

Rules, EDFP & Clerk's Office Update

EMILY M. BAUCOM
CLERK OF THE INDUSTRIAL COMMISSION

KENDALL BOURDON
RULEMAKING COORDINATOR & LEGISLATIVE LIAISON

OCTOBER 5, 2017

Overview

- ▶ Role of the Clerk's Office
- ▶ Rule 108
- ▶ EDFP
- ▶ Future Changes
- ▶ Tips

Clerk's Office Role

- ▶ Industrial Commission Mail
- ▶ Documents filed for our sections
- ▶ Requests for Hearing
- ▶ Requests for files
- ▶ State Tort Claims
- ▶ Appeals

- ▶ Sections served:
 - ▶ **Executive Secretary's Office**
 - ▶ **Deputy Commissioners**
 - ▶ **Full Commission**
 - ▶ **Scanning group serves entire Commission**

Clerk's Office Staff

- ▶ Emily Baucom, Clerk
- ▶ Linda Langdon, Docket Director
- ▶ Paula Seldes, Deputy Clerk
- ▶ Traci Waldron, Full Commission Trial Administrator
- ▶ Veda Coley, Assistant Clerk
- ▶ Darryl Wright, Assistant Clerk
- ▶ Alejandro Del Rio, Assistant Clerk
- ▶ Steve Creech, Torts and Penalties Processing
- ▶ Kim Forbes, Form 33 Processing
- ▶ Santraiah Nelson-Butler, Records Manager, Appeals
- ▶ Josh Bowen, Processing Assistant-Form 33Rs and Attorney Letters (defendants)
- ▶ Ernie Donadelle, Scanning
- ▶ Mary Cooley, Scanning

Motions for Clerk

- ▶ Attorney Withdrawals
- ▶ Motions to Withdraw Requests for Hearing
- ▶ Motions to Consolidate Cases for Hearing
- ▶ Requests for Certified Copies of Files
- ▶ Motions to Approve Expert Witness Fee

Towards A Paperless Industrial Commission

- ▶ Rule 108 Amended February 1, 2017
- ▶ Documents required to be filed via EDFP jumped from 50 to nearly 450.
- ▶ Industrial Commission files are now updated nearly in real time
- ▶ EDFP will accept color photos (.pdf, .jpeg, .jpg, .gif, .png, .tif, .tiff)
- ▶ Paper document scanning is down 85% since February 1, 2017.
- ▶ Before Rule 108 was established, approximately 270 documents were filed via EDFP each month. Following the February 2017 amendments, that number has jumped to over 18,000 per month.
- ▶ All new Tort Claims are paperless files at their inception.
- ▶ E-Certify—allows electronic proof of delivery of certified mail decreasing the amount of paper mail sent to the Commission and reducing mailing costs

Rule 108

- ▶ Amended as of February 1, 2017
 - ▶ Now requires most documents to come through EDPF
 - ▶ EXCEPTIONS
 - ▶ Persons excepted from the Electronic filing requirement
 - ▶ Claimants, medical providers, and non-insured employers without legal representation (**04 NCAC 10A .0108 (a)**)
 - ▶ Documents excepted from filing via EDPF **under certain circumstances (04 NCAC 10A .0108 (e) Table 1):**
 - ▶ **ALWAYS:**
 - ▶ 18b, 19, 51
 - ▶ Medical motions, responses, and appeals of administrative medical motion orders
 - ▶ Documents to be filed with the Commission's Compliance & Fraud Investigative Division
 - ▶ Documents to be filed with the Commission's Safety Education & Training Section
 - ▶ Documents to be filed with the Commission's Medical Fees Section
 - ▶ **When no IC file number has been assigned**
 - ▶ Form 18
 - ▶ Plaintiff's Attorney Representation letter
 - ▶ Rehabilitation referrals
 - ▶ 25Ns

EDFP

Upload Documents

NCIC Upload Forms and Documents

Release 2.2.2

User:taicncid

[Help](#)

* IC File Number

DUMMY FILE TEST FOLDER V. ACME
FENCE COMPANY

*Select a Document Type:

[Document Help](#)

Please Select

Please Select

Employee / Representative

Employer / Carrier / Representative

Tort Claimant / Representative

Tort Defendant / Representative

Other Submitter

No file selected.

☐ This document has attachments

red asterisk (*) indicates required field.

