

CHAPTER 1 - DEPARTMENTAL RULES

SUBCHAPTER 1A - DEPARTMENT OF CULTURAL RESOURCES

SECTION .0100 - RULES OF ORGANIZATION

07 NCAC 01A .0101 DEPARTMENT OF CULTURAL RESOURCES
07 NCAC 01A .0102 MAJOR DIVISIONS OF THE DEPARTMENT

History Note: Authority G.S. 121-4;125-2; 140-1; 143B-10; 143B-49; 143B-50; 143B-51; 143B-53; 150A-11(2); 160A-395(2); 160A-397; 160A-399.5(2);
Eff. February 1, 1976;
Readopted Eff. December 1, 1977;
Amended Eff. June 18, 1980; March 15, 1980;
Repealed Eff. March 1, 1989 in accordance with G.S. 150B-59(c).

SECTION .0200 - ADMINISTRATIVE ORGANIZATION

07 NCAC 01A .0201 OFFICE OF THE SECRETARY
07 NCAC 01A .0202 OFFICE OF THE ASSISTANT SECRETARY
07 NCAC 01A .0203 ADMINISTRATIVE SERVICES
07 NCAC 01A .0204 PURCHASING OFFICE
07 NCAC 01A .0205 COMMUNICATIONS OFFICE

History Note: Authority G.S. 143B-9; 143B-10; 143B-14; 143B-52;
Eff. February 1, 1976;
Readopted Eff. December 1, 1977;
Repealed Eff. March 1, 1989 in accordance with G.S. 150B-59(c).

SECTION .0300 - PUBLIC INFORMATION

07 NCAC 01A .0301 MAILING LIST

(a) Members of the public may contact the public information office at 109 East Jones Street, Raleigh, North Carolina 27611, telephone (919) 733-5722, to have their names placed on the office's mailing list to receive brochures, pamphlets, or newsletters concerning the Department's activities and events.

(b) Published materials are not free and the individual will be billed for the cost.

History Note: Authority G.S. 143B-10;
Eff. February 1, 1976;
Readopted Eff. December 1, 1977;
Amended Eff. June 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017.

07 NCAC 01A .0302 REPRODUCTIONS

History Note: Authority G.S. 143B-10;
Eff. February 1, 1976;
Repealed Eff. December 1, 1977.

SECTION .0400 - PURCHASING OFFICE

07 NCAC 01A .0401 RULES
07 NCAC 01A .0402 RECORDS

History Note: Authority G.S. 143B-10; 143B-14;
Eff. February 1, 1976;

Readopted Eff. December 1, 1977;
Amended Eff. June 1, 1989;
Expired Eff. August 1, 2017 pursuant to G.S. 150B-21.3A.

07 NCAC 01A .0403 PURCHASE OF ITEMS

In the purchase of items, whether on contract or not, the Department's purchasing office bases its choice of vendors on:

- (1) lowest price quoted;
- (2) proximity of vendor's business to the Department and delivery time;
- (3) satisfactory outcome of previous dealings, if any; and
- (4) other factors deemed pertinent and reasonable.

History Note: Authority G.S. 143B-10;
Eff. February 1, 1976;
Readopted Eff. December 1, 1977;
Amended Eff. June 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017.

07 NCAC 01A .0404 COMMODITY FILE OR VENDORS LIST

The purchasing office maintains a nationwide commercial listing of vendors and their products. Selection of vendors is based on the company's facilities for production, distribution, and services, its performance as a supplier, and the competitiveness of prices. Any vendor wishing to be placed on the vendors list should send his name and address to the purchasing office with a catalogue of price quotation.

History Note: Authority G.S. 143B-10;
Eff. February 1, 1976;
Readopted Eff. December 1, 1977;
Amended Eff. June 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017.

07 NCAC 01A .0405 MULTIPLE VENDORS ON CONTRACT

History Note: Authority G.S. 143B-10;
Eff. February 1, 1976;
Readopted Eff. December 1, 1977;
Repealed Eff. March 1, 1989 in accordance with G.S. 150B-59(c).

07 NCAC 01A .0406 COMPLAINTS AND APPEALS

An aggrieved vendor or contractor can direct complaints to the purchasing officer or to the Departmental ombudsman. If the party is still dissatisfied, he should be referred to the purchasing administrator in the Purchase and Contract Division of the Department of Administration. If the problem is not resolved by the Purchase and Contract Division, the aggrieved party may file a contested case under G.S. 150B.

