

SECTION .0100 - STATUTORY AND ADMINISTRATIVE PROVISIONS

21 NCAC 21 .0101 AUTHORITY, NAME AND LOCATION OF BOARD

The North Carolina Board for Licensing of Geologists (the "Board") is governed by Chapter 89E of the General Statutes of North Carolina. Unless otherwise directed, all communications shall be addressed to the Board at Post Office Box 41225, Raleigh, North Carolina 27629.

History Note: Authority G.S. 89E-4;
Eff. February 1, 1986;
Amended Eff. April 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014;
Amended Eff. June 1, 2017.

21 NCAC 21 .0102 PURPOSE OF THE ACT

History Note: Authority G.S. 89E-2;
Eff. February 1, 1986;
Repealed Eff. April 1, 1989.

21 NCAC 21 .0103 ORGANIZATION OF THE BOARD

(a) Meetings shall be open and public except that the Board may meet in closed sessions to prepare, approve, administer, or grade examinations; to deliberate the qualifications of an applicant for license; or to deliberate on the disposition of a proceeding to discipline a licensed geologist.

(b) The Board shall have power to compel the attendance of witnesses, to administer oaths, and to take testimony and proofs of all matters within its jurisdiction as allowed by Article 3A of G.S. 150B.

(c) The Chair and ex-officio member shall be full voting members of the Board.

History Note: Authority G.S. 89E-4; 89E-5; 143-318.18(6); 150B-39; 150B-40;
Eff. February 1, 1986;
Amended Eff. April 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014;
Amended Eff. June 1, 2017.

21 NCAC 21 .0104 DUTIES OF OFFICERS

(a) Board Chair:

(1) The Chair shall preside at all meetings when present, appoint all committees, sign all certificates issued, and perform all other duties pertaining to his office.

(2) The Chair, together with the Board Counsel and Board Executive Director, shall determine if a complaint submitted to the Board is complete pursuant to the requirements of G.S. 89-17 and Rules .0501 and .0514 of this Chapter and, if so, shall forward it to an investigator. In addition, the Chair shall be responsible for evaluating the investigative report and proposing further action as authorized by Rule .0515 of this Chapter. If the Chair identifies a conflict of interest as defined by G.S.138A-36(a) or Rule .0513 of this Chapter, the Vice-Chair shall review the Complaint. If both Chair and Vice-Chair have a conflict of interest, the Secretary-Treasurer shall review the Complaint. If none of these persons can serve, then the Chair shall designate another Board member to review the Complaint.

(b) Board Vice-Chair. The Vice-Chair, in the absence of the Chair, shall perform all of the duties of the Chair. The Vice-Chair shall sign all certificates issued.

(c) Secretary- Treasurer:

(1) The Secretary-Treasurer, with the assistance of an Executive Director or such other officers or employees as may be approved by the Board, shall conduct and care for all the correspondence of the Board, keep the minutes of all the meetings, keep all books and records, and sign all certificates issued. The Secretary-Treasurer shall have charge, care and custody of the official

documents of the Board. The Secretary-Treasurer shall provide due notice of the time and place of all meetings of the Board to each member of the Board.

- (2) The Secretary-Treasurer, with the assistance of an Executive Director or such other officers or employees as may be approved by the Board, shall receive all moneys from applicants for annual renewal or other fees and deposit them in an authorized depository of the Board. The Secretary-Treasurer shall give bond to be conditioned on the faithful performance of the duties of this office and on the faithful accounting of all monies and other property as shall come into this officer's hands.
- (3) The Secretary-Treasurer, with the assistance of an Executive Director or such other officers or employees as may be approved by the Board, shall provide to each applicant for a license or registration a current copy of G.S. 89E and the rules of this Chapter. Copies of the Geologists Licensing Act and the rules of this Chapter shall be provided by mail with the application packet or in electronic format on the Board's Internet website (www.ncblg.org) with the on-line application packet.

*History Note: Authority G.S. 89E-4; 89E-5; 89-17;
Eff. February 1, 1986;
Amended Eff. April 1, 2003; April 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014;
Amended Eff. June 1, 2017.*

21 NCAC 21 .0105 SEAL OF BOARD

The seal shall have the words "North Carolina Board for Licensing of Geologists" and the secretary-treasurer shall have charge, care and custody thereof.

*History Note: Authority G.S. 89E-5;
Eff. February 1, 1986;
Amended Eff. April 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014.*

21 NCAC 21 .0106 FORMS

*History Note: Authority G.S. 55B-2(6); 55B-10; 89E-8; 89E-10; 89E-11; 89E-12;
Eff. February 1, 1986;
Amended Eff. January 1, 1992; April 1, 1989; March 1, 1988;
Repealed Eff. May 1, 2003.*

21 NCAC 21 .0107 FEES

(a) Completed application forms must be accompanied by the prescribed fee. Application fees shall not be refunded regardless of Board approval or disapproval of the application. Fees shall be:

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| (1) | Application for license | \$ 55.00 |
| (2) | Application for registration | \$ 50.00 |
| (3) | Examination per part: cost plus | \$ 30.00 |
| (4) | Annual renewal of license | \$ 85.00 |
| (5) | Annual renewal of certificate of registration for corporation or limited liability company | \$ 25.00 |
| (6) | Application for reinstatement of license | \$150.00 |
| (7) | Application for reinstatement of registration | \$ 10.00 |
| (8) | Replacement of license or registration certificate | \$ 10.00 |
| (9) | Licensed geologist stamp or seal: cost plus | \$ 7.50 |
| (10) | Registered geological corporation or limited liability company stamp or seal: cost plus | \$ 7.50 |

(b) All licenses shall expire on July 1. Annual license renewal fees received after July 1 and before August 1 of the year due shall be accompanied by a late payment penalty of fifty dollars (\$50.00).

- (c) Licenses that have not been renewed by August 1 may only be renewed by:
- (1) filing a reinstatement application, demonstrating that the applicant is otherwise qualified and entitled to license renewal, in accordance with Rule .0302 of this Chapter;
 - (2) payment of any delinquent annual fees having accrued since the last timely renewal of the license; and
 - (3) payment of the reinstatement fee specified in Subparagraph (a)(6) of this Rule.
- (d) All registrations shall expire on July 1. If a corporation or limited liability company fails to apply for renewal of its certificate of registration by August 1 of the year due, the registration may only be renewed by:
- (1) filing a reinstatement application, demonstrating that the firm is otherwise qualified and entitled to a renewal of its certificate of registration, in accordance with Rule .0302 of this Chapter;
 - (2) payment of the required renewal fee; and
 - (3) payment of the reinstatement fee specified in Subparagraph (a)(7) of this Rule.
- (e) Licenses and registrations that have been revoked under G.S. 89E-19 may be reinstated by filing a reinstatement application in accordance with Rule .0302 of this Chapter and paying the reinstatement fee specified in Subparagraph (a)(6) or (a)(7) of this Rule, as applicable.
- (f) Extensions for certain members of armed forces. Individuals who are serving in the armed forces of the United States to whom an extension of time to file a tax return has been granted by G.S. 105-249.2 shall be granted the same extension of time to pay their annual license fee. Such individuals shall provide to the Board documentation to support their request for extension.

History Note: Authority G.S. 55B-2(6); 55B-10; 55B-11; 89E-5; 89E-8; 89E-10; 89E-12; 89E- 13; 89E-19; 93B-15; 105-249.2;
Eff. February 1, 1986;
Amended Eff. April 1, 2003; May 1, 1994; April 1, 1993; January 1, 1992; April 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014.

SECTION .0200 - RECORDS AND REPORTS OF BOARD: RETENTION AND DISPOSITION

21 NCAC 21 .0201 RECORDS OF BOARD PROCEEDINGS

History Note: Authority G.S. 89E-14(a);
Eff. February 1, 1986;
Repealed Eff. April 1, 1989.

21 NCAC 21 .0202 RECORDS OF APPLICATIONS

All records of applications for registration shall be retained by the Board.

History Note: Authority G.S. 89E-14;
Eff. February 1, 1986;
Amended Eff. April 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014.

21 NCAC 21 .0203 ROSTER OF LICENSED GEOLOGISTS

Every individual licensee has the continuing responsibility of keeping the Board currently advised of the licensee's proper and current mailing address and the name or names under which the licensee is practicing. Each licensee shall immediately notify the Board of any and all changes of association or address.

History Note: Authority G.S. 89E-15;
Eff. February 1, 1986;
Amended Eff. April 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014.

21 NCAC 21 .0204 APPLICABILITY OF BOARD RULES

*History Note: Authority G.S. 89E-5(h);
Eff. February 1, 1986;
Repealed Eff. April 1, 1989.*

SECTION .0300 - LICENSING OF GEOLOGISTS

21 NCAC 21 .0301 REQUIREMENTS FOR LICENSING

(a) Education. In determining whether an applicant meets the education requirements of the Geologists Licensing Act, the Board shall accept transcripts from colleges and universities that are accredited by a national or regional accrediting organization such as the Southern Association of Colleges and Schools. An applicant shall have:

- (1) graduated from an accredited college or university and have a degree with a major in geology, engineering geology or geological engineering, or related geological science; or
- (2) completed 30 hours of geological study or the equivalent in geological science courses leading to a major in geology, of which at least 24 hours of the equivalent shall have been upper-level undergraduate courses or graduate courses in areas such as geology, geophysics, geochemistry, oceanography, paleontology, hydrology, soil science, economic geology, and engineering geology.

