

**RULES REVIEW COMMISSION MEETING
MINUTES
August 16, 2018**

The Rules Review Commission met on Thursday, August 16, 2018, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeanette Doran, Garth Dunklin, Jeff Poley, and Paul Powell.

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

The meeting was called to order at 10:01 a.m. with Chairman Dunklin presiding.

Chairman Dunklin read the notice required by G.S. 163A-159 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 July 19, 2018 meeting. There were none and the minutes were approved as distributed.

FOLLOW UP MATTERS

Commissioner of Banks

04 NCAC 03K .0404 was unanimously approved.

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

The agency is addressing the objections for 04 NCAC 15 .0119, .0121, .0123, .0124, .0127, and .0128. No action was required by the Commission.

Child Care Commission

The agency is addressing the objections for 10A NCAC 09 .2201, .2202, .2203, .2204, .2205, .2206, .2207, .2209, .2213, .2216, and .2217. No action was required by the Commission.

Following the presentation on the rules from the Child Care Commission, Commissioner Poley joined the meeting.

DHHS/Division of Medical Assistance

10A NCAC 22F .0104, .0301, .0302, .0602, .0603, .0604, and 22J .0105 and .0106 - The Commission reviewed rewritten rules submitted by the Division in response to the June 14, 2018 objections. The Rules Review Commission objected to 10A NCAC 22F .0301 on the basis of ambiguity and continued their objection to 10A NCAC 22J .0106, finding that the rewritten rule had not met their objection. The Commission approved all other rules.

The Commission voted to waive the time limit for speaking in 26 NCAC 05 .0106(b).

Mathew Cochran, with the law firm of Ott Cone & Redpath, addressed the Commission.

Kathy McCraw, with the Attorney General's office and representing the agency, addressed the Commission.

Brenda Eaddy, with the Attorney General's office and representing the agency, addressed the Commission.

Virginia Niehaus, the rulemaking coordinator with the agency, addressed the Commission.

During the discussion of the rules, and prior to the vote, Commissioner Choi left the meeting and did not participate for the remainder of the meeting.

The chair called the meeting into a brief recess at 11:46 a.m.

The meeting resumed at 12:03 p.m.

LOG OF FILINGS (PERMANENT RULES)

Pre-Reviewed Rules

Environmental Management Commission 15A NCAC 02S

All rules were unanimously approved.

Environmental Management Commission 15A NCAC 02T

All rules were unanimously approved contingent upon receiving the properly formatted rules for 15A NCAC 02T .0301, .0302-.0306, .0402, .0405, and .1106. The properly formatted rules were received.

Water Pollution Control System Operator Certification Commission

All rules were unanimously approved with the following exceptions:

The Commission objected to 15A NCAC 08F .0406 based upon lack of statutory authority and necessity, as well as ambiguity.

Specifically, the Commission found that throughout the rule, the agency appears to be delegating to the Chairman or a committee of the Commission the authority to issue summary suspension of a certification pursuant to G.S. 150B-3(c) and to revoke or suspend a certification pursuant to G.S. 150B, Article 3A. However, the APA requires a majority of the Commission members to make these decisions. The agency has not cited to any authority to abrogate the requirements of the APA and allow the Chairman to issue these decisions without approval of the Commission.

In addition, it appears from Paragraph (c) that the agency is creating a disciplinary committee composed of at least four members of the 11-member body and this committee will hold a hearing and then make a recommendation to the Chairman, who will issue a decision. G.S. 150B-40(b) requires a majority of the agency to decide contested cases; if they cannot do so, they must request an ALJ from the Office of Administrative Hearings. The agency has not cited to any authority to allow them to delegate this decision making to the Chairman, even following a consultation with a minority of the members of the Commission.

Further, Paragraph (g) states that the decision of the Chairman becomes a final agency action unless the individual files a petition for a contested case. Therefore, the Rule is unclear as written, as it is not apparent what this Rule is doing if it is not establishing the process for filing a contested case with the agency.

The Commission also found that Subparagraphs (a)(1) through (3) merely recite G.S. 90A-47.5(a)(1) through (3) and therefore, this portion of the rule is unnecessary.