History Note: Authority G.S. 143B-10; 150B-23;
Eff. February 1, 1976;
Readopted Eff. December 1, 1977;
Amended Eff. June 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017.

SUBCHAPTER 01B - PROCEDURAL RULES

SECTION .0100 - RULEMAKING PROCEDURES

07 NCAC 01B .0101 DEFINITIONS

The following definitions apply throughout Title 7, North Carolina Administrative Code:

- (1) Department -- the Department of Cultural Resources, and any agency, division, commission, council, committee, or board of that department;
- (2) Secretary -- the Secretary of the Department of Cultural Resources.

History Note: Authority G.S. 143B-10;
Eff. February 1, 1976;
Readopted Eff. December 1, 1977;
Amended Eff. June 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017.

07 NCAC 01B .0102 PETITIONS

- (a) Any person may request a public hearing on the adoption, amendment or repeal of a rule promulgated by the Department of Cultural Resources by addressing a petition to the Office of the Secretary, Department of Cultural Resources, 109 East Jones Street, Raleigh, N.C. 27611.
- (b) The petition must contain the following information:
 - (1) name and address of each petitioner;
 - (2) a citation to any rule petitioner desires to repeal or amend, a draft of the proposed rule or amendment, or a summary of the major elements of a proposed rule;
 - (3) reasons for submitting the petition;
 - (4) any supporting data;
 - (5) anticipated effect of a proposed rule or repeal of a rule on the petitioner and on existing practices in the area involved, including cost factors if possible;
 - (6) names and addresses of others likely to be affected by the proposed rule or repeal of a rule, if known.
- (c) The Secretary will promptly forward petitions over which he has no rulemaking authority to the Commission or other agency within the Department which has authority to promulgate rules over the subject matter of the petition.
- (d) The Department may request further information regarding the petition from the petitioner or from any other person.
- (e) The petitioner will be notified in writing either that the petition is denied or approved as provided for in G.S. 150B-16.

History Note: Authority G.S. 143B-10; 143B-14; 150B-16;
Eff. February 1, 1976;
Readopted Eff. December 1, 1977;
Amended Eff. June 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017.

07 NCAC 01B .0103 NOTICE

History Note: Authority G.S. 150B-12; 150B-14;
Eff. February 1, 1976;
Readopted Eff. December 1, 1977;
Amended Eff. June 1, 1989;
Expired Eff. August 1, 2017 pursuant to G.S. 150B-21.3A.

07 NCAC 01B .0104 MAILING LISTS

- (a) Any person or agency may be placed on mailing lists for department rulemaking notices by filing a request in writing, furnishing name and mailing address to the Office of the Secretary, Department of Cultural Resources, Raleigh, North Carolina 27611.
- (b) The request must specify subject areas within the rulemaking authority of the Department for which notice is requested.
- (c) The Department employee who maintains the lists will review them from time to time. He may write to any person on the lists and inquire whether that person still wishes to receive notices of rulemaking hearings. If no response is received, that person may be removed from the lists.
- (d) The Department may charge reasonable postage fees and copying costs to persons on its mailing lists.

History Note: Authority G.S. 143B-10; 150B-12;
Eff. February 1, 1976;
Readopted Eff. December 1, 1977;

Amended Eff. June 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017.

07 NCAC 01B .0105 WRITTEN SUBMISSIONS

(a) Following notice of a rulemaking hearing, any person may submit written data, views, or arguments regarding a proposed rule for consideration by the Department. Submissions must include the person's name, address, and interest in the proposed rule, and must clearly identify the rule with which the comments are concerned. Unless otherwise designated in the particular rulemaking notice, or unless an exemption is granted by the hearing officer, written submissions:

- (1) must not exceed the number of pages designated in the notice;
- (2) must be received no later than the day scheduled for the hearing; and
- (3) must be addressed to the hearing officer designated in the notice.

(b) The hearing officer will acknowledge promptly receipt of all written submissions.

History Note: Authority G.S. 143B-10; 150B-12;

Eff. February 1, 1976;

Readopted Eff. December 1, 1977;

Amended Eff. June 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017.

