

TITLE 13 – DEPARTMENT OF LABOR

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Labor intends to amend the rules cited as 13 NCAC 01B .0101, .0102 and repeal the rule cited as 13 NCAC 01B .0103.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.labor.nc.gov/rules-and-regulations>

Proposed Effective Date: May 1, 2022

Public Hearing:

Date: January 18, 2022

Time: 10:30 a.m.

Location: Virtual: <https://call.lifesizecloud.com/12571003> or +1 (312) 584-2401, 12571003#

Reason for Proposed Action: To modernize the rule and make it concurrent with the Administrative Procedures Act, NC General Statutes Chapter 150B.

Comments may be submitted to: Jill F. Cramer, 1101 Mail Service Center, Raleigh, NC 27699-1101; email jill.cramer@labor.nc.gov

Comment period ends: March 4, 2022

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

CHAPTER 01 - DEPARTMENTAL RULES

SUBCHAPTER 01B - RULE-MAKING AND ADMINISTRATIVE HEARING PROCEDURES

SECTION .0100 - PETITIONS FOR RULES

13 NCAC 01B .0101 INSTRUCTIONS FOR FILING A PETITION FOR RULE-MAKING HEARINGS

~~Any person wishing to submit a petition requesting the adoption, amendment or repeal of a rule by the Commissioner of Labor shall submit the petition in writing to: Rule-making Coordinator, N.C. Department of Labor, 1101 Mail Service Center, Raleigh, North Carolina 27699-1101. The exterior of the envelope or container of the petition shall clearly bear the notation: RULE-MAKING PETITION.~~

(a) Any person may petition the Department to adopt a new permanent rule, or amend or repeal an existing permanent rule by submitting a rule-making petition to the Department at 1101 Mail Service Center, Raleigh, NC 27699-1101. The petition shall be titled "Petition for Rule-making" and shall include the following information:

- (1) the name and address of the person submitting the petition;
- (2) a citation to any rule for which an amendment or repeal is requested;
- (3) the text of any proposed rule or amended rule;
- (4) an explanation of why the new rule or amendment or repeal of an existing rule is requested and the effect of the new rule, amendment, or repeal on the Department;
- (5) the statutory authority for the agency to promulgate the rule(s);
- (6) 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);
- (7) a statement explaining the computation of the cost factors;
- (8) a description, including the entities, if known, of those most likely to be affected by the proposed rule(s);
- (9) documents and data supporting the proposed rule(s); and
- (10) any other information the person submitting the petition considers relevant.

(b) The Department shall decide whether to grant or deny a petition for rule-making within 120 days of receiving the petition. In making the decision, the Department shall consider the information submitted with the petition and any other relevant information.

(c) In its review of the proposed permanent rule, the Department shall consider whether it has authority to adopt the rule; the effect of the proposed rule on existing rules, programs, and practices; probable costs and cost factors of the proposed rule; and the impact of the rule on the public and regulated entities.

(d) When the Department denies a petition for rule-making, a written notice of the denial shall be sent to the person who submitted the request. The notice shall state the reason for the denial.

(e) When the Department grants a rulemaking petition, the Department shall initiate permanent rule-making proceedings and send written notice of the proceedings to the person who submitted the request.

(f) Filings that do not contain the information required by this Rule shall not be accepted and shall be returned by the Department to the person making the filing.

*History Note: Authority G.S. 95-4(2);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. April 1, 2001; July 1, 1988; December 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018;
Amended Eff. January 1, 2020;
Amended Eff. May 1, 2022.*

13 NCAC 01B .0102 CONTENTS OF PETITION MAILING LIST

The petition shall include the following:

- ~~(1) an indication of the subject area to which the petition is directed and, if known, the number of the North Carolina Administrative Code provision for which an amendment is proposed or the section of the North Carolina Administrative Code to which the new proposed rule is proposed to be added;~~
- ~~(2) a printed copy of the text of the proposed amendment or rule and a computer disk containing the proposed text in WordPerfect7 or MSWORD7 or other word processing program convertible to WordPerfect or MSWORD. The requirement for a computer disk shall be waived upon a showing of lack of access to such a word processing program;~~
- ~~(3) reasons for the proposal;~~
- ~~(4) the effect of the proposed amendment or rule including:
 - ~~(a) the effect on existing rules;~~
 - ~~(b) the effect on local government, if any, as described in G.S. 150B-21(c) and 150B-21.4(b);~~
 - ~~(c) whether the proposed amendment or rule would have a substantial economic impact as defined in G.S. 150B-21.4(b1) and an estimation of such impact and how the estimate was derived; and~~
 - ~~(d) the primary types of employees, businesses or other entities on which there would be an effect;~~~~
- ~~(5) any supporting data or other materials such as examples and research; and~~
- ~~(6) names, telephone and facsimile numbers and address(es) including e-mail address(es) of the petitioner(s). If petitioner(s) represent organizations or entities, the name(s) and addresses of the represented organizations shall also be provided.~~

(a) Any person or agency desiring to be placed on the mailing list for the Department's rule-making notices issued pursuant to G.S. 150B-21.2 may file a request in writing to the Commissioner of the Department at 1101 Mail Service Center Raleigh, NC 27699-1101.

(b) The request shall:

- (1) include the person's name and address;
- (2) specify the subject areas within the authority of the Department for which notice is requested; and
- (3) state the calendar year(s) for which the notice is desired.

*History Note: Authority G.S. 95-4(2); 150B-16;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. April 1, 2001;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018;
Amended Eff. May 1, 2022.*

13 NCAC 01B .0103 DISPOSITION OF PETITIONS

~~(a) The rule making coordinator designated under G.S. 150B-21 or the commissioner's designee shall review the request. If the requirements of 13 NCAC 01B .0102 regarding the contents of the petition are not met, the petition shall not be accepted and shall be returned to the petitioner(s) with the deficiencies noted. Additional information may be requested from the petitioner(s).~~

~~(b) Complete petition(s) and accompanying materials shall be reviewed to determine whether the petition(s) will be granted or denied. Review of a petition may include additional information gathered by the department. Petitioner(s) shall be notified of the decision of the department in accordance with G.S. 150B-20.~~

*History Note: Authority G.S. 95-4(2); 150B-16;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. April 1, 2001;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018;
Repealed Eff. May 1, 2022.*

