



Date: December 18, 2024

Re: Initial Classification: 07 NCAC 04 Rules, North Carolina Historical Commission

This rulemaking agency, the North Carolina Historical Commission (“Commission”), hereby formally proposes initial classifications of the following permanent rules in Title 07, Chapter 04 of the North Carolina Administrative Code:

Rule Citation	Rule Name	Agency Determination [150B-21.3A(c)(1)a]	Required to Implement or Conform to Federal Regulation [150B-21.3A(d1)]	Federal Regulation Citation
07 NCAC 04L .0101	DIVISION OF ARCHIVES AND HISTORY	Unnecessary	No	
07 NCAC 04L .0102	DIRECTOR'S OFFICE	Unnecessary	No	
07 NCAC 04M .0104	ARCHIVES STACKS	Necessary	No	
07 NCAC 04M .0105	PUBLIC RESEARCH FACILITIES	Necessary	No	
07 NCAC 04M .0106	DUPLICATION SERVICES	Necessary	No	
07 NCAC 04M .0107	OUTER BANKS HISTORY CENTER GALLERY REGULATIONS	Unnecessary	No	
07 NCAC 04M .0201	ARCHIVES MAY MAINTAIN LIST OF RESEARCHERS	Necessary	No	
07 NCAC 04M .0202	PROCEDURE FOR LISTING	Necessary	No	
07 NCAC 04M .0203	APPROVAL OF REQUESTS	Necessary	No	



07 NCAC 04M .0204	REMOVAL OF NAMES FROM THE LIST	Necessary	No	
07 NCAC 04M .0301	ACCEPTANCE OF NON-GOVERNMENT PAPERS	Necessary	No	
07 NCAC 04M .0401	REVIEW	Necessary	No	
07 NCAC 04M .0402	PREPARATION OF LISTS	Necessary	No	
07 NCAC 04M .0403	APPROVAL BY HISTORICAL COMMISSION	Necessary	No	
07 NCAC 04M .0501	TRANSFER OF RECORDS TO STATE RECORDS CENTER	Necessary	No	
07 NCAC 04M .0502	LEGAL CUSTODY OF RECORDS	Necessary	No	
07 NCAC 04M .0503	PROCEDURES FOR TRANSFER OF RECORDS	Necessary	No	
07 NCAC 04M .0506	PERSONAL PICKUP FOR EMERGENCY REFERENCE	Necessary	No	
07 NCAC 04M .0507	PERSONNEL RECORDS	Necessary	No	
07 NCAC 04M .0508	CERTIFICATION BY AGENCY WITH CUSTODY	Necessary	No	
07 NCAC 04M .0509	DESTRUCTION OF RECORDS IN STATE RECORDS CENTER	Necessary	No	
07 NCAC 04M .0510	METHODS OF DESTRUCTION	Necessary	No	



07 NCAC 04M .0511	DESTRUCTION OF CERTAIN RECORDS SCHEDULED FOR ARCHIVES	Necessary	No	
07 NCAC 04M .0512	RESTRICTED AREAS IN STATE RECORDS FACILITIES	Necessary	No	
07 NCAC 04N .0101	STATEMENT OF PURPOSE	Unnecessary	No	
07 NCAC 04N .0102	ACTIVITIES PROHIBITED ON STATE HISTORIC SITES PROPERTY	Necessary	No	
07 NCAC 04N .0103	AUTHORITY OF SITE PERSONNEL	Necessary	No	
07 NCAC 04N .0104	PERMIT REQUIRED FOR SPECIAL SITE ACTIVITIES AND EVENTS	Necessary	No	
07 NCAC 04N .0105	PERMIT APPLICATION REQUIREMENTS	Necessary	No	
07 NCAC 04N .0106	ADDITIONAL MATERIAL REQUIRED/CERTAIN PERMIT APPLICATIONS	Necessary	No	
07 NCAC 04N .0107	GRANTING OF PERMITS AT OPTION OF SECTION AND DIVISION	Necessary	No	
07 NCAC 04N .0108	OBLIGATIONS OF PERMIT HOLDER	Necessary	No	
07 NCAC 04N .0301	SCHEDULING VOYAGES	Necessary	No	
07 NCAC 04N .0302	APPROVAL OF REQUESTS	Necessary	No	



