

**RULES REVIEW COMMISSION MEETING
MINUTES
December 17, 2014**

The Rules Review Commission met on Wednesday, December 17, 2014, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Anna Choi, Margaret Currin, Jeanette Doran, Garth Dunklin, Jeff Hyde, Stephanie Simpson, Ralph Walker, and Faylene Whitaker.

Staff members present were: Commission counsels Abigail Hammond and Amanda Reeder; and Julie Brincefield, Alex Burgos, and Dana Vojtko.

The meeting was called to order at 9:01 a.m. with Chairman Currin presiding.

Chairman Currin read the notice required by G.S. 138A-15(e) and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts.

APPROVAL OF MINUTES

Chairman Currin asked for any discussion, comments, or corrections concerning the minutes of the November 20, 2014 meeting. There were none and the minutes were approved as distributed.

LOG OF FILINGS (PERMANENT RULES)

Board of Agriculture

02 NCAC 09O .0103 was unanimously approved.

Private Protective Services Board

All rules were unanimously approved.

Criminal Justice Education and Training Standards Commission

All rules were unanimously approved.

Sheriffs Education and Training Standards Commission

All rules were unanimously approved.

Environmental Management Commission

All rules were unanimously approved with the following exception:

15A NCAC 02H .1030 – The Commission objected to the Rule, finding that the Rule failed to comply with Part 2 of the Administrative Procedure Act, by adopting a rule that differed substantially from the proposed rule. The Commission voted to object to the rule with Commissioners Currin, Doran, Dunklin, Hyde, Simpson, and Whitaker voting in favor and Commissioners Choi and Walker voting against.

Jennie Hauser from the Department of Justice addressed the Commission on behalf of the agency.

Commissioner Hyde was not present and did not participate in the vote or discussion for any rules until the vote on Rule 15A NCAC 02H .1030.

Wildlife Resources Commission

All rules were unanimously approved.

Department of Transportation

All rules were unanimously approved.

Board of Cosmetic Art Examiners

All rules were unanimously approved with the following exception:

21 NCAC 14T .0201 was withdrawn at the request of the agency.

Hearing Aid Dealers and Fitters Board

All rules were unanimously approved.

Board of Landscape Architects

The period of review was extended at the request of the agency.

Board of Nursing

All rules were unanimously approved.

Prior to the review of the rules from the Board of Nursing, Commissioner Choi recused herself and did not participate in any discussion or vote concerning these rules because her law firm provides legal representation to the board.

Board of Occupational Therapy

21 NCAC 38 .0802 was unanimously approved.

Board of Pharmacy

All rules were unanimously approved.

Appraisal Board

All rules were unanimously approved.

Respiratory Care Board

21 NCAC 61 .0401 was unanimously approved.

Prior to the review of the rule from the Respiratory Care Board, Commissioner Choi recused herself and did not participate in any discussion or vote concerning this rule because her law firm provides legal representation to the board.

Veterinary Medical Board

21 NCAC 66 .0108 was unanimously approved.

Board for Licensing of Soil Scientists

All rules were unanimously approved.

TEMPORARY RULES

DHHS - Division of Mental Health

The Commission reviewed the temporary rules filed by the Division of Mental Health. The Findings of Need forms filed indicated that the reason for the temporary rulemaking action was pursuant to a recent act of the General Assembly. The Commission declined to approve the three temporary rules based on the failure to comply with the Administrative Procedure Act (APA) in accordance with G.S. 150B-21.9, as S.L. 2014-53 directed the agency to adopt temporary rules no later than October 1, 2014.

Josephine Tetteh with the Department of Justice addressed the Commission on behalf of the agency.

Real Estate Commission

2nd Vice Chairman Simpson presided over the discussion and vote on the temporary rule submitted by the Real Estate Commission.

21 NCAC 58A .0119 was unanimously approved.

Prior to the review of the rule, Chairman Currin recused herself and did not participate in the discussion or vote concerning the rule because she holds an inactive Real Estate Broker's license.

Prior to the review of the rule, Commissioner Dunklin recused himself and did not participate in the discussion or vote concerning the rule because he practices in front of the Commission.

Chairman Currin and Commissioner Dunklin were not present during the discussion or vote on the rule.

EXISTING RULES REVIEW

Commission for Public Health

10A NCAC 45 – The Commission unanimously approved the report as submitted by the agency.

Commissioner Doran was not present, and did not participate in the vote for this report.

Board of Architecture

21 NCAC 02 – The Commission unanimously approved the report as submitted by the agency.

Prior to the review of this report, Commissioner Choi recused herself and did not participate in any discussion or vote concerning this report because her law firm provides legal representation to the board.

Board of Cosmetic Art Examiners

21 NCAC 14 – The Commission unanimously approved the report as submitted by the agency.

Board of Environmental Health Specialist Examiners

21 NCAC 62 – The Commission unanimously approved the report as submitted by the agency.

COMMISSION BUSINESS

Commission staff gave the Commission a brief update on the Joint Legislative Administrative Procedure Oversight Committee meeting that took place on December 16, 2014.

At 11:06 a.m., Chairman Currin ended the public meeting of the Rules Review Commission and called the meeting into closed session pursuant to G.S 143-318.11 to discuss the lawsuit filed by the State Board of Education against the Rules Review Commission.

