

21 NCAC 60 .1103 PRELIMINARY DETERMINATION

- (a) A charge, filed under Rule .1102 of this Section, shall be referred initially to a review committee.
- (b) The review committee shall be made up of the following individuals:
 - (1) one officer, other than the Chairman, of the State Board of Refrigeration Examiners,
 - (2) the legal counsel of the Board,
 - (3) the Executive Director of the State Board of Refrigeration Examiners.
- (c) The review committee shall have the authority to determine prior to a full Board hearing whether or not charges filed against a refrigeration contractor are unfounded, frivolous or trivial. The determination of the review committee shall be final in this respect.
- (d) Once a charge is referred to the review committee a written notice of said charge shall be forwarded to the licensee against whom the charge is made. Notice of the charge and of the alleged facts and circumstances surrounding the charge shall be given personally or by registered or certified mail, return receipt requested. A response to said charges shall be requested of the licensee so charged and shall be made within twenty days from the date shown on the return mail certificate or date of personal notice.
- (e) If the licensee denies the charges brought against him, then in the sole discretion of the review committee, additional investigative personnel may be retained by the Board for the purpose of obtaining evidence relating to such charges. The reasonable expenses of any such additional personnel shall be borne by the Board.
- (f) After all preliminary evidence has been received by the review committee it shall make a preliminary determination of the charges filed against the refrigeration contractor. From the evidence it may recommend to the Board that:
 - (1) the charges be dismissed as unfounded, frivolous, trivial; or
 - (2) when the charge is admitted by the licensee or the evidence warrants, the Board be presented with the charge for its decision. If the charge is of such gravity as to make the imposition of punitive sanctions likely, the Board may administer one or more of the following penalties if the licensee is found to have violated the provisions of Article 5 of Chapter 87 of the General Statutes;
 - (A) Reprimand;
 - (B) Suspension from practice for a period not to exceed 12 months;
 - (C) Probationary revocation of license upon conditions set by the Board as the case shall warrant with revocation upon failure to comply with the conditions; or
 - (D) Revocation of license; or
 - (E) An acceptance of an offer in compromise of the charge, as provided by G.S. 87-59(d).
 - (3) if the charge is denied and evidence warrants, or if the charge, while admitted, is of such gravity as to make the imposition of punitive sanctions likely, the charge be presented to the Board for its decision on the merits of the charge in accordance with G.S. 150B. In connection with any such reprimand and subsequent order the Board may also provide that in the event the licensee is determined to have violated in the future any of the provisions of G.S. 87, Article 5, the Board may suspend or revoke his license as prescribed by law.

History Note: Authority G.S. 87-57; 87-59; 150B-38;
Eff. February 1, 1981;
Amended Eff. November 1, 1995; December 1, 1993; April 1, 1989; May 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015.