

SUBCHAPTER 08B - RULE-MAKING PROCEDURES

SECTION .0100 - PETITIONS FOR RULE-MAKING

21 NCAC 08B .0101 PETITIONS

Any person wishing to submit a petition requesting the adoption, amendment or repeal of a rule by the Board shall address a petition to the Board's Executive Director, as set forth in 21 NCAC 8A .0102.

History Note: *Authority G.S. 93-12; 150B-11(1); 150B-16;*
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1989; July 1, 1987; October 1, 1984; April 1, 1982;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28,
2014.

21 NCAC 08B .0102 CONTENTS OF PETITION FOR NEW RULE

A petition requesting the adoption of a rule should contain the following information:

- (1) either a draft of the proposed rule or a summary of the contents of the proposed rule;
- (2) reason for the proposal;
- (3) effect of the new rule on existing rules;
- (4) data supporting the rule proposal;
- (5) effects of the rule on existing practices in the area involved; and
- (6) name, address and phone number of each petitioner.

History Note: *Authority G.S. 93-12; 150B-11(1); 150B-16;*
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28,
2014.

21 NCAC 08B .0103 AMENDMENT OR REPEAL

History Note: *Authority G.S. 93-12; 150B-11(1); 150B-16;*
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. October 1, 1984; April 1, 1982;
Repealed Eff. July 1, 1987.

21 NCAC 08B .0104 CONTENTS OF PETITIONS FOR RULE AMENDMENT OR REPEAL

A petition requesting the amendment or repeal of a rule should contain the following information:

- (1) rule affected;
- (2) reasons for change;
- (3) either a draft of the proposed amendment or a summary of the proposed amendment, if the petition is to amend the rule;
- (4) data supporting the rule proposal;
- (5) effect of the proposed change on existing practices in the area involved; and
- (6) name and address of each petitioner.

History Note: *Authority G.S. 93-12; 150B-11(1); 150B-16;*
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28,
2014.

21 NCAC 08B .0105 GRANTING OR DENYING PETITIONS

The Executive Director of the Board shall make a recommendation to a committee of the Board and the committee shall recommend to the full Board, based on a study of the facts stated in the petition, whether the public interest will be better served by granting or denying the petition. The Board will consider all the contents of the submitted petition plus any additional information deemed relevant.

History Note: Authority G.S. 93-12; 150B-11(1); 150B-16;
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1989; July 1, 1987; June 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

21 NCAC 08B .0106 RECOMMENDATION

History Note: Authority G.S. 93-12; 150B-11(1); 150B-16;
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Repealed Eff. June 1, 1985.

21 NCAC 08B .0107 FINAL DECISION

History Note: Authority G.S. 93-12; 150B-11(1); 150B-16;
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. October 1, 1984;
Repealed Eff. March 1, 1987.

SECTION .0200 - NOTICE

21 NCAC 08B .0201 NOTICE TO PARTIES

History Note: Authority G.S. 93-12; 150B-12;
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. June 1, 1985;
Repealed Eff. March 1, 1987.

21 NCAC 08B .0202 MAILING LIST

(a) Persons or agencies desiring to be placed on the mailing list for the Board's rule-making notices issued pursuant to G.S. 150B-21.2 may file a request in writing, furnishing their name and mailing address to the Executive Director of the Board, at the address set forth in 21 NCAC 8A .0102.

(b) The request shall state the subject areas within the authority of the agency for which notice is requested.

History Note: Authority G.S. 93-12; 150B-21.2;
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. April 1, 1994; May 1, 1989; April 1, 1987; October 1, 1984;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

21 NCAC 08B .0203 PUBLIC NOTICE

21 NCAC 08B .0204 INFORMATION REQUESTS

History Note: Authority G.S. 93-12; 150B-11(1); 150B-12;
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. October 1, 1984;
Repealed Eff. March 1, 1987.

SECTION .0300 - HEARINGS

21 NCAC 08B .0301 LOCATION OF HEARINGS
21 NCAC 08B .0302 ARGUMENTS
21 NCAC 08B .0303 REQUEST FOR ORAL PRESENTATIONS

History Note: Authority G.S. 93-12; 150B-11(1); 150B-12; 150B-12(e); 150B-16;
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. June 1, 1985; October 1, 1984; April 1, 1982;
Repealed Eff. March 1, 1987.

21 NCAC 08B .0304 ORAL PRESENTATION

Upon receipt of a request to make an oral presentation at a rule-making hearing, the Executive Director will acknowledge receipt of the request and inform the person making the request of any limitations deemed necessary to achieve a full and effective public hearing on the proposed rule.

History Note: Authority G.S. 93-12; 150B-11(1); 150B-12(e); 150B-16;
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1989; June 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

21 NCAC 08B .0305 WRITTEN STATEMENT

History Note: Authority G.S. 93-12; 150B-11(1); 150B-12(e); 150B-16;
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. October 1, 1984; April 1, 1982;
Repealed Eff. March 1, 1987.

