

SUBCHAPTER 01U – STATE ENERGY OFFICE

SECTION .0100 - ORGANIZATION

- 15A NCAC 01U .0101** **PURPOSE**
15A NCAC 01U .0102 **DEFINITIONS**
15A NCAC 01U .0103 **SCOPE AND PURPOSE OF STATE SET-ASIDE**

History Note: *Authority G.S. 143B-429; 143B-430; 143B-431; 143B-449;*
Emergency Regulation Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978;
Made Permanent Eff. July 3, 1978;
Amended Eff. April 1, 1991; May 15, 1979;
Transferred from 04 NCAC 12C .0102, .0104, .0106 Eff. May 15, 2007;
Expired Eff. March 1, 2019 pursuant to G.S. 150B-21.3A;
Transferred from 01 NCAC 41A .0101-.0103 Eff. September 1, 2024.

SECTION .0200 - GENERAL PROVISIONS

15A NCAC 01U .0201 **DEFINITIONS**

For the purposes of this Subchapter, the following definitions apply:

- (1) "Allowable Costs" means origination cost, letter of credit fee (first year), engineering design fee, and implementation of an eligible energy conservation measure. All allowable costs to be included in the loan shall be incurred after the execution date of the Letter of Intent.
- (2) "Applicant" means any commercial or industrial business, nonprofit organization local government entity, or resident applying for a loan under the Program.
- (3) "Combustion efficiency test" means a test performed as part of a heating system maintenance to measure how well the furnace or boiler is performing.
- (4) "Commercial or industrial business" means a commercial or industrial concern that provides goods or services for profit from a location in North Carolina.
- (5) "Commercially available" means available to the general public and does not include experimental or research-related technologies.
- (6) "Credit worthiness" means the ability of the applicant to meet the lending institution's standard lending criteria.
- (7) "Energy conservation measure" means a commercially available energy efficient device, technique, or technology, designed to reduce energy consumption, peak demand, or utility costs at an existing or proposed commercial or industrial business, nonprofit organization, local government entity, or residence.
- (8) "Financial Services Division" means the Fiscal Management Division within the N.C. Department of Environmental Quality.
- (9) "Letter of Intent" means written notification of the Department of Environmental Quality's intent to originate the loan, subject to the conditions and limitations of the Energy Improvement Loan Program.
- (10) "Payback" means the total energy conservation measure costs (including installation, equipment, and engineering design) divided by the total annual estimated utility cost savings for a period of years.
- (11) "Program" means the Energy Improvement Loan Program.
- (12) "Recycling Projects" means projects that extract and reprocess energy, water, and materials for reuse in buildings, transportation systems, environmental management, consumer products, or outreach.
- (13) "Renewable" means solar, wind, biomass, or hydropower resources.
- (14) "Repayment Schedule" means a schedule of periodic payments based upon payback as projected in the Technical Analysis rounded to the next quarter. Prepayments shall reduce the term of the loan with periodic payments remaining unchanged.
- (15) "State Energy Office" means the State Energy Office, Division of Energy, within the N. C. Department of Environmental Quality.

- (16) "Technical Analysis " means a report identifying and analyzing the cost-effective capital energy conservation improvements that the applicant wishes to implement.
- (17) "Technical Analyst" means a licensed engineer, architect, or certified Home Energy Rating System, "HERS" ®, rater that conducts the technical analysis for the purposes of this Subchapter.
- (18) "Third-Party Technical Analyst" means a Technical Analyst who performs the Technical Analysis and does not have a financial interest in the commercial or industrial business, nonprofit organization, residence or local government entity, or in the sale and installation of any proposed energy conservation measure.
- (19) "Useful life" means the period during which an asset or property is expected by the manufacturer to continue by the manufacturer to function for the purpose for which the asset or property was acquired.

History Note: Authority G.S. 143B-344.44(b)(3); 143B-344.44(b)(4);
 Eff. September 1, 2004;
 Readopted Eff. June 1, 2021;
 Transferred from 01 NCAC 41C .0101 Eff. September 1, 2024.

15A NCAC 01U .0202 ELIGIBILITY

The following are eligible to apply for loans:

- (1) A commercial or industrial business, nonprofit organization, local government entity, or resident located in North Carolina that owns the existing building or site of planned construction where the energy conservation measures will be made, or that has a lease or management agreement for the proposed building site or building extending beyond the term of the loan. However, when the owner of the building or building site authorizes the approved energy conservation measures, the lease or management agreement need not extend beyond the term of the loan.
- (2) A commercial or industrial business, nonprofit organization, local government entity, or resident relocating to North Carolina that owns the site of planned construction where the energy conservation measures will be made, or that has a lease or management agreement for such proposed building or building site extending beyond the term of the loan. However, when the owner of the building or building site authorizes the approved energy conservation measures, the lease or management agreement need not extend beyond the term of the loan.

History Note: Authority G.S. 143B-344.44(b)(3); 143B-344.44(b)(4);
 Eff. September 1, 2004;
 Readopted Eff. June 1, 2021;
 Transferred from 01 NCAC 41C .0201 Eff. September 1, 2024.