EDFP

Upload Documents

NCIC Upload Forms and Documents

Release 2.2.2

User:taioncid

[Help](#)

* IC File Number **714190**

DUMMY FILE TEST FOLDER V. ACME
FENCE COMPANY

*Select a Document Type:

[Document Help](#)

Employer / Carrier / Representative

Please Select

Please Select

Agreements / Settlements

Appeals

Attorney Representation

Briefs / Contentions

Contempt / Non-Insured Penalties

Evidence / Exhibits

Forms

Hearing Documents

Mediation

Medical Motions / Responses

Motions / Petitions / Requests

Notices / Vital Records

Responses / Replies

None of the Above

No file selected.

☐ This document has attachments

red asterisk

EDFP

Upload Documents

NCIC Upload Forms and Documents

Release 2.2.2

User:taioncid

[Help](#)

* IC File Number **714190**

DUMMY FILE TEST FOLDER V. ACME
FENCE COMPANY

*Select a Document Type:

[Document Help](#)

Employer / Carrier / Representative

Forms

Select a Document Type

[Browse...](#)

No file selected.

document has attachments

Form 28 (\$0.00)
Form 28B (\$0.00)
Form 28C (\$0.00)
Form 28T (\$0.00)
Form 29 (\$0.00)
Form 30 (\$0.00)
Form 30A (\$0.00)
Form 30D (\$0.00)
Form 31 (\$0.00)
Form 33 (\$0.00)
Form 33 - Amended (\$0.00)
Form 33R (\$0.00)
Form 33R - Amended (\$0.00)
Form 44 (\$0.00)
Form 60 (\$0.00)
Form 61 (\$0.00)
Form 62 (\$0.00)
Form 63 (\$0.00)
Rehabilitation Referral (\$0.00)
None of the Above

[Upl](#)

red aster

NC Industrial Commission | All Rights Reserved

[on](#) | [XHTML 1.0](#) | [CSS 2.1](#) | [Disclaimer](#) | [Privacy Statement](#) | [E-Mail the Webmaster](#)

Three levels to find any document

Upload Documents

NCIC Upload Forms and Documents

Release 2.2.2

User:taioncid

Help

* IC File Number 714190

DUMMY FILE TEST FOLDER V. ACME
FENCE COMPANY

*Select a Document Type:

Document Help

Employer / Carrier / Representative

Forms

Form 61 (\$0.00)

Browse... Sample PDF File.pdf

☐ This document has attachments

Upload

Exit

red asterisk (*) indicates required field.

Scroll Down!

Upload Documents

NCIC Document Summary

User:embaucorn

Help

Delete ?	IC File Number	Document Type	Fees	Total Attachments	View
<input type="checkbox"/>	714190	Form 61	\$0.00	0	

Upload Next Document

Delete Documents

Grand Total Due: \$0.00

Submit

Exit EDP

Don't stop now!

Upload Documents

NCIC Document Summary

User: embaucom

Help

Delete ?	IC File Number	Document Type	Fees	Total Attachments	View
<input type="checkbox"/>	714190	Form 61	\$0.00	0	

Upload Next Document

Delete Documents

Grand Total Due: \$0.00

Submit

Exit EDPF

All done.

Upload Documents

NCIC Document and Invoice Payment Receipt

[Help](#)

North Carolina Department of Commerce
Industrial Commission
Accounts Receivable Section
4340 Mail Service Center
Raleigh, North Carolina 27699-4340

Received from:
EMILY BAUCOM
NORTH CAROLINA INDUSTRIAL COMMISSION

Transaction #	222237	Authorization Code	NA
Amount Paid	\$0.00	Confirmation #	NA
Date	08/21/2017	Payment Type	NA

Invoice	IC File #	Case	Form	Fee	Carrier/Atty File #
E-483655	714190	DUMMY FILE TEST FOLDER V. ACME FENCE COMPANY	Form 61	\$0.00	

An Email with the confirmation receipt has been sent to : EMILY.BAUCOM@IC.NC.GOV

[Exit EDPF](#)[Print](#)[Upload More Documents](#)

Future Changes to EDFP

- ▶ Medical Motions (rule change!)
- ▶ Allow additional information to be entered with filed documents
 - ▶ Name of deponent
 - ▶ “Motion or Request-Other” supplemental descriptor
 - ▶ “Response” supplemental descriptor
- ▶ Allow parties to associate filed documents with multiple IC file numbers
- ▶ Document receipts will include the names of all attachments and name of document uploaded
- ▶ New Case Management System!