The Commission objected to 15A NCAC 08G .0802 based upon lack of statutory authority and ambiguity for the same reasons articulated in the objection to Rule 15A NCAC 08F .0406 regarding those grounds.

Phillip Reynolds, with the Attorney General's office and representing the agency, addressed the Commission.

Water Treatment Facility Operators Certification Board

All rules were unanimously approved.

Board of Dental Examiners

21 NCAC 16R .0201 was unanimously approved.

Non Pre-Reviewed Rules

Board of Elections and Ethics Enforcement

08 NCAC 18 .0101 was unanimously approved.

The Commission extended the period of review for 08 NCAC 01 .0106, 08 NCAC 02 .0114, 08 NCAC 05 .0111, 08 NCAC 10B .0109, 08 NCAC 16 .0101-.0104, 08 NCAC 18 .0101-.0102, and 08 NCAC 20 .0101 in accordance with G.S. 150B-21.10 at the request of the agency.

In addition, the Commission objected to 08 NCAC 01 .0104, 08 NCAC 02 .0110-.0113, 08 NCAC 03 .0101-.0106, .0201-.0202, .0301-.0302, 08 NCAC 04 .0302-.0307, 08 NCAC 06B .0103-.0105, 08 NCAC 08 .0104, 08 NCAC 09 .0106-.0109, and 08 NCAC 10B .0101-.0108 for the reasons set forth in the attached document.

Following the objections by the Commission, the Board of Elections and Ethics Enforcement asked the Commission to waive Rule 26 NCAC 05 .0108(a) and review rewritten versions of Rules 08 NCAC 02 .0110 and .0111 at the August meeting, in order for them to become effective September 1, 2018. The Commission granted the request, with Commissioner Poley opposed. The Commission unanimously approved Rules 08 NCAC 02 .0110 and .0111 as rewritten.

Prior to the review of the rules from the Board of Elections and Ethics Enforcement, Commissioner Doran recused herself and did not participate in any discussion or vote concerning the rules because she has a matter pending before the Board of Elections and Ethics Enforcement.

Katelyn Love, the rulemaking coordinator for the agency, addressed the Commission.

Environmental Management Commission 15A NCAC 02U

All rules were unanimously approved.

Wildlife Resources Commission

All rules were unanimously approved.

After voting on the rules from the Wildlife Resources Commission, Commissioner Poley left the meeting and did not participate for the remainder of the meeting.

Department of Revenue

All rules were unanimously approved.

Licensing Board for General Contractors

All rules were unanimously approved.

Board of Cosmetic Art Examiners

All rules were unanimously approved.

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

Building Code Council

All rules were unanimously approved.

EXISTING RULES REVIEW**Private Protective Services Board**

14B NCAC 16 – The Commission unanimously approved the report as submitted by the agency.

TSERS and LGERS Board of Trustees

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

Board of Recreational Therapy Licensure

21 NCAC 65 – The Commission unanimously approved the report as submitted by the agency.

Environmental Management Commission

15A NCAC 02N, O, P - As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than January 31, 2023 pursuant to G.S. 150B-21.3A(d)(2).

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

Substance Abuse Professional Practice Board

21 NCAC 68 - As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than September 30, 2020 pursuant to G.S. 150B-21.3A(d)(2).

COMMISSION BUSINESS

Chairman Dunklin asked for any discussion, comments, or corrections concerning the closed session minutes of the July 19, 2018 meeting. There were none and the closed session minutes were approved.

Chairman Dunklin reminded the Commissioners that per their revised bylaws, the election of Commission Officer selections will be held at the September meeting.

The meeting adjourned at 1:57 p.m.

The next regularly scheduled meeting of the Commission is Thursday, September 20th at 10:00 a.m.

Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:
Garth Dunklin, Chair

August 16, 2018

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
BARRY GUPTON	NCDDI - NCBCC
Jay Frick	NC DWR PWS Section
Kathy McGraw	NC DOJ - for DMA
Lynda Elliott	Ed of Cosmetic Arts
Jenniferis Ewrett	PER
Adrienne Clark	NC DOJ DHB
STEVE REID	DEQ
Virginia Nicholas	TDMA/DHP
Jim Flowers	DMA/DHB
Lonnie Christopher	NCCOB
Janice Davidson	NC DOR
Fabitha Bruant	DHB
Victor Unnone	NC DOJ
Brenda Eaddy	NC DOJ
Freya Harold-Lynch	DHB
Whitney Waldenberg	Dental Board
Katelyn Love	Elections + Ethics
NATHANIEL THOMPSON	DEQ - DWR
Dora Witt	DEQ / PWR
Keith Larick	NC Farm Bureau
Matthew Jordan Cochran	Off Cone + Fedpath, P.A.



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

August 21, 2018

Katelyn Love, Rulemaking Coordinator
Board of Elections and Ethics Enforcement
Sent via email only: katelyn.love@ncsbe.gov

Re: Extension of the Period of Review for Rules 08 NCAC 01 .0106, 08 NCAC 02 .0114, 08 NCAC 05 .0111, 08 NCAC 10B .0109, 08 NCAC 16 .0101-.0104, 08 NCAC 18 .0101-.0102, and 08 NCAC 20 .0101; and Objection to Rules 08 NCAC 01 .0104, 08 NCAC 02 .0110-.0113, 08 NCAC 03 .0101-.0106, .0201-.0202, .0301-.0302, 08 NCAC 04 .0302-.0307, 08 NCAC 06B .0103-.0105, 08 NCAC 08 .0104, 08 NCAC 09 .0106-.0109, and 08 NCAC 10B .0101-.0108

Dear Ms. Love:

At its meeting on August 16, 2018, the Rules Review Commission extended the period of review for 08 NCAC 01 .0106, 08 NCAC 02 .0114, 08 NCAC 05 .0111, 08 NCAC 10B .0109, 08 NCAC 16 .0101-.0104, 08 NCAC 18 .0101-.0102, and 08 NCAC 20 .0101 in accordance with G.S. 150B-21.10 at the request of the agency. Pursuant to 150B-21.13, when the Commission extends the period of review, it is required to approve or object to rules or call a public hearing on the same within 70 days.

In addition, the Commission objected to 08 NCAC 01 .0104, 08 NCAC 02 .0110-.0113, 08 NCAC 03 .0101-.0106, .0201-.0202, .0301-.0302, 08 NCAC 04 .0302-.0307, 08 NCAC 06B .0103-.0105, 08 NCAC 08 .0104, 08 NCAC 09 .0106-.0109, and 08 NCAC 10B .0101-.0108 for the reasons set forth in the attached document.

Please respond to this letter in accordance with the provisions of G.S. 150B-21.12. If you have any questions regarding the Commission's actions, please feel free to contact me.

Sincerely,



Amber May
Commission Counsel

Enclosure

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

An Equal Employment Opportunity Employer

State Board of Elections and Ethics Enforcement Objections

Rule Number	Reason	Additional Information
08 NCAC 01 .0104	Unclear/Ambiguous Unnecessary	<p>The Commission found this Rule to be ambiguous as written as it includes language such as "immediately" without providing any additional information as to the meaning of this term. In addition, Paragraph (d) provides for a "statutory penalty" without providing a specific cross-reference to say what that penalty is.</p> <p>Further, this Rule contains references to statutes that no longer exist as the statutory references have been recodified.</p> <p>The Commission also found Paragraphs (a) and (c) of this Rule unnecessary as they appear to recite G.S. 163A-1413(a) and (b)(9).</p>
08 NCAC 02 .0112	Unclear/Ambiguous	<p>The Commission found this Rule to be unclear as written as it contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 02 .0113	Unclear/Ambiguous	<p>The Commission found this Rule to be unclear as written as it contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 03 .0101	Unclear/Ambiguous	<p>The Commission found this Rule to be ambiguous as written as it contains terms such as "brief", "intelligent", and "official" without providing any additional information.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 03 .0102	Unclear/Ambiguous	<p>The Commission found this Rule to be unclear as includes language such as "if the charges thus filed show" and "by such other methods as the board may adopt" without providing any additional information as to how these determinations will be made. Also, this Rule contains terms such as "official" and "intentional" without providing any additional clarifying information.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 03 .0103	Unclear/Ambiguous	<p>The Commission found this Rule to be unclear as it includes language such as "unless otherwise ordered or permitted by the Board" without providing any additional information as to how this determination will be made.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 03 .0104	Unclear/Ambiguous	<p>The Commission found this Rule to be unclear as it includes language such as "unless otherwise ordered by the Board" without providing any additional information as to how this determination will be made. Also, this Rules requires that affidavits "be served" with no additional information as to how service is rto be effectuated.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>

