

SUBCHAPTER 06B – RULE-MAKING PROCEDURES

SECTION .0100 – PETITONS FOR RULE-MAKING

21 NCAC 06B .0101 PETITION FOR RULE-MAKING

Any person submitting a petition to adopt, amend, or repeal a rule by the Board shall address a petition to the Chairman at the office address in 21 NCAC 06A .0102.

- (1) The petition shall contain the following:
 - (a) for petitions to adopt or amend a rule, a draft of the proposed rule or amendment;
 - (b) a statement of the effect of the requested rule change; and
 - (c) the name and address of the petitioner.
- (2) The petition may contain the following:
 - (a) the reason for the proposal;
 - (b) the effect of the new rule on existing rules; or
 - (c) any data supporting the rule proposal.

History Note: Authority G.S. 150B-20;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. May 1, 1989;
Readopted Eff. August 1, 2016.

21 NCAC 06B .0102 CONTENTS OF PETITIONS

History Note: Authority G.S. 86A-25; 150A-11(1); 150A-16;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Repealed Eff. May 1, 1989.

21 NCAC 06B .0103 PETITION FOR AMENDMENT OR REPEAL OF RULE

History Note: Authority G.S. 150B-20;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. May 1, 1989;
Repealed Eff. August 1, 2016.

21 NCAC 06B .0104 CONTENTS OF PETITIONS

History Note: Authority G.S. 86A-25; 150A-11(1); 150A-16;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Repealed Eff. May 1, 1989.

21 NCAC 06B .0105 GRANTING OR DENYING PETITIONS

Within 120 days of submission of the petition, the Board shall render a final decision. If the decision is to grant the petition, the Board shall initiate a rule-making proceeding by issuing a notice as provided for in G.S. 150B-20(c). If the decision is to deny the petition, the Board shall send the petitioner written notice of the decision. The notice shall state the reasons for denying the petition and refer to the appeal rights set forth in G.S. 150B-20(d).

History Note: Authority G.S. 150B-20;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. May 1, 1989;
Readopted Eff. October 1, 2016.

21 NCAC 06B .0106 RECOMMENDATION
21 NCAC 06B .0107 FINAL DECISION

History Note: Authority G.S. 86A-25; 150A-11(1); 150A-16;
 Eff. February 1, 1976;
 Readopted Eff. February 8, 1978;
 Repealed Eff. May 1, 1989.

SECTION .0200 - NOTICE

21 NCAC 06B .0201 NOTICE TO PARTIES

History Note: Authority G.S. 86A-12; 150A-11(1); 150A-16; 150A-23;
 Eff. February 1, 1976;
 Readopted Eff. February 8, 1978;
 Repealed Eff. May 1, 1989.

21 NCAC 06B .0202 MAILING LIST

Any person or agency desiring to be placed on the mailing list for the Board's rule-making notices may file such request in writing furnishing his or her or the agency name and mailing address to the Chairman at the office address listed in 21 NCAC 06A .0102.

History Note: Authority G.S. 150B-21.2(d);
 Eff. February 1, 1976;
 Readopted Eff. February 8, 1978;
 Amended Eff. May 1, 1989;
 Readopted Eff. July 1, 2016.

21 NCAC 06B .0203 PUBLIC NOTICE

History Note: Authority G.S. 86A-12; 150A-11(1); 150A-12;
 Eff. February 1, 1976;
 Readopted Eff. February 8, 1978;
 Repealed Eff. May 1, 1989.

21 NCAC 06B .0204 INFORMATION REQUESTS

History Note: Authority G.S. 150B-21.2(d);
 Eff. February 1, 1976;
 Readopted Eff. February 8, 1978;
 Amended Eff. May 1, 1989;
 Repealed Eff. July 1, 2016.

SECTION .0300 - HEARINGS

21 NCAC 06B .0301 LOCATION OF HEARINGS

History Note: Authority G.S. 86A-5; 150B-21.2;
 Eff. February 1, 1976;
 Readopted Eff. February 8, 1978;
 Amended Eff. June 1, 2008; May 1, 1989;
 Repealed Eff. August 1, 2016.

21 NCAC 06B .0302 ORAL PRESENTATIONS

History Note: Authority G.S. 150B-21.2(e);
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. May 1, 1989;
Repealed Eff. August 1, 2016.

21 NCAC 06B .0303 REQUEST FOR ORAL PRESENTATIONS
21 NCAC 06B .0304 ORAL PRESENTATION

History Note: Authority G.S. 86A-25; 150A-11(1); 150A-12(e); 150A-16;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Repealed Eff. May 1, 1989.

