

**RULES REVIEW COMMISSION MEETING  
AMENDED MINUTES  
December 15, 2016**

The Rules Review Commission met on Thursday, December 15, 2016, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Danny Earl Britt, Jr., Bobby Bryan, Margaret Currin, Garth Dunklin, Jay Hemphill, Jeff Hyde, Jeff Poley, Paul Powell, and Stephanie Simpson.

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

The meeting was called to order at 10:04 a.m. with Chairman Dunklin presiding.

Chairman Dunklin 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**

Chairman Dunklin asked for any discussion, comments, or corrections concerning the minutes of the November 17, 2016 meeting. There were none and the minutes were approved as distributed.

**FOLLOW UP MATTERS**

**Structural Pest Control Committee**

02 NCAC 34 .0328, .0502, .0503, .0505, and .0506 - All rewritten rules were unanimously approved.

**Department of Insurance**

11 NCAC 05A .0101, .0105, .0201, .0202, .0301, .0302, .0303, .0501, .0503, .0504, .0505, .0506, .0507, .0508, .0510, .0511, .0512, .0601, .0602, .0603, .0604, .0701, .0702, .0703, .0704, and .0705 - The Commission extended the period of review for the rules in accordance with G.S. 150B-21.10. They did so in response to staff recommendation to extend the period in order to allow the agency additional time to make technical changes, and to review and prepare responses to the staff opinions.

**Manufactured Housing Board**

11 NCAC 08 .0904 – The agency is addressing the objection from the November meeting. No action was required by the Commission.

**Criminal Justice Education and Training Standards Commission**

12 NCAC 09B .0203 – The rewritten rule was unanimously approved.

**Social Work Certification and Licensure Board**

21 NCAC 63 .0505 – The rewritten rule was unanimously approved.

**LOG OF FILINGS (PERMANENT RULES)**

**Medical Care Commission 10A NCAC 13B, 13C**

All rules were unanimously approved.

Prior to the review of the rules from the Medical Care Commission, Commissioner Poley recused himself and did not participate in any discussion or vote concerning the rules because he works with the agency.

**Medical Care Commission 10A NCAC 13P**

All rules were unanimously approved.

Bethany Burgon, with the Attorney General's Office, representing the agency, addressed the Commission.

Nancy Dunn, with the Attorney General's Office, representing DHHS, addressed the Commission.

Prior to the review of the rules from the Medical Care Commission, Commissioner Poley recused himself and did not participate in any discussion or vote concerning the rules because he works with the agency.

#### **Criminal Justice Education and Training Standards Commission**

All rules were unanimously approved.

#### **Sheriffs Education and Training Standards Commission**

12 NCAC 10B .2005 was unanimously approved.

#### **Wildlife Resources Commission**

15A NCAC 10F .0346 was unanimously approved.

#### **Board of Barber Examiners**

All rules were unanimously approved.

#### **Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors**

21 NCAC 50 .0106 was unanimously approved.

#### **LOG OF RULES (TEMPORARY RULES)**

##### **Credit Union Division**

04 NCAC 06C .0407 was unanimously approved.

Prior to the review of the temporary rule from the Credit Union Division, Commissioner Hemphill recused himself and did not participate in any discussion or vote concerning the rule because of a possible conflict of interest.

##### **Industrial Commission**

The Commission voted to approve 04 NCAC 10J .0103, with Commissioners Dunklin and Hyde Hemphill voting against.

Meredith Henderson, the Executive Secretary of the agency, addressed the Commission.

Renee Montgomery, with the Law Office of Parker Poe Adams & Bernstein, LLP, representing Surgical Care Affiliates, LLC, addressed the Commission.

DJ Hill, on behalf of the North Carolina Ambulatory Surgical Center Association, addressed the Commission.

Andy Ellen, with the North Carolina Retail Merchants Association, addressed the Commission.

Prior to the review of the temporary rule from the Industrial Commission, Commissioner Poley recused himself and did not participate in any discussion or vote concerning the rule because his law firm is involved in a dispute with the agency.

Prior to the review of the temporary rule from the Industrial Commission, Commissioner Simpson recused herself and did not participate in any discussion or vote concerning the rule because of a possible conflict with her husband's law firm representation.

