

**RULES REVIEW COMMISSION MEETING  
MINUTES  
May 18, 2017**

The Rules Review Commission met on Thursday, May 18, 2017, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Bobby Bryan, Margaret Currin, Jeanette Doran, Garth Dunklin, Jay Hemphill, Jeff Hyde, Jeff Poley, Paul Powell, and Stephanie Simpson.

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

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

Chairman Dunklin introduced the new Deputy Director of the Office of Administrative Hearings, Linda Worth.

Chairman Dunklin introduced new OAH extern, Rich Gittings.

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 April 20, 2017 meeting. There were none and the minutes were approved as distributed.

**FOLLOW UP MATTERS**

**Commission for Mental Health, Developmental Disabilities and Substance Abuse Services**

10A NCAC 27H .0202, .0203, .0204, .0205, .0206, and .0207 - The agency is addressing the objections from the March meeting. No action was required by the Commission.

**Department of Insurance**

11 NCAC 05A .0501, .0505, .0508, and .0511 - The agency is addressing the objections from the January meeting. No action was required by the Commission.

**Manufactured Housing Board**

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

**Locksmith Licensing Board**

21 NCAC 29 .0102, .0201, .0204, .0205, .0206, .0401, .0404, .0502, .0503, .0504, .0702, .0703, .0802, .0803, .0804, .0805, and .0806 - The rewritten rules were unanimously approved.

21 NCAC 29 .0402 and .0601 - The agency is addressing the objections from the April meeting. No action was required by the Commission.

**Board of Massage and Bodywork Therapy**

21 NCAC 30 .0903 and .0906 – Pursuant to G.S. 150B-21.12(d), the rules were returned to the agency. No action was required by the Commission.

**LOG OF FILINGS (PERMANENT RULES)**

**Historical Commission**

All rules were unanimously approved.

**Wildlife Resources Commission**

All rules were unanimously approved.

**Commission for Public Health**

The Commission objected to the rules in accordance with G.S. 150B-21.10.

The Commission objected to the rules for failure to comply with the Administrative Procedure Act. Specifically, these rules were not noticed in the North Carolina Register for a period of at least 60 days, as required by G.S. 150B-21.2(g).

Bob Martin, with the agency, addressed the Commission.

**Department of Revenue**

All rules were unanimously approved.

**Board of Dental Examiners**

All rules were unanimously approved.

Prior to the review of the rules from the Board of Dental Examiners, Commissioner Simpson recused herself and did not participate in any discussion or vote concerning the rules because of a possible conflict with her husband's law firm.

**Board for Licensing of Geologists**

All rules were unanimously approved.

**Board of Nursing**

All rules were unanimously approved.

**Veterinary Medical Board**

21 NCAC 66 .0311 was unanimously approved.

**LOG OF RULES (TEMPORARY RULES)****Environmental Management Commission**

All rules were unanimously approved.

**EXISTING RULES REVIEW****Department of Natural and Cultural Resources**

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

07 NCAC 02G,H,I - The Commission unanimously approved the report as submitted by the agency.

**Public Library Certification Commission**

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

**Department of Natural and Cultural Resources**

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

**USS North Carolina Battleship Commission**

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

**Tryon Palace Commission**

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

**Historic Bath Commission**

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

**Historic Murfreesboro Commission**

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

**Edenton Historical Commission**

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

**Department of Natural and Cultural Resources**

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

**Medical Care Commission**

10A NCAC 13B – The Commission unanimously approved the report as submitted by the agency, with the following exceptions for rules that received public comment that were deemed to have merit as defined by G.S. 150B-21.3A(c)(2): 10A NCAC 13B .3303, .4103, .4801, and .4805. The RRC designated those rules as “necessary with substantive public interest.”

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

**Well Contractors Certification Commission**

15A NCAC 27 – The Commission unanimously approved the report as submitted by the agency.

