Department may request that the petitioner provide additional information related to a complete petition for rulemaking.

(b) Before making a decision on a complete petition, the Department may request comment from:

(1) potentially affected members of the regulated community; and

(2) the public.

(c) The Department may consider additional information in ruling on a complete petition, including contacting persons known to have an interest in the subject of the petition.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-20;*
Eff. December 1, 2026.

18 NCAC 01C .0304 is adopted with changes as published in 41:01 NCR 32-33 as follows:

18 NCAC 01C .0304 SUMMARY DENIAL OF UNAUTHORIZED PETITIONS

The Department shall review and deny a petition that seeks any relief prohibited by G.S. 150B-19 or that:

(1) deals with subjects outside the Department's jurisdiction and authority;

(2) proposes rulemaking that would, in the opinion of the Department, require statutory changes; or

(3) is deemed incomplete and the Petitioner fails to provide the information necessary to make the petition complete within the time provided by the Department pursuant to the rules in this Subchapter.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-20;*
Eff. December 1, 2026.

18 NCAC 01C .0305 is adopted with changes as published in 41:01 NCR 33 as follows:

18 NCAC 01C .0305 FACTORS FOR REVIEW OF A PETITION

When determining whether to grant or deny a petition for ~~rulemaking,~~ rulemaking in whole or in part, the Secretary or the Secretary's ~~her~~ designee shall consider as applicable:

(1) the limitations set forth in G.S. 150B-19 and G.S. 150B-19.1; and

(2) factors including:

(a) whether there is statutory authority for the proposed amendment or new rule;

(b) the extent to which the amendment or adoption of the proposed rule would affect the interests of persons other than the petitioner;

(c) the effect of the proposed change on existing rules, programs, procedures, and resources;

(d) anticipated fiscal impact of the proposed changes, including, to the extent known:

(i) the impact on local governments;

(ii) the impact on the Department and other State agencies;

(iii) the impact on the regulated community; or

(iv) the impact on the general public;

(e) changes described ~~pursuant to~~ in Rule .0204(2)(b) of this Subchapter;

(f) whether the Department has engaged in rulemaking on the same or similar topics within the preceding two years;

(g) whether the Department has previously received and considered a petition for rulemaking on the same or similar rules, and any action taken on the prior petition;

(h) whether the proposed rulemaking is aligned with the purpose of the applicable statute; and

(i) whether the Department presently has the resources to engage in the requested rulemaking.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-20;*
Eff. December 1, 2026.

18 NCAC 01C .0306 is adopted with changes as published in 41:01 NCR 33 as follows:

18 NCAC 01C .0306 DEPARTMENTAL REVIEW OF PETITIONS

When determining whether to grant or deny a complete petition for rulemaking, the Secretary or her designee shall consider:

(1) the contents of the petition;

(2) any additional information provided by the petitioner or gained by the Department pursuant to Rule .0303 of this Section;

(3) the applicable factors set out in Rule .0305 of this Section; and

(4) the public interest.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-20;*
Eff. December 1, 2026.

18 NCAC 01C .0307 is adopted with changes as published in 41:01 NCR 33 as follows:

18 NCAC 01C .0307 DISPOSITION OF THE PETITION FOR RULEMAKING

(a) The Department shall document its decision to deny or grant a petition for rulemaking, and the reasons for its decision.

(b) The Department shall notify the petitioner in writing of its decision ~~to grant or deny~~ on the ~~petition.~~ petition as required by G.S. 150B-20(c).

~~(b)~~(c) The Department shall post the complete petition for rulemaking and the Department's response ~~to the request~~ on its website.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-20;*
Eff. December 1, 2026.

18 NCAC 01C .0308 is adopted with changes as published in 41:01 NCR 33 as follows:

18 NCAC 01C .0308 RECORD OF PETITIONS FOR RULEMAKING

The Department shall maintain a record of ~~petitions~~ a petition for rulemaking that shall include:

(1) the petition and any comments or supporting materials submitted by the petitioner;

(2) any other comments received by the Department; and

(3) a copy of:

(a) the Department's ~~grant or denial of~~ documentation of its decision on the ~~declaratory ruling request;~~ petition; and

(b) the Department's ~~ruling on the merits of the request.~~ notice to the petitioner of its decision.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-20;*
Eff. December 1, 2026.

