

Burgos, Alexander N

Subject: FW: [External] Reply to 18 NCAC 07D RFC with formatted rule file

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

Sent: Wednesday, May 14, 2025 11:23 AM

To: Elmore, Ann M <aelmore@sosnc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Wall, Ann B <awall@sosnc.gov>

Subject: Re: [External] Reply to 18 NCAC 07D RFC with formatted rule file

I have reviewed your change, and anticipate recommending the final revised version of 18 NCAC 07D containing this rule.

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: [External] Reply to 18 NCAC 07D RFC with formatted rule file
Attachments: 5.13.25 Response to 18 NCAC 07D technical correction request final.docx; 18 NCAC 07D .0404.docx

From: Ann Elmore <aelmore@sosnc.gov>
Sent: Tuesday, May 13, 2025 5:06 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Wall, Ann B <awall@sosnc.gov>
Subject: [External] Reply to 18 NCAC 07D RFC with formatted rule file

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Good afternoon, Seth.

Enclosed is our reply to the 18 NCAC 07D RFC. Also enclosed is the formatted rule file for 07D .0404, which reflects the RFC-prompted change you recommended.

Please let us know if you have any questions.

Sent on behalf of Ann B. Wall, General Counsel & Rulemaking Coordinator.

Thanks!

AnnE

Ann McNellis Elmore, Agency Legal Consultant

NC Department of the Secretary of State

PO Box 29622

Raleigh, NC 27626-0622

Telephone: [\(919\) 814-5521](tel:9198145521)

Fax: 919 814-5596

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State of North Carolina
Department of the Secretary of State

ELAINE F. MARSHALL
SECRETARY OF STATE

ANN B. WALL
General Counsel

May 13, 2025

By email

Seth M. Ascher
OAH Counsel to RRC
seth.ascher@oah.nc.gov

Re: Response to Request for technical changes to
18 NCAC 07D

Enclosed please find our response to your request for change to 18 NCAC 07D. The language of the adopted rule and your technical correction request are provided in black font, with your requests italicized. Our responses and change made are provided in blue font.

Please feel free to call me if you have any questions.

RESPONSE TO
REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10
FOR 18 NCAC SUBCHAPTER 07D

***18 NCAC 07D .0404:** I found this rule a little awkward to parse on first reading. I think it might help to make it clear that “satisfactory evidence” in item 1 is a defined term. I.e., consider “satisfactory evidence, as defined in G.S. 10B-3(22);”*

18 NCAC 07D .0404 NOTARY USE OF IDENTITY PROOFING AND CREDENTIAL ANALYSIS
INDEPENDENT OF PLATFORM

A notary public ~~electing to shall~~ use approved identity proofing or credential analysis solutions when performing an in-person notarial act ~~shall; if the notary:~~

- (1) ~~not use identity proofing and credential analysis as a replacement for the notary's independent evaluation of whether~~ verifies the identity of the principal using personal knowledge or satisfactory evidence of identification has been met; evidence;

...

The Department agrees and proposes to implement the change highlighted in green as shown below:

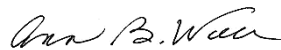
**18 NCAC 07D .0404 NOTARY USE OF IDENTITY PROOFING AND CREDENTIAL ANALYSIS
INDEPENDENT OF PLATFORM**

A notary public ~~electing to~~ shall use approved identity proofing or credential analysis solutions when performing an in-person notarial act ~~shall: if the notary:~~

- (1) ~~not use identity proofing and credential analysis as a replacement for the notary's independent evaluation of whether~~ verifies the identity of the principal using personal knowledge or satisfactory evidence of identification has been met; evidence as defined in G.S. 10B-3(22);
...

The enclosure reflects change as described and formatted.

Regards,



Ann B. Wall
General Counsel and Rulemaking Coordinator

Enclosure

cc: Alex Burgos
Ann Elmore

1 18 NCAC 07D .0404 is adopted with changes as published in 39:13 NCR 818 as follows:

2
3 **18 NCAC 07D .0404 NOTARY USE OF IDENTITY PROOFING AND CREDENTIAL ANALYSIS**
4 **INDEPENDENT OF PLATFORM**

5 A notary public ~~electing to~~ shall use approved identity proofing or credential analysis solutions when performing an
6 in-person notarial act ~~shall~~ if the notary:

- 7 (1) ~~not use identity proofing and credential analysis as a replacement for the notary's independent~~
8 ~~evaluation of whether~~ verifies the identity of the principal using personal knowledge or satisfactory
9 ~~evidence of identification has been met;~~ evidence, as defined in G.S. 10B-3(22);
10 (2) ~~use only approved~~ uses the identity proofing or credential analysis ~~vendors and solutions;~~ only as a
11 supplement to, and not a replacement for, the identification process described in Item (1) of this
12 Rule; and
13 (3) ~~comply~~ complies with G.S. 10B-134.11(a)(2).

14
15 *History Note: Authority G.S. 10B-4; 10B-134.21; 10B-134.23;*
16 *Eff. July 1, 2025.*

Burgos, Alexander N

Subject: FW: [External] Re: 18 NCAC 07D RFC

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Friday, May 2, 2025 10:07 AM
To: Wall, Ann B <awall@sosnc.gov>; Elmore, Ann M <aelmore@sosnc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Re: [External] Re: 18 NCAC 07D RFC

Thursday May 15th is the deadline for 7D.

It is for good reasons, I'm going up to Boston for a couple days to catch up with an old friend.

Seth Ascher

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

(984) 236-1934

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Burgos, Alexander N

From: Ann Wall <awall@sosnc.gov>
Sent: Thursday, May 1, 2025 4:08 PM
To: Ascher, Seth M; Elmore, Ann M
Cc: Burgos, Alexander N
Subject: [External] Re: 18 NCAC 07D RFC

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Thanks, Seth. What is the deadline for getting back to you on 07D?

Hope your time away is for fun reasons.

Ann

Ann B. Wall
General Counsel
Department of the Secretary of State
awall@sosnc.gov
Phone (919) 814-5310
Fax 919-814-5391

Please be aware that communications with the Secretary of State's office may be public records.

Good afternoon,

I have completed my review of 18 NCAC 07D and attached an RFC. Note that the one comment I had was a suggestion to improve the readability of one rule. Otherwise, these looked good.

To update you on the overall progress: I think we are on track to get you change requests for all of the remaining rules in the next two weeks. I will be out of town for a few days next week, but another attorney is making an initial pass through some of the rules as time allows. If we ended up having to hold rules over to June, I expect it would be a very small number.

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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