15A NCAC 01U .0203 CRITERIA FOR ENERGY CONSERVATION LOANS

Energy conservation projects for which the loans are desired shall meet the following criteria:

- (1) The building site where the measures are to be installed shall be in North Carolina.
- (2) The project shall demonstrate in the Technical Analysis the ability to conserve energy through efficient energy use or the utilization of renewable energy resources that results in energy savings based upon a net reduction in the use of nonrenewable resources. The energy conservation measure shall be based on a Technical Analysis report as defined in Rule .0201 of this Section, conducted within the previous year.
- (3) A maximum total loan indebtedness in accordance with G.S. 143B-344.44(b)(2).
- (4) The project shall utilize commercially available energy conservation measures.
- (5) The installation of the energy conservation measure may, at the discretion of the applicant, commence after the Financial Services Division issues the Letter of Intent; however, the origination of the loan shall still be subject to the conditions and limitations of the Program, pursuant to Rule .0203 of this Section.
- (6) The energy conservation measure shall be demonstrated, within the Technical Analysis, to have a payback of less than one over a period of 20 years or less.
- (7) Each energy conservation measure shall be demonstrated to have a payback of less than one over the useful life of the energy conservation measure.
- (8) Eligible energy conservation measures shall fall under one of the following categories:

- (a) lighting systems;
 - (b) heating, ventilation, and air conditioning systems;
 - (c) electrical distribution systems (motors, variable speed drives, fans, etc.);
 - (d) energy management systems;
 - (e) boiler efficiency systems;
 - (f) energy recovery systems, including on-site generation of electricity;
 - (g) alternate/renewable energy systems;
 - (h) building envelope (doors, windows, roofs, etc.);
 - (i) industrial process or fabrication systems;
 - (j) load management systems;
 - (k) fuel conversion projects;
 - (l) other demand-related improvements; and
 - (m) recycling projects.
- (9) The energy conservation measure shall meet applicable State air and water quality standards, in accordance with 15A NCAC 02B, 02D, and 02L, which are incorporated by reference, including all subsequent amendments.

History Note: Authority G.S. 143B-344.44(b)(3); 143B-344.44(b)(4);
 Eff. September 1, 2004;
 Readopted Eff. June 1, 2021;
 Transferred from 01 NCAC 41C .0202 Eff. September 1, 2024.

15A NCAC 01U .0204 LOAN PERCENTAGE AND CONDITIONS AND LIMITATIONS

- (a) The interest rate on the loan shall be set pursuant to G.S. 143B-344.44(c) by the State Energy Office based on the following:
- (1) previous State Energy Office loan recipients get one percent deduction with closed loans and no defaults to zero percent;
 - (2) loans made to residents and small businesses shall receive a one percent interest rate;
 - (3) loans made to nonprofit organizations and local governments projects shall receive a two percent interest rate; and
 - (4) loans made to commercial and industrial entities shall receive a three percent interest rate.
- (b) Loans shall be made subject to the following conditions:
- (1) the repayment schedule shall be based on the estimated payback as shown in the Technical Analysis Report, pursuant to Rule .0303 of this Subchapter;
 - (2) the commercial or industrial business, nonprofit organization, local government entity, or resident shall make payments at least once a month;
 - (3) the total amount of the loan, or any portion thereof, may be repaid at any time before the total amount is due, without penalty;
 - (4) rebates received through other program offerings of the State Energy Office for projects undertaken from loan proceeds shall be used to reduce the amount of principal;
 - (5) the borrower shall warrant that all work or construction done with the proceeds of a loan under this program shall comply with all building codes;
 - (6) project implementation shall begin within 90 days after approval of the application. If delays are encountered following loan closing, any arbitrage profits will be repaid to the Energy Loan Fund;
 - (7) loan payments or drafts shall be sent or delivered to the Financial Service Division, in accordance with Rule .0601 of this Subchapter; and
 - (8) a letter of credit from a bank approved to do business in North Carolina shall secure the loan against non-payment and also serve as a quarterly drafting mechanism for loan repayment from the bank.
- (c) Loans shall be made subject to the following limitations:
- (1) the amount of the loan shall not exceed allowable costs;
 - (2) loans shall not be used to replace an existing loan; and
 - (3) no loans shall be forgiven.

History Note: Authority G.S. 143B-344.44;
 Eff. August 1, 2004;

*Readopted Eff. June 1, 2021;
Transferred from 01 NCAC 41C .0203 Eff. September 1, 2024.*

15A NCAC 01U .0205 PRE-APPLICATION CONFERENCE

(a) The potential applicant shall schedule a pre-application conference with the State Energy Office by email, telephone, or office visit at least one week prior to submission of a project application. During the pre-application conference, the parties shall:

- (1) ensure the application procedures are understood; and
- (2) reach an understanding among all parties that the project is eligible for approval in accordance with Rule .0203 of this Section.

(b) Parties present at the pre-application conference shall include representatives from the Financial Services Division, the State Energy Office, and the applicant or the applicant's engineer.

(c) The applicant shall offer verbal, and if available, written project descriptions.

(d) The applicant shall provide water and air quality permits required for the project.

(e) The applicant shall provide the final Technical Analysis.

*History Note: Authority G.S. 143B-344.44(b)(3); 143B-344.44(b)(4);
Eff. August 1, 2004;
Readopted Eff. June 1, 2021;
Transferred from 01 NCAC 41C .0204 Eff. September 1, 2024.*

15A NCAC 01U .0206 APPLICATION PROCEDURES

The applicant shall complete an application on a form provided by the Financial Service Division, which can be found at <http://portal.ncdenr.org/web/lr/state-energy-office>. The application shall contain the following information:

- (1) the name and mailing address, including the county, of the applicant;
- (2) the address, building name (where applicable) or site description, including photographs, to locate where the energy conservation measure(s) will be installed;
- (3) the name of a contact person, including title and telephone number;
- (4) the loan amount requested;
- (5) the estimated dates of implementation and completion of the project;
- (6) a copy of the Technical Analysis approved by the State Energy Office;
- (7) identification of the commercial lending institution that is providing the letter of credit, depository, and repayment services;
- (8) commercial or industrial business, nonprofit organizations, or local government entity applicants shall provide financial data, including financial statements from the last five years and profit and loss statements, on which to base a determination of the applicant's creditworthiness. Residential applicants shall provide a credit report.

*History Note: Authority G.S. 143B-344.44(b)(3); 143B-344.44(b)(4);
Eff. August 1, 2004;
Readopted Eff. June 1, 2021;
Transferred from 01 NCAC 41C .0205 Eff. September 1, 2024.*

15A NCAC 01U .0207 APPLICATION REVIEW

(a) The Department shall conduct concurrent administrative and Technical Analysis reviews as follows:

- (1) the administrative review shall be conducted by the Financial Services Division and may include any financial data or information needed to complete the review. Additional data may be requested if the initial data is incomplete.
- (2) the Technical Analysis review shall be conducted by the State Energy Office and shall consider each energy conservation measure for which funding is requested, including the accuracy of energy calculations, engineering principles considered, and labor and material costs relative to the current local market.