18 NCAC 01D .0101 is adopted with changes as published in 41:01 NCR 33-34 as follows:

SUBCHAPTER 01D REQUESTS FOR DECLARATORY RULINGS ~~(RESERVED)~~

SECTION .0100 – GENERAL PROCEDURES ~~(RESERVED)~~

18 NCAC 01D .0101 ~~ELIGIBILITY TO SUBMIT A~~ WRITTEN REQUEST REQUIRED FOR A DECLARATORY RULING

A person aggrieved who seeks a declaratory ruling pursuant to G.S. 150B-4(a) ~~aggrieved, as defined in G.S. 150B-2(6), may~~ shall submit a written request to the Department ~~for a declaratory ruling as to the validity of a rule or as to the applicability to a given state of facts of a statute administered by the Department or of a departmental rule or any inconsistent interpretation of a rule by the Department.~~ in accordance with the Rules of this Subchapter.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-4;*
Eff. December 1, 2026.

18 NCAC 01D .0102 is adopted with changes as published in 41:01 NCR 34 as follows:

18 NCAC 01D .0102 METHOD OF SUBMITTING REQUESTS FOR DECLARATORY RULINGS

A request for a declaratory ruling shall be submitted to the Department's physical or mailing address as set out in ~~18 NCAC 01B .0103(a) or (b).~~ 18 NCAC 01B .0103. No request for a declaratory ruling shall be submitted by email.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-4;*
Eff. December 1, 2026.

18 NCAC 01D .0103 is adopted with changes as published in 41:01 NCR 34 as follows:

18 NCAC 01D .0103 ADDRESSEE OF REQUEST FOR DECLARATORY RULING

A person submitting a request for a declaratory ruling shall address the request to:

(1) the Secretary of ~~State;~~ State by name and title;

(2) the ~~Director~~ director of the ~~Division~~ division whose administrative action, rule, order, or statute is the alleged reason for the person being aggrieved; and

(3) ~~copy~~ the Department's General Counsel.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-4;*
Eff. December 1, 2026.

18 NCAC 01D .0201 is adopted with changes as published in 41:01 NCR 34 as follows:

SECTION .0200 – ~~REQUESTS~~ REQUEST CONTENTS ~~(RESERVED)~~

18 NCAC 01D .0201 CONTENTS - THE REQUESTOR

A complete request for declaratory ruling shall state the following information:

(1) the name of the person making the request with:

(a) the typewritten or printed name of the individual signing the request;

(b) the authority of the ~~signatory~~ signer to sign the request on behalf of the person making the request if the ~~signatory~~ signer is not the same as the person making the request;

(c) contact information for the person making the request and any individual signing the request:

(i) mailing address;

(ii) email address; and

(iii) telephone number; and

(2) if the person making the request is an entity:

(a) the state of its formation; and

(b) the precise name of the entity as it appears in the records of the filing office in the state of formation.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-4;*
Eff. December 1, 2026.

18 NCAC 01D .0202 is adopted with changes as published in 41:01 NCR 34 as follows:

18 NCAC 01D .0202 CONTENTS - TYPE OF RULING REQUESTED

A request for a declaratory ruling shall provide:

(1) a citation to the specific General Statutes, rules, departmental orders, interpretations, or declaratory rulings to which the request relates;

(2) a statement as to whether the request is for a ruling on:

(a) the validity of a rule;

(b) the applicability or potential applicability of a statute, rule, or order to a specific factual situation;

(c) resolution of a conflict within the Department regarding:

(i) an interpretation of the law; or

(ii) an interpretation of a rule adopted by the agency; or

(d) resolution of an inconsistency within the Department regarding:

(i) an interpretation of the law; or

(ii) an interpretation of a rule adopted by the agency.

The request may be for any combination of rulings permitted by this Rule if all information required by the rules in this Subchapter is included.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-4;*
Eff. December 1, 2026.

