§ 150B-19. Restrictions on what can be adopted as a rule.

An agency may not adopt a rule that does one or more of the following:

1. Implements or interprets a law unless that law or another law specifically authorizes the agency to do so.

2. Enlarges the scope of a profession, occupation, or field of endeavor for which an occupational license is required.

3. Imposes criminal liability or a civil penalty for an act or omission, including the violation of a rule, unless a law specifically authorizes the agency to do so or a law declares that violation of the rule is a criminal offense or is grounds for a civil penalty.

4. Repeats the content of a law, a rule, or a federal regulation. A brief statement that informs the public of a requirement imposed by law does not violate this subdivision and satisfies the "reasonably necessary" standard of review set in G.S. 150B-21.9(a)(3).

5. Establishes a fee or other charge for providing a service in fulfillment of a duty unless a law specifically authorizes the agency to do so or the fee or other charge is for one of the following:
   a. A service to a State, federal, or local governmental unit.
   b. A copy of part or all of a State publication or other document, the cost of mailing a document, or both.
   c. A transcript of a public hearing.
   d. A conference, workshop, or course.
   e. Data processing services.

6. Allows the agency to waive or modify a requirement set in a rule unless a rule establishes specific guidelines the agency must follow in determining whether to waive or modify the requirement.


(1973, c. 1331, s. 1; 1985, c. 746, s. 1; 1991, c. 418, s. 1; 1996, 2nd Ex. Sess., c. 18, s. 7.10(a); 2011-13, s. 1; 2011-398, s. 61.2.)