

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Commission for the Blind

RULE CITATION: 10A NCAC 63C .0203, .0204, .0403, and .0601

RECOMMENDED ACTION:

Approve, and note staff's comment

Object, based on:

Lack of statutory authority

Unclear or ambiguous

Unnecessary

Failure to comply with the APA

Extend the period of review

COMMENT:

At its September 2018 meeting, the RRC objected to the readoptions presented for Rules 10A NCAC 63C .0203, .0204, .0403, and .0601.

The RRC objected to Rules .0204 and .0403 because the text presented to the RRC differed substantially from what was published in the Register. The agency responded to the objection by stating that it accepted the objection and determined that it wanted to move forward with the changed language, rather than revert to what was originally published. In order to do so, the agency must republish the rules for a 60-day comment period pursuant to G.S. 150B-21.2.

The RRC objected to Rules .0203 and .0601 at its September 2018 meeting and again in January 2019 to the rewritten rules submitted in response to the objections. At its meeting in March 2019, the RRC approved the rewritten rules submitted, finding the rules were responsive to the objections. The RRC found that the revisions made to the rules in response to the objection were "substantial" and thus, the rules would need to be republished pursuant to G.S. 150B-21.12(c).

As the agency is required to publish all rules due to substantial change determinations, it has decided to publish all four rules in the NC Register for a 60-day comment period. The agency published the rules in the March 2, 2020 Register and the comment period ended on May 1, 2020. The agency has not met to adopt the rules.

There is no action for the RRC to take at this time.

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