NCIC Document Receipt changes

NCIC Document Receipt

North Carolina Industrial Commission
Office of the Clerk
919-807-2504
edfp@ic.nc.gov



Received From:
RONALD WEASLEY
WEASLEY & GRANGER
CCMSTEST@IC.NC.GOV

Transaction #	15948	Authorization Code	N/A
Amount Paid	\$0.00	Confirmation #	N/A
Date Submitted	02/03/2017 10:38 AM	Payment Type	N/A

Invoice	IC File #	Case	Document [File Name]	Fee	Carrier/Atty File #
E-234010	X23001	SEAL BILLY RAY V. COREY CONCEPTS INC	Form 26A [X23001 Billy Ray Seal Form 26A 2-3-2017.pdf] Cover Letter [X23001 Billy Ray Seal Form 26A Cover Letter 2-3-2017.pdf] Attorney Fee Agreement [X23001 Billy Ray Seal Atty Fee Agrmnt 2-3-2017.pdf] Medical Records [X23001 Billy Ray Seal Med Recs p1-50.pdf] Medical Records [X23001 Billy Ray Seal Med Recs p51-98.pdf] Other [X23001 Billy Ray Seal Form 28B 2-3-2017.pdf]	\$0.00	

EDFP Tips

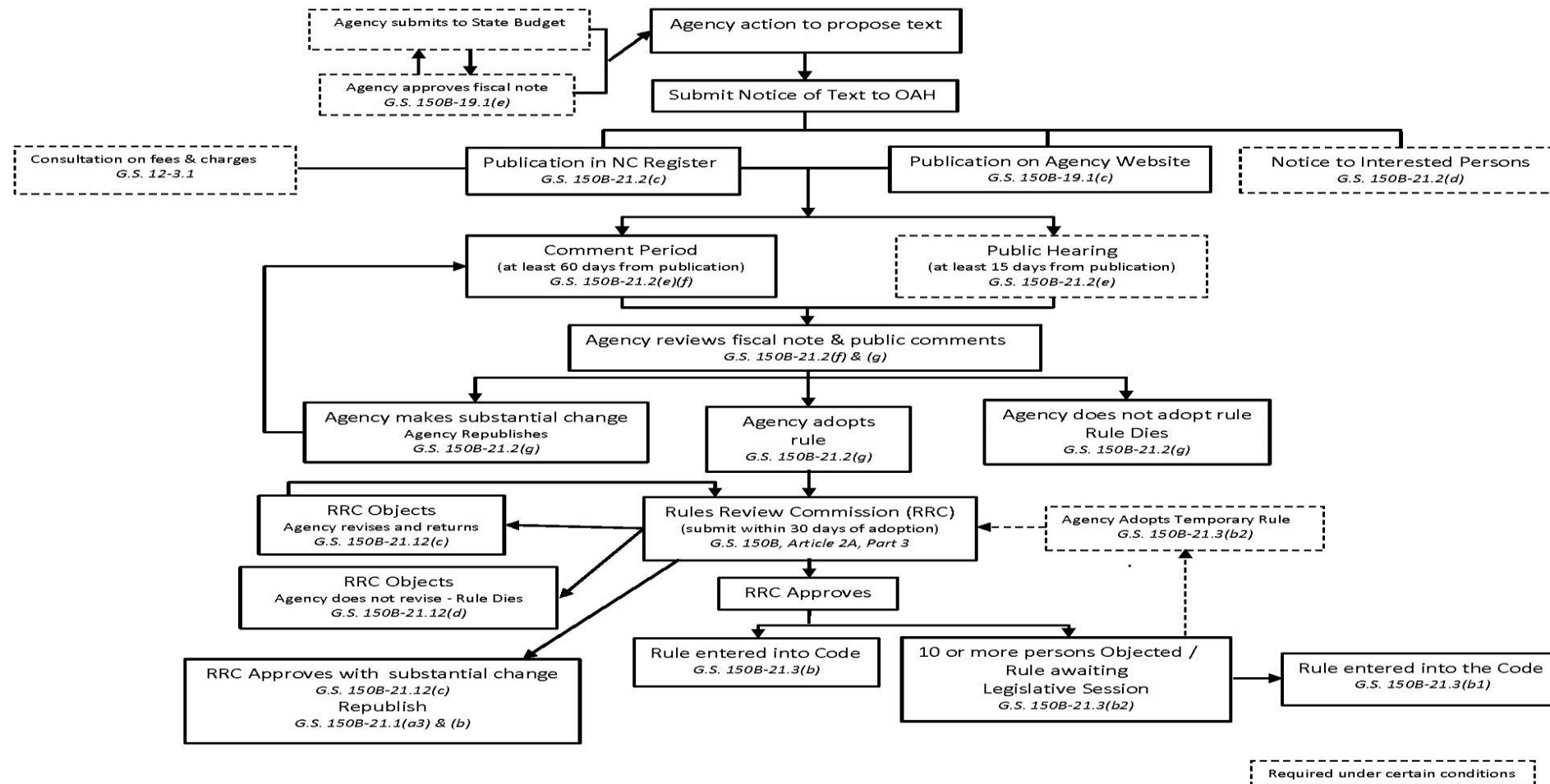
- Name the documents you're uploading by case name or IC file number so you don't misfile!
- NEVER submit a document under another name: An 18 submitted as an 18M will be rejected. If you don't know how to file something, call the Clerk's Office.
- Cover letters!
- Mac Users: Firefox is the only browser that will allow you to submit all document types.
- Requesting IC file numbers: request in writing (and provide a valid reason).
- NCID management: NCIDs used for EDFP are BUSINESS NCIDs. If you change jobs but still file with the Commission, you will have to get a NEW NCID.
- Correspondence: There is NO document type for correspondence in EDFP. You may still send emails to the Commission, just make sure they aren't motions disguised as emails. (See Rule 609)
- File something ONCE. Don't file via EDFP, send an email, and send via U.S. Mail.
- The best way to check on the status of an EDFP filing is to call or email—don't upload the document again via EDFP.
- Check your email for document receipts.

