

**RULES REVIEW COMMISSION MEETING
MINUTES
May 19, 2016**

The Rules Review Commission met on Thursday, May 19, 2016, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Bobby Bryan, Anna Choi, Margaret Currin, Jeanette Doran, Jay Hemphill, Jeff Hyde, Jeff Poley, and Stephanie Simpson.

Staff members present were Commission Counsels Abigail Hammond, Amanda Reeder, and Jason Thomas; and Julie Brincefield, Alex Burgos, and Dana Vojtko.

The meeting was called to order at 10:00 a.m. with 1st Vice Chairman Hyde presiding.

Molly Masich, Codifier of Rules with OAH, introduced OAH extern Stephanie Barickman.

1st Vice Chairman Hyde 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 of interest.

APPROVAL OF MINUTES

1st Vice Chairman Hyde asked for any discussion, comments, or corrections concerning the minutes of the April 21, 2016 meeting. There were none and the minutes were approved as distributed.

FOLLOW UP MATTERS

Pesticide Board

02 NCAC 09L .0504, .0505, .0507, .0522, .1102, .1104, and .1108 – All rules were unanimously approved.

911 Board

09 NCAC 06C .0111, .0112, .0113, .0114, .0205, .and .0216 – All rules were unanimously approved.

Social Services Commission

10A NCAC 71P .0101, .0102, .0103, .0201, .0202, .0301, .0302, .0303, .0304, .0306, .0401, .0402, .0403, .0404, .0405, .0406, .0501, .0502, .0504, .0505, .0506, .0507, .0508, .0601, .0602, .0603, .0604, .0608, .0701, .0702, .0704, .0705, .0801, .0802, .0803, .0804, .0805, .0902, .0903, .0904, .0905, and .0906 – All rules were unanimously approved.

Coastal Resources Commission

15A NCAC 07H .0308, .1704, .and .1705 – Pursuant to G.S. 150B-21.1(b2), the rules were returned to the agency. No action was required by the Commission.

Property Tax Commission

17 NCAC 11 .0216 and .0217 - The agency is addressing the objections from the October meeting by publishing a Notice of Text in the North Carolina Register. No action was required by the Commission.

LOG OF FILINGS (PERMANENT RULES)

Social Services Commission

All rules were unanimously approved.

Radiation Protection Commission

10A NCAC 15 .1701 - The Commission approved the rule contingent upon receiving the technical changes requested by Commissioner Bryan. The rule with the technical change was subsequently received.

W. Lee Cox, III, with the agency, addressed the Commission.

Nadine Pfeiffer from the Division of Health Service Regulation addressed the Commission.

Public Safety – Division of Emergency Management

14B NCAC 03 .0101, .0102, .0103, and .0202 were withdrawn at the request of the agency.

The Commission objected to 14B NCAC 03 .0104 in accordance with G.S. 150B-21.10. The Commission objected to the rule, finding the agency failed to comply with the Administrative Procedure Act. Specifically, the Commission found that the text presented was not a rule as defined in G.S. 150B-2(8a), as the contents set forth only the internal management of the agency and does not affect the procedural or substantive rights of anyone outside of the agency.

Public Safety - State Capitol Police

The Commission voted to extend the period of review for 14B NCAC .0102, .0201, .0202, and .0203 in accordance with G.S. 150B-21.10 with Commissioner Doran voting against. They did so in response to a request from the Public Safety - State Capitol Police to allow additional time for review of technical change requests.

Department of Revenue

17 NCAC 07B .4710 was unanimously approved.

Appraisal Board

All rules were unanimously approved.

Building Code Council

All rules were unanimously approved.

LOG OF RULES (TEMPORARY RULES)

Wildlife Resources Commission

15A NCAC 10B .0202 was unanimously approved.

EXISTING RULES REVIEW

Department of Administration

01 NCAC 05 – The Commission unanimously approved the report as submitted by the agency.

DHHS/Division of Medical Assistance

10A NCAC 23 - The Commission unanimously approved the report as submitted by the agency.

10A NCAC 25 - The Commission unanimously approved the report as submitted by the agency.

Licensing Board for General Contractors

21 NCAC 12 - The Commission unanimously approved the report as submitted by the agency.

Prior to the review of the report from the Licensing Board for General Contractors, Commissioner Choi recused herself and did not participate in any discussion or vote concerning the report because she is the rulemaking coordinator for the board.

Board of Occupational Therapy

21 NCAC 38 - The Commission unanimously approved the report as submitted by the agency.

Office of Administrative Hearings

26 NCAC 01 - The Commission unanimously approved the report as submitted by the agency.
26 NCAC 02 - The Commission unanimously approved the report as submitted by the agency.
26 NCAC 03 - The Commission unanimously approved the report as submitted by the agency.
26 NCAC 04 - The Commission unanimously approved the report as submitted by the agency.

