

Note from the Codifier: The OAH website includes notices and the text of proposed temporary rules as required by G.S. 150B-21.1(a1). Prior to the agency adopting the temporary rule, the agency must hold a public hearing no less than five days after the rule and notice have been published and must accept comments for at least 15 business days. For questions, you may contact the Office of Administrative Hearings at 984-236-1850 or email oah.postmaster@oah.nc.gov.

TITLE 11 - DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-21.1 that the Industrial Commission intends to adopt the rule cited as 11 NCAC 23E .0302.

Codifier of Rules approved this rule as an emergency rule effective November 6, 2020 and received for publication the following notice and proposed temporary rule on October 28, 2020.

Public Hearing:

Date: December 10, 2020

Time: 2:00 p.m.

Location: By Teleconference Only. Teleconference Line#: 1-888-363-4735; Access Code#: 4465746

Reason for Proposed Temporary Action: Adhering to the notice and hearing requirements in G.S. 150B-21.2 would result in a long period of time where the regulated parties would be required by the Commission's rules, and by other rules that apply to cases within the Commission's jurisdiction, to engage in activities involving in-person contacts that put them at risk for contracting or spreading the COVID-19 virus, even when the rule requirements are not in conformity with an emergency Order or directive of the Chief Justice of the North Carolina Supreme Court that is in effect.

Adhering to the notice and hearing requirements in G.S. 150B-21.2 also would result in a long period of time where the Commission's requirements regarding oaths and verifications are not in conformity with the Chief Justice's October 15, 2020 Order Extending Emergency Directives, specifically Emergency Directive 5.

Comment Procedures: Comments from the public shall be directed to: Gina Cammarano, 1240 Mail Service Center, Raleigh NC 27699-1240; phone 919-807-2524; email gina.cammarano@ic.nc.gov. **NOTE: IT IS STRONGLY ENCOURAGED TO SUBMIT WRITTEN COMMENTS VIA EMAIL TO GINA CAMMARANO AT gina.cammarano@ic.nc.gov.** The comment period begins October 28, 2020 and ends December 11, 2020.

CHAPTER 23 - INDUSTRIAL COMMISSION

SUBCHAPTER 23E – ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION

SECTION .0300 – RULES OF THE COMMISSION

11 NCAC 23E .0302 EMERGENCY ORDERS AND DIRECTIVES OF THE CHIEF JUSTICE OF THE NORTH CAROLINA SUPREME COURT

(a) This Rule applies to all matters within the authority and jurisdiction of the Commission and to all Subchapters of the Commission's rules.

(b) In the interests of justice or to protect the public health or safety, the Commission may waive or vary the requirements or provisions of any of its rules in order to bring these requirements or provisions in conformity with an emergency Order or directive of the Chief Justice of the North Carolina Supreme Court that is in effect. Factors the Commission shall use in determining whether to waive or vary the requirements or provisions of any of its rules in order to bring these requirements or provisions in conformity with any emergency Order or directive of the Chief Justice of the North Carolina Supreme Court that is in effect are:

(1) the necessity of waiving or varying the rule requirements or provisions; and

(2) the impact of waiving or varying the rule requirements or provisions on the regulated parties and on the Commission.

If the Commission waives or varies the requirements or provisions of a rule to bring the rule in conformity with any emergency Order or directive of the Chief Justice of the North Carolina Supreme Court, the Commission shall post a notice of the waiver or variance of the rule on its website unless the waiver or variance is case-specific and not generally applicable to the regulated public.

(c) During any period that an emergency Order or directive of the Chief Justice of the North Carolina Supreme Court authorizes the taking of oaths and verifications outside the presence of a notary public, the Commission may accept any pleading, motion, petition, supporting affidavit, or other document with an affirmation or representation not attested to before a notary public so long as the subscriber affirms the truth of the matter to be verified by an affirmation or representation in substantially the same language as that allowed by the emergency Order or directive of the Chief Justice of the North Carolina Supreme Court.

History Note: Authority G.S. 97-80; 130A-425(d); 143-166.4; 143-296; 143-300;
Emergency Rule Eff. November 6, 2020;
Temporary Rule Eff. _____.