07 NCAC 04N .0303	VOYAGE COSTS	Necessary	No	
07 NCAC 04N .0304	VOYAGE AGREEMENT PROCEDURE	Necessary	No	
07 NCAC 04O .0101	STATEMENT OF PURPOSE	Unnecessary	No	
07 NCAC 04O .0301	ARTIFACTS	Necessary	No	
07 NCAC 04O .0302	APPRAISAL	Necessary	No	
07 NCAC 04O .0303	ACQUISITIONS	Necessary	No	
07 NCAC 04O .0304	LOANS	Necessary	No	
07 NCAC 04O .0305	DEACCESSIONS	Necessary	No	
07 NCAC 04P .0102	MANUSCRIPTS	Necessary	No	
07 NCAC 04P .0103	ITEMS NOT ACCEPTABLE	Necessary	No	
07 NCAC 04P .0104	EDITORIAL PRACTICES	Necessary	No	
07 NCAC 04P .0105	REVIEW OF MANUSCRIPTS	Necessary	No	
07 NCAC 04P .0106	ADVISORY EDITORIAL COMMITTEE	Necessary	No	
07 NCAC 04P .0107	STANDARDS FOR REVIEW OF MANUSCRIPTS	Necessary	No	
07 NCAC 04P .0108	STAFF MANUSCRIPTS	Unnecessary	No	
07 NCAC 04P .0109	PUBLICATION	Necessary	No	



07 NCAC 04P .0110	BOOK REVIEWS	Necessary	No	
07 NCAC 04P .0111	EDITORIAL SERVICES TO THE PUBLIC	Unnecessary	No	
07 NCAC 04P .0112	PRINTING AND SETTING OF COSTS	Necessary	No	
07 NCAC 04P .0113	DISCOUNTS AND CREDITS	Necessary	No	
07 NCAC 04P .0114	PUBLICATIONS LIST	Unnecessary	No	
07 NCAC 04P .0115	DISTRIBUTION OF GOVERNORS' DOCUMENTARIES	Unnecessary	No	
07 NCAC 04P .0116	CIVIL WAR ROSTER RESEARCH FILES REGULATIONS	Unnecessary	No	
07 NCAC 04Q .0101	STATEMENT OF PURPOSE	Unnecessary	No	
07 NCAC 04Q .0102	VISITING HOURS	Necessary	No	
07 NCAC 04Q .0104	TOURS	Necessary	No	
07 NCAC 04Q .0105	USE OF FACILITIES	Necessary	No	
07 NCAC 04Q .0106	RESTRICTIONS AND CONDITIONS	Necessary	No	
07 NCAC 04Q .0107	ACQUISITION: USE: CARE: AND DISPOSAL OF ARTIFACTS	Necessary	No	
07 NCAC 04Q .0201	VOLUNTEER PROGRAMS	Unnecessary	No	
07 NCAC 04R .0201	PURPOSE	Necessary	Yes If yes, include the citation to the federal law	42 U.S.C. 4321; 54 U.S.C. 302301; 302303; 36 CFR. 800



07 NCAC 04R .0202	DEFINITIONS	Necessary	Yes If yes, include the citation to the federal law	54 U.S.C. 302301, 302303, 306108; 36 C.F.R. 800.3-800.6, 800.16
07 NCAC 04R .0203	SUBMISSIONS FOR REVIEW	Necessary	Yes If yes, include the citation to the federal law	16 U.S.C. 470; 54 U.S.C. 302301; 302303; 36 C.F.R. 800;
07 NCAC 04R .0206	PROCEDURES FOR STATE UNDERTAKINGS AFFECTING A NATIONAL REGISTER-LISTED PROPERTY	Necessary	No	
07 NCAC 04R .0301	NATIONAL REGISTER ADVISORY COMMITTEE	Necessary	Yes If yes, include the citation to the federal law	54 U.S.C. 300318, 302104, 302301; 36 C.F.R. 60.3(o), 60.4, 60.6
07 NCAC 04R .0303	NATIONAL REGISTER STUDY LIST	Necessary	Yes If yes, include the citation to the federal law	54 U.S.C. 302104; 36 C.F.R. 60.5, 60.6, 60.9
07 NCAC 04R .0304	NATIONAL REGISTER NOMINATIONS	Necessary	Yes If yes, include the citation to the federal law	36 C.F.R. 60.6, 60.11
07 NCAC 04R .0501	REVIEW OF COMMISSION REPORTS	Necessary	No	
07 NCAC 04R .0502	CERTIFICATES OF APPROPRIATENESS	Necessary	No	
07 NCAC 04R .0503	REVIEW OF APPEALS	Necessary	No	