(b) References. Five letters of reference submitted to the Board which shall satisfy the Board as to the character, reputation, responsibility, integrity and competence of the applicant. These letters of reference must be submitted by licensed geologists or engineers. No member of the Board shall act as a reference for any applicant for licensing. At least two of the five letters of reference must be submitted by licensed geologists who are familiar with the applicant's work in the field of geology.

(c) Written Examination. Except as provided in Paragraph (e) of this Rule, applicants shall pass the written examination administered by the Board in conjunction with the National Association of State Boards of Geology (A.S.B.O.G.). The applicant shall be notified, not less than 30 days before the examination, of the time and place of the examination. An applicant having a record of three failures shall not be allowed to take that examination again until the applicant makes a written appeal to the Board and the Board confirms the applicant is qualified for examination pursuant to the rules in this Section. The applicant shall demonstrate to the Board that actions have been taken to improve the applicant's possibility of passing the exam, such as taking additional classes or gaining additional experience in the field.

(d) Experience. In determining whether an applicant meets the experience requirements of the Geologists Licensing Act, the Board shall consider the total work experience record of the applicant. The Board shall look for the applicant's ability to conduct geological work in a satisfactory manner with little or no supervision.

(e) Certificate by comity. The Board shall grant a license without further examination to a person who has been licensed by another jurisdiction to engage in the practice of geology when the applicant meets the following conditions:

- (1) the applicant has filed an application for license and paid the fee required by Rule .0107 of this Chapter;
- (2) the applicant has provided evidence of education and experience equal to the requirements of Paragraphs (a), (b), and (d) of this Rule as indicated in Rule .0302 of this Section;
- (3) the applicant is in good standing with the agency regulating the practice of geology in any jurisdiction in which the applicant holds a license to practice geology; and
- (4) the applicant has successfully passed a written examination equivalent to the examination required by the Board pursuant to G.S. 89E-9 and Paragraph (c) of this Rule.

*History Note: Authority G.S. 89E-7; 89E-8; 89E-9; 89E-11;
Eff. February 1, 1986;
Amended Eff. April 1, 2003; April 1, 1990; April 1, 1989;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014;
Amended Eff. June 1, 2017.*

21 NCAC 21 .0302 APPLICATION PROCEDURE

(a) All applicants for licensing shall furnish the following with their applications:

- (1) an official copy of their college transcript and verification of graduation sent directly from the institution to the Board;
- (2) verification of experience in the practice of geology on forms provided by the Board and available on the Board's website, stating:
 - (A) the dates of employment;
 - (B) the name and contact information for the applicant's supervisor at each place of employment;
 - (C) a brief description of the applicant's duties and responsibilities at each place of employment; and
 - (D) each employer's opinion of the applicant's competency;
- (3) five references as defined in Rule .0301(b) of this Section;
- (4) a notarized copy of a completed application form as prescribed by the Board and available on the Board's website, stating:
 - (A) the applicant's name and contact information, birth date, and social security number;
 - (B) professional experience and education;
 - (C) information as to whether the applicant has ever been convicted of a felony or misdemeanor;
 - (D) a list of references,
 - (E) list of other licenses or registrations held by the applicant;
 - (F) the applicant's professional affiliations; and
 - (G) whether the applicant has been denied a license or certification or been subject to a disciplinary action; and
- (5) the application fee as prescribed in Rule .0107 of this Chapter.

(b) Applicants for reinstatement of an expired, suspended, or inactive license or registration shall submit a reinstatement application and shall submit the fee as provided by Rule .0107 of this Chapter.

(c) Applicants for reinstatement of a revoked license or registration shall submit such information as is required by the Board to determine eligibility for reinstatement pursuant to G.S. 89E-21, such as an explanation of why the license was revoked and information showing the applicant has cured the situation that resulted in the revocation of the license or registration, and shall submit the fee as provided by Rule .0107 of this Chapter.

(d) Additional information required by the Board to approve or deny approval on any application shall be filed with the Board within 60 days of the applicant's receipt of notice to provide such information. This may include any of the applicant's written reports, maps, published articles, or other materials the Board determines are appropriate to document the applicant's experience as a geologist. Failure to submit the supplemental information requested within the time specified by this Rule may result in the Board's rejection of the application without further notice prior to such rejection. Examples of factors that may result in the rejection of an application include information that another state has revoked applicant's license to practice geology or information that an applicant by comity is unable to show that the exam taken was equivalent to that required by the Board.

*History Note: Authority G.S. 89E-7; 89E-8; 89E-9; 89E-11; 89E-12; 89E-21;
Eff. February 1, 1986;
Amended Eff. April 1, 2003; April 1, 1990; April 1, 1989; March 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014;
Amended Eff. June 1, 2017.*

21 NCAC 21 .0303 INACTIVE STATUS

(a) The board shall grant inactive status to a licensee if:

- (1) the licensee submits a letter in writing to the Board before the current license has expired, requesting inactive status; and

- (2) at the time the letter request is submitted, the licensee's license has not been suspended, surrendered, or revoked.

The Board shall notify the licensee that he or she has been granted inactive status or the reason the request was not granted.

(b) If the licensee seeking inactive status be the person identified as the North Carolina licensed geologist for a corporation registered with the Board, another licensee who meets the statutory requirements shall be identified in order to maintain the professional corporation's registration with the Board. If this is not done before the licensee is granted inactive status, the Board shall suspend the professional corporation's registration and shall send notification of this suspension to the professional corporation by certified mail the same day the licensee is notified that the request for inactive status was granted.

(c) A geologist or registered corporation with an inactive or suspended license shall not engage in the public practice of geology in North Carolina.

(d) A geologist with an inactive license shall no longer seal and certify documents with his or her seal.

(e) The Board shall maintain a list of all inactive licensees.

(f) Any reference to an inactive geologist on a letter, title, sign, card, or devise shall list such geologist as "Retired Geologist" or "N.C. Geology License No. __ (inactive)."

(g) An individual who wishes to convert their license from inactive to active status shall submit an application for reinstatement, proof of 12 hours of continuing education taken in the 12 months prior to the reinstatement request, and payment of the reinstatement fee set forth in Rule .0107 of this Chapter.

(h) In no case shall an individual remain on inactive status for more than five years without permission of the Board. If an individual has been on inactive status for five years and does not request additional time to hold an inactive license, the license shall expire.

(i) A geologist who has been granted inactive status is not required to fulfill continuing education requirements.

History Note: Authority G.S. 89E-4; 89E-5;
Eff. June 1, 2017.

SECTION .0400 - CERTIFICATE AND SEAL

21 NCAC 21 .0401 **CERTIFICATE**
21 NCAC 21 .0402 **SEAL**

History Note: Authority G.S. 89E-5(d); 89E-18(d);
Eff. February 1, 1986;
Repealed Eff. April 1, 1989.

SECTION .0400 – CONTINUING EDUCATION

21 NCAC 21 .0403 **INTRODUCTION**

Beginning July 1, 2017 and before July 1, 2018, each person holding an active geology license shall complete 12 hours of continuing professional education relating to geology as a condition for licensure renewal.

History Note: Authority G.S. 89E-4; 89E-5;
Eff. June 1, 2017.

21 NCAC 21 .0404 **REQUIREMENTS**

(a) Each application for renewal shall include information, attested to by the licensee under penalty of perjury on a form provided by the Board and available on the Board's website, establishing that the licensee has completed the minimum required contact hours of approved continuing education, and shall state the following information:

- (1) the licensee's name;
- (2) the licensee number;
- (3) the licensee contact information;

- (4) the name of entity providing continuing education;
- (5) a description of continuing education taken;
- (6) the dates and hours the licensee participated in continuing education; and
- (7) the amount of continuing education credit claimed.

(b) Each licensee shall obtain 12 contact hours of continuing education during each renewal period. If a licensee exceeds the annual requirement in any renewal period, a maximum of 12 hours may be carried forward to the next renewal period.

(c) A contact hour is defined as actual instruction time (credited to the nearest one-quarter of an hour) received in-person or through an online class that includes interaction between the teacher and student or through any other similar format.