07 NCAC 01B .0106 HEARINGS

07 NCAC 01B .0107 STATEMENT OF REASONS FOR DECISION

07 NCAC 01B .0108 RECORD OF RULEMAKING

History Note: Authority G.S. 150B-12;

Eff. February 1, 1976;

Readopted Eff. December 1, 1977;

Amended Eff. June 1, 1989;

Expired Eff. August 1, 2017 pursuant to G.S. 150B-21.3A.

07 NCAC 01B .0109 EMERGENCY RULEMAKING

History Note: Authority G.S. 150A-13; 143B-10;

Eff. February 1, 1976;

Readopted Eff. December 1, 1977;

Repealed Eff. March 1, 1989 in accordance with G.S. 150B-59(c).

07 NCAC 01B .0110 DECLARATORY RULINGS

(a) Requests for declaratory rulings must be made in writing to the Office of the Secretary, Department of Cultural Resources, Raleigh, North Carolina 27611. Such requests must include:

- (1) the name and address of the petitioner;
- (2) a citation to the rule or statute in question;
- (3) arguments or data which demonstrate that the petitioner is aggrieved by the rule or statute or its potential application to him; and
- (4) consequences of a failure to issue a declaratory ruling in favor of the petitioner;
- (5) a statement of whether an oral hearing is desired, and, if so, the reasons for requesting such an oral hearing.

(b) The Department may refuse to issue a declaratory ruling if:

- (1) Similar factual circumstances were specifically considered in the rulemaking proceedings;
- (2) There has been a similar determination in a previous contested case or declaratory ruling; or
- (3) There exists other good cause to refuse to issue a ruling.

(c) Before deciding the merits of the request, the Department may:

- (1) request written submissions from any person;
- (2) consult with members of the Department staff or any other person; or
- (3) hold an informal oral hearing.

(d) Requests for declaratory rulings will be decided by the Secretary, by any employee designated by the Secretary, or by the appropriate agency of the Department.

- (e) Within 60 days of receipt of the petitioner's request, the petitioner will be sent either:
- (1) written notification that the request for a declaratory ruling is denied, including reasons for the denial; or
 - (2) written notification that the request is approved and a copy of the ruling.
- (f) A record of the declaratory ruling proceeding will be maintained for public inspection at the Office of the Secretary of the Department of Cultural Resources, Raleigh, North Carolina 27611. The record will contain all submissions of the petitioner, other information considered, a transcript or summary of any hearing, and either a statement of the reasons denying the petition or the ruling.

History Note: Authority G.S. 143B-14; 150B-17;
 Eff. February 1, 1976;
 Readopted Eff. December 1, 1977;
 Amended Eff. June 1, 1989;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017.

SECTION .0200 - CONTESTED CASE PROCEDURES

07 NCAC 01B .0201	DEFINITIONS
07 NCAC 01B .0202	REQUEST FOR AN ADMINISTRATIVE HEARING
07 NCAC 01B .0203	NOTICE
07 NCAC 01B .0204	WRITTEN ANSWERS TO NOTICE
07 NCAC 01B .0205	CHANGE OF VENUE
07 NCAC 01B .0206	HEARING OFFICER
07 NCAC 01B .0207	DISQUALIFICATION OR UNAVAILABILITY OF HEARING OFFICER
07 NCAC 01B .0208	INTERVENTION
07 NCAC 01B .0209	SIMPLIFICATION OF ISSUES
07 NCAC 01B .0210	PREHEARING CONFERENCE
07 NCAC 01B .0211	ISSUANCE OF SUBPOENAS
07 NCAC 01B .0212	OBJECTION TO SUBPOENAS
07 NCAC 01B .0213	CONTINUANCES: ADJOURNMENTS
07 NCAC 01B .0214	PROPOSAL FOR DECISION
07 NCAC 01B .0215	ASSISTANCE OF COUNSEL
07 NCAC 01B .0216	REQUEST FOR TRANSCRIPT OF HEARING
07 NCAC 01B .0217	RECORD OF HEARING

History Note: Authority G.S. 140A-24; 140A-32; 143B-10; 143B-14; 150A-2; 150A-10; 150A-11;
 150A-23; 150A-25; 150A-27; 150A-31; 150A-32; 150A-33; 150A-34; 150A-37;
 Eff. February 1, 1976;
 Readopted Eff. December 1, 1977;
 Repealed Eff. March 1, 1989 in accordance with G.S. 150B-59(c).

