

TITLE 26 – OFFICE OF ADMINISTRATIVE HEARINGS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Rules Review Commission intends to amend the rule cited as 26 NCAC 05 .0209.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.oah.nc.gov/rules-division/rules-division-official-notice-and-postings>

Proposed Effective Date: January 1, 2026

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): A PUBLIC HEARING ON THE PROPOSED RULE WILL BE HELD IF THE AGENCY RECEIVES A WRITTEN REQUEST FOR SAID HEARING WITHIN 15 DAYS AFTER THE NOTICE OF TEXT IS PUBLISHED. REQUESTS FOR A HEARING CAN BE EMAILED TO TRAVIS.WIGGS@OAH.NC.GOV.*

Reason for Proposed Action: *The proposed Rule removes the requirements for the Rules Review Commission (RRC) to “provide notice of a public hearing” and to “conduct a public hearing” when the Commission receives periodic review exemption requests from agencies. The amendments would make this Rule consistent with how the RRC currently operates and would not change how the RRC handles periodic review exemption requests from agencies. G.S. 150B-21.3A(d)(1) governs the periodic review process and that statute doesn’t require notice from the RRC or a public hearing when addressing exemption requests. The Rule would not change the ability of the public to be heard regarding periodic review exemption requests at an RRC meeting.*

Comments may be submitted to: Travis Wiggs, 1711 New Hope Church Road, Raleigh, NC 27609; email travis.wiggs@oah.nc.gov

Comment period ends: November 3, 2025

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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

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 05 - RULES REVIEW COMMISSION

SECTION .0200 – PERIODIC REVIEW OF EXISTING RULES

26 NCAC 05 .0209 EXEMPTION FROM THE PERIODIC REVIEW OF EXISTING RULES

- (a) An agency requesting an exemption from the review pursuant to G.S. 150B-21.3A(d) ~~may~~ shall make an exemption request for an entire Section, Subchapter, Chapter, or Title of rules if the entire Section, Subchapter, Chapter, or Title of rules were adopted or amended within the previous 10 years prior to the review.
- (b) The Commission shall not grant an exemption for individual rules.
- (c) The agency head ~~must~~ shall make the ~~written~~ request to the Commission in writing.
- (d) If an agency head submits a request for exemption, the agency shall post notice on its website and notify its interested persons mailing list maintained pursuant to G.S. 150B-21.2(d).
- (e) The Commission shall post notice of the agency's request on its website ~~and provide notice of a public hearing.~~
- (f) The Commission shall ~~conduct a public hearing to~~ determine whether it should grant the waiver. The Commission shall consider the following:
 - (1) the arguments of the agency;
 - (2) public input;
 - (3) impact on the regulated public affected by the rule; and
 - (4) whether granting the waiver is within the public interest.
- (g) If the Commission grants the waiver request, the Section, Subchapter, Chapter, or Title shall be removed from the ~~current~~ schedule set pursuant to G.S. 150B-21.3A(d) ~~and shall not be reviewed under this Section until the new review schedule is set.~~

History Note: Authority *G.S. 143B-30.1; G.S. 150B-21.3A*;
Eff. October 1, 2025.