

Burgos, Alexander N

From: Ascher, Seth M
Sent: Monday, February 9, 2026 4:48 PM
To: Avery, Jonathan
Cc: Burgos, Alexander N
Subject: Re: Periodic Review 07 NCAC 05
Attachments: Staff Opinion-February 2026-Readoptions.docx

Thanks.

I will recommend that readoption date at the RRC meeting on February 26, 2026, at 10:00 AM. Attached is a staff opinion memorializing that recommendation. Let us know if anyone from your office needs an invite to the meeting.

Seth Ascher

Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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From: Avery, Jonathan <jonathan.avery@dn-cr.nc.gov>
Sent: Wednesday, January 28, 2026 11:12 AM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Subject: RE: Periodic Review 07 NCAC 05

Hi Travis,

DNCR accepts your proposed March 1, 2028 readoption deadline for 07 NCAC 05. As requested, please see the proposed readoption timeline below. The dates noted on the timeline refer to a deadline, and not a specific date, as the meeting dates for the USS North Carolina Battleship Commission beyond 2025 have not yet been established. The timeline is based on previous meeting dates typical of the Commission's schedule.

Presentation of rules at Commission meeting: April 2027
Publication of Notice of Text: April 2027
Public Hearing: July 2027
Public Comment Period: June – September 2027
Commission meeting for final adoption: November 2027
Submission of rules to OAH for RRC consideration: February 2028
Rules Review Commission review: No later than March 2028
Earliest Effective Date of Rules: May 1, 2028

Please let me know if you need anything further.

Best,
Jonathan

Jonathan Avery

Assistant General Counsel
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From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Wednesday, January 28, 2026 10:28 AM
To: Avery, Jonathan <jonathan.avery@dncr.nc.gov>
Subject: Re: Periodic Review 07 NCAC 05

Jonathan,

I have spoken with Brian and that is correct. For the rules under that exemption, you just deal directly with the codifier and not the RRC (or periodic review process). As a result, only the one rule you identified will need to be readopted.

Thanks for bearing with me on this, I did not want to steer you wrong.

Seth Ascher

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From: Avery, Jonathan <jonathan.avery@dncr.nc.gov>
Sent: Tuesday, January 27, 2026 3:12 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Subject: RE: Periodic Review 07 NCAC 05

Hey Seth,

See my attached email chain with Brian about rules currently in the code that are subject to the exemption. My understanding is that they remain in the Code, but DNCR just doesn't need to go through the rulemaking process for any new rules that fit the exemption or edit to the current exempt rules still in the code. I just deal directly with the Codifier for those rules. If my understanding is incorrect, please let me know.

Thanks,
Jonathan

Jonathan Avery

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From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Monday, January 26, 2026 4:12 PM
To: Avery, Jonathan <jonathan.avery@dncr.nc.gov>
Subject: Re: Periodic Review 07 NCAC 05

Jonathan,

Sorry for delayed response. I misfiled your email and didn't catch it until today.

Did you discuss with Brian what was going to happen to the rules that fit into the exception you mentioned? Based on my quick review, it looks like they will still need to come out of the code. You can achieve that with a repeal through readoption or just letting their deadline lapse without action.

I'll also touch base with Brian on this when we are back in the office.

Seth Ascher

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From: Avery, Jonathan <jonathan.avery@dncr.nc.gov>
Sent: Wednesday, January 21, 2026 2:18 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Subject: RE: Periodic Review 07 NCAC 05

Hey Seth,

I'm reaching out again to follow up on my 1/13 email. Am I correct that only 07 NCAC .0207 needs to go through the readoption process? Once I know this, I can talk with DNCR management about your proposed readoption date.

Thanks,
Jonathan

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From: Avery, Jonathan
Sent: Tuesday, January 13, 2026 12:44 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Subject: RE: Periodic Review 07 NCAC 05

Hi Seth,

Thanks for reaching out. I'm discussing this proposed readoption deadline with DNCR management and will get back with you as soon as I can.

Also, I've attached an email from Brian Liebman about exemptions for DNCR rules related to visitor conduct, which is outlined in NCGS 150B-1(d)(27a). Brian approved the list of rules (excluding the 4 rules mentioned in his email) as being exempt from rulemaking (see the attached spreadsheet). That spreadsheet of exempt rules includes 07 NCAC 05 .0205, .0208, and 0209.

Since 07 NCAC 05 .0103 and .0203 were marked unnecessary, that leaves only 07 NCAC .0207 Parking Lot that needs to go through the readoption process, is that correct?

Thanks,
Jonathan

Jonathan Avery

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From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Friday, January 2, 2026 11:57 AM
To: Avery, Jonathan <jonathan.avery@dncr.nc.gov>
Subject: Re: Periodic Review 07 NCAC 05

Good afternoon,

The attached periodic review reports have been finalized. The next step is to set a deadline for the readoption of these rules. Pursuant to G.S. 150B-21.3A and 26 NCAC 05 .0212, the RRC sets this deadline after consultation with the agency, and this email serves as the RRC's request for that consultation. Please review 26 NCAC 05 .0212 for the information required to be submitted to the RRC, and the deadlines for doing so.

It appears that the deadline for your agency to provide this information is March 3, 2026. As a starting point, I would recommend a March 1, 2028 readoption deadline, but I am open to considering a different recommendation based on the needs of your agency.

Seth Ascher

Counsel to the North Carolina Rules Review Commission
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From: Julie B. Eddins <julie.eddins@oah.nc.gov>
Sent: Friday, November 7, 2025 2:53 PM

To: Avery, Jonathan <jonathan.avery@dncr.nc.gov>

Cc: Ascher, Seth M <seth.ascher@oah.nc.gov>

Subject: Periodic Review 07 NCAC 05

Good afternoon,

The determinations in the attached periodic review reports for 07 NCAC 05 were effective September 30, 2025. Commission Counsel Seth Ascher will reach out to you to discuss setting the readoption date for the rules in the report designated necessary.

The rules designated, as unnecessary expired effective October 1, 2025.

Let me know if you have any questions.

Julie

Julie B. Eddins

Publications Coordinator

NC Office of Administrative Hearings

*Phone 984-236-1937 (direct) – **new number effective March 14, 2025***

[**julie.eddins@oah.nc.gov**](mailto:julie.eddins@oah.nc.gov)



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