

**NOTICE OF PROPOSED INDUSTRIAL COMMISSION RULEMAKING**

**DATE: JANUARY 16, 2018**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Industrial Commission intends to amend the rule cited as 04 NCAC 10A .0107.*

This proposed rule amendment was also published on January 16, 2018 in Volume 32, Issue 14, of the North Carolina Register at Page 1333, available at

<http://www.oah.state.nc.us/rules/register/Volume%2032%20Issue%2014%20January%2016,%202018.pdf>.

**Proposed Effective Date:** *May 1, 2018*

**Oral comments on the proposed rule amendment may be made at the Public Hearing before the Industrial Commission:**

**Date:** *March 2, 2018*

**Time:** *10:30 a.m.*

**Location:** *Room 240, 2<sup>nd</sup> Floor, Department of Insurance, Albemarle Building, 325 North Salisbury Street, Raleigh, NC 27603*

**Written comments on the proposed rule amendment may be submitted to:** *Kendall M. Bourdon 1233 Mail Service Center, Raleigh, NC 27699-1233; phone (919) 807-2644; email kendall.bourdon@ic.nc.gov*

**The written comment period ends:** *March 19, 2018*

**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.

**Reason for Proposed Action:** *In the Appropriations Act of 2017, Session Law 2017-57, Section 15.17, the General Assembly amended provisions of NC General Statute § 97-86 pertaining to the method of sending notice of Commission awards. Previously, the statute allowed for notice to be sent by registered or certified mail. Currently, the statute, as amended, specifies that notice shall be sent by any class of U.S. mail that is fully prepaid or electronic mail. Therefore, the Commission is engaging in permanent rulemaking to establish a time certain for the sending of notices pursuant to NC General Statute § 97-86.*

**Fiscal impact (check all that apply).**

- State funds affected
- Environmental permitting of DOT affected
- Analysis submitted to Board of Transportation
- Local funds affected
- Substantial economic impact ( $\geq$ \$1,000,000)
- Approved by OSBM
- No fiscal note required by G.S. 150B-21.4

**Text of Proposed Rule Amendment:**

**CHAPTER 10 – INDUSTRIAL COMMISSION**

**SUBCHAPTER 10A - WORKERS' COMPENSATION RULES**

**SECTION .0100 – ADMINISTRATION**

**04 NCAC 10A .0107 COMPUTATION OF TIME AND NOTICE BY THE COMMISSION**

(a) Except as otherwise provided by statute or rule, in computing any period of time prescribed or allowed by the Commission Rules, by order of the Commission, or by any applicable statute, the day of the act, event, or default after which the designated period of time

begins to run is not included. The last day of the period so computed is included, unless it is a Saturday, a Sunday, or a holiday established by the State ~~Personnel~~ Human Resources Commission, in which event the period runs until the end of the next day that is not a Saturday, a Sunday or a holiday established by the State ~~Personnel~~ Human Resources Commission. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded in the computation. Whenever a party has the right to do some act or take some proceedings within a prescribed period after the service of any ~~document~~, document by mail, three days shall be added to the prescribed period.

(b) If service is provided by electronic mail, notice pursuant to G.S. 97-86 is complete one hour after it is sent, provided that:

(1) notice sent after 5:00 p.m. is complete at 8:00 a.m. the following business day; and

(2) notice sent by electronic mail that is not readable by the recipient is not complete. Within five business days of receipt of an unreadable document, the receiving party shall notify the Commission of the unreadability of the document.

(c) If service is provided by U.S. Mail, notice pursuant to G.S. 97-86 is complete upon the Commission's placing the item to be served, enclosed in a wrapper addressed to the party to be served, in the custody of the Mail Service Center or an official depository of the United States Postal Service.

*Authority G.S. 97-80; 97-81; 97-84; 97-86; S.L. 2017-57 s. 15.17.*