



CHAPTER 150B
ARTICLE 2A - RULES

N.C.G.S. § 150B-21.1.

Procedure for adopting a temporary rule.

SOURCE General Statutes of North Carolina, as published by the General Assembly	LAST AMENDMENT IN THIS TEXT S.L. 2025-25, s. 29(3), (6) — forty-second act in the lineage	RETRIEVED 21 September 2026, 03:38 UTC	SOURCE FINGERPRINT 9fc79106ca3caf7b1185d3eb - 4cd01ceae7514150a03da511 - faad215eb89ae0
--	--	---	--

- § 150B-21.1(a) Adoption. - An agency may adopt a temporary rule when it finds that adherence to the notice and hearing requirements of G.S. 150B-21.2 would be contrary to the public interest and that the immediate adoption of the rule is required by one or more of the following:
- (1) A serious and unforeseen threat to the public health, safety, or welfare.
 - (2) The effective date of a recent act of the General Assembly or the United States Congress.
 - (3) A recent change in federal or State budgetary policy.
 - (4) A recent federal regulation.
 - (5) A recent court order.
 - (6) The need for a rule establishing review criteria as authorized by G.S. 131E-183(b) to complement or be made consistent with the State Medical Facilities Plan approved by the Governor, if the rule addresses a matter included in the State Medical Facilities Plan, and the proposed rule and a notice of public hearing is submitted to the Codifier of Rules prior to the effective date of the Plan.
 - (7) The need for the Wildlife Resources Commission to establish any of the following:
 - a.No wake zones.
 - b.Hunting or fishing seasons, including provisions for manner of take or any other conditions required for the implementation of such season.

c.Hunting or fishing bag limits.

d.Management of public game lands as defined in G.S. 113-129(8a).

- (8) The need for the Secretary of State to implement the certification technology provisions of Article 11A of Chapter 66 of the General Statutes, to adopt uniform Statements of Policy that have been officially adopted by the North American Securities Administrators Association, Inc., for the purpose of promoting uniformity of state securities regulation, and to adopt rules governing the conduct of hearings pursuant to this Chapter.
- (9) The need for the Commissioner of Insurance to implement the provisions of G.S. 58-2-205.
- (10) The need for the State Chief Information Officer to implement the information technology procurement provisions of Article 15 of Chapter 143B of the General Statutes.
- (11) The need for the State Board of Elections to adopt a temporary rule after prior notice or hearing or upon any abbreviated notice or hearing the agency finds practical for one or more of the following:

a.In accordance with the provisions of G.S. 163-22.2.

b.To implement any provisions of state or federal law for which the State Board of Elections has been authorized to adopt rules.

c.The need for the rule to become effective immediately in order to preserve the integrity of upcoming elections and the elections process.

(12) Repealed by Session Laws 2015-264, s. 22, effective October 1, 2015.

(13) ,(14) Reserved.

(15) Expired pursuant to Session Laws 2002-164, s. 5, effective October 1, 2004.

(16) Expired pursuant to Session Laws 2003-184, s. 3, effective July 1, 2005.

(17) To maximize receipt of federal funds for the Medicaid or NC Health Choice programs within existing State appropriations, to reduce Medicaid or NC Health Choice expenditures, and to reduce Medicaid and NC Health Choice fraud and abuse.

§ 150B-21.1(a1)

Recodified as subdivision (a)(16) of this section by Session Laws 2004-156, s. 1.

- § 150B-21.1(a2)** A recent act, change, regulation, or order as used in subdivisions (2) through (5) of subsection (a) of this section means an act, change, regulation, or order occurring or made effective no more than 210 days prior to the submission of a temporary rule to the Rules Review Commission. Upon written request of the agency, the Commission may waive the 210-day requirement upon consideration of the degree of public benefit, whether the agency had control over the circumstances that required the requested waiver, notice to and opposition by the public, the need for the waiver, and previous requests for waivers submitted by the agency.
- § 150B-21.1(a3)** Unless otherwise provided by law, the agency shall:
- (1) At least 30 business days prior to adopting a temporary rule, submit the rule and a notice of public hearing to the Codifier of Rules, and the Codifier of Rules shall publish the proposed temporary rule and the notice of public hearing on the internet to be posted within five business days.
 - (2) At least 30 business days prior to adopting a temporary rule, notify persons on the mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a temporary rule and of the public hearing.
 - (3) Accept written comments on the proposed temporary rule for at least 15 business days prior to adoption of the temporary rule.
 - (4) Hold at least one public hearing on the proposed temporary rule no less than five days after the rule and notice have been published. If notice of a public hearing has been published and that public hearing has been cancelled, the agency shall publish notice at least five days prior to the date of any rescheduled hearing.
- § 150B-21.1(a4)** An agency must also prepare a written statement of its findings of need for a temporary rule stating why adherence to the notice and hearing requirements in G.S. 150B-21.2 would be contrary to the public interest and why the immediate adoption of the rule is required. If the temporary rule establishes a new fee or increases an existing fee, the agency shall include in the written statement that it has complied with the requirements of G.S. 12-3.1. The statement must be signed by the head of the agency adopting the temporary rule.
- § 150B-21.1(b)** Review. - When an agency adopts a temporary rule it must submit the rule and the agency's written statement of its findings of the need for the rule to the Rules Review