## **EXISTING RULES REVIEW**

### **Department of Administration**

01 NCAC 09 - The Commission unanimously approved the report as submitted by the agency.

### **Indian Affairs Commission**

01 NCAC 15 - The Commission unanimously approved the report as submitted by the agency.

### **Domestic Violence Commission**

01 NCAC 17 - The Commission unanimously approved the report as submitted by the agency.

### **Department of Administration**

01 NCAC 19 - The Commission unanimously approved the report as submitted by the agency.

01 NCAC 35 - The Commission unanimously approved the report as submitted by the agency.

### **State Board of Elections**

08 NCAC 01 - The Commission unanimously approved the report as submitted by the agency.

08 NCAC 02 - The Commission unanimously approved the report as submitted by the agency.

08 NCAC 03 - The Commission unanimously approved the report as submitted by the agency.

08 NCAC 04 – The Commission unanimously approved the report as submitted by the agency.

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

08 NCAC 06 – The Commission unanimously approved the report as submitted by the agency.

08 NCAC 07 – The Commission unanimously approved the report as submitted by the agency.

08 NCAC 08 – The Commission unanimously approved the report as submitted by the agency.

08 NCAC 09 - The Commission unanimously approved the report as submitted by the agency.

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

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

### **Department of Insurance**

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

11 NCAC 16 – The Commission unanimously approved the report as submitted by the agency.

### **Department of Public Safety**

14B NCAC 01 – The Commission unanimously approved the report as submitted by the agency.

14B NCAC 02 – The Commission unanimously approved the report as submitted by the agency.

14B NCAC 03 – The Commission unanimously approved the report as submitted by the agency.

14B NCAC 04 – The Commission unanimously approved the report as submitted by the agency.

### **Crime Governor's Commission**

14B NCAC 05 – The Commission unanimously approved the report as submitted by the agency.

### **Alcohol Law Enforcement**

14B NCAC 06 – The Commission unanimously approved the report as submitted by the agency.

Prior to the review of the report from the Alcohol Law Enforcement, Commissioner Powell recused himself and did not participate in any discussion or vote concerning the report because of a conflict of interest.

### **Department of Public Safety**

14B NCAC 07 – The Commission unanimously approved the report as submitted by the agency.

### **Environmental Management Commission**

15A NCAC 02A – The Commission unanimously approved the report as submitted by the agency.

15A NCAC 02C – The Commission unanimously approved the report as submitted by the agency.

15A NCAC 02E – The Commission unanimously approved the report as submitted by the agency.

**Credit Union Division**

04 NCAC 06 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than February 28, 2018 pursuant to G.S. 150B-21.3A(d)(2).

Prior to the review of the readoptions from the Credit Union Division, Commissioner Hemphill recused himself and did not participate in any discussion or vote concerning the readoptions because of a possible conflict of interest.

**Department of Revenue**

17 NCAC 01, 12 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than August 31, 2017 pursuant to G.S. 150B-21.3A(d)(2).

**Historical Commission**

07 NCAC 04R .0702 - .0718 – As reflected in the attached letter, the Commission extended the period for the agency to readopt these Rules to June 30, 2017.

**Local Government Commission**

20 NCAC 03 - As reflected in the attached letter, the Commission voted to reschedule 20 NCAC 03 report in Rule 26 NCAC 05 .0211, and the report will be reviewed by the Commission at the December 2017 meeting.

**Capital Facilities Finance Agency**

20 NCAC 09 - As reflected in the attached letter, the Commission voted to reschedule 20 NCAC 09 report in Rule 26 NCAC 05 .0211, and the report will be reviewed by the Commission at the December 2017 meeting.

**COMMISSION BUSINESS**

Commissioner Dunklin lead a discussion to the Commission regarding legislation discussed at the December 6, 2016 APO meeting. The Commission voted to approve proposals for changing the APA, specifically G.S. 150B-21.3A and 21.5(a).

Commissioner Dunklin recognized Commissioner Britt for being elected to the North Carolina Senate.

The meeting adjourned at 12:00 p.m.

The next regularly scheduled meeting of the Commission is Thursday, January 19<sup>th</sup> 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,

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Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:

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Garth Dunklin, Chair

December 15, 2016

Rules Review Commission  
Meeting  
Please Print Legibly

| Name                   | Agency                 |
|------------------------|------------------------|
| Judith Estevez         | DOJ                    |
| tony knox              | NCCUD                  |
| Loretta Bunch          | NCDOJ                  |
| Joy Strickland         | DOJ                    |
| Jennifer Everett       | DEQ                    |
| Rick McIntyre          | NCDOJ                  |
| Micki Lilly            | N.C. Social Work Board |
| Meredith Henderson     | NCIC                   |
| Azzie Conkey           | NC DHHS / DHSR         |
| Tom Mitchell           | NC DHHS / DHSR         |
| Nadine Pfeiffer        | NC DHHS / DHSR         |
| Nolly Ainsworth        | NC DHHS / DHSR         |
| Dennis Seavers         | BBE                    |
| Steven Combs           | CS Standards           |
| Charmaine-Jane Branson | CJETS                  |
| Keneé Montgomery       | Counsel for SCA        |
| DS Hill                | Compass / NCASCA       |
| Bothany Burgon         | DOJ / MCC / IC         |
| Victor Lennon          | NCDA + CS              |
| Jim Burnette           | NCDA + CS              |
| Dave Loggitt           | NCDA                   |





STATE OF NORTH CAROLINA  
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Mailing address:  
6714 Mail Service Center  
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Street address:  
1711 New Hope Church Rd  
Raleigh, NC 27609-6285

December 15, 2016

Antonio Knox, Rulemaking Coordinator  
Commerce - Credit Union  
4314 Mail Service Center  
Raleigh, NC 27699-4314

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **04 NCAC 06**

Dear Mr. Knox:

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 December 15, 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 February 28, 2018.