(b) Following the reviews in Paragraph (a) of this Rule, the State Energy Office shall approve those energy conservation measures that were determined to meet the requirements of this Subchapter.

History Note: Authority G.S. 143B-344.44(b)(3); 143B-344.44(b)(4);

Eff. August 1, 2004;
Readopted Eff. June 1, 2021;
Transferred from 01 NCAC 41C .0206 Eff. September 1, 2024.

15A NCAC 01U .0208 LOAN APPROVAL

Following the review set forth in Rule .0207 of this Section, the State Energy Office shall approve the application provided:

- (1) the administrative and Technical Analysis reviews satisfy the requirements of this Subchapter;
- (2) the credit worthiness of the applicant is established; and
- (3) funds are available.

History Note: Authority G.S. 143B-344.44(b)(3); 143B-344.44(b)(4);
Eff. August 1, 2004;
Readopted Eff. June 1, 2021;
Transferred from 01 NCAC 41C .0207 Eff. September 1, 2024.

15A NCAC 01U .0209 LOAN AGREEMENT AND PROMISSORY NOTE

After an application for a loan is approved, a loan agreement shall be executed between the Financial Services Division and the borrower. The loan agreement shall include a promissory note and other documents including security agreements, mortgages, and recordings. It shall also contain the covenants and representations as to the borrower's qualification to borrow for the loan, intended use of the loan proceeds, conditions under which the loan will be repaid, as well as events requiring the acceleration, the rights and responsibilities of the parties, and the terms and conditions of the loan. The requirements to secure the loan shall be included in the loan agreement. Loans shall be secured through bank letter of credit.

History Note: Authority G.S. 143B-344.44(b)(3); 143B-344.44(b)(4);
Eff. August 1, 2004;
Readopted Eff. June 1, 2021;
Transferred from 01 NCAC 41C .0208 Eff. September 1, 2024.

15A NCAC 01U .0210 REPORTS

Reports shall be submitted by the borrower as follows:

- (1) progress reports shall be submitted quarterly to the State Energy Office during the period of implementation or while installation is in progress and shall include a description of:
 - (a) the current status;
 - (b) any problems; and
 - (c) a forecast of expectations or deviations from the Technical Analysis, prepared in accordance with Rule .0303 of this Subchapter.
- (2) a final report certified by the Technical Analyst shall be submitted to the State Energy Office upon completion of the project. The report shall include a description of:
 - (a) the measures implemented;
 - (b) the actual cost of each measure; and
 - (c) the adjusted estimated payback, based on the actual cost.

History Note: Authority G.S. 143B-344.44(b)(3); 143B-344.44(b)(4);
Eff. September 1, 2004;
Readopted Eff. June 1, 2021;
Transferred from 01 NCAC 41C .0209 Eff. September 1, 2024.

15A NCAC 01U .0211 MONITORING

The Financial Service Division shall monitor the use of the funds under this program through review of reports. The State Energy Office shall monitor those buildings or projects where the energy conservation projects are in progress to verify the installation of the energy conservation measures conforms to the approved Technical Analysis. At least one visit shall be made to the site of each energy conservation project during the life of the loan.

History Note: Authority G.S. 143B-344.44(b)(3); 143B-344.44(b)(4);

Eff. August 1, 2004;
Readopted Eff. June 1, 2021;
Transferred from 01 NCAC 41C .0210 Eff. September 1, 2024.

15A NCAC 01U .0212 DEFAULT

If the borrower violates any of the terms of the loan agreement, the Financial Services Division shall place the borrower in default. Borrowers determined to be in default shall be notified by certified mail and the terms of the loan agreement and letter of credit shall be executed.

History Note: Authority G.S. 143B-344.44(b)(3); 143B-344.44(b)(4);
Eff. August 1, 2004;
Readopted Eff. June 1, 2021;
Transferred from 01 NCAC 41C .0211 Eff. September 1, 2024.

SECTION .0300 - TECHNICAL ANALYSIS

15A NCAC 01U .0301 TECHNICAL ANALYSIS REQUIRED

(a) An application for an energy conservation loan shall be accompanied by a Technical Analysis that has been conducted by a third-party Technical Analyst and approved by the State Energy Office as fulfilling the energy aspects of the Program.

(b) The Technical Analysis shall address only the specific energy conservation measures for which the loan is being requested. Each energy conservation measure analyzed shall be an individual recommendation incorporating technical and economic analyses of the measure, considering building, process, and equipment characteristics, and energy use patterns pertinent to the improvement. The Technical Analysis shall include the estimated cost of the implementation, a construction schedule, and expected energy savings.

History Note: Authority G.S. 143B-344.44(b)(3); 143B-344.44(b)(4);
Eff. September 1, 2004;
Readopted Eff. June 1, 2021;
Transferred from 01 NCAC 41C .0301 Eff. September 1, 2024.

15A NCAC 01U .0302 TECHNICAL ANALYST DISQUALIFICATIONS

(a) A third-party Technical Analyst shall not have a financial interest in the commercial or industrial business, nonprofit organization, local government entity, or residence or in the sale and installation of any proposed energy conservation, measure. However, the third-party Technical Analyst is permitted to provide construction management services to an approved applicant.

(b) An outline of qualifications of the Technical Analyst, documenting previous experience in energy conservation in building construction, mechanical systems, or manufacturing processes shall be submitted in writing to the State Energy Office.

History Note: Authority G.S. 143B-344.44(b)(3); 143B-344.44(b)(4);
Eff. September 1, 2004;
Readopted Eff. June 1, 2021;
Transferred from 01 NCAC 41C .0302 Eff. September 1, 2024.

