

**04 NCAC 01E .0104 OPERATOR**

(a) An "operator" shall mean the persons or corporate entity entitled to the use or occupancy of a project. Where all or virtually all of the stock in one corporate entity is owned (either directly or indirectly) by another corporation (i.e., a relationship commonly known as a "parent--wholly-owned subsidiary") and where final management control rests with the parent, "operator" shall be construed so as to include the total corporate responsibility implied by such a relationship. Such presumption may be rebutted where the department finds clear and convincing evidence of the independence of the subsidiary from the parent.

(b) If the initial proposed operator of a project is not expected to be the operator for the term of the bonds proposed to be issued, the Secretary may make the findings required pursuant to Rules .0303 and .0307 of this Subchapter only with respect to the initial operator identified in the application for approval of the project. When the current operator discontinues serving as operator, and arrangements have been made by the obligor for a new operator, the new operator shall be subject to the approval of the Secretary pursuant to Rules .0303 and .0307 of this Subchapter.

(c) If an operator subsequently seeks to sell, to lease, or to sublease the project to a non-affiliated person(s) or entity, the operator must give written notice to the Department of Commerce including information prescribed by the secretary. This information shall include details of the proposed transaction, as well as name, address, NAICS code, and financial status of the non-affiliated person(s) or entity.

*History Note: Authority G.S. 159C-7;  
Eff. August 2, 1976;  
Amended Eff. August 1, 2000; March 1, 1983; November 21, 1978; June 7, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*