(d) In order to meet the requirements of this Section, courses and activities shall be in accordance with the continuing education Guidelines approved by the Board. The Board will provide a list posted on the Board's website of the professional societies whose courses have been preapproved for continuing education credit. Continuing education credit may be earned through any of the following activities:

- (1) teaching or completing for-credit courses at any accredited university or college;
- (2) teaching or completing continuing education courses, seminars, field trips, or workshops sponsored by a professional geological society or an accredited university or college;
- (3) teaching or completing course work sponsored by other professional or educational organizations approved by the Board;
- (4) presenting or attending seminars, workshops, or professional or technical presentations made at conventions, conferences of professional organizations, or at accredited universities or colleges;
- (5) presenting or attending seminars, workshops, or professional or technical presentations made by or sponsored by employers who apply geoscience skills to accomplish their organizational missions;
- (6) a licensee may receive double credits for each hour he or she teaches or presents. Teaching credit is valid for teaching a course or seminar for the first time only; and
- (7) a licensee may receive a maximum of six hours continuing education credit for a published peer reviewed book or article.

(e) Courses offered by professional societies that have not been pre-approved by the Board may be submitted, by either the licensee or course provider, for review and approval within 90 days before or 180 days after the licensee takes the course.

*History Note: Authority G.S. 89E-4; 89E-5;
Eff. June 1, 2017.*

21 NCAC 21 .0405 DETERMINATION OF CREDIT

(a) The Board shall review all information provided by the licensee on the form required by Rule .0404(a) of this Section as part of the annual license renewal. The Board may request additional information from the licensee as required to verify the continuing education earned.

(b) The Board shall determine the amount of continuing education credit earned by each licensee, based on materials submitted. The Board determination of credit shall consider the following factors:

- (1) the relevance of course material to the practice of geology, and
- (2) the number of credit hours requested.

*History Note: Authority G.S. 89E-4; 89E-5;
Eff. June 1, 2017.*

21 NCAC 21 .0406 RECORDKEEPING

(a) Records substantiating Board-approved continuing education activities shall include the following:

- (1) a log that shows the type of activity claimed; title or specific subject; the name of the organization that provided the continuing education; the location, duration, date, and instructor's or speaker's name; credit hours earned; and other information on a form as prescribed by the Board;
- (2) copies of registration receipts and brochures identifying the continuing-education activities attended by the licensee;
- (3) attendance verification records in the form of completion certificates; and
- (4) other documents that support evidence of attendance.

(b) The licensee shall maintain records that support the claimed credit hours for Board-approved continuing education activities. These records shall be maintained for a period of three years and copies may be requested by the Board for audit verification purposes.

(c) The licensee shall provide to the Board's Executive Director electronic copies of the records substantiating the continuing education activities for which he or she is claiming credit.

*History Note: Authority G.S. 89E-4; 89E-5;
Eff. June 1, 2017.*

21 NCAC 21 .0407 EXEMPTIONS

A licensee is exempt from the annual continuing education requirements as long as any of the following exceptions apply:

- (1) New licensees by way of examination shall be required to show proof of 12 hours of continuing education when his or her geology license is renewed for the second time.
- (2) New licensees by way of comity shall show proof of 12 hours of continuing education the first time his or her North Carolina license is renewed.
- (3) If currently licensed by and in good standing (license is not surrendered, suspended, or revoked) with the Board, a licensee who is serving on active duty as a member of the armed forces of the United States and who is eligible for an extension of time to file a tax return pursuant to G.S. 105-249.2 may request a waiver of the mandatory continuing education requirements for the time period disregarded pursuant to the Internal Revenue Code, 26 U.S.C. 7508, as follows:
 - (a) The licensee shall notify the Board of eligibility before the current license expires. Upon such notification, the Board shall maintain the license in active status through the extension period.
 - (b) If the licensee fails to notify the Board of eligibility for the extension period before the current license expires, upon receipt and acceptance of a renewal application within the extension period and presentation of proof that the licensee was eligible on the date that is the deadline for renewal, the expired license or registration shall be deemed retroactively to have not expired.
 - (c) The licensee who submits a renewal application within the extension period shall not be deemed to hold a lapsed license subject to reinstatement fees.
 - (d) The licensee may renew the license within the extension period despite failing to complete the specified continuing education requirements.
 - (e) A licensee shall provide proof of eligibility for the extension period when the licensee or registrant submits the renewal application, which shall include:
 - (i) a copy of military orders denoting the respective active duty period; or
 - (ii) a copy of form DD-214 denoting each respective active duty period.
- (4) If currently licensed by and in good standing (license is not surrendered, suspended, or revoked) with the Board, a licensee who is serving in a reserve component of the armed forces of the United States and completes an aggregate of 90 days active duty in a given calendar year in accordance with 10 U.S.C. 12301(a); 10 U.S.C. 12302; 10 U.S.C. 12304; or 14 U.S.C. 712 may request a waiver of the mandatory continuing education requirements during the year in which the 90-day aggregate active duty occurred, as follows:
 - (a) The licensee shall notify the Board of eligibility before the current license expires. Upon such notification, the Board shall maintain the license in active status through the extension period.
 - (b) If the licensee fails to notify the Board of eligibility for the extension period before the current license expires, upon receipt and acceptance of a renewal application within the extension period and presentation of proof that the licensee was eligible on the date that is the deadline for renewal, the expired license or registration shall be deemed retroactively to have not expired.
 - (c) The licensee who submits a renewal application within the extension period shall not be deemed to hold a lapsed license subject to reinstatement fees.
 - (d) The licensee may renew the license within the extension period despite failing to complete the specified continuing education requirements.

- (e) A licensee shall provide proof of eligibility for the extension period when the licensee or registrant submits the renewal application, which shall include:
 - (i) a copy of military orders denoting the respective active duty period; or
 - (ii) a copy of form DD-214 denoting the respective active duty period.
- (5) The Board may grant an exemption at a licensee's request if the Board determines that the licensee is experiencing physical disability, illness, or other extenuating circumstances that prevent the licensee from obtaining continuing education hours. Supporting documentation shall be furnished to the Board along with a written request.
- (6) Licensees who list their occupation as "Inactive" on the Board-approved renewal form and who are no longer providing geological services are not required to earn continuing education credits. In the event such a person elects to return to active practice of geology, 12 hours of continuing education shall be earned in the year prior to the licensee's return to active practice.

History Note: Authority G.S. 89E-4; 89E-5;
Eff. June 1, 2017.

SECTION .0500 – DISCIPLINARY ACTION AND PROCEDURE

21 NCAC 21 .0501 FILING OF CHARGES AND DISCIPLINARY ACTIONS

- (a) Any person may file a complaint with the Board against a geologist for disciplinary action based on a violation of G.S. 89E or of these Rules on a form—provided by the Board. This form is on the Board's website at www.ncblg.org and may be requested from the Board. The complainant shall provide the following information:
- (1) the name and contact information of the person making the complaint;
 - (2) the name and contact information of persons with information about the incident leading to the complaint;
 - (3) information regarding the complaint, such as the address where work was performed, a description of the work performed, and the specific plan, survey, or report documenting the work performed; and
 - (4) the statute or rule which was allegedly violated.
- (b) The complaint shall set forth the facts upon which the complaint is based. The complainant shall swear or affirm that the facts stated in the complaint are true.
- (c) Upon receipt of a complaint or upon the Board's own initiative, the Board's Executive Director, Board Chair, and counsel to the Board shall meet to determine whether the Board has jurisdiction over the complaint and whether there is good cause to proceed with an investigation.
- (d) If it is determined there are grounds to proceed, the Board's professional staff shall open a case file, notify the complainant that the complaint has been received and a file opened, notify and provide a copy of the complaint to the respondent-licensee named in the complaint and request a response, and initiate an investigation of the allegations in the complaint.
- (e) Based upon a review of the complaint or the results of the investigation, and consistent with procedures required by G.S. 150B, the Board may suspend or revoke the license or certificate of registration, may issue a reprimand as provided in Rule .0502 of this Section, or may, upon a statement of the reasons therefore, dismiss the charge as unfounded or trivial, which statement shall be mailed to the geologist and the complainant. If the Board determines that a licensee is professionally incompetent, the Board may require the licensee to demonstrate fitness to practice as allowed in G.S. 89E-19(b). In making this determination, the Board shall consider whether the licensee acted in conformance with the requirements of G.S. 89E and this Chapter. In addition to issuing a reprimand or suspending or revoking a license or certificate of registration, the Board, may impose a civil penalty pursuant to the requirements set forth in G.S. 89-19E.
- (f) The Board shall notify the complainant and the respondent-licensee in any complaint filed with the Board of the disposition of the case and may publish in the Board's newsletter or other public media any disciplinary action taken against a licensee or registrant or any legal action taken against any person found to be in violation of G.S. 89E or these Rules after all rights to appeal have been exhausted.

History Note: Authority G.S. 89E-5; 89E-17; 89E-19; 89E-20;
Eff. February 1, 1986;
Amended Eff. April 1, 1989;
Temporary Amendment Eff. November 24, 1999;

Amended Eff. April 1, 2003; August 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014;
Amended Eff. June 1, 2017.

21 NCAC 21 .0502 REPRIMAND

(a) If evidence of a violation is found, but it is determined that a disciplinary hearing is not warranted, the Board may issue a reprimand to the accused party. A record of such reprimand shall be mailed to the accused party, and within 15 days after receipt of the reprimand the accused party may refuse the reprimand and request that a hearing be held pursuant to G.S. 150B. Such refusal and request shall be addressed to the Board and filed with the Executive Director of the Board.