21 NCAC 06B .0305 WRITTEN STATEMENT

History Note: Authority G.S. 150B-21.2(f);
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. May 1, 1989;
Repealed Eff. August 1, 2016.

21 NCAC 06B .0306 ACKNOWLEDGMENT

History Note: Authority G.S. 150B-21.2(f);
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. May 1, 1989;
Repealed Eff. July 1, 2016.

21 NCAC 06B .0307 CONTROL OF HEARINGS

- (a) The presiding officer at a rule-making hearing shall have control of the proceedings including the following:
- (1) the recognition of speakers;
 - (2) the time allotment for presentations and extension of any time allotments; and
 - (3) the management of the hearing.
- (b) The presiding officer at all times shall ensure that each person participating in the hearing is given an equal opportunity to present views, data, and comments.

History Note: Authority G.S. 150B-21.2(e);
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. May 1, 1989;
Readopted Eff. July 1, 2016.

21 NCAC 06B .0308 REQUEST FOR STATEMENT ON FINAL DECISION

History Note: Authority G.S. 150B-21.2(h);
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. May 1, 1989;
Repealed Eff. August 1, 2016.

21 NCAC 06B .0309 RECORDS

- (a) A record of all rule-making proceedings shall be maintained permanently.
- (b) The record shall be maintained on file at the Board's office address listed in 21 NCAC 06A .0102.

History Note: Authority G.S. 150B-21.2(i);
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. May 1, 1989;
Readopted Eff. July 1, 2016.

SECTION .0400 - TEMPORARY RULES

21 NCAC 06B .0401 POWER TO ISSUE
21 NCAC 06B .0402 LENGTH OF EFFECTIVENESS

History Note: Authority G.S. 150B-13;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. May 1, 1989;
Repealed Eff. June 1, 2008.

SECTION .0500 - DECLARATORY RULINGS

21 NCAC 06B .0501 REQUEST FOR DECLARATORY RULING

All requests for declaratory rulings shall be in writing and mailed to the Chairman at the office address in 21 NCAC 06A .0102.

History Note: Authority G.S. 150B-4;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. June 1, 2008; May 1, 1989;
Readopted Eff. July 1, 2016.

21 NCAC 06B .0502 CONTENTS OF REQUEST

All requests for a declaratory ruling shall include the following information:

- (1) the name and address of petitioner;
- (2) the statute, rule, or order to which the petition relates;
- (3) a statement of the manner in which the petitioner is affected, or thinks that he or she may be affected, by the rule, statute, or order and its application to him or her; and
- (4) a statement of whether an oral hearing is desired and if so, the reasons for an oral hearing.

History Note: Authority G.S. 150B-4;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. May 1, 1989;
Readopted Eff. July 1, 2016.

21 NCAC 06B .0503 REFUSAL TO ISSUE DECLARATORY RULING

(a) The Board shall issue a declaratory ruling, except when:

- (1) the request for a declaratory ruling does not meet the requirements set forth in 21 NCAC 06B .0501;
- (2) the Board has previously issued a declaratory ruling on similar facts;
- (3) the Board has previously issued a final agency decision for a contested case for which the petitioner was a party;
- (4) the facts underlying the request for a declaratory ruling were considered at the time the Rule was adopted; or
- (5) the subject matter of the petition is involved in pending litigation.

(b) When the Board refuses to issue a declaratory ruling, it shall notify the petitioner of its decision in writing, stating reasons for the denial of a declaratory ruling.

History Note: Authority G.S. 150B-4;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. May 1, 1989;
Readopted Eff. October 1, 2016.

21 NCAC 06B .0504 ISSUANCE OF DECLARATORY RULING

History Note: Authority G.S. 86A-25; 150A-17;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Repealed Eff. May 1, 1989.

21 NCAC 06B .0505 PROCEDURE

History Note: Authority G.S. 150B-4;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Repealed Eff. October 1, 2016.

**21 NCAC 06B .0506 VALIDITY OF RULE
21 NCAC 06B .0507 CIRCUMSTANCES**

History Note: Authority G.S. 86A-25; 150A-17;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Repealed Eff. May 1, 1989.

SECTION .0600 - FEES

**21 NCAC 06B .0601 FEE SCHEDULE
21 NCAC 06B .0602 AMOUNT**

History Note: Authority G.S. 86A-25; 150A-11(1);
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Repealed Eff. May 1, 1989.