

**RULES REVIEW COMMISSION MEETING  
MINUTES  
May 17, 2018**

The Rules Review Commission met on Thursday, May 17, 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 Hyde, 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.

Chairman Dunklin introduced OAH extern Michael Hutcherson.

The meeting was called to order at 10:02 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 April 19, 2018 meeting. There were none and the minutes were approved as distributed.

**FOLLOW UP MATTERS**

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

The agency is addressing the technical change requests from the April meeting. No action was required by the Commission.

**Department of Transportation/Division of Motor Vehicles**

Pursuant to G.S. 150B-21.12(d), the rule was returned to the agency. No action was required by the Commission.

**LOG OF FILINGS (PERMANENT RULES)**

*Pre-Reviewed Rules*

**Department of Agriculture and Consumer Services**

All rules were unanimously approved with the following exceptions:

The Commission extended the period of review for 02 NCAC 52B .0213 and 02 NCAC 52C .0701 in accordance with G.S. 150B-21.10. They did so in response to a request from the Department to extend the period to allow the agency to address the requests for technical changes and submit the rewritten rules at a later meeting.

**Child Care Commission**

10A NCAC 09 .0304 was unanimously approved.

The Commission extended the period of review for 10A NCAC 09 .0401, .1904, and .2208 in accordance with G.S. 150B-21.10 at the request of the agency.

In addition, the Commission objected to 10A NCAC 09 .2201, .2202, .2203, .2204, .2205, .2206, .2207, .2209, .2213, .2216, and .2217 in accordance with G.S. 150B-21.12 as follows:

- the Commission objected to Rule .2201, finding that Paragraph (b) was ambiguous as written;

- the Commission objected to Rule .2202, finding that it was not within the statutory authority of the agency to issue an administrative action against an “owner” of a child care facility and also found that this Rule was ambiguous as written; and
- the Commission objected to Rules .2203-.2207, .2209, .2213, .2216, and .2217, finding that it was not within the statutory authority of the agency to issue an administrative action against an “owner.”

Linda Piper of the North Carolina Licensed Child Care Association addressed the Commission.

Alexi Gruber, with the Attorney General’s office and representing the agency, addressed the Commission.

### **DHHS/Division of Health Service Regulation**

All rules were unanimously approved.

Prior to the review of the rules from DHHS/Division of Health Service Regulation, Commissioner Poley recused himself and did not participate in any discussion or vote concerning the rules because of a law firm conflict.

#### *Non Pre-Reviewed Rules*

### **Alarm Systems Licensing Board**

All rules were unanimously approved with the following exceptions:

The Commission objected to 14B NCAC 17 .0402 and .0403 in accordance with G.S. 150B-21.10. The Commission objected to the rules based upon lack of statutory authority because G.S. 74D-31, the statute authorizing these Rules, was repealed.

Commissioner Hyde was not present during the vote or discussion concerning these Rules.

### **Building Code Council**

403.1.1 was unanimously approved.

Commissioner Choi was not present during the vote or discussion concerning the rule.

The chair called the meeting into a brief recess at 11:18 a.m.

The meeting resumed at 11:25 a.m.

### **EXISTING RULES REVIEW**

#### **Department of Administration**

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

01 NCAC 30 – The Commission unanimously approved the report as submitted by the agency.

Commissioner Hyde was not present during the vote or discussion concerning these reports.

#### **Department of Labor**

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

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

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

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

13 NCAC 13 – The Commission unanimously approved the report as submitted by the agency.

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

13 NCAC 17 – The Commission unanimously approved the report as submitted by the agency.

13 NCAC 18 – The Commission unanimously approved the report as submitted by the agency.  
13 NCAC 19 – The Commission unanimously approved the report as submitted by the agency.

Commissioner Hyde was not present during the vote or discussion concerning these reports.

#### **Substance Abuse Professional Practice Board**

21 NCAC 68 – The Commission unanimously approved the report as submitted by the agency.

#### **Department of Administration**

01 NCAC 38, 43A - As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than November 30, 2019 pursuant to G.S. 150B-21.3A(d)(2).

#### **Wildlife Resources Commission/Marine Fisheries Commission**

15A NCAC 03Q, Section .0100 and 15A NCAC 10C, Section .0100 - As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than June 30, 2022 pursuant to G.S. 150B-21.3A(d)(2).