Contact the Clerk's Office

- ▶ Emily Baucom 919-807-2583
- ▶ Emily.Baucom@ic.nc.gov
- ▶ dockets@ic.nc.gov
- ▶ 919-807-2504
- ▶ ncicupdates-subscribe@lists.ncmail.net



PERMANENT RULEMAKING PROCESS



Rulemaking Process and APA Overview

- ▶ Encourage public involvement and participation
- ▶ The Industrial Commission appreciates feedback throughout the process
- ▶ Notice of rulemaking activities distributed to the rulemaking listserv
 - ▶ To be added to the listserv, submit a request to Kendall Bourdon at kendall.bourdon@ic.nc.gov
- ▶ Notices of rulemaking activities are posted on the Industrial Commission website, on both the Breaking News Page and on the About Rules Page
 - ▶ <http://www.ic.nc.gov/news.html#hot>
 - ▶ <http://www.ic.nc.gov/abtrules.html>

North Carolina Administrative Code

- ▶ Title 04 is designated for the Department of Commerce.
- ▶ As of July 1, 2017, the Industrial Commission was transferred out of the Department of Commerce over to the Department of Insurance.
- ▶ Title 11 is designated for the Department of Insurance.
- ▶ Any transfer in the North Carolina Administrative Code of the Industrial Commission rules will be subsequent to any currently pending rulemaking.

Rulemaking Update: 04 NCAC 10A .0108

- ▶ Electronic Filings with the Commission; How to File
 - ▶ 04 NCAC 10A .0108
- ▶ The original version of the Commission's e-filing rule went into effect on February 1, 2016.
- ▶ Shortly thereafter, the Commission began working on a rule amendment as the EDFP portal capacity was further developed.
- ▶ Notice of the amendment was published in the NC Register on October 17, 2016.

Rulemaking Update: 04 NCAC 10A.0108

- ▶ After following the permanent rulemaking procedures of the APA, the Commission adopted the rule on December 20, 2016.
- ▶ The Rules Review Commission approved the rule amendment at their January meeting.
- ▶ The rule, as amended, went into effect February 1, 2017.

Pertinent Legislative Update

- ▶ **House Bill 229 / Session Law 2017-102**
- ▶ **GSC Technical Corrections Bill of 2017**
- ▶ Section 15 of the bill amends N.C. Gen. Stat. § 97-25(f).
- ▶ This amendment allows medical motions and responses to be submitted to the Commission via “electronic means” rather than “electronic mail.”
 - ▶ This previous language precluded the Commission from including this class of documents in our transition to EDFP filing.
 - ▶ This change to “electronic means” will allow the Commission statutory authority to engage in rulemaking to include medical motions in our e-filing rule, 04 NCAC 10A .0108.