15A NCAC 01U .0303 REPORT REQUIRED

A third-party Technical Analyst shall submit three copies of the results of a Technical Analysis in writing on a form provided by the State Energy Office, which can be found at <http://portal.ncdenr.org/web/lr/state-energy-office>. The report shall include the following:

- (1) a description of the facility characteristics and energy data, including the operational characteristics of the energy-using systems;
- (2) a description and engineering analysis of each energy conservation measure, including the following:
 - (a) an estimate of the cost of design, acquisition, and installation, including monitoring equipment to assess the performance of the measure, discussing assumptions as the Technical Analyst deems necessary;

- (b) an estimate of the annual energy saved and energy cost savings by fuel type, using engineering standards and practices that are recognized by the North Carolina State Board of Examiners for Engineers and Surveyors, including all formulae, data, and assumptions presented in arriving at the estimate;
 - (c) the results of a combustion efficiency test, if furnace or boiler modifications or replacements are being implemented;
 - (d) the payback period of each energy conservation measure; and
 - (e) a proposed construction schedule for each energy conservation measure; and
- (3) the energy use and cost data for each fuel type used for the prior billing period.

History Note: Authority G.S. 143B-344.44(b)(3); 143B-344.44(b)(4);
 Eff. September 1, 2004;
 Readopted Eff. June 1, 2021;
 Transferred from 01 NCAC 41C .0303 Eff. September 1, 2024.

SECTION .0400 – GENERAL PROVISIONS

15A NCAC 01U .0401 PURPOSE AND ORGANIZATION

History Note: Authority G.S. 143-58.4; 143-58.5;
 Eff. May 1, 2007;
 Repealed Eff. July 1, 2021;
 Transferred from 01 NCAC 41D .0101 Eff. September 1, 2024.

15A NCAC 01U .0402 DEFINITIONS

For the purposes of this Chapter, the following definitions apply:

- (1) "AFV" means the same as defined in G.S.143-58.4.
- (2) "Alternative fuel" means the same as defined in G.S. 143-58.4.
- (3) "B20" means the same as defined in G.S. 143-58.4.
- (4) "Biodiesel Fuel Use Credit" means an EPAct credit given by the U.S. Department of Energy (DOE) for each 450 gallons of pure biodiesel purchased for use in blends of 20% or higher. No credit shall be granted for the petroleum portion of biodiesel fuel blends, pursuant to 10 CFR 490.703.
- (5) "Department" means the same as defined in G.S. 143-58.4. [
- (6) "E85" means the same as defined in G.S. 143-58.4.
- (7) "Energy Policy Act" means the same as defined in G.S. 143-58.4.
- (8) "EPAct credit" means the same as defined in G.S. 143-58.4.
- (9) "FFV" means a flexible fuel vehicle that is capable of operating on both E85 and gasoline.
- (10) "LDV" means a light duty vehicle that has less than an 8,500 lb gross vehicle weight rating (GVWR).
- (11) "NC Alternative Fuel Consortium" means a voluntary group of State agencies, institutions, and interested entities that meet quarterly and is hosted by the State Energy Office to coordinate alternative fuel and petroleum displacement activities in North Carolina.
- (12) "OEM" means original equipment manufacturer.
- (13) "SEO" means the State Energy Office.
- (14) "U.S. DOE" means the United States Department of Energy.
- (15) "U.S. EPA" means the United States Environmental Protection Agency.

History Note: Authority G.S. 143-58.4; 143-58.5;
 Eff. May 1, 2007;
 Readopted Eff. June 1, 2021;
 Transferred from 01 NCAC 41D .0102 Eff. September 1, 2024.

15A NCAC 01U .0403 BANKING

- (a) EPActs credits shall be accrued and banked according to the following:

- (1) The U.S. DOE Alternative Fuel Transportation Program 10 CFR Part 490, which is incorporated by reference including subsequent amendments and editions and can be found at no charge at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>, requires that 75% of LDVs acquired by state fleets shall be FFVs, compressed natural gas vehicles, propane vehicles, or electric vehicles;
 - (2) One credit shall be earned for each OEM or EPA certified retrofit FFV, compressed natural gas vehicle, propane vehicle, or electric vehicle purchased;
 - (3) Credits that exceed the annual minimum State AFV acquisition requirements shall be banked through the U.S. Department of Energy's Alternative Fuel Transportation Program to meet future year requirements or traded;
 - (4) State fleet cars can earn Biodiesel Fuel Use Credits to meet 50% of their annual AFV acquisition requirements by purchasing and using biodiesel; and
 - (5) Biodiesel Fuel Use Credits cannot be traded or banked.
- (b) Credits shall be determined by State agencies in cooperation with the State Energy Office in the following manner:
- (1) Each year by December 1st, every State department, institution, and agency subject to EPAct requirements shall provide the State Energy Office with the types of vehicles purchased, the vehicle identification numbers, and the dates of purchase to determine the number of EPAct credits generated by the State; and
 - (2) The SEO shall submit an annual EPAct credit report to the U.S. DOE by December 31st.
- (c) The following provisions shall be used in determining credits:
- (1) EPAct credits eligible for sale include FFVs if the FFVs are operating on E85;
 - (2) EPAct credits generated through the use of B20 are not eligible for sale or transfer; however, they shall be used by the State to meet 50% of Energy Policy Act requirements; and
 - (3) State agencies and institutions that purchase FFVs shall record the use of E85 for the FFVs.

*History Note: Authority G.S. 143-58.4; 143-58.5;
Eff. May 1, 2007;
Readopted Eff. June 1, 2021;
Transferred from 01 NCAC 41D .0201 Eff. September 1, 2024.*

15A NCAC 01U .0404 SELLING

- (a) The State Energy Office shall form a Credit Selling Work Group to determine the number of excess credits to be sold as follows:
- (1) The Credit Selling Work Group shall consist of:
 - (A) the Department of Administration Motor Fleet Management designee;
 - (B) the Department of Transportation Equipment Unit designee;
 - (C) the State Energy Office designee; and
 - (D) the Designees of other State agencies and institutions that generate EPAct credits; and
 - (2) The Credit Selling Work Group shall determine the asking price for credits.
- (b) The State Office shall obtain approval from the Energy Policy Council prior to selling EPAct credits, pursuant to G.S. 113B-6(3).
- (c) The State Office shall sell EPAct credits in accordance with the provisions of the Energy Policy Act.