**Interpreter and Transliterator Licensing Board**

21 NCAC 25 – The Commission unanimously approved the report as submitted by the agency.

**Board of Elections**

08 NCAC 01, 02, 03, 04, 06B, 08, 09, and 10B - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than August 31, 2018 pursuant to G.S. 150B-21.3A(d)(2).

Prior to the review of the proposed readoption date from the Board of Elections, Commissioner Doran recused herself and did not participate in any discussion or vote concerning the proposed readoption because she has a matter before the State Board of Elections.

Prior to the review of the proposed readoption date from the Board of Elections, Commissioner Hemphill recused himself and did not participate in any discussion or vote concerning the proposed readoption because he has a potential conflict of interest.

**Board of Registration for Foresters**

21 NCAC 20 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than August 31, 2018 pursuant to G.S. 150B-21.3A(d)(2).

**Psychology Board**

Pursuant to 26 NCAC 05. 0205, the agency requested a waiver of 26 NCAC 05 .0211 for the report for 21 NCAC 54.

The waiver request was approved, with Commissioners Doran, Hyde, and Poley voting against. The Commission rescheduled the date of review for the report, and amended 26 NCAC 05 .0211. The Commission will review the agency's report at its September 2017 meeting.

**COMMISSION BUSINESS**

The Commission amended Rule 26 NCAC 05 .0211 to reflect changes in the periodic review schedule.

The Chair gave an update of Senate Bill 257, Section 20.1 OAH/Lawsuit Funds, and Senate Bill 16.

The Chair gave an update on the recent appeal in the matter of the *Ambulatory Surgical Center Association v. Industrial Commission*.

The meeting adjourned at 10:51 a.m.

The next regularly scheduled meeting of the Commission is Thursday, June 15<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

**May 18, 2017**

Rules Review Commission  
Meeting  
Please Print Legibly

Name	Agency
Jennie Wthausen	NC DJS - EMC
Ashley Snyder	DWCR
Shawn Middlebrooks	DWCR
Craig Bramby	NC DEQ
Jenny Patterson	NC DEQ
Nadine Pfeiffer	NC DHR
Clarence Fournier	NC DJSB
Borden Culbreth	NCLLB
Mary Lucassy	NC BLE
Rich G. Higgins	DAH
Joanne Ratkofsky	NC DHHS
Drew Morgan	DNHF
Whitney Waldenberg	Dental Board
John R. Moon, Jr.	NC Interpreter & Transliterator L.B.
Angela Ellis	NC Board of Nursing
Angie Chisholm	NC BON
Bob MARTIN	NC DPI
Ann Christian	AMTA - NC
Julie Woosley	NC DEQ
Betsy Hanwood	NC Wildlife Resources Commission
Cindy Callahan	NCDHHS

May 18, 2017

Rules Review Commission  
Meeting  
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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

May 18, 2017

Katelyn Love, Rulemaking Coordinator  
North Carolina Board of Elections  
Post Office Box 27255  
Raleigh, North Carolina 27611-7255

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **08 NCAC 01, 02, 03, 04, 06B, 08, 09, 10B**

Dear Ms. Love:

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 May 18, 2017 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, 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

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An Equal Employment Opportunity Employer

**RRC DETERMINATION  
PERIODIC RULE REVIEW  
December 15, 2016  
APO Review: January 03, 2017  
Elections, Board of  
Total: 36**