(b) Upon timely filing of a notice refusing the reprimand and requesting a hearing, the Board shall determine whether the Board shall conduct the evidentiary hearing or whether it shall refer the matter to the Office of Administrative Hearings for designation of an administrative law judge to conduct the hearing. If the Board elects to conduct the hearing, the legal counsel for the Board shall prepare and file a Notice of Hearing.

(c) If the Letter of Reprimand is accepted, a copy of the reprimand shall be maintained in the office of the Board. If a party receiving a reprimand wishes to file a letter rebutting his or her reprimand, he or she may in writing waive his or her right to hearing and submit a letter of rebuttal to be placed in his or her file.

History Note: Authority G.S. 89E-5; 89E-19; 89E-20;
Eff. February 1, 1986;
Amended Eff April 1, 1989;
Temporary Amendment Eff. November 24, 1999;
Amended Eff. April 1, 2003; August 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014;
Amended Eff. June 1, 2017.

21 NCAC 21 .0503 APPLICABLE HEARING RULES

21 NCAC 21 .0504 CAUTION

History Note: Authority G.S. 89E-5; 89E-20; 150B-38;
Eff. February 1, 1986;
Amended Eff. April 1, 1989;
Repealed Eff. April 1, 2003.

21 NCAC 21 .0505 RIGHT TO HEARING

When the Board initiates a disciplinary action that affects or may affect a licensee pursuant to Sections .0500 and .0600 of this Chapter, the Board shall give, by certified mail to each affected licensee at his or her last known address, a notice of the proposed action and of his or her right to a hearing.

History Note: Authority G.S. 89E-20; 150B-11; 150B-38;
Eff. February 1, 1986;
Amended Eff. April 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014;
Amended Eff. June 1, 2017.

21 NCAC 21 .0506 REQUEST FOR HEARING

(a) When an individual believes his or her rights, duties, or privileges have been or may be affected by the Board's administrative action, but has not received notice of a right to an administrative hearing, he or she may file a request for a hearing.

(b) The request shall bear the notation: RE: REQUEST FOR ADMINISTRATIVE HEARING. That request shall contain the following information:

- (1) name and address of the petitioner;
- (2) a concise statement of the action taken by the Board which is challenged;

- (3) a concise statement of the way in which the petitioner has been aggrieved; and
 - (4) a clear and specific request for a hearing.
- (c) Such a request shall be acknowledged and, if deemed appropriate under Rule 21 NCAC 21 .0507, a hearing shall be scheduled.

History Note: Authority G.S. 89E-20; 150B-11; 150B-38;
Eff. February 1, 1986;
Amended Eff. April 1, 1989;
Pursuant to G.S. 150B 21.3A, rule is necessary without substantive public interest Eff. December 16, 2014;
Amended Eff. June 1, 2017.

21 NCAC 21 .0507 GRANTING OR DENYING HEARING REQUESTS

- (a) The Board will grant a request for a hearing if it determines that the party requesting the hearing is a "person aggrieved" within the meaning of G.S. 150B-2(6).
- (b) The denial of a request for a hearing will be issued immediately upon decision, and in no case later than 60 days after the submission of the request. Such denial shall contain a statement of the reasons leading the Board to deny the request.
- (c) Approval of a request for a hearing will be signified by issuing a notice as required by G.S. 150B-38(b).

History Note: Authority G.S. 89E-20; 150B-11; 150B-38;
Eff. February 1, 1986;
Amended Eff. April 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014.

21 NCAC 21 .0508 NOTICE OF HEARING

- (a) In addition to the items specified in General Statutes 150B-38(b) to be included in the notice, notices of administrative hearings of the Board:
 - (1) shall give the name, position, address and telephone number of a person in the Board office to contact for further information or discussion;
 - (2) may give notice of the date, time, and place for a prehearing conference, if any; and
 - (3) may include any other information deemed relevant to informing the party or parties as to the procedure of the hearing.
- (b) If the Board determines that the public health, safety or welfare requires such action, it may issue an order summarily suspending a license. Upon service of the order, the licensee to whom the order is directed shall immediately cease the practice of geology in North Carolina. The Board shall promptly give notice of hearing pursuant to G.S. 150B-38 following service of the order. The suspension shall remain in effect pending issuance by the Board of a final agency decision pursuant to G.S. 150B-42.

History Note: Authority G.S. 89E-19; 89E-20; 150B-3; 150B-11; 150B-38;
Eff. February 1, 1986;
Amended Eff. April 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014.

21 NCAC 21 .0509 NO EX PARTE COMMUNICATIONS

History Note: Authority G.S. 89E-20; 150B-35;
Eff. February 1, 1986;
Repealed Eff. April 1, 1989.

21 NCAC 21 .0510 PETITION FOR INTERVENTION

- (a) A person desiring to intervene in a contested case must file a written petition with the Board. The request should bear the notation: RE PETITION TO INTERVENE IN THE CASE OF (name of case).
- (b) The petition must contain the information specified in Rule 24 of the North Carolina Rules of Civil Procedure.
- (c) If the Board determines to allow intervention, notice of that decision will be issued promptly to all parties and to the petitioner.
- (d) If the Board denies intervention, the petitioner will be notified promptly. Such notice will be in writing, will state the reasons for the decision, and will be issued to the petitioner and all parties.

History Note: Authority G.S. 89E-20; 150B-38;
Eff. February 1, 1986;
Amended Eff. April 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014.

21 NCAC 21 .0511 TYPES OF INTERVENTION

The Board shall allow intervention as provided by Rule 24 of the North Carolina Rules of Civil Procedure.

History Note: Authority G.S. 89E-20; 150B-38;
Eff. February 1, 1986;
Amended Eff. April 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014;
Amended Eff. June 1, 2017.

21 NCAC 21 .0512 HEARING OFFICERS: DESIGNATION: POWERS

History Note: Authority G.S. 89E-20; 150B-32; 150B-33;
Eff. February 1, 1986;
Repealed Eff. April 1, 1989.

21 NCAC 21 .0513 DISQUALIFICATION OF BOARD MEMBERS

- (a) Self-disqualification. If for any reason a Board member determines that personal bias or other factors render him or her unable to participate in a contested case hearing and perform all duties in an impartial manner, he or she shall submit, in writing, to the Board, his or her disqualification and the reasons.
- (b) Petition for Disqualification. If for any reason any party in a contested case believes that a Board member is personally biased or otherwise unable to participate in a contested case hearing and perform all duties in an impartial manner, the party may file a sworn, notarized affidavit with the Board. The title of such affidavit shall bear the notation: AFFIDAVIT OF DISQUALIFICATION OF BOARD MEMBER IN THE CASE OF [name of case].
- (c) Contents of Affidavit. The affidavit shall state all facts the party deems relevant to the disqualification of the Board member.
- (d) Timeliness and Effect of Affidavit. An affidavit of disqualification shall be considered timely if filed ten days before the commencement of the hearing or at the first opportunity after the party becomes aware of facts set forth in the affidavit. Where a petition for disqualification is filed less than ten days before or during the course of a hearing, the hearing shall continue with the challenged Board member sitting. Petitioner shall have the opportunity to present evidence supporting his or her petition, and the petition and any evidence relative thereto presented at the hearing shall be made a part of the record. The Board, before rendering its decision, shall decide whether the evidence justifies disqualification. In the event of disqualification, the disqualified member shall not participate in further deliberation or decision of the case.
- (e) Procedure for Determining Disqualification:
 - (1) the Board shall appoint a Board member to investigate the allegations of the affidavit;
 - (2) the investigator shall report to the Board the findings of the investigation;
 - (3) the Board shall decide whether to disqualify the challenged individual;
 - (4) the person whose disqualification is to be determined shall not participate in the decision but may be called upon to furnish information to the other members of the Board;

- (5) when a Board member is disqualified prior to the commencement of the hearing or after the hearing has begun, such hearing shall continue with the remaining members sitting provided that the remaining members still constitute a majority of the Board; and
- (6) if three or more members of the Board are disqualified pursuant to this Rule, the Board shall petition the Office of Administrative Hearings to appoint an administrative law judge to hear the contested case pursuant to G.S. 150B-40(e).

History Note: Authority G.S. 89E-20; 150B-11; 150B-38; 150B-40; Eff. February 1, 1986; Amended Eff. April 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014; Amended Eff. June 1, 2017.

21 NCAC 21 .0514 INVESTIGATION

(a) Complaints received by the Board which are determined to be within the jurisdiction of the Board following review by the Board Chair, the Executive Director, and the Board's Counsel and to provide the information required by Rule .0501 of this Section shall be forwarded to an investigator for further inquiry as to whether the acts or omissions alleged violate the provisions of G.S. 89E, the Board's Rules of Professional Conduct, or any other rules of this Chapter. The Board's Executive Director shall notify the licensee or corporate registrant of the complaint that:

- (1) the licensee or corporate registrant has a duty to cooperate fully with the investigation by the Board; and
- (2) the licensee or corporate registrant may submit a written response to the complaint.