*History Note: Authority G.S. 143-58.4; 143-58.5;
Eff. May 1, 2007;
Readopted Eff. June 1, 2021;
Transferred from 01 NCAC 41D .0202 Eff. September 1, 2024.*

15A NCAC 01U .0405 PROCEEDS AND DISTRIBUTION

- (a) Funds generated by the sale or transfer of EPAct credits by the State Energy Office shall be deposited into the Alternative Fuel Revolving Fund.
- (b) The following shall be undertaken to determine the distribution of proceeds from the Alternative Fuel Revolving Fund:
- (1) The State Energy Office shall annually inform the NC Alternative Fuel Consortium of the amount of revenue accrued to the Alternative Fuel Revolving Fund and the percentage of these funds that were generated by participating State agencies, institutions, or entities;

- (2) The State Energy Office shall organize meetings of the NC Alternative Fuel Consortium and the Credit Selling Work Group to discuss and prioritize distribution of funds;
- (3) An annual plan for the dispersion of Alternative Fuel Revolving Funds shall be prepared by the State Energy Office based on recommendations of the Alternative Fuels Consortium and the Credit Selling Work Group; and
- (4) The Energy Policy Council shall review and approve the annual plan, pursuant to G.S. 113B-6(3).

History Note: Authority G.S. 143-58.4; 143-58.5;
 Eff. May 1, 2007;
 Readopted Eff. June 1, 2021;
 Transferred from 01 NCAC 41D .0301 Eff. September 1, 2024.

15A NCAC 01U .0406 FUND DISBURSEMENTS

History Note: Authority G.S. 143-58.4; 143-58.5;
 Eff. May 1, 2007;
 Repealed Eff. July 1, 2021;
 Transferred from 01 NCAC 41D .0302 Eff. September 1, 2024.

15A NCAC 01U .0407 REPORTS

- (a) Progress reports shall be submitted biannually by State departments, agencies, and institutions that receive funds from the Alternative Fuel Revolving Fund.
- (b) The progress report shall include a description of the current project, number of gallons of alternative fuel or vehicles purchased, and forecast of expectation or deviation from the project schedule.

History Note: Authority G.S. 143-58.4; 143-58.5;
 Eff. May 1, 2007;
 Readopted Eff. June 1, 2021;
 Transferred from 01 NCAC 41D .0401 Eff. September 1, 2024.

15A NCAC 01U .0408 FUNCTIONS

History Note: Authority G.S. 113B-2; 143B-429; 143B-430; 143B-431; 143B-449;
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SECTION .0500 - ORGANIZATION

- 15A NCAC 01U .0501 LOCATIONS AND HOURS OF OPERATION**
- 15A NCAC 01U .0502 PURPOSE**
- 15A NCAC 01U .0503 ORGANIZATION OF THE DIVISION**
- 15A NCAC 01U .0504 DEFINITIONS**
- 15A NCAC 01U .0505 FORMS**
- 15A NCAC 01U .0506 PURPOSE AND SCOPE OF STATE SET-ASIDE**
- 15A NCAC 01U .0507 WHO MAY APPLY FOR STATE SET-ASIDE**
- 15A NCAC 01U .0508 WHAT MUST BE FILED FOR STATE SET-ASIDE**
- 15A NCAC 01U .0509 WHERE TO FILE AN APPLICATION FOR STATE SET-ASIDE**
- 15A NCAC 01U .0510 WHEN TO FILE AN APPLICATION FOR STATE SET-ASIDE**
- 15A NCAC 01U .0511 ASSIGNMENT OR ADJUSTMENT OF BASE PERIOD VOLUME**
- 15A NCAC 01U .0512 BASE PERIOD VOLUME**
- 15A NCAC 01U .0513 TIMELINESS OF STATE ACTION**
- 15A NCAC 01U .0514 PROCEDURE FOR APPEALS**

History Note: Filed as an Emergency Repeal Eff. March 6, 1978, for a period of 120 days to be reinstated on July 3, 1978;
Statutory Authority G.S. 113B-1(e); 143B-10; 143B-250; 143B-254;
Eff. February 1, 1976;
Emergency Repeal Made Permanent Eff. July 3, 1978;
Transferred from 04 NCAC 12A .0101-.0114.

15A NCAC 01U .0515 LOCATION
15A NCAC 01U .0516 ORGANIZATION
15A NCAC 01U .0517 FUNCTIONS

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Eff. February 1, 1976;
Emergency Repeal Made Permanent Eff. July 3, 1978;
Transferred from 04 NCAC 12B .0101-.0103 Eff. September 1, 2024.

SECTION .0600 – PETITION FOR RULEMAKING AND DECLATORY RULINGS

15A NCAC 01U .0601 DELEGATION OF AUTHORITY FOR RULEMAKING HEARINGS AND STATE ENERGY OFFICE CONTACT INFORMATION

(a) The Secretary of the Department of Environmental Quality designates the State Energy Director or his or her designee as the hearing officer to conduct rulemaking hearings in matters pertaining to rules and regulations of the State Energy Office.

(b) All notices required by the rules in this Subchapter to be submitted to the State Energy Office or the Financial Services Division shall be made to: The North Carolina State Energy Office, 1613 Mail Service Center, Raleigh, NC 27699-1613. The physical address of the State Energy Office is 217 W. Jones St., Raleigh, NC 27603.

