



STATE OF NORTH CAROLINA  
**OFFICE OF ADMINISTRATIVE HEARINGS**

Mailing address:  
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Raleigh, NC 27699-6714

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

August 20, 2015

William W. Peaslee  
Veterans Affairs Commission  
**Sent via e-mail to Bill.Peaslee@doa.nc.gov**

Re: Extension of the Period of Review for Rules 01 NCAC 26B .0104, .0105, and .0106

Dear Mr. Peaslee:

This morning the Rules Review Commission (RRC) extended the period of review for the above-captioned rules, in accordance with G.S. 150B-21.10. They did so in response to a request from the Veterans Affairs Commission (VAC), allowing the VAC additional time to understand RRC staff's comments concerning the rules, make technical changes, prepare any other response to staff's concerns, and submit the rewritten rules for review by the RRC.

Pursuant to G.S. 150B-21.13, when the RRC 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 after granting the extension. Your rules will be on the agenda for the next regularly-scheduled meeting of the RRC, on **September 17, 2015**, and the RRC will act on them no later than its meeting on October 15, 2015.

Should you have any questions regarding the RRC's actions or the rules referenced above, please do not hesitate to contact me.

Sincerely,

Jason Thomas  
Commission Counsel

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

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

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August 21, 2015

Jennifer Everett  
NC Department of Environment and Natural Resources  
**Sent via email to Jennifer.Everett@ncdenr.gov**

Re: Objection to Rule 15A NCAC 02B .0295

Dear Ms. Everett:

At its meeting yesterday, the Rules Review Commission objected to the above-captioned rule in accordance with G.S. 150B-21.10.

The Commission objected to the Rule, finding the agency failed to comply with the Administrative Procedure Act. Specifically, the Commission found that changing “are” to “may” in Subparagraph (l)(6) after publication constitutes a “substantial change” pursuant to G.S. 150B-21.2(g).

The Commission also objected based upon a lack of statutory authority. Specifically, the Commission found that Session Law 2014-95 required the agency to adopt a rule that was substantively identical to the recommended rule text contained in the April 10, 2014 Consolidated Buffer Mitigation Rule Stakeholder Report. The Commission found that the agency did not comply with the statutory mandate because it moved the language that was identified as an Alternative Buffer Mitigation Option in the stakeholder report (located in Paragraph m) to an accepted mitigation option in Paragraph l of the permanent rule. Therefore, the agency did not act within the statutory authority granted to it by the Session Law.

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 let me know.

Sincerely,

Amanda J. Reeder  
Commission Counsel

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August 21, 2015

Barry Gupton  
Building Code Council  
**Sent via electronic mail to [barry.gupton@ncdoi.gov](mailto:barry.gupton@ncdoi.gov)**

Re: Objection to Rule 2011 NC Electrical Code/Raceways in Wet Locations Above  
Ground, 300.9

Dear Mr. Gupton:

At its meeting yesterday, the Rules Review Commission objected to the above-captioned Rule in accordance with G.S. 150B-21.10.

The Commission objected to this Rule for failure to comply with Part 2 of the Administrative Procedure Act, specifically by adopting a rule that differs substantially from a proposed rule published in the Register. The Council published the above-identified Rule in the NC Register, Volume 29, Issue 18, and proposed the deletion of one sentence and the addition of one sentence. The Rule, as adopted by the Council and submitted to the Rules Review Commission, did not reflect any of the published proposed changes and added an exception with three requirements. The Commission found that the change made to the text of the rule from the content proposed in the Register to the content as adopted by the Council creates a substantial change pursuant to G.S. 150B-21.2(g).

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 let me know.

Sincerely,

Abigail M. Hammond  
Commission Counsel

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