



**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6700

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

December 15, 2016

Sent via electronic mail

Patrice Alexander, Rulemaking Coordinator
Capital Facilities Finance Agency
3200 Atlantic Avenue
Raleigh, North Carolina 27604

Re: Existing Rules Review Report for 20 NCAC 09

Dear Ms. Alexander:

At its meeting on November 17, 2016, the Rules Review Commission (RRC) reviewed the above-referenced Periodic Review and Expiration of Existing Rules Report pursuant to G.S. 150B-21.3A. Based upon an inquiry at that meeting, the RRC requested clarification as to the identity of the agency that actually conducted the analysis, made the initial determinations, posted the report for the 60-day comment period, and made the final determinations. A response has been provided that the actions were not taken by the Capital Facilities Finance Agency.

The periodic review of the rules set forth in the report for 20 NCAC 09 needs to be rescheduled to ensure proper compliance with G.S. 150B-21.3A(c)(1). This report shall be rescheduled in Rule 26 NCAC 05 .0211 as follows: the report for 20 NCAC 09 must be completed and filed with the Office of Administrative Hearings by the rulemaking agency by November 15, 2017. The report will be reviewed by the RRC at the **December 2017** meeting.

If you have any questions regarding the RRC's actions, 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

Hammond, Abigail M

From: Patrice Alexander <Patrice.Alexander@nctreasurer.com>
Sent: Monday, November 21, 2016 4:06 PM
To: Hammond, Abigail M
Cc: Janet Cowell; Blake Thomas; Robin Hammond
Subject: RE: Emailing: 2016.11 - Capital Facilities Finance report

Follow Up Flag: Follow up
Flag Status: Completed

Ms. Hammond—

This email confirms receipt of the email below and its attached correspondence. The Department of State Treasurer does not have the requested documentation. As such, the Capital Facilities Finance Agency will follow the rules review procedure as outlined in G.S. 150B-21.3A. The Department looks forward to working with you on rescheduling the Rules Review Commission's review of this report upon its completion of the rules review procedure.

If you have any questions, please feel free to contact me.

Patrice Alexander
Business Operations & Policy Counsel
(919) 814-3853

The logo for the North Carolina Department of State Treasurer. It features the text "North Carolina" in a script font, followed by a silhouette of the state of North Carolina. Below this, the text "Department of State Treasurer" is written in a bold, sans-serif font. At the bottom, the text "Janet Cowell, State Treasurer" is written in a smaller, sans-serif font.

Janet Cowell, State Treasurer

From: Hammond, Abigail M [mailto:abigail.hammond@oah.nc.gov]
Sent: Friday, November 18, 2016 12:12 PM
To: Janet Cowell
Cc: Patrice Alexander
Subject: Emailing: 2016.11 - Capital Facilities Finance report

PLEASE CONFIRM RECEIPT

Good afternoon Chairperson Cowell,

Please see the attached letter for the Periodic Review and Expiration of Rules report for 20 NCAC 03 pursuant to G.S. 150B-31.3A(c)(2). If you have any questions or concerns about this letter, please do not hesitate to contact me.

Sincerely,
Abby Hammond

Abigail M. Hammond
Counsel to the Rules Review Commission
Office of Administrative Hearings

Direct Dial: (919) 431-3076

Notice: E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by authorized State officials.

Your message is ready to be sent with the following file or link attachments:

2016.11 - Capital Facilities Finance report

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Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6700

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

November 18, 2016

Sent via electronic mail to janet.cowell@nctreasurer.gov

Janet Cowell, Chairperson
Capital Facilities Finance Agency
3200 Atlantic Avenue
Raleigh, North Carolina 27604

Re: Existing Rules Review Report for 20 NCAC 09

Dear Chairperson Cowell:

At its meeting on November 17, 2016, the Rules Review Commission (RRC) reviewed the above-referenced Periodic Review and Expiration of Existing Rules Report pursuant to G.S. 150B-21.3A.

In its review, the RRC determined that the proper rulemaking body or agency for this report is the North Carolina Capital Facilities Finance Agency. G.S. 159D-38 is a "public agency and an instrumentality of the State." Pursuant to the North Carolina Administrative Procedure Act set forth in Chapter 150B of the General Statutes, the rulemaking body for the rules set forth in 20 NCAC 09 is the Capital Facilities Finance Agency.

G.S. 150B-21.3A(c)(1) requires an agency to "conduct an analysis of each existing rule" and to make an initial determination; to post the initial determinations for at least a 60-day comment period; to review the comments received; and to make a final determination on the rule. That final determination by the agency, along with any comments received and the agency's response to the comments, is provided to the Rules Review Commission for their review as set forth in G.S. 150B-21.3A(c)(2).

The documents filed with the Office of Administrative Hearings for Rules Review Commission review of 20 NCAC 09 indicates that the "agency" was the "Department of

Administration
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Rules Review
Commission
919/431-3000
fax: 919/431-3104

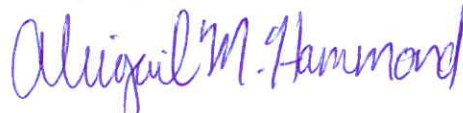
Civil Rights
Division
919/431-3036
fax: 919/431-3103

State Treasurer.” This letter requests clarification from you, as the Chairperson for the North Carolina Capital Facilities Finance Agency, as to the identity of the agency that actually conducted the analysis, made the initial determinations, posted the report for the 60-day comment period, and made the final determinations. If these actions were taken by the proper rulemaking body, the North Carolina Capital Facilities Finance Agency, please provide a copy of the minutes from the meetings in which the initial and final determinations were made by the agency.