History Note: Authority G.S. 143-58.4(c); 143B-344.44(b)(3); 150B-20;
Emergency Rule Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978;
Eff. July 3, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017;
Amended Eff. April 1, 2021;
Transferred from 04 NCAC 12D .0101 Eff. September 1, 2024.

15A NCAC 01U .0602 SUBMISSION AND CONTENTS OF PETITION FOR RULEMAKING

(a) Any person wishing to submit a petition requesting the adoption, amendment, or repeal of a rule by the State Energy Office, within the Department of Environmental Quality shall petition the State Energy Director by submitting the information required in Paragraph (b) of this Rule. The petitioner shall send the petition in accordance with Rule .0101 of this Section.

(b) The petition shall contain the following information:

- (1) the text of the proposed rule(s) for adoption or amendment;
- (2) a statement of the reasons for the adoption of a proposed rule(s), amendment or repeal of existing rule(s);
- (3) a statement of the effect on existing rules or orders;
- (4) any documents and data supporting the proposed rule(s);
- (5) the name(s) and addresses(es) of petitioner(s); and
- (6) a request to present the petition to the hearing officers in accordance with Rule .0101 of this Section, if desired.

(c) The petitioner may include the following information within the request:

- (1) the statutory authority for the agency to promulgate the rule(s);
- (2) a statement of the effect of the proposed rule(s) on existing practices in the area involved, including cost factors for persons affected by the proposed rule(s);
- (3) a statement explaining the computation of the costs factors; and

- (4) a description, including the names and addresses, if known, of those most likely to be affected by the proposed rule(s).
- (d) The State Energy Director shall return petitions that do not contain the information required by Paragraph (b) of this Rule to the petitioner.

History Note: Authority G.S. 143-58.4(c); 143B-344.44(b)(3); 150B-20;
Emergency Regulation Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978;
Eff. July 3, 1978;
Readopted Eff. April 1, 2021;
Transferred from 04 NCAC 12D .0102 Eff. September 1, 2024.

15A NCAC 01U .0603 CONTENTS OF PETITION

History Note: Authority G.S. 143B-429; 143B-430; 143B-431; 143B-449;
Emergency Regulation Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978;
Eff. July 3, 1978;
Repealed Eff. April 1, 2021;
Transferred from 04 NCAC 12D .0103 Eff. September 1, 2024.

15A NCAC 01U .0604	DISPOSITION OF PETITIONS
15A NCAC 01U .0605	TIMING OF NOTICE
15A NCAC 01U .0606	NOTICE MAILING LIST
15A NCAC 01U .0607	ADDITIONAL INFORMATION
15A NCAC 01U .0608	REQUEST TO PARTICIPATE
15A NCAC 01U .0609	CONTENTS OF REQUEST
15A NCAC 01U .0610	RECEIPT OF REQUEST: SPECIFIC TIME LIMITS
15A NCAC 01U .0611	WRITTEN SUBMISSIONS
15A NCAC 01U .0612	PRESIDING OFFICER; POWERS AND DUTIES
15A NCAC 01U .0613	STATEMENT OF REASONS FOR DECISION
15A NCAC 01U .0614	RECORD OF PROCEEDINGS
15A NCAC 01U .0615	SUBJECTS OF DECLARATORY RULINGS

History Note: Authority G.S. 143B-429; 143B-430; 143B-431; 143B-449;
Emergency Regulation Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978;
Eff. July 3, 1978;
Expired Eff. November 1, 2017 pursuant to G.S. 150B-21.3A;
Transferred from 04 NCAC 12D .0104-.0115 Eff. September 1, 2024.

15A NCAC 01U .0616 ISSUANCE OF DECLARATORY RULINGS

At the request of any person aggrieved, as defined in G.S. 150B-2(6), the Secretary of the Department of Environmental Quality may issue a declaratory ruling as provided in G.S. 150B-4 and the rules of this Section.

History Note: Authority G.S. 143-58.4(c); 143B-344.44(b)(3);
Emergency Regulation Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978;
Eff. July 3, 1978;
Readopted Eff. April 1, 2021;
Transferred from 04 NCAC 12D .0116 Eff. September 1, 2024.

15A NCAC 01U .0617 DISPOSITION OF REQUEST FOR DECLARATORY RULING

- (a) The State Energy Director shall make a determination on the completeness of the request for a declaratory ruling based on Rule .0133 of this Section.
- (b) Before deciding the merits of the request, and upon consideration of the complete request for a declaratory ruling, the Director shall determine if additional information or presentation(s) are needed and if so:
- (1) request additional written submissions from the petitioner(s);
 - (2) request a written response from the State Energy Office staff or any other person; and

- (3) hear oral arguments from the petitioner(s), interveners, and the State Energy Office staff or their legal counsel.
- (c) The Director shall decline to issue a declaratory ruling if any of the following are found:
 - (1) that there has been a similar determination in a previous contested case or declaratory ruling;
 - (2) that the matter is the subject of a pending contested case, hearing, or litigation in any North Carolina or federal court;
 - (3) that no genuine controversy exists as to the application of a statute, rule, or order to the specific factual situation presented; or
 - (4) that the factual situation presented as the subject of the declaratory ruling was specifically considered upon the adoption of the rule being questioned, as evidenced by the rulemaking record.
- (d) The Department shall keep a record of each request for declaratory ruling, which shall include the following items:
 - (1) the request for a ruling;
 - (2) any written submission by a party;
 - (3) the facts on which the ruling was based;
 - (4) any transcripts of oral proceedings, if available, and recordings of oral arguments;
 - (5) any other information such as documents, photographs, recordings, maps, plats, articles, and studies considered by the Director in the making of the decision; and
 - (6) the declaratory ruling, or the decision to decline to issue a declaratory ruling, together with the reasons therefore.
- (e) The Department shall notify the petitioner in writing of the Director's decision on the request for declaratory ruling, including the basis for the decision.
- (f) For purposes of this Section, a declaratory ruling shall be deemed to be in effect until:
 - (1) the statute or rule interpreted by the declaratory ruling is repealed or the relevant provisions of the statute or rule are amended or altered;
 - (2) any court of the Appellate Division of the General Courts of Justice construes the statute or rule that is the subject of a declaratory ruling to be irreconcilable with the declaratory ruling; or
 - (3) any court sets aside the declaratory ruling in litigation between the Department and the party requesting the ruling.
- (g) Any Division of the Department may be a party to any request for declaratory ruling upon written request. The request shall be made to the Director within five days of receipt of notice of the request for a declaratory ruling.
- (h) Upon written request, the petitioner(s), intervenor(s), and the Division each shall be allowed to present oral arguments to the Director. No party shall offer testimony or conduct cross-examination before the Director.
- (i) The Director shall issue a decision on whether to grant or deny the request for declaratory ruling within 30 days of the receipt of the petition. If granted, the Director shall have 45 days from the date of granting the request to issue a ruling on the merits of the request.
- (k) A declaratory ruling, or failure to issue a declaratory ruling, is subject to judicial review as provided in G.S. 150B-4(a)(1).