Commission of Navigation and Pilotage for the Cape Fear River and Bar

04 NCAC 15 - As reflected in the attached letter, the Commission voted to schedule re-adoption of these Rules pursuant to G.S. 150B-21.3A(d)(2) no later than May 31, 2017.

Department of Insurance

11 NCAC 18 – As these Rules were re-adoptions scheduled by the Commission pursuant to G.S. 150B-21.3A(d)(2), the Commission will set a new re-adoption date for these Rules at a later meeting.

Environmental Management Commission

15A NCAC 02D – As reflected in the attached letter, the Commission voted to schedule re-adoption of these Rules pursuant to G.S. 150B-21.3A(d)(2) no later than December 31, 2020.

15A NCAC 02Q – As reflected in the attached letter, the Commission voted to schedule re-adoption of these Rules pursuant to G.S. 150B-21.3A(d)(2) no later than December 31, 2020.

Medical Board

21 NCAC 32 - As reflected in the attached letter, the Commission voted to schedule re-adoption of these Rules pursuant to G.S. 150B-21.3A(d)(2) no later than September 30, 2017.

Coal Ash, Oil and Gas, and Mining Commissions

15A NCAC 05A, 05B, 05C, 05F, and 05G – The Commission unanimously voted to adopt staff's recommendation to amend Rule 26 NCAC 05 .0211 and remove 15A NCAC 05A, 05B, 05C, 05F, and 05G from the periodic review schedule until new appointments are made to the Coal Ash, Oil and Gas, and Mining Commissions.

The Commission will reschedule the date of review for the reports after new Commissioners are appointed to the Coal Ash, Oil and Gas, and Mining Commissions, and staff is able to consult with these Commissions.

COMMISSION BUSINESS

The Commission amended Rule 26 NCAC 05 .0211 to reflect changes in the Administrative Code.

The meeting adjourned at 10:47 a.m.

The next regularly scheduled meeting of the Commission is Thursday, June 16th 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, Paralegal

Minutes approved by the Rules Review Commission:

Jeff Hyde, 1st Vice Chair

DRAFT

May 19, 2016

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
BARRY GUPTON	NC DOS / NC BCC
Chris Liso	DAAS / DHHS
Robuta Duellata	NC DOS / Appraisal Board
Nadine Pfeiffer	DHHS / DHSR
Richard Bradford	NC DOS / 911 BOARD
Teresa Bank	NC DIT / 911 Board
Lee Cox	NC / PHHS R.A.P. et.
Jennifer Everett	DEQ
Jim Burnette	NC DAES
David Cranley	NC DHSR / RPS
James Albright	NC DHSR / RPS / RAMB
Janice Davidson	NC DOR
Will Pirk	NC DPS
Stephanie Barickman	UNC law extern
Joe G. Wright	NCEM
David Cobb	NCWRC
Joelle Burleson	NCDAQ
Jennifer Johnson	DODEE
Debra Alston	DEDEC
Lynne Bunn	DHHS
Michelle	DHHS
Frank Wiesner	NCLBGC



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6714

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

May 19, 2016

Bonner Stiller, Rulemaking Coordinator
Commission of Navigation and Pilotage for the Cape Fear River and Bar
801 North Howe Street, Suite 7
Southport, North Carolina 28461

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 04 NCAC 15

Dear Mr. Stiller:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the May 19, 2016 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than May 31, 2017.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Abigail M. Hammond
Commission Counsel

cc: John Harriss

Administration 919/431-3000 fax: 919/431-3100	Rules Division 919/431-3000 fax: 919/431-3104	Judges and Assistants 919/431-3000 fax: 919/431-3100	Clerk's Office 919/431-3000 fax: 919/431-3100	Rules Review Commission 919/431-3000 fax: 919/431-3104	Civil Rights Division 919/431-3026 fax: 919/431-3103
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An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
September 17, 2015
APO Review: November 23, 2015**

**Navigation and Pilotage for the Cape Fear River and Bar, Commission of
Total: 6**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>04 NCAC 15 .0119</u>	Necessary with substantive public interest
<u>04 NCAC 15 .0121</u>	Necessary with substantive public interest
<u>04 NCAC 15 .0123</u>	Necessary with substantive public interest
<u>04 NCAC 15 .0124</u>	Necessary with substantive public interest
<u>04 NCAC 15 .0127</u>	Necessary with substantive public interest
<u>04 NCAC 15 .0128</u>	Necessary with substantive public interest