Commission. Within 15 business days after receiving the proposed temporary rule, the Commission shall review the agency's written statement of findings of need for the rule and the rule to determine whether the statement meets the criteria listed in subsection (a) of this section and the rule meets the standards in G.S. 150B-21.9. The Commission shall direct a member of its staff who is an attorney licensed to practice law in North Carolina to review the statement of findings of need and the rule. The staff member shall make a recommendation to the Commission, which must be approved by the Commission or its designee. The Commission's designee shall be a panel of at least three members of the Commission. In reviewing the statement, the Commission or its designee may consider any information submitted by the agency or another person. If the Commission or its designee finds that the statement meets the criteria listed in subsection (a) of this section and the rule meets the standards in G.S. 150B-21.9, the Commission or its designee must approve the temporary rule and deliver the rule to the Codifier of Rules within two business days of approval. The Codifier of Rules must enter the rule into the North Carolina Administrative Code on the sixth business day following receipt from the Commission or its designee.

§ 150B-21.1(b1)

If the Commission or its designee finds that the statement does not meet the criteria listed in subsection (a) of this section or that the rule does not meet the standards in G.S. 150B-21.9, the Commission or its designee must immediately notify the head of the agency. The agency may supplement its statement of need with additional findings or submit a new statement within 30 days of the notification. If the agency fails to supplement its statement of need with additional findings or submit a new statement to the Commission within 30 days, or submits written notice within 30 days to the Commission that the agency does not intend to supplement its statement of need with additional findings or submit a new statement, the Commission or its designee shall immediately return the rule to the agency. If the agency provides additional findings or submits a new statement within 30 days of the notification, the Commission or its designee must review the additional findings or new statement within five business days after the agency submits the additional findings or new statement. If the Commission or its designee again finds that the statement does not meet the criteria listed in subsection (a) of this section or that the rule does not meet the standards in G.S. 150B-21.9, the Commission or its designee must immediately notify the head of the agency and return the rule to the agency. When the Commission returns a rule to an agency in accordance with this subsection, the agency may file an action for declaratory judgment within 30 days after notification of the return of the rule by the Commission in Wake County Superior Court pursuant to Article 26 of Chapter 1 of the General Statutes.

- § 150B-21.1(b2)** If an agency decides not to provide additional findings or submit a new statement when notified by the Commission or its designee that the agency's findings of need for a rule do not meet the required criteria or that the rule does not meet the required standards, the agency must notify the Commission or its designee of its decision. The Commission or its designee shall then return the rule to the agency. When the Commission returns a rule to an agency in accordance with this subsection, the agency may file an action for declaratory judgment in Wake County Superior Court pursuant to Article 26 of Chapter 1 of the General Statutes within 30 days of the date the rule is returned to the agency.
- § 150B-21.1(b3)** Notwithstanding any other provision of this subsection, if the agency has not complied with the provisions of G.S. 12-3.1, the Codifier of Rules shall not enter the rule into the Code.
- § 150B-21.1(b4)** When the Commission returns to an agency a proposed permanent rule intended to replace a temporary rule, the holder of a permit from the agency may submit revised plans for a revised permit removing the impacts of the returned rule if all of the following conditions apply:
- (1) The permit was conditioned upon adherence to the requirements of a temporary rule that the returned proposed permanent rule was intended to replace.
 - (2) The revised plans comply with all other applicable regulations.
- The agency shall review the revised plans and approve or deny the revised permit within 45 days of the receipt of the revised plans. The agency may not impose an additional permit fee for review of a revised plan resulting from the expiration of a temporary rule.
- § 150B-21.1(c)** Standing. - A person aggrieved by a temporary rule adopted by an agency may file an action for declaratory judgment in Wake County Superior Court pursuant to Article 26 of Chapter 1 of the General Statutes. In the action, the court shall determine whether the agency's written statement of findings of need for the rule meets the criteria listed in subsection (a) of this section and whether the rule meets the standards in G.S. 150B-21.9. The court shall not grant an ex parte temporary restraining order.
- § 150B-21.1(c1)** Filing a petition for rulemaking or a request for a declaratory ruling with the agency that adopted the rule is not a prerequisite to filing an action under this subsection.

