10A NCAC 26A .0203   DETERMINATION OF CONTESTED CASE HEARING

(a) Request for Determination.

      (1)   Persons may at any time request from the Director a determination of their legal rights, privileges, or duties. Requests shall specify whether a hearing is desired.

      (2)   Requests shall be in writing and shall be made only to the Director whether any hearing resulting from the request comes under the authority of the Director or the Commission.

(b) Determination by Director. If persons request a determination of their legal rights the Director shall promptly take the following actions:

      (1)   determine that all informal appeal procedures for resolving the issue have been exhausted unless such procedures would cause undue delay;

      (2)   determine whether the issue can be brought to a contested case hearing in accordance with Rule .0202(2) of this Section;

      (3)   determine whether the request lies within the purview of the Commission or the Director or should be directed to some other authority; or

      (4)   appoint a hearing officer.

(c) Notification of Requesting Person. The Director shall notify the person requesting a determination of the actions taken in accordance with (b) of this Rule with the following stipulations:

      (1)   If the requesting party is instructed to exhaust all informal appeal procedures, those procedures shall be delineated; or

      (2)   If a hearing is to be scheduled and a hearing officer appointed, the Director's notification shall indicate whether the hearing will be held under the authority of the Director or the Commission.

(d) Notification of Commission. If a hearing is to be scheduled as a result of a request for determination and that hearing falls under the authority of the Commission, the Director shall notify the Commission chairman and provide the name of the hearing officer.

History Note: *Authority G.S. 143B-10; 143B-147; 150B-22;*

                   Eff. January 1, 1980;

                   Amended Eff. April 1, 1990;

                   Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, 2015.