

**RULES REVIEW COMMISSION MEETING
MINUTES
April 21, 2022**

The Rules Review Commission met on Thursday, April 21, 2022, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx.

Commissioners Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeanette Doran, Randy Overton, Paul Powell, and Bob Rucho were present in the Commission Room.

Staff members Alexander Burgos; Commission Counsel Brian Liebman and Lawrence Duke were present in the room.

The meeting was called to order at 9:00 a.m. with Chair Doran presiding.

The Chair 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 appearance of conflicts of interest.

The Chair notified the Commissioners that the following items on the agenda would be taken up out of order at the end of the agenda: Permanent rules for DHHS - Division of Health Benefits, Environmental Management Commission, and Wildlife Resources Commission.

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the minutes of the March 17, 2022, meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the meeting minutes were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

FOLLOW UP MATTERS

Environmental Management Commission

15A NCAC 02H .1301, .1401, .1402, .1403, .1404, .1405 – The agency is addressing the technical change requests from the March meeting. No action was required by the Commission.

LOG OF FILINGS (PERMANENT RULES)

Board of Agriculture

Upon the call of the Chair, the rule was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

DHHS - Division of Health Benefits

Upon the call of the Chair, the rule was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

Matthew Cochran with Ott Cone & Redpath, P.A., addressed the Commission.

Shazia Keller, the rulemaking coordinator with the agency, addressed the Commission.

Department of Labor

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

Alcoholic Beverage Control Commission

Prior to the review of the rule from the Alcoholic Beverage Control Commission, Commissioner Powell recused himself and did not participate in any discussion or vote concerning the rule because of a potential conflict of interest.

Upon the call of the Chair, the rule was approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

Department of Environmental Quality

Upon the call of the Chair, 15A NCAC 01D .0102, .0302, .0303, and .0305 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

Upon the call of the Chair, the period of review was extended for 15A NCAC 01C .0101, .0103, .0104, .0105, .0106, .0107, .0108, .0109, .0205, .0206, .0207, .0208, .0304, .0305, .0306, .0405, .0406, .0407, .0408, .0409, .0410, and .0411 as requested by the agency to address technical changes by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

Environmental Management Commission

Upon the call of the Chair, the Commission moved to object to 15A NCAC 02B .0208, .0212, .0214, .0215, .0216, and .0218 in accordance with G.S. 150B-21.9 for failure to comply with the APA and approve 15A NCAC 02B .0202, .0211, .0219, .0220, .0301, .0311 by roll-call vote, ayes 4, noes 4 as follows: Voting in the negative: Andrew Atkins, Bobby Bryan, Margaret Currin, and Randy Overton – 4. Voting in the affirmative: Wayne R. Boyles III, Jeanette Doran, Bob Rucho, and Paul Powell - 4. The motion failed.

Pursuant to G.S. 150B-21.12(d), the rules remain under review by the Commission.

Robert El-Jaouhari of Cranfill Sumner, addressed the Commission.

Sean Sullivan, with the Fayetteville Publics Works Commission, addressed the Commission.

Phillip Reynolds with the Department of Justice, and representing the agency, addressed the Commission.

The Chair called the meeting into a brief recess at 10:46 a.m.

The meeting resumed 10:52 a.m.

Following the recess, and prior to Commission Business, the Chair informed the Commission that Rules 15A NCAC 02D .1401, .1402, .1424, and .1425 were not voted on with the 15A NCAC 02B rules.

Upon the call of the Chair, the Commission voted to approve 15A NCAC 02D .1401, .1402, .1424, and .1425 by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

Marine Fisheries Commission 15A NCAC 03

Upon the call of the Chair, 15A NCAC 03I .0109; 03J .0404; 03P .0102, .0201, .0202, .0203, .0301, .0302, .0303, .0304 and 03R .0119 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

15 NCAC 03I .0109, 03J .0404, and 03R .0119 are subject to legislative review and a delayed effective date pursuant to S.L. 2019-198. The agency also requested a delayed effective date for 15 NCAC 03P .0102, .0201, .0202, .0203, .0301, .0302, .0303, and .0304.

Upon the call of the Chair, the period of review was extended for 15A NCAC 03I .0101, .0104, .0105, .0113, .0114, .0118; 03J .0101, .0105, .0109, .0110, .0301, .0302, .0305, .0501, .0502, .0503, .0504, .0505; 03K .0101, .0102, .0103, .0104, .0105, .0106, .0107, .0108, .0109, .0111, .0201, .0202, .0204, .0205, .0207, .0208, .0209, .0301, .0302, .0304, .0305, .0401, .0505, .0507; 03L .0101, .0102, .0103, .0105, .0201, .0202, .0203, .0204, .0205; 03M .0201, .0202, .0204, .0205, .0503; 03N .0104, .0105; 03O .0101, .0102, .0103, .0104, .0105, .0107, .0109, .0110, .0111, .0113, .0114, .0203, .0205, .0206, .0207, .0208, .0209, .0210, .0211, .0301, .0302, .0303, .0401, .0402, .0403, .0404, .0405, .0406, .0502, .0504; 03P .0101; 03R .0110, .0111, .0118; 18A .0135, .0302, .0303, .0304, .0425, and .0912 as requested by the agency to address technical changes by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

Jennifer Everett, the rulemaking coordinator with the agency, addressed the Commission.