(b) The investigator shall collect all information needed to determine whether a violation has occurred and the nature and severity of the violation. Information gathered during the course of an investigation shall be treated by the Board as confidential information in accordance with G.S. 89E-17(c) until the Board takes disciplinary action against the licensee or registered corporation.

(c) After collecting information relevant to the complaint, the investigator shall submit a report that consists of the complaint, information gathered in the course of investigation, and the investigator's conclusion to a peer-review committee for evaluation. The peer-review committee shall consist of at least two licensed geologists. The peer reviewers and investigator may consult to discuss the investigation into the complaint and their conclusions regarding the complaint. The peer reviewers shall prepare a written evaluation that documents whether any violation of the provisions of G.S. 89E, the Board's Rules of Professional Conduct, or any other rules of this Chapter has occurred.

(d) The investigation report (including the supporting information relevant to the complaint) and the written evaluation of the peer-review committee shall be submitted to the Executive Director of the Board to be added to the licensee's written response to the complaint, if any, for further proceedings in accordance with Rule .0515 of this Section.

History Note: Authority G.S. 89E-5; 89E-17; 89E-20; Temporary Adoption Eff. November 24, 1999; Eff. August 1, 2000; Amended Eff. April 1, 2003; Pursuant to G.S. 150B 21.3A, rule is necessary without substantive public interest Eff. December 16, 2014; Amended Eff. June 1, 2017.

21 NCAC 21 .0515 DISCIPLINARY PROCEDURE

(a) Upon receipt of an investigation report and evaluation from the Board's investigator and peer review committee in accordance with Rule .0514 of this Section, the Board's Executive Director shall forward to the Chair of the Board (or to a member of the Board designated by the Chair) and the Board's counsel the investigation report, evaluation, and the supporting documentation along with the licensee's or registrant's written response to the complaint, if any.

(b) The Chair or his or her designee, in consultation with the Board's counsel, shall propose the disciplinary action for the violation revealed by the investigation, consistent with the provisions of G.S. 89E-19. The Chair (or a

member of the Board designated by the Chair) may issue a summary suspension pursuant to G.S. 150B-3(c). The Chair or his or her designee, may also propose dismissal of the complaint.

(c) After review of the investigation report, evaluation, and supporting documentation, the Chair shall notify the licensee or registrant of the proposed disciplinary action by certified mail sent to the last known address of the licensee or registrant as indicated in the Board's official roster. This notification shall contain a summary of the alleged facts or conduct upon which the proposed disciplinary action is based, the effective date of the proposed disciplinary action, and an explanation of the licensee's or registrant's hearing rights pursuant to G.S. 150B, Article 3A. Notification for summary suspensions shall meet the requirements of G.S. 150B-3(c).

(d) Requests for hearing shall be submitted, in writing, at the Board's office no later than 5:00 p.m. on the 15th day after receipt of notification of proposed disciplinary action. If the licensee or registrant does not file a written request for hearing with the Board, the Board shall receive the Chair's recommendation on disciplinary action at its next meeting. If, after review of a summary of the facts of the case that does not include identifying information such as the licensee's name or license number, a majority of the Board agrees with the Chair's recommendation, the proposed disciplinary action shall become a final agency decision. If a majority of the Board does not agree with the Chair's recommendation, the Board shall review of the investigator's report without supporting documentation for the purpose of proposing an appropriate disciplinary action or dismissal. The Chair shall not participate in the deliberations or the voting with regard to either his or her recommendation or the Board's decision regarding a substitute disciplinary action. A new notice of proposed disciplinary action shall be sent to the licensee or registrant, if necessary, in accordance with the procedure set out in Paragraph (c) of this Rule, and the licensee or registrant may file a request for hearing, in writing, at the Board's office no later than 5:00 p.m. on the 15th day after receipt of the new notice of proposed disciplinary action.

(e) The licensee or registrant may request a settlement conference; however, neither the request for settlement conference nor the Board's agreement to enter into settlement negotiations shall extend the 15-day deadline for requesting an opportunity for a hearing or any other deadlines in the hearing process. The Chair or his or her designee Chair is delegated authority to negotiate a settlement; however, the settlement agreement shall be approved by a majority of the members of the Board before the proposed disciplinary action will be rescinded.

(f) Upon receipt of written request for hearing, the Board may conduct an administrative hearing as authorized by G.S. 150B-38 or the Board may request the Office of Administrative Hearings to conduct the hearing as authorized by G.S. 150B-40. Hearings shall be conducted in accordance with the rules of this Chapter.

(g) A majority of the members of the Board other than the Chair or his or her designee shall render the final agency decision, in accordance with G.S. 150B-42, after a hearing on the proposed disciplinary action. The Chair or his or her designee who proposed the disciplinary action after a full review of the facts available to the investigator and peer review committee shall not participate in the discussion of the contested case and shall not vote on the final decision for disciplinary action. Nothing in this Rule shall prevent members of the Board from participating in the discussion and vote on a final agency decision with regard to proposed disciplinary action if they have reviewed the investigator's report without supporting documentation solely for the purpose of determining whether probable cause existed to support the allegations of violation and for the purpose of proposing an appropriate disciplinary action.

History Note: Authority G.S. 89E-5; 89E-19; 89E-20; 150B-3; 150B-38 through 150B-42; Temporary Adoption Eff. November 24, 1999; Eff. August 1, 2000; Amended Eff. April 1, 2003; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014; Amended Eff. June 1, 2017.

SECTION .0600 - ADMINISTRATIVE HEARINGS: DECISIONS: RELATED RIGHTS

21 NCAC 21 .0601 WITNESSES

Any party may be a witness and may present witnesses on the party's behalf at the hearing. All oral testimony at the hearing shall be under oath or affirmation and shall be recorded. At the request of a party or upon the Board's own motion, the presiding officer may exclude witnesses from the hearing room so that they cannot hear the testimony of other witnesses.

History Note: Authority G.S. 89E-20; 150B-11; 150B-25(a); 150B-38; 150B-40; Eff. February 1, 1986;

Amended Eff. April 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014.

21 NCAC 21 .0602 SIMPLIFICATION OF ISSUES

The parties to a contested case, specifically including the Board, may agree in advance to simplify the hearing by: decreasing the number of the issues to be contested at the hearing; accepting the validity of certain proposed evidence; accepting the findings in some other case with relevance to the case at hand; or agreeing to such other matters as may expedite the hearing.

History Note: Authority G.S. 89E-20; 150B-11; 150B-41;
Eff. February 1, 1986;
Amended Eff. April 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014.

21 NCAC 21 .0603 SUBPOENAS

(a) The Board shall use the following procedure to issue a subpoena pursuant to the authority granted the Board by G.S. 150B-39:

- (1) Subpoenas shall be issued in duplicate, with a "Return of Service" form attached to each copy. The person serving the subpoena shall fill out the "Return of Service" form for each copy and promptly return one copy of the subpoena, with the attached "Return of Service" form completed to the Board;
- (2) Subpoenas shall be served by the sheriff of the county in which the person subpoenaed resides, when the party requesting such subpoena prepays the Sheriff's service fee;
- (3) In accordance with G.S. 150B-39, the Board may quash any subpoena issued in a case for which the Board is conducting a hearing. Any person receiving a subpoena in such case may object thereto by filing a written objection to the subpoena with the Board by mailing same to the Board office;
- (4) Such objection shall include a concise, but complete, statement of reasons why the subpoena should be revoked or modified. These reasons may include lack of relevancy of the evidence sought, lack of particularity in the description of the evidence sought, or any other reason sufficient in law for holding the subpoena invalid, such as that the evidence is privileged, that appearance or production would be so disruptive as to be unreasonable in light of the significance of the evidence sought, or other undue hardship.
- (5) Any such objection to a subpoena must be served on the party who requested the subpoena simultaneously with the filing of the objection with the Board.
- (6) The party who requested the subpoena, in such time as may be granted by the Board, may file a written response to the objection. The written response shall be served by the requesting party on the objecting witness simultaneously with filing the response with the Board.
- (7) After receipt of the objection and response thereto, if any, the Board shall issue a notice to the party who requested the subpoena and the party who is challenging it, and may notify all other parties of an open hearing, to be scheduled as soon as practicable, at which time evidence and testimony may be presented, limited to the narrow questions raised by the objection and response, if any.
- (8) Promptly after the close of such hearing, the Board shall rule on the challenge and issue a written decision. A copy of the decision shall be issued to all parties and made a part of the record.
- (9) Subpoenas shall contain the following:
 - (A) the caption of the case;
 - (B) the name and address of the person subpoenaed;
 - (C) the date, hour and location of the hearing in which the witness is commanded to appear;
 - (D) a particularized description of the books, papers, records or objects the witness is directed to bring with him to the hearing, if any;
 - (E) the identity of the party on whose application the subpoena was issued, and the date of issue;
 - (F) the signature of the person issuing the subpoena; and

(G) a return of service form, fully executed, which shows the name and capacity of the person serving the subpoena, the date on which the subpoena was delivered to the person directed to make service, the date on which service was made, the person on whom service was made, the location and manner in which service was made, and the signature of the person making service.