21 NCAC 08B .0306 ACKNOWLEDGEMENT

History Note: Authority G.S. 93-12; 150B-11(1); 150B-16;
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Repealed Eff. June 1, 1985.

21 NCAC 08B .0307 CONTROL OF RULE-MAKING HEARINGS

(a) The presiding officer of a rule-making hearing shall have complete control of the proceedings including the following:

- (1) extension of any deadlines,
- (2) rescheduling a hearing time, as announced at the published hearing, and continuation of any hearing,
- (3) limitations for individual presentations,
- (4) recognition of speakers, and
- (5) direction of the flow of discussion and the management of the hearing.

(b) The presiding officer at all times shall take care that each person participating in the hearing is given a fair opportunity to present views, data and comments.

History Note: Authority G.S. 93-12; 150B-11(1); 150B-12(d);
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

21 NCAC 08B .0308 REQUEST FOR STATEMENT ON FINAL DECISION
21 NCAC 08B .0309 RECORDS

History Note: Authority G.S. 93-12; 150B-11(1); 150B-12(e); 150B-37; 150B-42;
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. October 1, 1984; April 1, 1982;
Repealed Eff. March 1, 1987.

SECTION .0400 - EMERGENCY RULES

21 NCAC 08B .0401 POWER TO ISSUE
21 NCAC 08B .0402 LENGTH OF EFFECTIVENESS

History Note: Authority G.S. 93-12; 150B-13;
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. October 1, 1984;
Repealed Eff. June 1, 1985.

SECTION .0500 - DECLARATORY RULINGS

21 NCAC 08B .0501 REQUEST FOR DECLARATORY RULING

Any person aggrieved, as defined in G.S. 150B-2(6), by a statute administered or rule promulgated by the Board may request a declaratory ruling as to how the statute or rule applies to a given factual situation or whether a particular Board rule is valid. All requests for declaratory rulings shall be in writing and mailed to the Board at its address, as set forth in 21 NCAC 8A .0102.

History Note: Authority G.S. 93-12; 150B-17;
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1989; October 1, 1984; April 1, 1982;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

21 NCAC 08B .0502 CONTENTS OF REQUEST

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

- (1) name and address of petitioner;
- (2) statute or rule to which the petition relates;
- (3) concise statement of the manner in which the petitioner is aggrieved, as defined in G.S. 150B-2(6), or thinks that he or she may be injured by the rule or statute and its application to him or her; and
- (4) statement of whether an oral hearing is desired and if so the reasons for such an oral hearing.

History Note: Authority G.S. 93-12; 150B-4;

Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. April 1, 1994; June 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

21 NCAC 08B .0503 REFUSAL TO ISSUE DECLARATORY RULING

Whenever the Board believes for good reason that issuing a declaratory ruling is undesirable, it may refuse to do so. The Board will notify the petitioner in writing of its reasons for refusing to issue a declaratory ruling.

History Note: Authority G.S. 93-12; 150B-11(1); 150B-17;
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

21 NCAC 08B .0504 ISSUANCE OF DECLARATORY RULING
21 NCAC 08B .0505 PROCEDURE
21 NCAC 08B .0506 VALIDITY OF RULE

History Note: Authority G.S. 93-12; 150B-17;
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. October 1, 1984;
Repealed Eff. March 1, 1987.

21 NCAC 08B .0507 CIRCUMSTANCES

As a general rule the Board will issue a declaratory ruling except:

- (1) when the subject of a requested declaratory ruling is also the subject of a lawsuit pending in a court of this state or a federal court;
- (2) when the facts presented in the request were considered at a rule-making hearing; or
- (3) in other special circumstances.

History Note: Authority G.S. 93-12; 150B-17;
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

21 NCAC 08B .0508 REQUESTS FOR INFORMAL OPINIONS

Requests to Board employees or legal counsel, or requests to Board members not in accordance with Rule .0501 of this Section, for opinions concerning the application of the Board's rules or any statutes are discouraged. If ever an opinion is given, it shall not be binding on the Board. Applicants, licensees, and any other persons who act in reliance on such opinions do so at their own risk.

History Note: Authority G.S. 93-12(3); 93-12(9); 150B-17;
Eff. December 1, 1987
Amended Eff. May 1, 1989;
Readopted Eff. February 1, 2016.

SECTION .0600 - FEES

21 NCAC 08B .0601 FEE SCHEDULE

*History Note: Authority G.S. 93-12; 150B-11(1);
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. October 1, 1984;
Repealed Eff. June 1, 1985.*

21 NCAC 08B .0602 AMOUNT

*History Note: Authority G.S. 93-12; 150B-11(1);
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Repealed Eff. October 1, 1984.*