08 NCAC 03 .0105	Unclear/Ambiguous	The Commission found this Rule to be unclear as written as it contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 03 .0106	Unclear/Ambiguous	The Commission found this Rule to be ambiguous as it includes language such as "brief" without providing any additional clarifying information. Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 03 .0201	Unclear/Ambiguous	The Commission found this Rule to be unclear as written as it contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 03 .0202	Unclear/Ambiguous	The Commission found this Rule to be ambiguous as it includes language such as "forthwith", "immediately", and "at once" without providing any additional information as to the meaning of these terms. Also, this Rule indicates that the Board "may" hear a matter "'de novo,' or, in the judgement of the Board may be dismissed, remanded to the county or heard on petition and affidavit..." without providing information as to how this determination will be made. Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 03 .0301	Unclear/Ambiguous	The Commission found this Rule to be ambiguous as it includes language such as "prompt", "efficient", and "proper" without providing any additional information as to the meaning of these terms. Also, this Rule appears to create a waiver that will enable the Board to "suspend these rules" without providing any factors that the Board will use in making that determination. Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 03 .0302	Unnecessary	The Commission found that this Rule to be unnecessary as it does not provide any additional requirements or information beyond those contained in G.S. 163A-741(d).
08 NCAC 04 .0302	Unclear/Ambiguous	The Commission found this Rule to be ambiguous as written as it contains an approval standard for modification of voting systems, without providing any additional information as to how the approval determination will be made. In addition, this Rule contains ambiguous terms such as "substantially" and "satisfactory." Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 04 .0304	Unclear/Ambiguous	The Commission found this Rule to be ambiguous as it includes language such as "properly" without providing any additional information as to the meaning of this term. Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.

08 NCAC 03 .0105	Unclear/Ambiguous	The Commission found this Rule to be unclear as written as it contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 03 .0106	Unclear/Ambiguous	The Commission found this Rule to be ambiguous as it includes language such as "brief" without providing any additional clarifying information. Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 03 .0201	Unclear/Ambiguous	The Commission found this Rule to be unclear as written as it contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 03 .0202	Unclear/Ambiguous	The Commission found this Rule to be ambiguous as it includes language such as "forthwith", "immediately", and "at once" without providing any additional information as to the meaning of these terms. Also, this Rule indicates that the Board "may" hear a matter "'de novo,' or, in the judgement of the Board may be dismissed, remanded to the county or heard on petition and affidavit..." without providing information as to how this determination will be made. Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 03 .0301	Unclear/Ambiguous	The Commission found this Rule to be ambiguous as it includes language such as "prompt", "efficient", and "proper" without providing any additional information as to the meaning of these terms. Also, this Rule appears to create a waiver that will enable the Board to "suspend these rules" without providing any factors that the Board will use in making that determination. Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 03 .0302	Unnecessary	The Commission found that this Rule to be unnecessary as it does not provide any additional requirements or information beyond those contained in G.S. 163A-741(d).
08 NCAC 04 .0302	Unclear/Ambiguous	The Commission found this Rule to be ambiguous as written as it contains an approval standard for modification of voting systems, without providing any additional information as to how the approval determination will be made. In addition, this Rule contains ambiguous terms such as "substantially" and "satisfactory." Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 04 .0304	Unclear/Ambiguous	The Commission found this Rule to be ambiguous as it includes language such as "properly" without providing any additional information as to the meaning of this term. Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.