(b) Where the Board grants a request for hearing and elects to conduct the evidentiary hearing without referral, subpoenas may be issued by the attorney for any party in accordance with the provisions of G.S. 1A-1, Rule 45. Upon objection by any person receiving a subpoena in such case, the Board may quash the subpoena after following the procedure specified in Part (A) of this Rule.

(c) Where the Board grants a request for hearing and elects to refer the contested case to the Office of Administrative Hearings for the designation of an administrative law judge to preside at the hearing, the issuance or quashing of subpoenas will be governed by G.S. 150B-27 or other applicable rules of the Office of Administrative Hearings.

History Note: Authority G.S. 89E-5; 89E-20; 150B-38; 150B-39; 150B-40; Eff. February 1, 1986; Amended Eff. April 1, 2003; April 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014.

21 NCAC 21 .0604 FINAL DECISIONS IN ADMINISTRATIVE HEARINGS

(a) In all cases heard by the Board, the Board shall issue its decision after its next regularly scheduled meeting following the close of the hearing, but no later than 120 days after the close of the hearing as required by G.S. 150B-44.

(b) In all cases where a request for hearing is granted by the Board, but the case has been referred to the Office of Administrative Hearings for designation of an administrative law judge to conduct the hearing, the Board will issue its decision within 60 days after its next regularly scheduled meeting following receipt of the proposal for decision, hearing transcript, and other evidence submitted or offered as proof at the hearing conducted by the administrative law judge.

(c) The time for issuing a final agency decision may be extended by agreement of the parties.

History Note: Authority G.S. 89-5; 89E-20; 150B-38; 150B-40; 150B-42; 150B-44; Eff. February 1, 1986; Amended Eff. April 1, 2003; April 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014.

21 NCAC 21 .0605 EXCEPTIONS AND PROPOSED DECISIONS

(a) When a request for hearing has been granted and the case referred to the Office of Administrative Hearings and the administrative law judge has made a proposal for decision, each party shall do the following:

- (1) file written exceptions to the proposal for decision, unless the party accepts the decision in its entirety. Any party may choose to submit alternative findings of fact and conclusions of law. Where a party excepts to a finding, conclusion, or recommendation and requests its deletion or amendment, an alternative finding, conclusion or recommendation shall be proposed. Exceptions and alternative findings of fact and conclusions of law shall be received by the Board no later than 30 calendar days after the receipt of the proposal for decision and accompanying evidentiary materials by the Board. Each exception and proposed alternative finding or conclusion shall specifically, separately, and in detail, set forth how the finding or conclusion is clearly contrary to the preponderance of the admissible evidence, and the specific reason(s) the Board should not adopt the administrative law judge's finding of fact or conclusion of law. Each exception and proposed alternative finding or conclusion shall also reference the specific evidence in the record which supports the rejection of the administrative law judge's finding of fact or conclusion of law, including but not limited to references to the testimony of witnesses and any evidentiary exhibits. Any new findings of fact proposed to the Board must be supported by a preponderance of the admissible evidence in the record. Reference must be made to the transcript of the hearing;

- (2) file a Proposed Decision and Order for consideration by the Board to accompany the party's written exceptions. The proposed Decision and Order shall be received by the Board no later than 30 calendar days after the receipt of the administrative law judge's proposal for decision and evidentiary materials by the Board. The Proposed Decision and Order shall indicate separately and in detail, for each finding of fact to be rejected by the Board and for each alternative finding of fact, the reasons therefore and the supporting evidence in the record. The Proposed Decision and Order shall demonstrate that the decision of the Administrative Law Judge is clearly contrary to the preponderance of the admissible evidence in the record, and shall set forth its reasoning, which shall also describe the exercise of discretion by the Board, if any; and
 - (3) file a brief, if any, to accompany any filed exceptions and Proposed Decision and Order. Responsive briefs are not encouraged, but shall be considered if received by the Board no later than five days after a party's receipt of the other party's brief, exceptions or proposed final agency decision. Briefs shall be limited to 15 pages in length, unless prior approval is obtained.
- (b) When a request for hearing has been granted and the Board elects to conduct the evidentiary hearing, the parties may file a hearing brief outlining the issues of law to be determined by the Board as a result of the evidentiary hearing. These briefs must be filed with the Board no later than 30 days prior to the date of hearing. Response briefs are not encouraged, but shall be accepted if filed with the Board no later than five days after receipt of the other party's brief. The parties also may file a proposed decision with findings of fact and conclusions of law. Proposed decisions must be filed with the Board within 15 days of the conclusion of the hearing or within 15 days of the Boards' receipt of the transcript of the hearing, if any, whichever is later. The findings of fact and conclusions of law in the proposed decision must make specific reference to the evidence admitted at the hearing and to the transcript.
- (c) Unless otherwise directed, parties shall file these documents at the Board's office by 5:00 p.m. on the date due. Parties shall submit eight copies of each set of written exceptions, proposed decision, and any brief. Copies of parts of the record which may be useful to the Board may be included in an appendix to pleadings, document or other papers. A copy of any document filed with the Board shall be served on all parties.
- (d) Upon receipt of request for further oral argument, notice shall be issued promptly to all parties designating time and place for such oral argument.
- (e) Giving due consideration to the proposal for decision and the exceptions and arguments of the parties, the Board may adopt the proposal for decision or may modify it as the Board deems necessary. The decision rendered shall be a part of the record and a copy thereof given to all parties. The decision as adopted or modified becomes the "final agency decision" for the right to judicial review. Said decision shall be rendered by the Board within 60 days of the next regularly scheduled meeting following the oral arguments, if any. If there are no oral arguments presented, the decision shall be rendered within 60 days of the next regularly scheduled Board meeting following receipt of the written exceptions.

History Note: Authority G.S. 89E-5; 89E-20; 150B-38; 150B-40; 150B-42;
Eff. February 1, 1986;
Amended Eff. April 1, 2003; April 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014.

21 NCAC 21 .0606 ORAL ARGUMENT

- (a) The parties shall be notified of the date, time and place of oral argument before the Board (if held separately from an evidentiary hearing). Oral argument in all cases shall be limited to 15 minutes per presentation, unless prior approval is obtained. Such arguments shall be based solely on the information contained in the record as compiled by the Board or as submitted to the Board by the Office of Administrative Hearings. If a party fails to appear after receiving notice of the time for oral argument, the Board may proceed to issue a decision in the absence of the party.
- (b) If the evidentiary hearing was conducted by an administrative law judge, the party which did not prevail before the administrative law judge is entitled to make the first oral argument and to present a rebuttal. If both parties are seeking changes in the administrative law judge's recommended decision, both parties may present a rebuttal and the party with the burden of proof shall make the first oral argument and the first rebuttal.
- (c) If the oral argument is part of an evidentiary hearing conducted by the Board, the attorney representing the Board may make the first oral argument and present a rebuttal.

History Note: Authority G.S. 89E-5; 89E-20; 150B-38; 150B-40;

Eff. April 1, 2003;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014.

21 NCAC 21 .0607 EXTENSION OF TIME; NOTIFICATION OF FINAL DECISION

(a) An extension of time to take any action required by these Rules may be granted by the Board after considering the following circumstances:

- (1) the age of the case;
- (2) whether the circumstances necessitating the extension are outside of the control of the moving parties;
- (3) whether the moving parties have previously received an extension of time;
- (4) the potential prejudice, inconvenience, or other harm to any party; and
- (5) the likelihood that an extension will delay the ultimate resolution of the matter.

(b) A final agency decision shall be made within the time limits of G.S. 150B-44, and the parties may receive notice of the decision by telephone, electronic mail, facsimile, or any other method deemed by the Board to be helpful in assuring prompt notification of the parties. The written final decision shall be filed at the Board's office and served on all parties by certified mail, return receipt requested at the last address given by the party. Service on other persons receiving notice of the final decision shall be made by first class mail. The Board shall maintain the records of all contested cases in accordance with its records disposition schedule.

History Note: Authority G.S. 89E-5; 89E-20; 150B-38; 150B-40; 150B-44;
Eff. April 1, 2003;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014.

SECTION .0700 - JUDICIAL REVIEW

21 NCAC 21 .0701 RIGHT TO JUDICIAL REVIEW
21 NCAC 21 .0702 MANNER OF SEEKING REVIEW

History Note: Authority G.S. 83-4; 89E-20; 150B-43; 150B-45;
Eff. February 1, 1986;
Repealed Eff. April 1, 1989.

SECTION .0800 - RULEMAKING PROCEDURES

21 NCAC 21 .0801 GENERAL PURPOSE

History Note: Authority G.S. 150B, Article 2;
Eff. February 1, 1986;
Repealed Eff. April 1, 1989.