A person who files an action for declaratory judgment under this subsection must serve a copy of the complaint on the agency that adopted the rule being contested, the Codifier of Rules, and the Commission.

§ 150B-21.1(d)

Effective Date and Expiration. - A temporary rule becomes effective on the date specified in G.S. 150B-21.3. A temporary rule expires on the earliest of the following dates:

- (1) The date specified in the rule.
- (2) The effective date of the permanent rule adopted to replace the temporary rule, if the Commission approves the permanent rule.
- (3) The date the Commission returns to an agency a permanent rule the agency adopted to replace the temporary rule.
- (4) The effective date of an act of the General Assembly that specifically disapproves a permanent rule adopted to replace the temporary rule.
- (5) 270 days from the date the temporary rule was published in the North Carolina Register, unless the permanent rule adopted to replace the temporary rule has been submitted to the Commission.
- (6) Notwithstanding subdivision (5) of this subsection, 12 months after the effective date of the temporary rule.

§ 150B-21.1(e)

Publication. - When the Codifier of Rules enters a temporary rule in the North Carolina Administrative Code, the Codifier must publish the rule in the North Carolina Register.

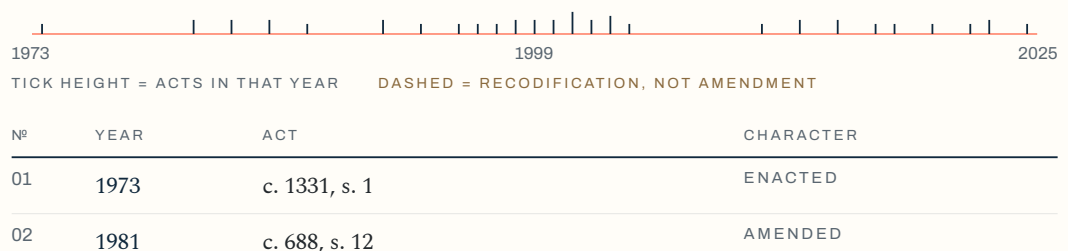
END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
42 ACTS

Amendment lineage

The State prints this history as a single parenthetical at the foot of the section. It is reproduced verbatim in the colophon and unpacked below in order of enactment.



03	1981	1981 (Reg. Sess., 1982), c. 1232, s. 1	AMENDED
04	1983	c. 857	AMENDED
05	1983	c. 927, ss. 4, 8	AMENDED
06	1985	c. 746, s. 1	AMENDED
07	1985	1985 (Reg. Sess., 1986), c. 1022, s. 1(1), 1(8)	AMENDED
08	1987	c. 285, ss. 10-12	AMENDED
09	1991	c. 418, s. 1	AMENDED
10	1991	1991 (Reg. Sess., 1992), c. 900, s. 149	AMENDED
11	1993	c. 553, s. 54	AMENDED
12	1995	c. 507, s. 27.8(c)	AMENDED
13	1996	2nd Ex. Sess., c. 18, ss. 7.10(c), (d)	AMENDED
14	1997	S.L. 1997-403, ss. 1-3	AMENDED
15	1998	S.L. 1998-127, s. 2	AMENDED
16	1998	S.L. 1998-212, s. 26B(h)	AMENDED
17	1999	S.L. 1999-434, s. 16	AMENDED
18	1999	S.L. 1999-453, s. 5(a)	AMENDED
19	2000	S.L. 2000-69, ss. 3, 5	AMENDED
20	2000	S.L. 2000-148, ss. 4, 5	AMENDED
21	2001	S.L. 2001-126, s. 12	AMENDED
22	2001	S.L. 2001-421, ss. 2.3, 5.3	AMENDED
23	2001	S.L. 2001-424, ss. 27.17(b), (c), 27.22(a), (b)	AMENDED
24	2001	S.L. 2001-487, s. 21(g)	AMENDED
25	2002	S.L. 2002-97, ss. 2, 3	AMENDED
26	2002	S.L. 2002-164, s. 4.6	AMENDED
27	2003	S.L. 2003-184, s. 3	AMENDED
28	2003	S.L. 2003-229, s. 2	AMENDED
29	2003	S.L. 2003-413, ss. 27, 29	AMENDED
30	2004	S.L. 2004-156, s. 1	AMENDED
31	2011	S.L. 2011-398, s. 4	AMENDED
32	2013	S.L. 2013-360, s. 12H.9(d)	AMENDED