08 NCAC 04 .0305	Unclear/Ambiguous	<p>The Commission found this Rule to be ambiguous as written as it includes language such as "proper" without providing any additional information as to the meaning of this term.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 04 .0306	Unclear/Ambiguous	<p>The Commission found this Rule to be ambiguous as it includes language such as "properly", "safe", "appropriate", "secure", "proper", and "direct" without providing any additional information as to the meaning of these terms.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 04 .0307	Unclear/Ambiguous	<p>The Commission found this Rule to be ambiguous as written as it includes language such as "properly" and "accurately" without providing any additional information as to the meaning of these terms.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 06B .0103	Unclear/Ambiguous	<p>The Commission found this Rule to be ambiguous as written as it includes language such as "as soon as practicable" without providing any additional information as to the meaning of this term.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 06B .0104	Unclear/Ambiguous	<p>The Commission found this Rule to be unclear as written as it contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 06B .0105	Unclear/Ambiguous	<p>The Commission found this Rule to be ambiguous as written as it includes language such as "requisite documentation", "clearly", and "unavoidable necessity" without providing any additional information as to the meaning of these terms.</p> <p>Further, this Rule contains references to statutes that no longer exist as the statutory references have been recodified.</p>
08 NCAC 08 .0104	Statutory Authority	<p>The Commission objected to this Rule for lack of statutory authority as the only cited authority was repealed in 1993.</p>
08 NCAC 09 .0106	Statutory Authority Unnecessary Unclear/Ambiguous	<p>The Commission objected to this Rule for lack of statutory authority as G.S. 163A-1109 prohibits the use of punch-card ballots and lever machine voting systems and this Rule appears to provide provisions regarding both punch card ballots and lever voting.</p> <p>In addition, the Commission found Paragraph (b) of this Rule to be unnecessary as it recites G.S. 163A-1176 without providing any additional information.</p> <p>The Commission found this Rule to be ambiguous as written as it includes language such as "properly" without providing any additional information as to the meaning of this term.</p>

		Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 09 .0107	Statutory Authority Unclear/Ambiguous	<p>The Commission objected to this Rule for lack of statutory authority as G.S. 163A-1109 prohibits the use of punch-card ballots and lever machine voting systems and this Rule appears to provide provisions regarding both punch card ballots and lever voting.</p> <p>The Commission found this Rule is unclear or ambiguous as Subparagraph (b)(9) uses the word "should." It is unclear whether this is intended to be a mandate or an aspiration statement that does not meet the definition of a rule. Also, the history note contains references to statutes that no longer exist as the statutory references have been recodified.</p>
08 NCAC 09 .0108	Statutory Authority Unclear/Ambiguous	<p>The Commission objected to this Rule for lack of statutory authority as G.S. 163A-1109 prohibits the use of punch-card ballots and lever machine voting systems and this Rule appears to provide provisions regarding both punch card ballots and lever voting.</p> <p>The Commission found this Rule is unclear as (d) provides for an appeals process of the recount vote without providing any further information.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 09 .0109	Statutory Authority Unclear/Ambiguous	<p>The Commission objected to this Rule for lack of statutory authority as G.S. 163A-1109 prohibits the use of punch-card ballots and lever machine voting systems and this Rule appears to provide provisions regarding both punch card ballots and lever voting.</p> <p>The Commission found this Rule to be unclear as written.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 10B .0101	Unclear/Ambiguous	<p>The Commission found this Rule to be ambiguous as written as it includes language such as "promptly", "good cause", "open means", "prompt", "orderly", "short notice", "immediately", "secure", "properly" and "improperly", and "clearly" without providing any additional information as to the meaning of these terms.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 10B .0102	Unclear/Ambiguous	<p>The Commission found this Rule to be ambiguous as written as it includes language such as "other approved communications devices", "other necessary identifiers", "necessary mechanisms", "correctly", "good working order", "continual adequate", "proper", and "official timepiece" without providing any additional information as to the meaning of these terms.</p> <p>In addition, (e) says that "units should be locked... and should remain that way..." It is unclear whether this is a requirement related to the units or if this is an aspirational statement that does not meet the definition of a Rule. Paragraph (i) also contains the word "should."</p>

		Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 10B .0103	Unclear/Ambiguous	<p>The Commission found this Rule to be ambiguous as written as it includes language such as “clearly”, “fail-safe”, “adequate”, “proper”, “other approved record”, “secure”, and “properly” without providing any additional information as to the meaning of these terms.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 10B .0104	Statutory Authority Unclear/Ambiguous	<p>The Commission objected to this Rule for lack of statutory authority as G.S. 163A-1109 prohibits the use of punch-card ballots and lever machine voting systems and this Rule appears to provide provisions regarding both punch card ballots and lever voting.</p> <p>The Commission found this Rule to be ambiguous as written as it includes language such as “immediately”, “undue delay”, “proper”, and “appropriate” without providing any additional information as to the meaning of these terms.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 10B .0105	Unclear/Ambiguous	<p>The Commission found this Rule to be ambiguous as written as it includes language such as “orderly” without providing any additional information as to the meaning of this term.</p> <p>Further it notes that “the container should be sealed...” It is unclear whether this is intended to be a requirement or an aspirational statement that does not meet the definition of a Rule.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 10B .0106	Unclear/Ambiguous	<p>The Commission found this Rule to be ambiguous as written as it includes language such as “immediately” and “unsecured.”</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 10B .0107	Unclear/Ambiguous Unnecessary	<p>The Commission found this Rule to be ambiguous as written as it includes language such as “near relative”, “illegally excluded”, “properly”, “good cause” and “reasonable grounds” and “unlawful assistance” without providing any additional information as to the meaning of these terms.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p> <p>In addition, the Commission found Subparagraphs (a)(1) and (2) and Paragraphs (b) and (c) unnecessary as they essentially recite G.S. 163A-1139 without providing ny additional information.</p>
08 NCAC 10B .0108	Unclear/Ambiguous	<p>The Commission found this Rule to be ambiguous as written as it includes language such as “sufficient” without providing any additional information as to the meaning of this term.</p>

8/21/2018

		Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
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STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

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Raleigh, NC 27699-6714

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

August 16, 2018

Jennifer Everett
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 02 N, O, and P**

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 August 16, 2018 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 January 31, 2023.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Amber May".

Amber May
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
February 15, 2018
APO Review: March 06, 2018**

**Environmental Management Commission
Total: 72**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>15A NCAC 02N .0201</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0202</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0203</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0301</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0302</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0303</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0304</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0401</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0402</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0403</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0404</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0405</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0501</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0502</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0503</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0504</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0505</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0506</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0601</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0602</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0603</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0604</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0701</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0702</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0703</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0704</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0705</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0706</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0707</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0708</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0801</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0802</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0803</u>	Necessary with substantive public interest

**RRC DETERMINATION
PERIODIC RULE REVIEW
February 15, 2018
APO Review: March 06, 2018**

**Environmental Management Commission
Total: 72**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>15A NCAC 02N .0201</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0202</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0203</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0301</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0302</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0303</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0304</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0401</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0402</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0403</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0404</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0405</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0501</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0502</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0503</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0504</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0505</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0506</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0601</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0602</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0603</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0604</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0701</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0702</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0703</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0704</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0705</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0706</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0707</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0708</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0801</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0802</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0803</u>	Necessary with substantive public interest



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

August 16, 2018

Barden Culbreth
Substance Abuse Professionals
PO Box 10126
Raleigh, NC 27605

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **21 NCAC 68**

Dear Mr. Culbreth

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 August 16, 2018 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, 2020.

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

Sincerely,

A handwritten signature in blue ink that reads "Amber May".

Amber May
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
May 17, 2018
APO Review: July 22, 2018
Total: 74**

Substance Abuse Professional Practice Board

Rule	Determination
<u>21 NCAC 68 .0101</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0102</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0201</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0202</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0203</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0204</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0205</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0206</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0207</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0208</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0209</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0211</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0212</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0213</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0214</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0215</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0216</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0217</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0220</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0221</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0222</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0223</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0224</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0225</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0226</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0227</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0228</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0301</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0303</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0304</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0305</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0306</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0307</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0401</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0402</u>	Necessary with substantive public interest