The Commission came out of closed session at 12:38 p.m.

The Commission took a break from 12:39 until 1:04 p.m.

Chairman Currin called the Commission to order in open session at 1:05 p.m.

LOG OF FILINGS (PERMANENT RULES continued)

Mining and Energy Commission

The Commission voted not to approve the staff recommendation to object to Rule 15A NCAC 05H .1307 with Commissioners Choi, Currin, Doran, Dunklin, Walker, and Whitaker voting against and Commissioner Hyde voting in favor.

The Commission voted not to approve the staff recommendation to object to Rules 15A NCAC 05H .1504 and .1616 with Commissioners Choi, Doran, Dunklin, Hyde, Walker, and Whitaker voting against and Commissioner Currin voting in favor.

All rules were unanimously approved with the following exceptions:

15A NCAC 05H .0604 and .0605 were withdrawn at the request of the agency.

The Commission objected to Rules 15A NCAC 05H .0804 and .1704. The Commission objected pursuant to G.S. 150B-21.9(a)(3), finding both rules were unnecessary, as they both repeated statute.

Commissioner Walker was not present, and did not participate in the vote for Rule 15A NCAC 05H .1704.

In addition, the Commission extended the period of review pursuant to G.S. 150B-21.10 for Rules 15A NCAC 05H .0704, .1308, .1310, .1404, .1405, .1406, .1407, .1603, .1613, .1804, .1902, .1903, and .2003.

Robert Josey and Walt Haven with the agency addressed the Commission.

Prior to the review of the rules, Commissioner Simpson recused herself and did not participate in any discussion or vote concerning the rules because of a possible conflict with her husband's law firm. Commissioner Simpson was not present during the discussion or vote.

COMMISSION BUSINESS

The meeting adjourned at 2:50 p.m.

The next regularly scheduled meeting of the Commission is scheduled for Thursday, January 15th at 10:00 a.m.

There is a digital recording of the entire meeting available from the Office of Administrative Hearings /Rules Division.

Respectfully Submitted,

Alexander Burgos

Minutes approved by the Rules Review Commission:

Margaret Currin, Chair

Rules Review Commission
Meeting
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Name	Agency
Seth Swift	NC ENVIRONMENTAL HEALTH SPECIALIST
Bill Craft	NC Respiratory Care Board
Althe Evans	NC Board of Architecture
Mark Odell	Lamar
Joelle Burleson	NC DENR-DAQ
CLINT PUNYAN	BOARD OF PHARMACY
Regina Cocuzello	DOJ
Roberta Ouellette	NC Appraisal Board
Jennie Hauser	AG-EMC & MEC
Patrick Krawson	DENR-DAQ
Craig Justus	NCOAA
Paul Hickman	NCOAA
Curtis Aldenderfer	NC REC
Melissa Vuotto	NC REC
Josephine Tetteh	DOJ
Kate Pijkin	NCWRC
Evan Kane	NC DENR
Anthony Bonapart	Private Protective Services
Melissa Vuotto	NC REC
Larry Michals	NC DHHS
Denise Parker	NC DHHS DMH/DOH/SAS

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Name	Agency
CONNIE BROWER	DENR - DW R
CRAIG BROMBY	DENR - OGC
Jeff Manning	DENR - DWR
Crystal Tillman	NCBON
Jennifer Everett	DENR
John Vandi	DOT
Bradley Bennett	NC DENR
Ken Pickle	"
Eileen Kugler	NCBON
Katie Mitis	NC DENR
Trevor Allen	DOS - CJETS
Julia Lohm	DOS - SHETS
Ebony Pittman	DOS - Transportation
Lynda Elliott	Cosmetic Arts
DON LEB	NCDOT
Dennis Bryant	NCDOT
Chris Venturolo	DENR
Julie Venturolo	DENR
Thomas Mickey	NC VMB
Kim Gemenhardt	NC VMB
Jay Campbell	NCBOP

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Name	Agency
Jon Risgaard	NCDEUR - DWR
ROBERT BROOME	NCAR
DAN OSHAHA	
Jennifer Meyer	Eton Law School
TRACY DAVIS	DEM - DEMU
Doug Lassiter	NC Septic Tank Assoc

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Name	Agency
Elizabeth Kirk/Charles Wilkins	NCBOT
Angela Ellis	NCB&N
Ryan Keenan	NCOAA
Catherine Jurgensen	NC HADERB
Rob Sykes	CAPITAL OUT JOUR
John Bartley	NC DOJ
Barry Block	NC DOJ

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Name	Agency
Jennie Hauser	AG- EMC & MEC
Sarah Collins	NCLM
JIM NOMAK	NC MEC
Katherine Marciniak	NCDENR-DEMLR
Ryan Channell	NCDENR-DEMLR
Brad Atkinson	NCDENR-DEMLR
TRACY DAVIS	NCDENR-DEMLR
WALT HAVEN	"
Matt Calder	NC CAPITOL CONNECTION
Maggie Madge Ashby	SELC
John Murawski	NFO
Karen Cochran Brown	NC GA staff
David McGowan	NCPC