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

<b>Rule</b>	<b>Determination</b>
<u>08 NCAC 01 .0104</u>	Necessary with substantive public interest
<u>08 NCAC 02 .0110</u>	Necessary with substantive public interest
<u>08 NCAC 02 .0111</u>	Necessary with substantive public interest
<u>08 NCAC 02 .0112</u>	Necessary with substantive public interest
<u>08 NCAC 02 .0113</u>	Necessary with substantive public interest
<u>08 NCAC 03 .0101</u>	Necessary with substantive public interest
<u>08 NCAC 03 .0102</u>	Necessary with substantive public interest
<u>08 NCAC 03 .0103</u>	Necessary with substantive public interest
<u>08 NCAC 03 .0104</u>	Necessary with substantive public interest
<u>08 NCAC 03 .0105</u>	Necessary with substantive public interest
<u>08 NCAC 03 .0106</u>	Necessary with substantive public interest
<u>08 NCAC 03 .0201</u>	Necessary with substantive public interest
<u>08 NCAC 03 .0202</u>	Necessary with substantive public interest
<u>08 NCAC 03 .0301</u>	Necessary with substantive public interest
<u>08 NCAC 03 .0302</u>	Necessary with substantive public interest
<u>08 NCAC 04 .0301</u>	Necessary with substantive public interest
<u>08 NCAC 04 .0302</u>	Necessary with substantive public interest
<u>08 NCAC 04 .0304</u>	Necessary with substantive public interest
<u>08 NCAC 04 .0305</u>	Necessary with substantive public interest
<u>08 NCAC 04 .0306</u>	Necessary with substantive public interest
<u>08 NCAC 04 .0307</u>	Necessary with substantive public interest
<u>08 NCAC 06B .0103</u>	Necessary with substantive public interest
<u>08 NCAC 06B .0104</u>	Necessary with substantive public interest
<u>08 NCAC 06B .0105</u>	Necessary with substantive public interest
<u>08 NCAC 08 .0104</u>	Necessary with substantive public interest
<u>08 NCAC 09 .0106</u>	Necessary with substantive public interest
<u>08 NCAC 09 .0107</u>	Necessary with substantive public interest
<u>08 NCAC 09 .0108</u>	Necessary with substantive public interest
<u>08 NCAC 09 .0109</u>	Necessary with substantive public interest
<u>08 NCAC 10B .0101</u>	Necessary with substantive public interest
<u>08 NCAC 10B .0103</u>	Necessary with substantive public interest
<u>08 NCAC 10B .0104</u>	Necessary with substantive public interest
<u>08 NCAC 10B .0105</u>	Necessary with substantive public interest
<u>08 NCAC 10B .0106</u>	Necessary with substantive public interest
<u>08 NCAC 10B .0107</u>	Necessary with substantive public interest
<u>08 NCAC 10B .0108</u>	Necessary with substantive public interest





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May 18, 2017

Jennifer Grantham, Rulemaking Coordinator  
Board of Registration for Foresters  
Post Office Box 27393  
Raleigh, North Carolina 27611

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **21 NCAC 20**

Dear Ms. Grantham:

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 May 18, 2017 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, 2018.

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Sincerely,

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Abigail M. Hammond  
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An Equal Employment Opportunity Employer

**Board of Registration for Foresters**

PERIODIC RULE REVIEW

November 20, 2014

Report Effective: December 16, 2014

**RRC Determination: Necessary with Substantive Public Interest**  
**Total: 2**

**Rule**

21 NCAC 20 .0103  
21 NCAC 20 .0104

**RRC Determination: Necessary without Substantive Public Interest**  
**Total: 20**

**Rule**

21 NCAC 20 .0101  
21 NCAC 20 .0102  
21 NCAC 20 .0105  
21 NCAC 20 .0106  
21 NCAC 20 .0107  
21 NCAC 20 .0108  
21 NCAC 20 .0111  
21 NCAC 20 .0113  
21 NCAC 20 .0114  
21 NCAC 20 .0115  
21 NCAC 20 .0116  
21 NCAC 20 .0117  
21 NCAC 20 .0118  
21 NCAC 20 .0120  
21 NCAC 20 .0121  
21 NCAC 20 .0122  
21 NCAC 20 .0123  
21 NCAC 20 .0124  
21 NCAC 20 .0125  
21 NCAC 20 .0126

**RRC Determination: Unnecessary**  
**Total: 3**

**Rule**

21 NCAC 20 .0109  
21 NCAC 20 .0110  
21 NCAC 20 .0112