07 NCAC 04R .0602	GENERAL APPLICATION PROCESS; CRITERIA FOR DESIGNATION	Necessary	No	
07 NCAC 04R .0605	DOCUMENTATION REQUIRED	Necessary	No	
07 NCAC 04R .0802	DISPOSITION OF ARTIFACTS; LOANS	Necessary	No	
07 NCAC 04R .0803	CURATION OF ARCHAEOLOGICAL COLLECTIONS	Necessary	No	
07 NCAC 04R .0901	PURPOSE	Necessary	Yes If yes, include the citation to the federal law	26 U.S.C. 46-48; 26 U.S.C. 170; 26 U.S.C. 191; 26 C.F.R. Part 1; 36 C.F.R. 67;
07 NCAC 04R .0902	DEFINITIONS	Necessary	Yes If yes, include the citation to the federal law	26 U.S.C. 46-48; 26 U.S.C. 170; 26 U.S.C. 191; 26 C.F.R. Part 1; 36 C.F.R. 62.2; 36 C.F.R. 67
07 NCAC 04R .0903	APPLICATIONS FOR CERTIFICATIONS	Necessary	Yes If yes, include the citation to the federal law	26 U.S.C. 46-48; 26 U.S.C. 170; 26 U.S.C. 191; 26 C.F.R. Part 1; 36 C.F.R. 62.2; 36 C.F.R. 67
07 NCAC 04R .0904	REVIEW ASSISTANCE AND PROCEDURES	Necessary	No	
07 NCAC 04R .0905	CERTIFICATION	Necessary	Yes If yes, include the citation to the federal law	26 U.S.C. 46-48; 26 U.S.C. 170; 26 U.S.C. 191; 26 C.F.R. Part 1; 36 C.F.R. 67;



07 NCAC 04R .0906	CERTIFICATION OF REHABILITATION	Necessary	Yes If yes, include the citation to the federal law	26 U.S.C. 46-48; 26 U.S.C. 170; 26 U.S.C. 191; 26 C.F.R. Part 1; 36 C.F.R. 67
07 NCAC 04R .0907	APPEALS	Necessary	Yes If yes, include the citation to the federal law	26 U.S.C. 46-48; 26 U.S.C. 170; 26 U.S.C. 191; 26 C.F.R. Part 1; 36 C.F.R. 67
07 NCAC 04R .0908	TIME PERIODS	Unnecessary	No	
07 NCAC 04R .0909	SCOPE OF RULES AND OVERVIEW OF STATUTORY AUTHORITY	Necessary	No	
07 NCAC 04R .0910	DEFINITIONS	Unnecessary	No	
07 NCAC 04R .0911	INTRODUCTION TO HISTORIC PRESERVATION CERTIFICATIONS AND INFORMATION COLLECTION	Unnecessary	No	
07 NCAC 04R .0912	CERTIFICATIONS OF HISTORIC SIGNIFICANCE	Unnecessary	No	
07 NCAC 04R .0913	STANDARDS FOR EVALUATING SIGNIFICANCE WITHIN NATIONAL REGISTER OR CERTIFIED HISTORIC DISTRICTS	Unnecessary	No	
07 NCAC 04R .0914	CERTIFICATIONS OF REHABILITATION	Unnecessary	No	



07 NCAC 04R .0915	STANDARDS FOR REHABILITATION	Unnecessary	No	
07 NCAC 04R .0916	FEEES FOR PROCESSING REHABILITATION CERTIFICATION REQUESTS	Unnecessary	No	
07 NCAC 04R .0917	COORDINATION WITH THE FEDERAL INCOME-PRODUCING HISTORIC PRESERVATION REHABILITATION PROGRAM	Necessary	No	
07 NCAC 04R .0918	PURPOSE	Necessary	No	
07 NCAC 04R .0919	DEFINITIONS	Necessary	No	
07 NCAC 04R .0920	APPLICATIONS	Necessary	No	
07 NCAC 04R .0921	CERTIFICATIONS OF HISTORIC SIGNIFICANCE	Necessary	No	
07 NCAC 04R .0922	STANDARDS FOR EVALUATING SIGNIFICANCE WITHIN NATIONAL REGISTER OR CERTIFIED HISTORIC DISTRICTS	Necessary	No	
07 NCAC 04R .0923	CERTIFICATIONS OF REHABILITATION	Necessary	No	
07 NCAC 04R .0924	STANDARDS FOR REHABILITATION	Necessary	No	