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

Sincerely,

A handwritten signature in blue ink that reads "Abigail M. Hammond".

Abigail M. Hammond  
Commission Counsel

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

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

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RRC DETERMINATION  
PERIODIC RULE REVIEW  
August 18, 2016  
APO Review: September 06, 2016

Commerce, Department of - Credit Union Division  
Total: 31

**RRC Determination: Necessary with substantive public interest**

| <b>Rule</b>                       | <b>Determination</b>                       |
|-----------------------------------|--|
| 04 <a href="#">NCAC 06B .0402</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .0101</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .0201</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .0202</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .0203</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .0209</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .0301</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .0302</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .0304</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .0306</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .0307</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .0311</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .0312</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .0313</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .0401</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .0402</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .0404</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .0407</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .0409</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .0501</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .0502</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .0601</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .0707</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .0801</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .0901</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .1001</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .1002</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .1201</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .1204</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .1301</a> | Necessary with substantive public interest |
| 04 <a href="#">NCAC 06C .1302</a> | Necessary with substantive public interest |



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December 15, 2016

David Lingerfelt, Rulemaking Coordinator  
Laura Lansford, Rulemaking Coordinator  
Department of Revenue  
Post Office Box 871  
Raleigh, North Carolina 27602

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 17 NCAC 01, 12

Dear Mr. Lingerfelt and Ms. Lansford:

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 December 15, 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 August 31, 2017.

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

Sincerely,

A handwritten signature in blue ink that reads "Abigail M. Hammond".

Abigail M. Hammond  
Commission Counsel

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**RRC DETERMINATION  
PERIODIC RULE REVIEW  
June 16, 2016  
APO Review: August 20, 2016  
Revenue, Department of  
Total: 30**

**RRC Determination: Necessary with substantive public interest**

| <b>Rule</b>                       | <b>Determination</b>                       |
|-----------------------------------|--|
| 17 <a href="#">NCAC 01C .0308</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 01C .0502</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 01C .0503</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 01C .0504</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 01C .0505</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 01C .0507</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 01C .0508</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 01C .0509</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 01C .0510</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 01C .0511</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 01C .0601</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 12A .0201</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 12A .0202</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 12A .0303</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 12A .0503</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 12B .0106</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 12B .0107</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 12B .0402</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 12B .0403</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 12B .0404</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 12B .0410</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 12B .0412</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 12B .0413</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 12B .0414</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 12B .0502</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 12C .0301</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 12C .0302</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 12C .0304</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 12D .0102</a> | Necessary with substantive public interest |
| 17 <a href="#">NCAC 12D .0103</a> | Necessary with substantive public interest |



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December 21, 2016

Shawn Middlebrooks  
Department of Cultural and Natural Resources  
4605 Mail Service Center  
Raleigh, North Carolina 27699-4605

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 07 NCAC 04 .0702 - .0718

Dear Mr. Middlebrooks:

At its meeting on December 15, 2016, the Rules Review Commission considered the Historical Commission's request to extend the schedule for the readoption of the above-referenced rules.

Pursuant to G.S. 150B-21.3A(d)(2), these rules shall be readopted by the agency no later than June 30, 2017.

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

Sincerely,

Amanda J. Reeder  
Commission Counsel

cc: Ashley Snyder, Agency Legal Specialist

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December 15, 2016

**Sent via electronic mail**

Patrice Alexander, Rulemaking Coordinator  
Local Government Commission  
3200 Atlantic Avenue  
Raleigh, North Carolina 27604

Re: Existing Rules Review Report for 20 NCAC 03

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 Local Government Commission.

The periodic review of the rules set forth in the report for 20 NCAC 03 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 03 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

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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<br>919/431-3000<br>fax: 919/431-3100 | Rules Division<br>919/431-3000<br>fax: 919/431-3104 | Judges and<br>Assistants<br>919/431-3000<br>fax: 919/431-3100 | Clerk's Office<br>919/431-3000<br>fax: 919/431-3100 | Rules Review<br>Commission<br>919/431-3000<br>fax: 919/431-3104 | Civil Rights<br>Division<br>919/431-3036<br>fax: 919/431-3103 |
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