18 NCAC 01D .0203 is adopted with changes as published in 41:01 NCR 34-35 as follows:

18 NCAC 01D .0203 ADDITIONAL REQUEST CONTENT

The request shall also include:

(1) an explanation of the consequences of both a favorable and unfavorable declaratory ruling;

(2) a statement of the desired outcome;

(3) a statement of legal arguments and authority supporting the request;

(4) designation of trade secrets if any in accordance with the requirements of G.S. 132-1.2 and Article 24 of Chapter 66 of the General Statutes, accompanied by a copy of the request with the designated information redacted;

~~(3)~~(5) to the extent ~~known,~~ known:

(a) any pending departmental investigation or action, or judicial or quasi-judicial action, including contested cases, that may bear on the requested declaratory ruling;

~~(4)~~(b) other facts, data, and arguments that will help the Department understand and rule on the request;

~~(5) a statement of legal arguments and authority supporting the request;~~

~~(6)~~ (c) names and email addresses or other contact information for stakeholders likely to have an interest in the outcome of the request;

~~(7)~~(6) any other information, documentation, or data that may assist the Department in rendering its decision; and

~~(8) designation of trade secrets in accordance with the requirements of G.S. 132-1.2 and Article 24 of G.S. Chapter 66, accompanied by a copy of the request with the designated information redacted; and~~

~~(9)~~(7) a signature block, including:

(a) the printed name of the person making the request;

(b) the signature of the person, made under oath and before a notary public verifying that the information supplied in the request is true and complete;

(c) the date signed; and

(d) a jurat completed by the notary public after administration of the oath.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-4;*
Eff. December 1, 2026.

18 NCAC 01D .0301 is adopted with changes as published in 41:01 NCR 35 as follows:

SECTION .0300 – DEPARTMENT ACTION ON REQUESTS ~~(RESERVED)~~

18 NCAC 01D .0301 INCOMPLETE DECLARATORY RULING REQUESTS NOT RECEIVED

(a) The Department shall not review a declaratory ruling until the request is complete.

(b) No incomplete request shall be deemed received for purposes of establishing the time within which the Department must grant or deny a request for a declaratory ruling.

(c) For purposes of this Subchapter, "complete" means that the request includes the information required by the rules in this Subchapter.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-4;*
Eff. December 1, 2026.

18 NCAC 01D .0302 is adopted with changes as published in 41:01 NCR 35 as follows:

18 NCAC 01D .0302 NOTICE OF INCOMPLETE REQUEST

Within three business days of determining that a declaratory ruling request is incomplete, the Department shall notify the ~~person making the request~~ requestor in ~~writing~~ writing:

(1) of the ~~omitted~~ incomplete items;

(2) ~~and require its completion within~~ that the requestor has five business ~~days.~~ days within which to complete the request; and

(3) that the request may be denied if not completed.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-4;*
Eff. December 1, 2026.

18 NCAC 01D .0303 is adopted with changes as published in 41:01 NCR 35 as follows:

18 NCAC 01D .0303 REQUEST RECEIPT DATE

~~(a) The Department shall mark a~~ A declaratory ruling request ~~as~~ is "received" on the date on which the Department ~~received a complete request.~~ determines that it includes all of the information required by the rules in this Subchapter. ~~(b) An incomplete request is received on the date that the Department received all information necessary for the request to be complete.~~

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-4;*
Eff. December 1, 2026.

18 NCAC 01D .0304 is adopted with changes as published in 41:01 NCR 35 as follows:

18 NCAC 01D .0304 ADDITIONAL INFORMATION

(a) The Department may request additional information to assist in reviewing the request.

(b) When requesting additional information, the Department may establish a deadline for delivery of no less than five business days.

(c) When making its decision regarding the request, the Department may consider additional information, including information from any source the Department believes to be relevant and reliable.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-4;*
Eff. December 1, 2026.

