



**North Carolina Department of Natural and Cultural Resources
Office of the Secretary**

Governor Pat McCrory

Secretary Susan Kluttz

TO: Garth Dunklin, Chairman, Rules Review Commission
FROM: North Carolina Historical Commission
RE: Waiver Request; 07 NCAC 04R .0702 – .0718
DATE: 12-8-16

I. Introduction

The North Carolina Historical Commission (“Commission”) requests a waiver under 26 NCAC 05 .0112 from the readoption schedule adopted pursuant to G.S. 150B-21.3A(d)(2) for rules 07 NCAC 04R .0702 – .0718. The Rules Review Commission set a deadline of December 31, 2016 for the readoption of these rules as well as other rules in 07 NCAC Chapter 04R.

II. Waiver Factors

a. Necessity for a waiver.

Sections .0700 and .1000 were intended to be proposed as repeals to be combined and updated into a new Section .1600. Sections .1000 and .1600 were filed and published in Volume 31, Issue 07 of the North Carolina Register. The Commission requests an extension in order to fully comply with the Periodic Review and Expiration of Existing Rules process and the APA. An extension will ensure the public has adequate notice to make informed comments.

b. The amount of notice given.

The Commission and the Department of Natural and Cultural Resources took substantial steps towards readoption. The Notice of Text, filed September 12, 2016, proposed Rules .0702 – .0718 be readopted with substantive changes as repeals. The following notice was published in the Volume 31, Issue 07 of the North Carolina Register: “Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Department of Natural and Cultural Resources intends to . . . readopt with substantive changes the rules cited as 07 NCAC 04R0702-.0718” Due to a filing error, the rules were listed in the Notice of Text, but the full text of the rules was not printed with the language struck through to show the intent to repeal the rules in the NC Register.

c. The applicant’s responsibility for the conditions creating the need for a waiver.

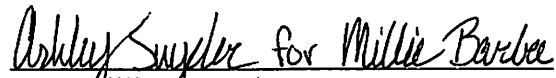
The Commission intended to update all of Chapter 04R by the December 31 deadline. The Commission will be able to meet the deadline with all rules in Chapter 04R except Section .0700. The Commission contacted RRC staff the day it noticed the full text of Section .0700 was not printed in the Register in order to promptly address the oversight.

d. The harm to the applicant if a waiver is not granted.

A waiver will ensure Sections .0700 and .1000 are repealed at the same time Section .1600 goes into effect. If the waiver is not granted, Section .0700 will expire before the proposed effective date of Section .1600 and the repeal of Section .1000 proposed for February 1, 2017.

III. Conclusion

The Commission respectfully requests a six-month waiver for the aforementioned reasons. The Commission asks to have until June 30, 2017 to readopt these rules. Thank you for your consideration.



Mrs. Millie M. Barbee

Chairwoman, North Carolina Historical Commission