SUBCHAPTER 01C - PERSONNEL

SECTION .0100 - GENERAL PERSONNEL RULES

07 NCAC 01C .0101	APPLICABLE PERSONNEL REGULATIONS
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History Note: Authority G.S. 126; 143B-10; 143B-83;
 Eff. February 1, 1976;
 Readopted Eff. December 1, 1977;
 Amended Eff. June 1, 1989;
 Expired Eff. August 1, 2017 pursuant to G.S. 150B-21.3A.

07 NCAC 01C .0102	SPECIAL SALARY INCREMENT
07 NCAC 01C .0103	PETTY LEAVE

07 NCAC 01C .0104	COMPENSATORY LEAVE
07 NCAC 01C .0105	EDUCATIONAL LEAVE
07 NCAC 01C .0106	MATERNITY LEAVE
07 NCAC 01C .0107	SERVICE AWARDS
07 NCAC 01C .0108	INTRADEPARTMENTAL TRANSFERS

History Note: Authority G.S. 143B-10;
 Eff. February 1, 1976;
 Readopted Eff. December 1, 1977;
 Repealed Eff. March 1, 1989 in accordance with G.S. 150B-59(c).

SECTION .0200 - AFFIRMATIVE ACTION PROGRAM

07 NCAC 01C .0201	ADMINISTRATIVE OFFICERS
07 NCAC 01C .0202	EQUAL EMPLOYMENT OPPORTUNITY OFFICER
07 NCAC 01C .0203	AFFIRMATIVE ACTION COORDINATOR
07 NCAC 01C .0204	INTERVIEWS
07 NCAC 01C .0205	PERSONNEL REFERRAL FORM
07 NCAC 01C .0206	SELECTION
07 NCAC 01C .0207	REVIEW OF APPLICATIONS
07 NCAC 01C .0208	VETERANS PREFERENCE
07 NCAC 01C .0209	HIRING PROCEDURES
07 NCAC 01C .0210	QUALIFICATIONS FOR EMPLOYMENT
07 NCAC 01C .0211	STUDENTS
07 NCAC 01C .0212	INTERNAL EVALUATION
07 NCAC 01C .0213	REPORTING PROCEDURES
07 NCAC 01C .0214	UTILIZATION OF SKILLS OF PRESENT EMPLOYEES
07 NCAC 01C .0215	EDUCATIONAL LEAVE
07 NCAC 01C .0216	EXIT INTERVIEW

History Note: Authority G.S. 143B-10; 143B-50;
 Eff. February 1, 1976;
 Readopted Eff. December 1, 1977;
 Repealed Eff. March 1, 1989 in accordance with G.S. 150B-59(c).

SUBCHAPTER 01D - NORTH CAROLINA AWARDS COMMITTEE

07 NCAC 01D .0101 SELECTION OF AWARD RECIPIENTS

(a) Any person, including members of the North Carolina Awards Committee, may submit the name of an individual to the Committee for consideration for receipt of a North Carolina award. Biographical data should accompany the name and be sent to the Department of Cultural Resources.

(b) The Committee, acting as a committee of awards, makes the final selection in the four categories and advises the Secretary of Cultural Resources of its decision.

History Note: Authority G.S. 140A-1; 140A-3; 140A-5; 143B-10; 143B-83;
 Eff. February 1, 1976;
 Readopted Eff. December 1, 1977;
 Amended Eff. June 1, 1989;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017.

07 NCAC 01D .0102 PRESENTATION CEREMONIES

History Note: Authority G.S. 126; 143B-10; 143B-83;
 Eff. February 1, 1976;

Readopted Eff. December 1, 1977;
Amended Eff. June 1, 1989;
Expired Eff. August 1, 2017 pursuant to G.S. 150B-21.3A.

07 NCAC 01D .0103 SELECTION OF SUBCOMMITTEES

The members of the subcommittees are selected from and by the full committee for a one-year term. Subcommittee members may be reappointed.

History Note: Authority G.S. 143B-10; 143B-83;
Eff. February 1, 1976;
Readopted Eff. December 1, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017.