The requested documents will be reviewed by the Rules Review Commission prior to further review of the Periodic Review and Expiration of Existing Rules Report for 20 NCAC 09 filed with the Office of Administrative Hearings on September 20, 2016. If it is determined by the Rules Review Commission that the rulemaking body did not take the actions described above, or if the agency is unable to produce documentation of taking these actions, the review of this report will be rescheduled to ensure proper compliance with G.S. 150B-21.3A.

Please submit the requested documentation to my attention no later than **Friday, December 2, 2016**. If you have any questions regarding the RRC’s actions or this request, please let me know.


Sincerely,



Abigail M. Hammond
Commission Counsel

cc: Patrice Alexander, Rulemaking Coordinator

PERIODIC REVIEW AND EXPIRATION OF EXISTING RULES REPORT FOR SUBMISSION TO THE RULES REVIEW COMMISSION

1. Rule-Making Agency: Department of State Treasurer		
2. Administrative Code Chapter/Subchapter(s): 20 NCAC 09, Educational Facilities Finance Agency		
3. Agency Steps: The agency made the initial classification on: July 8, 2016 Report published on agency website: July 15, 2016-September 15, 2016 Report published on OAH website: July 15, 2016-September 15, 2016 Comment Period: July 15, 2016-September 15, 2016 The agency made the final classification on: September 19, 2016 The agency changed determination of rules in the report: <input type="checkbox"/> Yes. List rule citations: <input checked="" type="checkbox"/> No. Date of RRC review scheduled per Rule 26 NCAC 05 .0211: November 2016 <input type="checkbox"/> RRC granted agency request to extend time for review per 26 NCAC 05 .0204. New date for review:		FILED 2016 SEP 20 AM 8:29 OFFICE OF ADMIN HEARINGS
4. Comments: <input type="checkbox"/> Public comments and agency response are contained in the report. <input type="checkbox"/> Public comments and agency response are attached to the report as separate documents. <input checked="" type="checkbox"/> The agency received no public comments.		
5. Rule-making Coordinator: Patrice Alexander Address: 3200 Atlantic Avenue Raleigh, NC 27604 Phone: 919-814-3853 E-Mail: patrice.alexander@nctreasurer.com Agency Contact, if any: Phone: E-Mail:	6. Signature of Agency Head* or Rule-making Coordinator:  <hr/> *If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form. Typed Name: Title: Email of Agency Head:	
RRC AND OAH USE ONLY		
Action taken: <input type="checkbox"/> RRC reviewed; sent to APO on: <input type="checkbox"/> RRC extended period of review. New review date: <input type="checkbox"/> RRC returned incomplete report to agency. <input type="checkbox"/> Other:		

G.S. 150B-21.3A Report for 20 NCAC 09, EDUCATIONAL FACILITIES FINANCE AGENCY								
Agency - Department of State Treasurer								
Comment Period - July 15, 2016- September 15, 2016								
Date Submitted to APO - Filled in by RRC staff								
Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]
SECTION .0100 - GENERAL PROVISIONS	20 NCAC 09 .0101	ORGANIZATION AND FUNCTIONS	Eff. March 1, 1988	Necessary without substantive public interest	No		No	Necessary without substantive public interest
	20 NCAC 09 .0102	DEFINITIONS	Eff. March 1, 1988	Necessary without substantive public interest	No		No	Necessary without substantive public interest
SECTION .0200 - RULE-MAKING	20 NCAC 09 .0201	RULE-MAKING PROCEDURES	Eff. March 1, 1988	Necessary without substantive public interest	No		No	Necessary without substantive public interest
	20 NCAC 09 .0202	DECLARATORY RULES	Eff. March 1, 1988	Necessary without substantive public interest	No		No	Necessary without substantive public interest
SECTION .0300 - CONTESTED CASES	20 NCAC 09 .0301	CONTESTED CASE PROCEDURES	Eff. March 1, 1988	Necessary without substantive public interest	No		No	Necessary without substantive public interest
SECTION .0400 - APPROVAL OF APPLICATION	20 NCAC 09 .0401	REQUESTS FOR ACTION	Eff. March 1, 1988	Necessary without substantive public interest	No		No	Necessary without substantive public interest
	20 NCAC 09 .0402	HEARING ON CONFORMANCE TO PRIOR APPROVALS	Eff. March 1, 1988	Unnecessary	No		No	Unnecessary
	20 NCAC 09 .0403	APPLICATION TO AMEND PRIOR APPROVALS	Eff. March 1, 1988	Necessary without substantive public interest	No		No	Necessary without substantive public interest
SECTION .0500 - REVIEW CRITERIA	20 NCAC 09 .0501	GENERAL	Eff. March 1, 1988	Necessary without substantive public interest	No		No	Necessary without substantive public interest
	20 NCAC 09 .0502	JURISDICTIONAL FINDINGS	Eff. March 1, 1988	Necessary without substantive public interest	No		No	Necessary without substantive public interest
SECTION .0600 - FEES	20 NCAC 09 .0601	COLLECTING FEES	Eff. March 1, 1988	Necessary without substantive public interest	No		No	Necessary without substantive public interest
	20 NCAC 09 .0602	FEES AND EXPENSES	Amended Eff. January 1, 2011	Necessary without substantive public interest	No		No	Necessary without substantive public interest