07 NCAC 04R .0925	FEEES FOR PROCESSING REHABILITATION CERTIFICATION REQUESTS	Necessary	No	
07 NCAC 04R .1401	GRANTOR-GRANTE E SPECIFICATIONS	Necessary	No	
07 NCAC 04R .1402	AGREEMENT CONDITIONS	Necessary	No	
07 NCAC 04R .1403	SPECIAL PROVISIONS FOR ARCHAEOLOGICAL SITES	Necessary	No	
07 NCAC 04R .1404	TRANSFERRAL OF PRESERVATION OR CONSERVATION AGREEMENTS	Necessary	No	
07 NCAC 04R .1503	VISITATION POLICY	Necessary	No	
07 NCAC 04R .1601	DEFINITIONS	Necessary	No	
07 NCAC 04R .1602	ARCHAEOLOGICAL INVESTIGATIONS ON STATE LANDS	Necessary	No	
07 NCAC 04R .1603	APPLICATION FOR ARCHAEOLOGICAL PERMITS	Necessary	No	
07 NCAC 04R .1604	REQUIREMENTS FOR AND ISSUANCE OF PERMITS	Necessary	No	
07 NCAC 04R .1605	DURATION, EXTENSION, AND RENEWAL OF PERMITS	Necessary	No	
07 NCAC 04R .1606	TERMS AND CONDITIONS OF PERMITS	Necessary	No	
07 NCAC 04R .1607	PERMIT DENIAL, SUSPENSION AND REVOCATION	Necessary	No	



07 NCAC 04R .1609	EMERGENCY ARCHAEOLOGICAL INVESTIGATIONS	Necessary	No	
07 NCAC 04R .1611	REPORTING REQUIREMENTS FOR GENERAL PERMITS; REVIEW	Necessary	No	
07 NCAC 04R .1612	REPORTING REQUIREMENTS FOR SPECIFIC PERMITS; REVIEW	Necessary	No	
07 NCAC 04R .1613	CUSTODY OF RESOURCES UNDER TERMS OF PERMITS	Necessary	No	
07 NCAC 04T .0101	DEFINITIONS	Necessary	No	
07 NCAC 04T .0102	MEMBERSHIP AND OFFICERS OF COMMITTEE	Necessary	No	
07 NCAC 04T .0103	ERECTION OF HIGHWAY MARKERS	Necessary	No	
07 NCAC 04T .0104	CRITERIA	Necessary	No	
07 NCAC 04T .0105	PLACEMENT OF MARKERS	Necessary	No	
07 NCAC 04T .0106	INSCRIPTION AND ERECTION	Necessary	No	
07 NCAC 04T .0107	CORRECTIONS TO MARKERS	Necessary	No	

The Commission hereby proposes these initial classifications in accordance with the requirements set out in G.S. §150B. For additional information, please contact DNCR's Rulemaking Coordinator, Jonathan Avery, at 919-814-6771 or jonathan.avery@dncr.nc.gov.

David Ruffin, Chair
North Carolina Historical Commission

Periodic Review: Classification Process

About Me

- ▶ Jonathan Avery
 - ▶ DNCR Assistant General Counsel
 - ▶ Rules Coordinator
- ▶ As Rules Coordinator, I help guide DNCR and its boards and commissions through the rules review process and periodic review.

What is a Rule?

- ▶ "Rule" means any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency. The term includes the establishment of a fee and the amendment or repeal of a prior rule.
 - ▶ G.S. § 150B-2 (8a)

NC Admin Code - DNCR Table of Contents (Title 7)

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 - ▶ Subchapter G - State Trails
 - ▶ Subchapter H - Natural Heritage Program
 - ▶ Subchapter I - Natural Areas
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- ▶ Chapter 14 - Zoo
- ▶ Chapter 15 - Aquariums

NC Administrative Code: <http://reports.oah.state.nc.us/ncac.asp>

Rules Generally

- ▶ The Administrative Procedure Act (APA) (Chapter 150B) provides for a uniform procedure for the adoption of rules, both permanent and temporary, while authorizing the Office of Administrative Hearings (OAH) to publish the North Carolina Register (Register) and the North Carolina Administrative Code (Code), and to review rules.
- ▶ Unless otherwise exempt, all State agencies and other rulemaking bodies, such as commissions and boards with rulemaking authority, are required to follow Chapter 150B for rulemaking.