33	2013	S.L. 2013-413, s. 39	AMENDED
34	2015	S.L. 2015-241, s. 7A.4(ee)	AMENDED
35	2015	S.L. 2015-264, s. 22	AMENDED
36	2017	S.L. 2017-6, s. 3	AMENDED
37	2018	S.L. 2018-146, ss. 3.1(a), (b), 6.1	AMENDED
38	2020	S.L. 2020-3, s. 4.25(a)	AMENDED
39	2022	S.L. 2022-74, s. 9D.15(z)	AMENDED
40	2023	S.L. 2023-11, s. 3.2(h)	AMENDED
41	2023	S.L. 2023-134, s. 21.2(a)	AMENDED
42	2025	S.L. 2025-25, s. 29(3), (6)	AMENDED

APPARATUS II

9 AUTHORITIES

Authorities referenced

Every G.S. cross-reference appearing in the text of this section, in order of first appearance. Nothing is characterized; the operative language is quoted from the section itself.

REFERENCE	APPEARS IN	OPERATIVE LANGUAGE IN THIS SECTION
G.S. 150B-21.2	(a)	"the notice and hearing requirements of"
G.S. 131E-183(b)	(a)(6)	"establishing review criteria as authorized by"
G.S. 113-129(8a)	(a)	"public game lands as defined in"
G.S. 58-2	(a)(9)	"Insurance to implement the provisions of"
G.S. 163-22.2	(a)	"In accordance with the provisions of"
G.S. 150B-21.2(d)	(a3)(2)	"the mailing list maintained pursuant to"
G.S. 12-3.1	(a4)	"has complied with the requirements of"
G.S. 150B-21.9	(b)	"the rule meets the standards in"
G.S. 150B-21.3	(d)	"effective on the date specified in"

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 150B-21.1 (2025).

PINPOINT

N.C. Gen. Stat. § 150B-21.1(a) (2025).

Pinpoint keys are set in the left margin of the text rather than line numbers: subsection designators are stable across editions and paper sizes, line numbers are not.

COLOPHON

Provenance

This document reproduces the text of one section of the General Statutes of North Carolina from a source file whose SHA-256 digest is printed on every page. The digest fixes the bytes this export was made from; if the State's file changes, the digest will not match.

The text of the section is unaltered. Subsection designators have been moved from the run of text into the margin. The amendment history and the table of authorities are derived from the section by mechanical extraction — they add no characterization of the law.

This is not the official text. The official text is published by the General Assembly of North Carolina.

HISTORY PARENTHETICAL, AS PRINTED BY THE STATE

(1973, c. 1331, s. 1; 1981, c. 688, s. 12; 1981 (Reg. Sess., 1982), c. 1232, s. 1; 1983, c. 857; c. 927, ss. 4, 8; 1985, c. 746, s. 1; 1985 (Reg. Sess., 1986), c. 1022, s. 1(1), 1(8); 1987, c. 285, ss. 10-12; 1991, c. 418, s. 1; 1991 (Reg. Sess., 1992), c. 900, s. 149; 1993, c. 553, s. 54; 1995, c. 507, s. 27.8(c); 1996, 2nd Ex. Sess., c. 18, ss. 7.10(c), (d); 1997-403, ss. 1-3; 1998-127, s. 2; 1998-212, s. 26B(h); 1999-434, s. 16; 1999-453, s. 5(a); 2000-69, ss. 3, 5; 2000-148, ss. 4, 5; 2001-126, s. 12; 2001-421, ss. 2.3, 5.3; 2001-424, ss. 27.17(b), (c), 27.22(a), (b); 2001-487, s. 21(g); 2002-97, ss. 2, 3; 2002-164, s. 4.6; 2003-184, s. 3; 2003-229, s. 2; 2003-413, ss. 27, 29; 2004-156, s. 1; 2011-398, s. 4; 2013-360, s. 12H.9(d); 2013-413, s. 39; 2015-241, s. 7A.4(ee); 2015-264, s. 22; 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1; 2020-3, s. 4.25(a); 2022-74, s. 9D.15(z); 2023-11, s. 3.2(h); 2023-134, s. 21.2(a); 2025-25, s. 29(3), (6).)

SET IN SPECTRAL AND ARCHIVO
NORTH CAROLINA LAW — STATUTE EXPORT, FORMAT V1