DRAFT



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Raleigh, NC 27609-6285

May 19, 2016

Jennifer Everett, Rulemaking Coordinator
Department of Environment Quality
Environmental Management Commission
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **15A NCAC 02D, 15A NCAC 02Q**

Dear Ms. Everett:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the May 19, 2016 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than December 31, 2020.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Abigail M. Hammond
Commission Counsel

Administration 919/431-3000 fax: 919/431-3100	Rules Division 919/431-3000 fax: 919/431-3104	Judges and Assistants 919/431-3000 fax: 919/431-3100	Clerk's Office 919/431-3000 fax: 919/431-3100	Rules Review Commission 919/431-3000 fax: 919/431-3104	Civil Rights Division 919/431-3036 fax: 919/431-3103
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An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
December 17, 2015
APO Review: January 05, 2016**

**Environmental Management Commission
Total: 322**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>15A NCAC 02D .0101</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0201</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0202</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0301</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0302</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0303</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0304</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0305</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0306</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0307</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0401</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0402</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0403</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0404</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0405</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0407</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0408</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0409</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0410</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0501</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0502</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0503</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0504</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0506</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0507</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0508</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0509</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0510</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0511</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0512</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0513</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0514</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0515</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0516</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0517</u>	Necessary with substantive public interest
<u>15A NCAC 02D .0519</u>	Necessary with substantive public interest

15A NCAC 02Q .0704 Necessary with substantive public interest
15A NCAC 02Q .0706 Necessary with substantive public interest
15A NCAC 02Q .0707 Necessary with substantive public interest
15A NCAC 02Q .0708 Necessary with substantive public interest
15A NCAC 02Q .0709 Necessary with substantive public interest
15A NCAC 02Q .0710 Necessary with substantive public interest
15A NCAC 02Q .0711 Necessary with substantive public interest
15A NCAC 02Q .0712 Necessary with substantive public interest
15A NCAC 02Q .0713 Necessary with substantive public interest
15A NCAC 02Q .0801 Necessary with substantive public interest
15A NCAC 02Q .0802 Necessary with substantive public interest
15A NCAC 02Q .0803 Necessary with substantive public interest
15A NCAC 02Q .0804 Necessary with substantive public interest
15A NCAC 02Q .0805 Necessary with substantive public interest
15A NCAC 02Q .0806 Necessary with substantive public interest
15A NCAC 02Q .0807 Necessary with substantive public interest
15A NCAC 02Q .0808 Necessary with substantive public interest
15A NCAC 02Q .0809 Necessary with substantive public interest
15A NCAC 02Q .0810 Necessary with substantive public interest
15A NCAC 02Q .0901 Necessary with substantive public interest
15A NCAC 02Q .0902 Necessary with substantive public interest
15A NCAC 02Q .0903 Necessary with substantive public interest



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Raleigh, NC 27609-6285

May 19, 2016

Wanda Long, Rulemaking Coordinator
North Carolina Medical Board
Post Office Box 20007
1203 Front Street
Raleigh, NC 27619-0007

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 21 NCAC 32

Dear Ms. Long:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the May 19, 2016 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than September 30, 2017.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Abigail M. Hammond
Commission Counsel

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919/431-3000
fax: 919/431-3100

Rules Division
919/431-3000
fax: 919/431-3104

Judges and
Assistants
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Rules Review
Commission
919/431-3000
fax: 919/431-3104

Civil Rights
Division
919/431-3036
fax: 919/431-3103

An Equal Employment Opportunity Employer

RRC DETERMINATION
PERIODIC RULE REVIEW
February 18, 2016
APO Review: March 01, 2016

Medical Board
Total: 12

RRC Determination: Necessary with substantive public interest

Rule	Determination
21 <u>NCAC 32A .0104</u>	Necessary with substantive public interest
21 <u>NCAC 32A .0111</u>	Necessary with substantive public interest
21 <u>NCAC 32K .0101</u>	Necessary with substantive public interest
21 <u>NCAC 32K .0201</u>	Necessary with substantive public interest
21 <u>NCAC 32K .0202</u>	Necessary with substantive public interest
21 <u>NCAC 32K .0203</u>	Necessary with substantive public interest
21 <u>NCAC 32K .0204</u>	Necessary with substantive public interest
21 <u>NCAC 32K .0205</u>	Necessary with substantive public interest
21 <u>NCAC 32K .0206</u>	Necessary with substantive public interest
21 <u>NCAC 32K .0207</u>	Necessary with substantive public interest
21 <u>NCAC 32K .0208</u>	Necessary with substantive public interest
21 <u>NCAC 32M .0111</u>	Necessary with substantive public interest