18 NCAC 01D .0305 is adopted with changes as published in 41:01 NCR 35-36 as follows:

18 NCAC 01D .0305 GRANT OR DENIAL CONSIDERATIONS

When determining whether to grant or deny ~~the~~ a declaratory ruling request, in whole or in part, the Department shall consider the following factors, as applicable:

(1) whether the requestor is, in fact, a person aggrieved within the meaning of G.S. 150B-2(6) and 150B-4;

(2) whether the Department has the authority to render a declaratory ruling on the request;

(3) whether the request is the subject of, or materially related to, an investigation, an audit, review, hearing, a contested case in the Office of Administrative Hearings, or a matter in the General Courts of Justice;

(4) whether a challenged rule is unclear on its face;

(5) whether circumstances have changed since the adoption or departmental interpretation of the challenged rule;

(6) whether the request includes factors not considered by the Department at the time of adoption of the rule or interpretation;

(7) whether the rule or statute is unclear in application to facts stated in the request;

(8) whether a ~~fair~~ question exists regarding the validity of the rule because of an absence of authority at the time of adoption or irregularities in the Department's rulemaking proceeding;

(9) whether, within the preceding five years, the Department has made a factual determination that is similar and controlling, making the need for a declaratory ruling moot;

(10) whether, within the preceding five years, the Department has issued a declaratory ruling on substantially similar facts;

(11) whether a court in the General Courts of Justice has issued a decision in a case with substantially similar facts;

(12) whether the rulemaking record shows that the factual issues raised in the request were specifically considered prior to or at the time of adoption of the rule;

(13) whether the subject matter of the request is involved in pending litigation in any state or federal court in North Carolina or in the Office of Administrative Hearings;

(14) whether the subject matter of the request is involved in pending legislation or rulemaking;

(15) whether the request complies with the rules in this Section; and

(16) whether there is reason to believe that the request is connected to a violation of the relevant General Statutes or rules adopted by the Department.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-*

1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-4;

Eff. December 1, 2026.

18 NCAC 01D .0306 is adopted with changes as published in 41:01 NCR 36 as follows:

18 NCAC 01D .0306 EVIDENCE AND ARGUMENT ON THE MERITS OF THE REQUEST FOR DECLARATORY RULING

Before deciding the merits of the request, and upon consideration of the complete request for a declaratory ruling, the Secretary or ~~her~~ the Secretary's designee shall determine if additional information ~~or presentation(s) are~~ is needed and if so, may:

(1) request additional written submissions from the person making the request;

(2) request a written response from the ~~Division~~ division or any other person; and

(3) hear oral ~~arguments from those persons the Secretary deems appropriate.~~ arguments.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-4;*
Eff. December 1, 2026.

18 NCAC 01D .0307 is adopted with changes as published in 41:01 NCR 36 as follows:

18 NCAC 01D .0307 NOTICE OF REQUESTS FOR DECLARATORY RULINGS

(a) ~~The Department shall post requests for declaratory rulings on its website when the requests are determined complete pursuant to the rules in this Subchapter.~~

~~(b)~~ The Department shall issue written notice of its decision whether to grant or deny a request for a declaratory ruling:

(1) directly to the person making the request; and

(2) by posting the request and its decision to deny the request on its website.

~~(c)~~(b) ~~The notice of decision shall include the reasoning that supports the decision.~~ The Department shall post on its website any declaratory ruling it determines to be applicable to any person other than the requestor.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-4;*
Eff. December 1, 2026.

18 NCAC 01D .0308 is adopted with changes as published in 41:01 NCR 36 as follows:

18 NCAC 01D .0308 RECORD OF DECLARATORY RULINGS

The Department shall maintain a record of requests for declaratory rulings that shall contain:

(1) the request for a declaratory ruling;

(2) all written submissions by the requestor or any person related to the request; and

(3) a copy of:

(a) the Department's notice of grant or denial of the declaratory ruling request; ~~or~~ and

(b) the Department's ruling on the merits of ~~the~~ a granted request.

History Note: *Authority G.S. 10B-4; 10B-36(e); 10B-38; 10B-125(b); 10B-126; 10B-134.15; 10B-134.21; 10B-134.23(b); 25-9-526; 55D-5; 66-58.10; 66-71.9; 66-270; 78A-49; 78C-30; 78C-105; 78D-27; 80-1.1; 80-9; 93B-15.1(g); 102-117; 120C-101; 131F-5; 131F-15; 131F-16; 131F-18; 131F-33; 147-54.3; 147-54.4; 150B-4;*
Eff. December 1, 2026.