#### **Wildlife Resources Commission**

15A NCAC 10B, 10C - As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than December 30, 2022 pursuant to G.S. 150B-21.3A(d)(2).

#### **Real Estate Commission**

21 NCAC 58 - As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than June 30, 2019 pursuant to G.S. 150B-21.3A(d)(2).

#### **COMMISSION BUSINESS**

The Chair reminded the Commission of the Periodic Review and Expiration of Existing Rules Readoption Schedule.

The Commission unanimously approved amendments to the Commission Bylaws, which shall become effective June 1, 2018.

The meeting adjourned at 11:33 a.m.

The next regularly scheduled meeting of the Commission is Thursday, June 14<sup>th</sup> at 10:00 a.m.

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Alexander Burgos, Paralegal

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

**May 17, 2018**

Rules Review Commission  
Meeting  
**Please Print Legibly**

Name	Agency
Hannah Jeunigan	NC DOT
Nadine Pfeiffer	NC DHHS - DHSR
Clarence Ennis	NC DHHS - DHSR
JOHN F. MADDEY	DEPT. OF ADMINISTRATION
Shanon Gerger	NC Dept of Admin
Linda Piper	NCLicensed Child Care Assn
Alexi Gruber	NC DOJ
Melissa Stevenson	DHHS - DCDEE
Andrea Lewis	DHHS - DCDEE
Dick Alm	DHHS - DCDEE
Tien Cheng	NC DA & CS
Carlos Marzano	Law Student
Mike Mayes	NC DA & CS
Melissa Vuotto	NCREC
Nagari Craven	ASUB
Benton Whitaker	NC DA
Carla Rose	NC DOL
Jill Cramer	NC DOL
Mike Hutchinson	OAH
Jennifer Everett	DEQ
John Thompson	DMA



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6714 Mail Service Center  
Raleigh, NC 27699-6714

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

May 17, 2018

John F. Maddrey, Rulemaking Coordinator  
North Carolina Department of Administration  
116 W. Jones Street  
Raleigh, North Carolina 27603-8003

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **01 NCAC 38, 43A**

Dear Mr. Maddrey:

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 17, 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 November 30, 2019.

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

Sincerely,

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  
Administration, Department of  
Total: 21**

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

<b>Rule</b>	<b>Determination</b>
01 <u>NCAC 38 .0103</u>	Necessary with substantive public interest
01 <u>NCAC 38 .0201</u>	Necessary with substantive public interest
01 <u>NCAC 38 .0205</u>	Necessary with substantive public interest
01 <u>NCAC 38 .0302</u>	Necessary with substantive public interest
01 <u>NCAC 38 .0305</u>	Necessary with substantive public interest
01 <u>NCAC 38 .0308</u>	Necessary with substantive public interest
01 <u>NCAC 38 .0407</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0307</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0308</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0309</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0310</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0311</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0312</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0313</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0314</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0315</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0316</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0317</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0318</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0319</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0320</u>	Necessary with substantive public interest



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Raleigh, NC 27699-6714

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

May 17, 2018

Carrie Ruhlman, Rulemaking Coordinator  
Wildlife Resources Commission  
1701 Mail Service Center  
Raleigh, NC 27699-1701

Jennifer Everett, Rulemaking Coordinator  
Marine Fisheries 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 03Q, Section .0100**  
and **15A NCAC 10C, Section .0100**

Dear Mrs. Ruhlman and 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 May 17, 2018 Rules Review Commission meeting regarding 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 June 30, 2022.

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

Sincerely,

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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**RRC DETERMINATION  
PERIODIC RULE REVIEW  
December 14, 2017  
APO Review: January 09, 2018**

**Marine Fisheries Commission/Wildlife Resources Commission  
Total: 20**

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

<b>Rule</b>	<b>Determination</b>
<u>15A NCAC 03Q .0101</u>	Necessary with substantive public interest
<u>15A NCAC 03Q .0102</u>	Necessary with substantive public interest
<u>15A NCAC 03Q .0103</u>	Necessary with substantive public interest
<u>15A NCAC 03Q .0104</u>	Necessary with substantive public interest
<u>15A NCAC 03Q .0105</u>	Necessary with substantive public interest
<u>15A NCAC 03Q .0106</u>	Necessary with substantive public interest
<u>15A NCAC 03Q .0107</u>	Necessary with substantive public interest
<u>15A NCAC 03Q .0108</u>	Necessary with substantive public interest
<u>15A NCAC 03Q .0109</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0101</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0102</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0103</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0104</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0105</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0106</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0107</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0108</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0109</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0110</u>	Necessary with substantive public interest
<u>15A NCAC 10C .0111</u>	Necessary with substantive public interest





