

18 NCAC 06C .0108 FINAL ORDER

(a) Proceedings based on temporary orders – when a final order may issue. The Administrator may issue a final order when no hearing has been requested by a respondent within 30 business days after receipt of a Temporary Order in any proceeding:

- (1) initiated by serving a respondent with a temporary or summary order; and
- (2) in which the statute under which the proceeding was commenced provides that the temporary or summary order shall become permanent if the respondent fails to request a hearing.

(b) Proceedings based on temporary orders – requirements for final order. The Administrator shall issue a final order making the temporary cease and desist or summary order permanent:

- (1) based solely upon the evidence in the record;
- (2) including findings that the proceeding:
 - (A) was commenced;
 - (B) an order was issued;
 - (C) all necessary pleadings and notices were served as required by law; and
 - (D) the respondent failed to request a hearing within the time prescribed by law, file a responsive pleading or make any other submission.

(c) Article 3A proceedings before the Administrator or a designated hearing officer. After a hearing by the Administrator or hearing officer designated by the Administrator, the decision of the Administrator or hearing officer shall be made in the form of a final order containing:

- (1) findings of fact;
- (2) conclusions of law; and
- (3) a decree as to the action of the agency in the matters addressed in the hearing.

(d) Article 3A proceedings referred to OAH. When a contested case hearing subject to G.S. 150B, Article 3A, has been referred to and heard by the Office of Administrative Hearings ("OAH"), and the proposed agency decision has been filed with the Administrator by the OAH:

- (1) the Division shall serve the proposed agency decision upon the respondent with a notice of rights provided by G.S. 150B-40(e) including notice of the day, time and place where the parties may appear and make oral argument concerning the proposed final agency decision;
- (2) written exceptions, proposed findings of fact and written arguments shall be filed with the Administrator and served upon any opposing party or counsel at least 10 business days before the scheduled oral argument; and
- (3) after reviewing any written submissions and hearing the oral argument of the parties, the Administrator shall issue a final order containing findings of fact, conclusions of law, and a decree as to the agency action in the matters addressed in the hearing.

(e) Article 3 proceedings heard by OAH. When a contested case has been heard by OAH under G.S. 150B, Article 3, and the proposed final decision has been returned to the Administrator by OAH, the Administrator shall by letter notify any respondent or counsel for any respondent of the date, not less than 30 days from the date of the letter, by which written exceptions or written arguments regarding the proposed final decision must be submitted to the Administrator.

(f) Service. The Division shall serve the final order served upon the respondents or their counsel.

History Note: Authority G.S. 78A-18; 78A-29; 78A-30; 78A-39; 78A-46; 78A-47; 78A-49; 78C-19; 78C-27; 78C-28; 78C-30; 78C-90; 78C-91; 78D-4; 78D-21; 78D-22; 78D-25; 78D-26; 78D-27; 78D-30; 150B-38(h); 150B-40; Eff. April 1, 2009; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.