21 NCAC 21 .0802 COPIES OF RULES: INSPECTION

(a) Anyone desiring to obtain a copy of the rules of the Board may do so by requesting such from the Board. The Board shall charge twenty-five cents (\$0.25) per page and actual postage costs.

(b) The rules of the Board and other public documents maintained by the Board are available for public inspection at the office of the Board (3733 Benson Drive, Raleigh, N.C. 27609) during regular office hours.

History Note: Authority G.S. 89E-5; 89E-14; 89E-17; 132-1; 132-2; 132-6.

Eff. February 1, 1986;
Amended Eff. April 1, 2003; April 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014.

21 NCAC 21 .0803 PETITION FOR RULEMAKING HEARINGS

(a) Any person wishing to submit a petition requesting the adoption, amendment, or repeal of a rule (the "proposed rule") by the Board shall file the petition with the Board. The first page of the petition shall clearly bear the notation: RULEMAKING PETITION RE and then [state the subject area]. The Petition shall contain the following information:

- (1) the text of the proposed rule for adoption or amendment;
- (2) a statement of the reasons for adoption or amendment of the proposed rule or the repeal of an existing rule;
- (3) a statement of the proposed rule's effect on existing rules or orders;
- (4) the name and address of the petitioner; and
- (5) a request to present the petition to the Board, if desired.

(b) In its review of the proposed rule, the Board 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 licensees. The petitioner may include the following information with the request:

- (1) the statutory authority for the agency to promulgate the rule;
- (2) a statement of the effect of the proposed rule(s) on existing practices in the area involved, including the cost for persons affected by the proposed rule;
- (3) a statement explaining the computation of the cost;
- (4) a description, including the names and addresses, if known, of those most likely to be affected by the proposed rule; and
- (5) documents and data supporting the proposed rule.

(c) An original and eight copies of the petition and supporting documents shall be filed with the Board.

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

History Note: Authority G.S. 89E-5; 150B-20;
Eff. February 1, 1986;
Amended Eff. April 1, 2003.
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014;
Amended Eff. June 1, 2017.

21 NCAC 21 .0804 DISPOSITION OF PETITIONS FOR RULEMAKING

(a) The Chair may request additional information from the petitioner, may contact any interested person or persons likely to be affected by the proposed rule and request comments, and may use any other appropriate method to obtain additional information.

(b) When deemed complete by the Chair, petitions for rulemaking shall be presented to the Board for its consideration and determination at a regularly-scheduled meeting of the Board within 120 days following submission of the complete petition. The Chair shall determine the order and duration of discussion regarding the petition, including discussion by members of the public if any.

(c) Within 120 days following submission of the complete petition requesting rulemaking, unless the parties have agreed to an extension of time, the Board shall:

- (1) initiate rulemaking proceedings in accordance with G.S. 150B-20 and notify the petitioner in writing; or
- (2) deny the petition in writing with the reason for the denial and send the written denial to the petitioner.

History Note: Authority G.S. 89E-5; 150B-20;
Eff. February 1, 1986;
Amended Eff. April 1, 2003; April 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014;
Amended Eff. June 1, 2017.

21 NCAC 21 .0805 WRITTEN SUBMISSIONS
21 NCAC 21 .0806 STATEMENT OF REASONS FOR DECISION

History Note: Authority G.S. 150B-12(e);
Eff. February 1, 1986;
Repealed Eff. April 1, 1989.

21 NCAC 21 .0807 RECORD PROCEEDINGS

A record of all rulemaking proceedings will be maintained by the Board for as long as the rule is in effect, and for five years thereafter, following filing with the Office of Administrative Hearings. This record will contain: the original petition, if any, the notice, and all written memoranda and presentations. Records of rulemaking proceedings will be available for public inspection at the office of the Board during regular office hours.

History Note: Authority G.S. 150B-12;
Eff. February 1, 1986;
Amended Eff. April 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014.

SECTION .0900 - DECLARATORY RULINGS

21 NCAC 21 .0901 SUBJECTS OF DECLARATORY RULINGS

History Note: Authority G.S. 150B-17;
Eff. February 1, 1986;
Repealed Eff. April 1, 1989.

21 NCAC 21 .0902 SUBMISSION OF REQUEST FOR DECLARATORY RULING

(a) All requests for declaratory rulings shall be written and filed with the Board. The first page of the request shall bear the notation: REQUEST FOR DECLARATORY RULING. The request must include the following information:

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

(b) A request for a ruling on the applicability of a rule, order, or statute must include a description of the specific factual situation on which the ruling is to be based. A request for a ruling on the validity of a Board rule must state the aggrieved person's reasons for questioning the validity of the rule. A person may ask for both types of rulings in a single request. A request for a ruling must include or be accompanied by:

- (1) a statement of the specific statement of facts proposed for adoption by the Board; and

- (2) a draft of the proposed ruling.

*History Note: Authority G.S. 89E-5; 89E-20; 150B-4;
Eff. February 1, 1986;
Amended Eff. April 1, 2003;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014.*

21 NCAC 21 .0903 DISPOSITION OF REQUESTS

(a) The Board's Chair shall make a determination on the completeness of the request for declaratory ruling based on the requirements of Rule .0902 of this Section, and he or she shall make a recommendation to the Board on whether to issue or decline to issue a declaratory ruling.

(b) Before deciding the merits of the request, the Board may:

- (1) request additional written submissions from petitioner(s);
- (2) request a written response from any other person; or
- (3) hear oral argument upon written request from the petitioner or other persons on the issues raised by the request if the Board determines oral argument would be helpful to its consideration of the request.

(c) No party shall offer testimony or conduct cross-examination before the Board in a declaratory ruling proceeding.

(d) Whenever the Board determines for good cause that the issuance of a declaratory ruling is undesirable, the Board may refuse to issue such ruling. The Board shall notify in writing the person that requested the ruling of the reasons for the refusal to issue a ruling on the request.

(e) For purposes of Paragraph (d) of this Rule, the Board shall determine whether good cause exists by considering factors such as the following:

- (1) whether the facts are in dispute;
- (2) whether there has been a similar determination in a previous contested case or declaratory ruling;
- (3) whether the matter is the subject of a pending contested case hearing or litigation in any North Carolina or federal court;
- (4) whether the factual context put forward as the subject of the declaratory ruling was specifically considered upon the adoption of the rule being questioned, as evidenced by the rulemaking record; and
- (5) whether no genuine controversy exists as to the application of a statute or rule to the specific factual situation presented.

(f) The requesting party may agree to allow the Board to extend the time by which to issue a ruling on the merits of the request pursuant to G.S. 150B-4.

*History Note: Authority G.S. 89E-5; 89E-20; 150B-4;
Eff. February 1, 1986;
Amended Eff. April 1, 2003; April 1, 1989;
Pursuant to G.S. 105B 21.3A, rules is necessary without substantive public interest Eff. December 16, 2014;
Amended Eff. June 1, 2017.*

21 NCAC 21 .0904 RECORD OF DECISION

A record of all declaratory ruling proceedings will be maintained in the Board's office for as long as the ruling is in effect and for five years thereafter. This record will contain: the petition, the notice, all written submissions filed in the request, whether filed by the petitioner or any other person, and a record or summary of oral presentations, if any. Records of declaratory ruling proceedings will be available for public inspection during regular office hours.

*History Note: Authority G.S. 150B-11;
Eff. February 1, 1986;
Amended Eff. April 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014.*

SECTION .1000 - PROFESSIONAL CORPORATIONS

21 NCAC 21 .1001 PRACTICE OF GEOLOGY BY CORPORATIONS AND LIMITED LIABILITY COMPANIES

(a) Application. Application for a Certificate of Registration for corporations and limited liability companies to practice geology within the State of North Carolina shall be made upon forms provided by the Board. Completed applications must conform to the requirements of Rule .0302 of this Chapter and be accompanied by the fee prescribed in Rule .0107 of this Chapter. Certificates of Registration shall be issued only to corporations meeting the provisions of the Professional Corporation Act, G.S. 55B, and companies meeting the provisions of the Limited Liability Company Act, G.S. 57C, except as provided in Paragraph (b) of this Rule.

(b) Corporations and Limited Liability Companies Exempt from G.S. 55B. Applications for a Certificate of Registration as exempt from the Professional Corporation Act or the Limited Liability Company Act under the provisions of G.S. 55B-15 or G.S. 57C-2-01 shall be made upon forms provided by the Board. To be eligible as an exempt corporation under the provisions of G.S. 55B-15 the following conditions must exist:

- (1) The corporation or limited liability company shall have been incorporated or organized prior to June 5, 1969 and permitted by law to render professional services or must be a corporate successor to such a corporation or limited liability company as defined by G.S. 55B-15; or
- (2) The corporation or limited liability company must have been incorporated or organized prior to September 1, 1991, and before and after September 1, 1991 the corporation or limited liability company must have been a bonafide firm engaged in the practice of geology and such services as may be ancillary thereto within the State of North Carolina.