History Note: Authority G.S. 143-58.4(c); 143B-344.44(b)(3); 150B-4;
Emergency Regulation Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978;
Eff. July 3, 1978;
Readopted Eff. April 1, 2021;
Transferred from 04 NCAC 12D .0117.

15A NCAC 01U .0618 RECORD OF DECISION
15A NCAC 01U .0619 DEFINITION

History Note: Authority G.S. 143B-429; 143B-430; 143B-431; 143B-449;
Emergency Regulation Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978;
Eff. July 3, 1978;
Expired Eff. November 1, 2017 pursuant to G.S. 150B-21.3A;
Transferred from 04 NCAC 12D .0118-.0119 Eff. September 1, 2024.

15A NCAC 01U .0620 RIGHT TO ADMINISTRATIVE HEARING IN A CONTESTED CASE

History Note: Authority G.S. 150B-23; 143B-429; 143B-430; 143B-431; 143B-449;
Filed as an Emergency Regulation Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978;
Made Permanent Eff. July 3, 1978;
Repealed Eff. July 16, 1988 in accordance with G.S. 150B-59(c);
Transferred from 04 NCAC 12D .0120 Eff. September 1, 2024.

15A NCAC 01U .0621 REQUEST FOR ADMINISTRATIVE HEARING IN A CONTESTED CASE

History Note: Authority G.S. 143B-429; 143B-430; 143B-431; 143B-449;
Emergency Regulation Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978;
Made Permanent Eff. July 3, 1978;
Repealed Eff. July 16, 1988 in accordance with G.S. 150B-59(c);
Transferred from 04 NCAC 12D .0121 Eff. September 1, 2024.

15A NCAC 01U .0622 GRANTING OR DENYING HEARING REQUESTS

History Note: Authority G.S. 143B-429; 143B-430; 143B-431; 143B-449;
Emergency Regulation Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978;
Made Permanent Eff. July 3, 1978;
Repealed Eff. July 16, 1988 in accordance with G.S. 150B-59(c);
Transferred from 04 NCAC 12D .0122 Eff. September 1, 2024.

15A NCAC 01U .0623 NOTICE OF HEARING

History Note: Filed as an Emergency Regulation Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978;
Statutory Authority G.S. 143B-429; 143B-430; 143B-431; 143B-449;
Made Permanent Eff. July 3, 1978;
Repealed Eff. July 16, 1988 in accordance with G.S. 150B-59(c);
Transferred from 04 NCAC 12D .0123 Eff. September 1, 2024.

15A NCAC 01U .0624 WHO SHALL HEAR CONTESTED CASES

History Note: Filed as an Emergency Regulation Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978;
Statutory Authority G.S. 143B-429; 143B-30; 143B-431; 143B-449;
Made Permanent Eff. July 3, 1978;
Repealed Eff. July 16, 1988 in accordance with G.S. 150B-59(c);
Transferred from 04 NCAC 12D .0124 Eff. September 1, 2024.

15A NCAC 01U .0625 PETITION FOR INTERVENTION

History Note: Filed as an Emergency Regulation Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978;
Statutory Authority G.S. 143B-429; 143B-430; 143B-431; 143B-449;
Made Permanent Eff. July 3, 1978;
Repealed Eff. July 16, 1988 in accordance with G.S. 150B-59(c);
Transferred to 04 NCAC 12D .0125 Eff. September 1, 2024.

15A NCAC 01U .0626 TYPES OF INTERVENTION

History Note: Filed as an Emergency Regulation Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978;
Statutory Authority G.S. 143B-429; 143B-430; 143B-431; 143B-449;
Made Permanent Eff. July 3, 1978;

*Repealed Eff. July 16, 1988 in accordance with G.S. 150B-59(c);
Transferred from 04 NCAC 12D .0126 Eff. September 1, 2024.*

15A NCAC 01U .0627 DISQUALIFICATION OF HEARING OFFICERS

*History Note: Filed as an Emergency Regulation Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978;
Statutory Authority G.S. 143B-429; 143B-430; 143B-431; 143B-449;
Made Permanent Eff. July 3, 1978;
Repealed Eff. July 16, 1988 in accordance with G.S. 150B-59(c);
Transferred from 04 NCAC 12D .0127 Eff. September 1, 2024.*

15A NCAC 01U .0628 FAILURE TO APPEAR

*History Note: Filed as an Emergency Regulation Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978;
Statutory Authority G.S. 143B-429; 143B-430; 143B-431; 143B-449;
Made Permanent Eff. July 3, 1978;
Repealed Eff. July 16, 1988 in accordance with G.S. 150B-59(c);
Transferred from 04 NCAC 12D .0128 Eff. September 1, 2024.*

15A NCAC 01U .0629 SIMPLIFICATION OF ISSUES

*History Note: Filed as an Emergency Regulation Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978;
Statutory Authority G.S. 143B-429; 143B-430; 143B-431; 143B-449;
Made Permanent Eff. July 3, 1978;
Repealed Eff. July 16, 1988 in accordance with G.S. 150B-59(c);
Transferred from 04 NCAC 12D .0129 Eff. September 1, 2024.*