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1711 New Hope Church Rd  
Raleigh, NC 27609-6285

May 17, 2018

Carrie Ruhlman, Rulemaking Coordinator  
Wildlife Resources Commission  
1701 Mail Service Center  
Raleigh, NC 27699-1701

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **15A NCAC 10B, 10C**

Dear Mrs. Ruhlman:

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 17, 2018 Rules Review Commission meeting regarding 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 December 30, 2022.

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Amber May  
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fax: 919/431-3104

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

Clerk's Office  
919/431-3000  
fax: 919/431-3100

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Commission  
919/431-3000  
fax: 919/431-3104

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

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**RRC DETERMINATION  
PERIODIC RULE REVIEW  
December 14, 2017  
APO Review: January 09, 2018  
Wildlife Resources Commission  
Total: 101**

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

<b>Rule</b>	<b>Determination</b>
<u>15A NCAC 10B .0101</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0102</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0105</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0106</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0107</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0109</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0110</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0111</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0113</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0114</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0115</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0116</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0117</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0118</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0119</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0120</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0121</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0122</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0123</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0124</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0125</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0126</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0127</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0201</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0202</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0203</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0205</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0206</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0207</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0208</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0209</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0210</u>	Necessary with substantive public interest
<u>15A NCAC 10B .0211</u>	Necessary with substantive public interest



15A NCAC 10C .0309 Necessary with substantive public interest  
15A NCAC 10C .0310 Necessary with substantive public interest  
15A NCAC 10C .0311 Necessary with substantive public interest  
15A NCAC 10C .0312 Necessary with substantive public interest  
15A NCAC 10C .0313 Necessary with substantive public interest  
15A NCAC 10C .0314 Necessary with substantive public interest  
15A NCAC 10C .0315 Necessary with substantive public interest  
15A NCAC 10C .0316 Necessary with substantive public interest  
15A NCAC 10C .0317 Necessary with substantive public interest  
15A NCAC 10C .0318 Necessary with substantive public interest  
15A NCAC 10C .0319 Necessary with substantive public interest  
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15A NCAC 10C .0401 Necessary with substantive public interest  
15A NCAC 10C .0402 Necessary with substantive public interest  
15A NCAC 10C .0404 Necessary with substantive public interest  
15A NCAC 10C .0405 Necessary with substantive public interest  
15A NCAC 10C .0406 Necessary with substantive public interest  
15A NCAC 10C .0407 Necessary with substantive public interest  
15A NCAC 10C .0501 Necessary with substantive public interest  
15A NCAC 10C .0502 Necessary with substantive public interest  
15A NCAC 10C .0503 Necessary with substantive public interest  
15A NCAC 10C .0601 Necessary with substantive public interest  
15A NCAC 10C .0602 Necessary with substantive public interest  
15A NCAC 10C .0603 Necessary with substantive public interest



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Raleigh, NC 27609-6285

May 17, 2018

Melissa Vuotto, Rulemaking Coordinator  
Real Estate Commission  
Post Office Box 17100  
Raleigh, North Carolina 27699-2420

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 21 NCAC 58

Dear Mrs. Vuotto:

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 17, 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 June 30, 2019.

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

Sincerely,

Amber May  
Commission Counsel

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fax: 919/431-3100

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fax: 919/431-3100

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

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919/431-3036  
fax: 919/431-3103

An Equal Employment Opportunity Employer

**RRC DETERMINATION  
PERIODIC RULE REVIEW  
March 15, 2018  
APO Review: May 19, 2018  
Real Estate Commission  
Total: 4**

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

<b>Rule</b>	<b>Determination</b>
21 <u>NCAC 58A .0108</u>	Necessary with substantive public interest
21 <u>NCAC 58A .0506</u>	Necessary with substantive public interest
21 <u>NCAC 58A .0612</u>	Necessary with substantive public interest
21 <u>NCAC 58A .2002</u>	Necessary with substantive public interest