

10A NCAC 15 .0112 PETITIONING FOR RULEMAKING

(a) Except for petitions regarding the rules in Section .1100 of this Chapter, any person wishing to submit a petition for rulemaking requesting the adoption, amendment, or repeal of a rule in this Chapter shall address the petition to the Radiation Protection Commission, care of the Radiation Protection Section, and submit the petition to one of the addresses shown in Rule .0111(a) of this Section. A petition for adoption, amendment, or repeal of a rule in Section .1100 of this Chapter shall be addressed to the Department of Health and Human Services, care of the Radiation Protection Section, and submitted to one of the addresses shown in Rule .0111(a) of this Section.

(b) Petitions to adopt a new rule, or to amend or repeal an existing rule shall contain the following information:

- (1) the proposed text of the new rule or the proposed text amending a rule. If the petition is for the repeal of a rule, the petitioner shall not be required to submit proposed rule text;
- (2) statutory authority supporting the new rule, or amending or repealing a rule;
- (3) reason for the proposed rulemaking action;
- (4) effect of the proposed rule change on existing rules;
- (5) effect of the proposed rule change on existing practices;
- (6) information supporting the proposed rulemaking;
- (7) effect of the proposed rule change on the regulated community and the public; and
- (8) name and contact information of the petitioner.

(c) The agency shall determine if the petitioned rule change is authorized under Chapter 104E of the Act. The agency shall maintain a record of this review.

(d) Petitions failing to contain the information required by Subparagraphs (b)(1) through (b)(7) of this Rule and petitions for rulemaking activities that are not authorized by Chapter 104E of the Act as determined by the agency under Paragraph (c) of this Rule shall be denied and the petitioner shall be notified by the agency of this decision and the reason for this decision if the information required by Subparagraph (b)(8) of this Rule is provided in the petition. Denial of a petition for failing to contain the information required by Paragraph (b) of this Rule shall not preclude resubmitting a corrected petition.

(e) Except for petitions denied in accordance with Paragraph (d) of this Rule, the agency shall send the petition to the Department of Health and Human Services (Department). The Department shall provide copies of the documents required by G.S. 150B-20(a) to the Office of Administrative Hearings.

(f) Except for petitions denied in accordance with Paragraph (d) of this Rule, and petitions for changes to the rules in Section .1100 of this Chapter, the agency shall submit the rulemaking petition to the Radiation Protection Commission (Commission). The agency may include written recommendations to the Commission endorsing or not endorsing the petition for rulemaking when it submits the petition to the Commission.

(g) The Commission shall grant or deny a rulemaking petition within the time requirements of G.S. 150B-20(b). The Commission shall grant or deny a rulemaking petition based on the requirements of G.S. 104E-7(a). The petitioner shall be notified in writing of this decision and the reason for this decision if the information required by Subparagraph (b)(8) of this Rule is provided in the petition. If the Commission grants the rulemaking petition the Commission shall initiate rulemaking proceedings.

(h) Except for petitions denied in accordance with Paragraph (d) of this Rule, the agency shall submit petitions for changes to the Rules in Section .1100 of this Chapter to the Department. The agency may include written recommendations to the Department endorsing or not endorsing the petition for rulemaking when it submits the petition to the Department.

(i) The Department shall grant or deny a rulemaking petition regarding the Rules in Section .1100 of this Chapter within the time requirements of G.S. 150B-20(b). The Department shall grant or deny a rulemaking petition regarding the Rules in Section .1100 of this Chapter based on the requirements of G.S. 104E-19. The petitioner shall be notified in writing of this decision and the reason for this decision if the information required by Subparagraph (b)(8) of this Rule is provided in the petition. If the Department grants the rulemaking petition the Department shall initiate rulemaking proceedings.

(j) Failure of the Commission or the Department to grant or deny a rulemaking petition within the time limit set in this Rule is a denial of the petition for rulemaking.

(k) Denial of a rulemaking petition is a final agency decision and is subject to judicial review as specified by G.S. 150B-20(d).

*History Note: Authority G.S. 104E-7; 104E-15;
Eff. February 1, 1980;
Amended Eff. November 1, 1989;
Transferred and Recodified from 10 NCAC 3G .2213 Eff. January 4, 1990;*

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Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 22,
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