15A NCAC 01U .0630 SUBPOENAS

*History Note: Filed as an Emergency Regulation Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978;
Statutory Authority G.S. 143B-429; 143B-430; 143B-431; 143B-449;
Made Permanent Eff. July 3, 1978;
Repealed Eff. July 16, 1988 in accordance with G.S. 150B-59(c);
Transferred from 04 NCAC 12D .0130 Eff. September 1, 2024.*

15A NCAC 01U .0631 FINAL DECISIONS IN ADMINISTRATIVE HEARINGS

*History Note: Authority G.S. 143B-429; 143B-430; 143B-431; 143B-449;
Emergency Regulation Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978;
Eff. July 3, 1978;
Expired Eff. November 1, 2017 pursuant to G.S. 150B-21.3A;
Transferred from 04 NCAC 12D .0131 Eff. September 1, 2024.*

15A NCAC 01U .0632 DISPOSITION OF PETITIONS FOR RULEMAKING

- (a) If the State Energy Director determines the petition to be complete in accordance with Rule .0102 of this Section, the Director shall notice a hearing at least 15 days before the hearing's scheduled date.
- (b) The petitioner shall be afforded the opportunity to present the petition to the Director if so requested in accordance with Rule .0102(b)(6) of this Section. The State Energy Office may also make a presentation to the Director.
- (c) The Director shall allow one interested person to present the viewpoint of those who oppose initiating rulemaking. The Director shall determine whether additional interested persons are permitted to make oral presentations during the hearing. Interested persons shall request the opportunity to make a presentation to the

Director through the State Energy Office, in accordance with Rule .0101 of this Section, at least five days prior to the scheduled hearing. The request shall:

- (1) state the interest of the person in the petition for rulemaking;
- (2) state the person's position on the petition; and
- (3) be accompanied by any supporting materials.

History Note: Authority G.S. 143-58.4(c); 143B-344.44(b)(3); 150B-20;
Eff. April 1, 2021;
Transferred from 04 NCAC 12D .0132 Eff. September 1, 2024.

15A NCAC 01U .0633 SUBMISSION OF REQUEST FOR DECLARATORY RULING

(a) All requests for a declaratory ruling shall be filed in accordance with Rule .0101 of this Section.

(b) All requests for declaratory rulings shall include the following:

- (1) the name and address of petitioner(s);
- (2) the statute, rule, or order upon which a ruling is desired;
- (3) a statement as to whether the request is for a ruling on the validity of a rule or on the applicability of a statute, rule, or order to a given factual situation;
- (4) arguments or data demonstrating that the petitioner is aggrieved by the statute, rule, or order, or by its potential application to the petitioner;
- (5) a statement of the consequences of failure to issue a declaratory ruling in favor of the petitioner;
- (6) a statement of the desired outcome; and
- (7) a statement of whether an oral argument is desired, and if so, the reason(s) for requesting such an oral argument.

(c) A petitioner may request a declaratory ruling on the applicability of a statute, rule, or order to the petitioner, or on the validity of a Department rule. The petitioner may request both types of declaratory ruling in a single request. A request on the applicability of a statute, rule, or order shall include a statement of the facts and documentation supporting such facts, in addition to the requirements of Paragraph (b) of this Rule. A request to determine the validity of a Department rule shall state the petitioner's reason(s) for the request and a written argument, in addition to the requirements of Paragraph (b) of this Rule.

(d) Any other person may petition to become a party by filing a motion to intervene in the manner provided in G.S. 1A-1, Rule 24. The State Energy Director shall determine whether to grant the motion to intervene in accordance with Rule 24 of the North Carolina Rules of Civil Procedure.

History Note: Authority G.S. 143-58.4(c); 143B-344.44(b)(3);
Eff. April 1, 2021;
Transferred from 04 NCAC 12D . 0133 Eff. September 1, 2024.

SECTION .0700 - ENERGY POLICY COUNCIL

15A NCAC 01U .0701 LOCATION

15A NCAC 01U .0702 ORGANIZATION

History Note: Authority G.S. 113B-2; 143B-429; 143B-430; 143B-431; 143B-449;
Emergency Regulation Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978;
Eff. July 3, 1978;
Expired Eff. November 1, 2017 pursuant to G.S. 150B-21.3A;
Transferred from 04 NCAC 12E .0101-.0102 Eff. September 1, 2024.

15A NCAC 01U .0703 FUNCTIONS

History Note: Filed as an Emergency Regulation Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978;
Statutory Authority G.S. 113B-2; 143B-429; 143B-430; 143B-431; 143B-449;
Made Permanent Eff. July 3, 1978;
Recodified to 01 NCAC 41E .0101 Eff. May 15, 2007;
Transferred from 04 NCAC 12E .0103 Eff. September 1, 2024.

15A NCAC 01U .0704 **PURPOSE**
15A NCAC 01U .0705 **IDENTIFYING STATE REGIONS**
15A NCAC 01U .0706 **LOCAL AND REGIONAL COORDINATORS**
15A NCAC 01U .0707 **IDENTIFYING EXISTING OR UNDER CONSTRUCTION HOMES**
15A NCAC 01U .0708 **FILLING IN MISSING HOMES**
15A NCAC 01U .0709 **TIMETABLE AND TRAINING FOR THE SHOWCASE**
15A NCAC 01U .0710 **CARRYING OUT THE PROMOTIONAL CAMPAIGN AND SHOWCASE**
15A NCAC 01U .0711 **FOLLOWING UP THE PROJECT**

History Note: *Authority G.S. 143B-429; 143B-430; 143B-431; 143B-449; 150B-12;*
Eff. December 1, 1981;
Expired Eff. November 1, 2017 pursuant to G.S. 150B-21.3A;
Transferred from 04 NCAC 12F .0101-.0108 Eff. September 1, 2024.