Rulemaking Authority

- ▶ The rulemaking authority, tasked with approving the final classification and all edits to rules, is the DNCR Secretary, except for the following:
 - ▶ Chapter 02, Subchapter J - NC Public Librarian Certification Commission
 - ▶ Rulemaking Authority: Public Librarian Certification Commission
 - ▶ Chapter 03 - Division of Arts
 - ▶ Rulemaking Authority: Board of Trustees of the North Carolina Museum of Art
 - ▶ Chapter 04, Subchapters M, N, O, P, Q, R, and T
 - ▶ Rulemaking Authority: NC Historical Commission
- ▶ When rulemaking authority resides with a public body, approval for rules classification and changes must be completed at an open public meeting via an approving vote of the public body.
 - ▶ Chapter 04, Subchapter S* - Tryon Palace
 - ▶ Rulemaking Authority: Tryon Palace Commission
 - ▶ Chapter 5 - U.S.S. North Carolina Battleship Commission
 - ▶ Rulemaking Authority: U.S.S. North Carolina Battleship Commission
 - ▶ Chapter 11 - Roanoke Voyages and Elizabeth II Commission
 - ▶ Rulemaking Authority: ?
 - ▶ Chapter 13, Subchapter K - Parks and Recreation Trust Fund Grants
 - ▶ Rulemaking Authority: Parks and Recreation Trust Fund Authority

What is the Periodic Review Process?

- ▶ Prior to 2013, North Carolina's Administrative Procedure Act did not have expiration dates for rules.
- ▶ Session Law 2013-413
- ▶ G.S. 150B-21.3A requires that all rules adopted under G.S. 150B, Article 2A, be reviewed every 10 years by the agency that promulgated the rules to ensure rules are necessary and within the agency's statutory authority.
- ▶ Most state agencies and rulemaking bodies are required to go through the Periodic Review Process

Overview of the Periodic Review Process

- ▶ Classification Process
 - ▶ Step 1 - Agency Review
 - ▶ Step 2 - RRC Review
 - ▶ Step 3 - APO Review
- ▶ Readoption Process

New Periodic Review Classification System

S.L. 2019-140

▶ Unnecessary

- ▶ “A rule the agency determines to be obsolete, redundant, or otherwise not needed.” G.S. 150B-21.3A(a)(6).
- ▶ Removed from the Code.

▶ Necessary

- ▶ “Any rule other than an unnecessary rule.” G.S. 150B-21.3A(a)(2a).
- ▶ Must be readopted as if they are new rules using the permanent readoption process, pursuant to G.S. 150B, Article 2A.
 - ▶ The permanent readoption process will require the agency to review and readopt the rule and go through the normal rulemaking process, which takes 6 months to a year and requires approval by RRC.
 - ▶ The entirety of the rule will be reviewed, even if no edits are made to the rule.
 - ▶ The permanent readoption process will be scheduled after the periodic review classification process is complete.

2024-2027 Periodic Review Schedule for Classification

- ▶ May 2025
 - ▶ 07 NCAC 04: Division of Archives and History
 - ▶ 07 NCAC 04S: Tryon Palace
- ▶ July 2025
 - ▶ 07 NCAC 01: DNCR Departmental Rules
 - ▶ 07 NCAC 02: State Library
 - ▶ 07 NCAC 03: Arts
 - ▶ 07 NCAC 05: U.S.S. North Carolina Battleship Commission
- ▶ November 2025
 - ▶ 07 NCAC 13H - Natural Heritage Program
- ▶ September 2026
 - ▶ 07 NCAC 13: Division of Parks and Recreation (except 13H - NHP)
- ▶ January 2027
 - ▶ 07 NCAC 11: Roanoke Voyages and Elizabeth II Commission
 - ▶ 07 NCAC 14: NC Zoo
 - ▶ 07 NCAC 15: NC Aquariums
- ▶ <https://www.oah.nc.gov/documents/rules/periodic-review-report-schedule-2024-2027/open>

Step 1: Agency Review



Readoption Process

- ▶ RRC will set the readoption date after consultation with the agency.
 - ▶ The date is not official until the RRC has set the readoption date.
 - ▶ *See G.S. 150B-21.3A(d)(2)*
- ▶ We will discuss the specifics of the readoption process later.

Next Steps

- ▶ Today, the Commission needs to take a vote on the initial classifications and, if approved, the Chair will sign a memo indicating approval of the initial classifications.
- ▶ I will handle the rest of the agency review steps.
- ▶ Once the 60-day comment period ends, the Commission will need to have a meeting to vote on the final classifications, and, if approved, the Chair will need to sign a memo indicating approval of the final classifications.



Questions?