Upcoming Rulemaking Project

- ▶ At present, medical motions filings should be submitted to the email address specified in Rule 108.
- ▶ In light of the statutory change, the Industrial Commission plans to go through permanent rulemaking to amend 04 NCAC 10A .0108 and 04 NCAC 10A .0609A.
- ▶ The anticipated changes will be intended to bring medical motions filings into the general filing practice of EDFP.

Rulemaking Update: 04 NCAC 10J .0103

- ▶ The Industrial Commission proposed a temporary rule amending the workers' compensation medical fee schedule rule 04 NCAC 10J .0103 in light of the August 9, 2016 court decision in Surgical Care Affiliates, LLC v. North Carolina Industrial Commission, No. 16-CVS-0060 (Wake County Superior Court).
- ▶ The Commission held the public comment meeting on Friday, November 18, 2016 and accepted written comments from October 19, 2016 through November 29, 2016.
- ▶ The Commission adopted the temporary rule amending 04 NCAC 10J .0103 on December 6, 2016.

Rulemaking Update: 04 NCAC 10J .0103

- ▶ The Rules Review Commission approved the temporary rule at their December meeting.
- ▶ The temporary rule went into effect January 1, 2017.
- ▶ A legal challenge to this temporary rule was filed in Wake County Superior Court.
- ▶ By Order dated March 21, 2017, Superior Court Judge G. Bryan Collins invalidated the temporary rule.
- ▶ This matter is currently pending on appeal to the North Carolina Court of Appeals.
- ▶ The version of the Rule effective April 1, 2015 is currently in effect for dates of service of January 1, 2017 or later.

Rulemaking Update: 04 NCAC 10J .0103

- ▶ In conjunction with the temporary rule, the Industrial Commission began the process of permanent rulemaking to follow the temporary rule.
- ▶ Notice of the proposed rule amending 04 NCAC 10J .0103 was published in the North Carolina Register on June 15, 2017.
- ▶ The Commission held a public hearing on Wednesday, July 19, 2017.
- ▶ The Commission accepted written comments from June 15, 2017 through August 14, 2017.
- ▶ Additional updates on the status of this rulemaking?

Potential Future Rulemaking

- ▶ Potential rulemaking establishing a procedure for the use of email to effectuate service of process.
 - ▶ This will modernize the Commission's procedures and ensure expedient service of process.
- ▶ See Section 15.17 of Session Law 2017-57.
 - ▶ This amendment to N.C. Gen. Stat. § 97-86 clarifies the procedure for service of process of Full Commission decisions.
 - ▶ This amendment will allow the Commission to move away from the costly registered mail requirement, and will realize significant cost saving to the State upwards of \$200,000 per year.
 - ▶ The amendment continues to allow any class of U.S. mail that is fully prepaid to allow for a smooth transition while the Commission establishes parameters for the use of electronic mail, as statutorily permitted now under this amendment.

Potential Future Rulemaking

- ▶ Potential rulemaking to increase the fee for Compromise Settlement Agreements in order to collect the authorized funds for a new case management system.
- ▶ See Section 15.19 of Session Law 2017-57.
 - ▶ This Section of the 2017 Appropriations Act establishes the gradual funding for a new case management system through both receipts and appropriated funds over four years.
 - ▶ The Commission is to retain \$1.2 Million over four years from the fee charged to parties for the filing of Compromise Settlement Agreements.
- ▶ The collected funds are to be used for the purpose of replacing and maintaining a new case management system.

Potential Future Rulemaking

- ▶ Potential rulemaking regarding curtailing opioid misuse in Workers' Compensation cases.
- ▶ The North Carolina Workers' Compensation Opioid Task Force is working diligently to craft meaningful solutions addressing the opioid epidemic through the nexus with the workers' compensation system.
- ▶ See Section 4 of Session Law 2017-203.
 - ▶ The General Assembly directed the Commission to engage in rulemaking to adopt rules and guidelines to curtail the misuse of opioids in the workers' compensation system.
 - ▶ In so doing, the General Assembly waived the fiscal note requirement under the APA to expedite the promulgation of these rules and guidelines.