

## TITLE 11 – DEPARTMENT OF INSURANCE

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Industrial Commission intends to adopt the rule cited as 11 NCAC 23E.0302.*

**Link to agency website pursuant to G.S. 150B-19.1(c):** <https://www.ic.nc.gov/proposedpermE302.html>

**Proposed Effective Date:** August 1, 2021

**Public Hearing:**

**Date:** June 10, 2021

**Time:** 2:00 p.m.

**Location:** Via Teleconference Only. Call-in Number: 1-888-363-4735; Access Code: 4465746

**Reason for Proposed Action:** *The Industrial Commission (hereinafter "Commission") has deemed it necessary to permanently adopt the rule cited as 11 NCAC 23E.0302 to ensure that the Commission has the ability to waive or modify the provisions of any of its rules to bring its rules in conformity with an emergency Order or directive of the Chief Justice of the North Carolina Supreme Court in the interests of justice or to protect the public health or safety.*

**Comments may be submitted to:** Gina Cammarano, 1240 Mail Service Center, Raleigh, NC 27699-1240; phone (919) 807-2524; email [gina.cammarano@ic.nc.gov](mailto:gina.cammarano@ic.nc.gov)

**Comment period ends:** June 14, 2021

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

**Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☒ State funds affected
- ☒ Local funds affected
- ☐ Substantial economic impact ( $\geq$  \$1,000,000)
- ☒ Approved by OSBM
- ☐ No fiscal note required

### 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 modify any portion of its rules in order to bring them in conformity with an emergency Order or directive of the Chief Justice of the North Carolina Supreme Court that is in effect. The Commission shall consider the following factors in determining whether to grant the waiver or modification:

- (1) the necessity of waiving or modifying the rule; and
- (2) the impact of waiving or modifying the rule on the regulated parties and on the Commission.

If the Commission waives or modifies a rule to bring it into 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 modification of the rule on its website unless the waiver or modification is case-specific and not generally applicable to the regulated public. For a waiver or modification that is case-specific and not generally applicable to the regulated public, the Commission shall notify the parties in the case of the waiver or modification via an order of the Commission.

(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 shall 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.

(d) Any waiver or modification made pursuant to this Rule shall only remain in effect during the duration of any emergency Order or directive of the Chief Justice of the North Carolina Supreme Court upon which that waiver or modification is based.

*History Note:* Authority G.S. 97-80; 130A-425(d); 143-166.4; 143-296; 143-300;  
Emergency Adoption Eff. November 6, 2020;  
Temporary Adoption Eff. January 29, 2021;  
Eff. August 1, 2021.