(c) Renewal of Certificate. The renewal of Certificates of registration for corporations and limited liability companies shall follow the requirements as set out in Rule .0107 of this Chapter.

(d) Seal. Each registered corporation or limited liability company shall obtain from the Board a seal approved by the Board. Such seal shall contain the name of the corporation or limited liability company, its North Carolina registration number and the words "registered geological corporation" or "registered geological limited liability company" as applicable.

(e) Approval of Name. The name used by a geological corporation or limited liability company shall be approved by the Board before being used. Names shall be approved by the Board pursuant to the requirements and limitations of G.S. 55, 55B and G.S. 57C unless the name has been registered previously by another geological corporation or limited liability company. This Rule shall not prohibit the continued use of any corporate name adopted in conformity with the General Statutes of North Carolina and board rules in effect at the date of such adoption.

History Note: Authority G.S. 55B-5; 55B-10; 55B-11; 55B-14; 55B-15; 57C-2-01; 89E- 5; 89E-12; 89E-13; Eff. January 1, 1992; Amended Eff. April 1, 2003; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014.

21 NCAC 21 .1002 FOREIGN CORPORATIONS AND LIMITED LIABILITY COMPANIES

(a) Formation in Other States. Corporations and Limited Liability Companies formed in other states may be granted Certificates of Registration for the practice of geology in this State on the receipt by the Board of a completed application as specified in Rules .0301 and .0302 of this Chapter and the payment of the appropriate application fee indicated in Rule .0107 of this Chapter. In addition to the other requirements as set out in G.S. 89E-12, foreign corporations and limited liability companies must, prior to registration, receive from the Secretary of State of North Carolina a Certificate of Authority to transact business within the State.

(b) Designated Individuals. Foreign corporations and limited liability companies shall be permitted to practice geology within the State of North Carolina provided that the corporation or limited liability company must designate at least one geologist who is licensed by the State of North Carolina to be in responsible charge for the firm's practice of geology within the State of North Carolina.

History Note: Authority G.S.; 55B-16; 57C-2-01; 89E-5; 89E-12; Eff. January 1, 1992; Amended Eff. April 1, 2003; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014.

SECTION .1100 – PROFESSIONAL CONDUCT

21 NCAC 21 .1101 RULES OF PROFESSIONAL CONDUCT

- (a) Each geologist licensed by the Board and each partnership, corporation, or other legal entity authorized to offer or perform geological services in this State shall comply with these Rules of Professional Conduct.
- (b) The geologist shall conduct his or her practice in order to protect the public health, safety, and welfare:
- (1) The geologist shall at all times recognize his or her primary obligation to protect the safety, health, and welfare of the public in the performance of his or her professional duties. If his or her geologic judgment is overruled under circumstances where the safety, health, and welfare of the public are endangered, he or she shall inform his or her employer of the possible consequences and notify other proper authority of the situation.
 - (2) The geologist shall protect the public health, safety, and welfare by maintaining sufficient personal on-site involvement and continual direction and review of the activities of subordinates that constitute public practice of geology while such activities are in progress. The licensee shall provide such supervision and have sufficient knowledge of the project and site conditions necessary to assure accuracy and compliance with all applicable laws and regulations, including G.S. 89E and the rules of this Chapter.
- (c) The geologist shall perform his or her services only in areas of his or her competence:
- (1) The geologist shall undertake to perform geologic assignments only when qualified by education or experience in the specific technical field of geology involved.
 - (2) The geologist may accept an assignment requiring education or experience outside of his or her own field of competence, but only to the extent that his or her services are restricted to those phases of the project in which he or she is qualified. All other phases of such project shall be performed by qualified associates, consultants, or employees.
 - (3) The geologist shall not affix his or her signature and seal to any document dealing with subject matter for which he or she lacks competence by virtue of education or experience or to any such plan or document not prepared under his or her direct supervisory control, except that the geologist may affix his or her seal and signature to drawings and documents depicting the work of two or more professionals provided he or she designates by note under his or her seal the specific subject matter for which he or she is responsible.
- (d) The geologist shall issue public statements only in an objective and truthful manner:
- (1) The geologist shall be completely objective and truthful in all professional reports, statements, or testimony. He or she shall include all relevant and pertinent information in such reports, statements, or testimony.
 - (2) The geologist when serving as an expert or technical witness before any court, commission, or other tribunal shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy of his or her testimony.
 - (3) The geologist shall issue no statements, criticisms, or arguments on geologic matters connected with public policy that are inspired or paid for by an interested party or parties unless he or she has prefaced his or her comments by explicitly identifying himself, by disclosing the identities of the party or parties on whose behalf he or she is speaking, and by revealing the existence of any pecuniary interest he or she may have in the instant matters.
 - (4) The geologist shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of another geologist, nor shall he or she maliciously criticize another geologist's work in public. If he or she believes that another geologist is guilty of misconduct or illegal practice, he or she shall present such information to the Board.
- (e) The geologist shall not attempt to supplant another geologist in a particular employment after becoming aware that the other has been selected for the employment.
- (f) The geologist shall avoid conflicts of interest:
- (1) The geologist shall conscientiously avoid conflicts of interest with his or her employer or client but, when unavoidable, the geologist shall disclose the circumstances to his or her employer or client.

- (2) The geologist shall avoid all known conflicts of interest with his or her employer or client and shall promptly inform his or her employer or client of any business association, interest, or circumstances which could influence his or her judgment or the quality of his or her services.
 - (3) The geologist shall not accept compensation, financial or otherwise, from more than one party for services on the same project or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all those parties.
 - (4) The geologist shall not solicit or accept financial or other valuable consideration from material or equipment suppliers for specifying their products.
 - (5) The geologist shall not solicit or accept any gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with his or her client or employer in connection with work for which he or she is responsible.
 - (6) When in public service as a member, advisor, or employee of a governmental body or department, the geologist shall not participate in considerations or actions with respect to services provided by him or his or her organization in private geological practices.
 - (7) The geologist shall not solicit or accept a contract for geological services from a governmental body on which a principal or officer of his or her business serves as a member.
- (g) The geologist shall solicit or accept work only on the basis of his or her qualifications:
- (1) The geologist shall not offer to pay, either directly or indirectly, any commission, political contribution, gift, or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies.
 - (2) The geologist shall compete for professional employment on the basis of qualification and competence for proper accomplishment of the work. He or she shall not solicit or submit proposals for professional services that contain a false, fraudulent, misleading, deceptive, or unfair statement or claim regarding the cost, quality, or extent of services to be rendered.
 - (3) The geologist shall not falsify or permit misrepresentation of his or her academic or professional qualifications nor of the qualifications of his or her associates. He or she shall not misrepresent or exaggerate his or her degree of responsibility for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, joint ventures, or their past accomplishments with the intent and purpose of enhancing his or her qualifications and those of his or her work associates.
- (h) The geologist shall associate only with reputable persons or organizations:
- (1) The geologist shall not knowingly associate with or permit the use of his or her name or firm name in a business venture by any person or firm which he or she knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature.
 - (2) If the geologist has knowledge or reason to believe that another person or firm may be in violation of any of these provisions or of the North Carolina Geologist Licensing Act, he or she shall present such information to the Board and furnish such further information or assistance as may be required by the Board.
- (i) Conviction of a felony without restoration of civil rights or the revocation or suspension of the license of a geologist by another jurisdiction, if for a cause which in the State of North Carolina would constitute a violation of G.S. 89E or of these rules, shall be grounds for a charge of violation of these Rules, for revocation of the certificate of licensure or corporate registration issued by this Board, and for the imposition of a civil penalty not to exceed five thousand dollars (\$5,000).

*History Note: Authority G.S. 89E-5; 89E-16;
 Temporary Adoption Eff. November 24, 1999;
 Eff. August 1, 2000;
 Pursuant to G.S. 150B 21.3A, rule is necessary without substantive public interest Eff. December 16, 2014;
 Amended Eff. June 1, 2017.*

21 NCAC 21 .1102 RULES OF CONDUCT OF ADVERTISING

- (a) The geologist shall not make exaggerated, misleading, deceptive, or false statements or claims about his or her professional qualifications, experience, or performance in his or her brochures, correspondence, listing, or other public communications.

- (b) The prohibitions listed in this Rule include the use of statements that contain a material misrepresentation of fact or omitting a material fact necessary to keep the statement from being misleading; statements intended or likely to create an unjustified expectation, statements containing prediction of future success, or statements containing an opinion as to the quality of services.
- (c) Consistent with the foregoing, the geologist may advertise for the recruitment of personnel.
- (d) Consistent with the foregoing, the geologist may prepare articles for the lay or technical press. Such articles shall not imply credit to the author for work performed by others.

*History Note: Authority G.S. 89E-5; 89E-16;
Temporary Adoption Eff. November 24, 1999;
Eff. August 1, 2000;
Pursuant to G.S. 21.3A, rule is necessary without substantive public interest Eff. December 16,
2014;
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