Coastal Resources Commission

Upon the call of the Chair, the period of review was extended as requested by the agency to address technical changes by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

Wildlife Resources Commission

Upon the call of the Chair, 15A NCAC 10A .1601; 10B .0101, .0105, .0111, .0119, .0123, .0203, .0205, .0206, .0402, .0403; 10C .0205, 10C .0314; 10D .0102; 10E .0104; 10H .1301, .1302, and .1402 were approved with the exception for 15A NCAC 10D .0106 by roll-call vote, ayes 4, noes 3 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, and Margaret Currin – 4. Voting in the negative: Randy Overton, Paul Powell, and Bob Rucho – 3

The Commission objected to 15A NCAC 10D .0106 finding that the rule was not clear and unambiguous. Specifically, the Commission found the rule was unclear and ambiguous as it lacked specific guidelines under which or criteria by which the permits referenced in 15A NCAC 10D .0106 (a) and (c) would be granted.

Deedee Dillingham, a member of the regulated public, addressed the Commission.

Carrie Ruhlman, the rulemaking coordinator with the agency, addressed the Commission.

Brad Howard, the Division Chief with the agency, addressed the Commission.

Marine Fisheries Commission 15 NCAC 18A

Upon the call of the Chair, the period of review was extended for the rules as requested by the agency to address technical changes by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

Medical Board

Prior to the review of the rules from the Medical Board, Commissioner Atkins recused himself and did not participate in any discussion or vote concerning the rules because of a conflict.

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 6. Voting in the negative: None.

Board of Pharmacy

Prior to the review of the rules from the Board of Pharmacy, Commissioner Atkins recused himself and did not participate in any discussion or vote concerning the rules because of a conflict.

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 6. Voting in the negative: None.

21 NCAC 46 .1612 was withdrawn at the request of the agency. No action was required by the Commission.

LOG OF FILINGS (TEMPORARY RULES)

Commission for Public Health

The agency requested a waiver pursuant to G.S. 150B-21.1(a2) waiving the 210-day limitation found in G.S. 150B-21.1(a2). The waiver request was approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 6. Voting in the negative: Wayne R. Boyles III - 1.

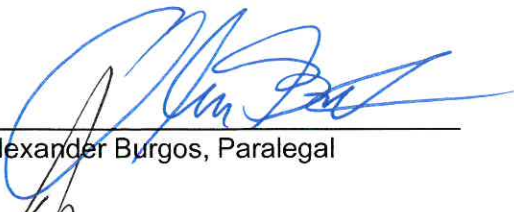
Upon the call of the Chair, 10A NCAC 41C .1001, .1002, .1003, .1004, .1005, .1006, and .1007 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

COMMISSION BUSINESS

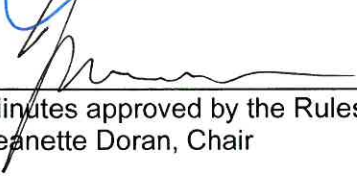
Upon the call of the Chair, the RRC voted to designate Brian Liebman as the new rulemaking coordinator for the Commission by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

The meeting adjourned at 11:24 a.m.

The next regularly scheduled meeting of the Commission is Thursday, May 19, 2022, at 9:00 a.m.



Alexander Burgos, Paralegal



Minutes approved by the Rules Review Commission:
Jeanette Doran, Chair

April 21, 2022

Rules Review Commission
Meeting
Please Print Legibly

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Rules Review Commission Meeting April 21, 2022
Held Via WebEx

Name	Agency
Nicole Cordano	oneprotest.org
Kirsten Leloudis	DHHS
Grady O'Brien	NC Conservation network
Canaan Huie	MVA Law
Shelby Taylor	DHSB
Grady McCallie	NC Conservation network
Francisco Benzoni	NC DOJ
Alexandria K	Cabarrus County
Sue Homewood	DEQ
Tay Owenby	
Mallory Sparks	Parker Poe
Jean Zhuang	SELC
Dennis Seavers	Barber Board
Michael Wells	DHSB
Susan Meadows	DEQ
Geoff Gisler	SELCNC
Kara Weishaar	Smith Law
Julie Ventaloro	DEQ
Hannah Jernigan	DOT
Nicole Cordano	oneprotest.org
Bridget Shelton	DEQ
Lori Caskey	DSHB
James West	Fay PWC
Deedee Dillingham	
Dauna Bartley	Dental Examiners
Tim Dodge	NCEMCS
Claire Dodd	Smith Law
Nathan Vail	DHHS
Daron Barnes	WRC
Walker Reagan	ABC
Shelby Taylor	DHHS
Chris Millis	NCHBA
Larry Michael	DHHS
Britne Becker	Labor
Ashton Godwin	WRC
Ed Norman	DHHS
Helen Landi	DOT

Brian McCrae	WRC
Dakota Loveland	SELCNC
Kyle Briggs	WRC
Bradley Nelson	DEQ
Anne Coan	NCFB
Clint Pinyan	Pharmacy
Patrick Knowlson	DEQ
Laura Rowe	Treasurer
Brad Howard	WRC
Jeff Manning	DEQ
Kirsten Leloudis	DHHS
Adriene Weaver	DEQ
Drew Hargrove	DEQ
Stephen Benjamin	Agriculture
Hannah Nelson	SELCNC
Christian Waters	WRC
Carla Rose	Labor
Elizabeth Kountis	DEQ
Kim Harron	DHHS
Robert Pearsall	DHHS
Carrie Hollis	OSBM
Thomas Currin	
Ross Smith	MYNCMA
Shazia Keller	DSHB
Kimly Blount	
Jill Cramer	Labor
Matthew Cochran	Ott Cone & Redpath
Jessica Winebrenner	