



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

December 17, 2014

Via Email Only: courtneym.cantrell@dhhs.nc.gov

Courtney M. Cantrell, Ph.D.

Division of Mental Health, Developmental Disabilities, and Substance Abuse Services
3018 Mail Service Center
Raleigh, North Carolina 27699-3018

Re: 10A NCAC 26E .0701, .0702, .0703

Dear Dr. Cantrell:

At the December 17, 2014 meeting of the Rules Review Commission, the Commission reviewed the three temporary rules filed on December 15, 2014 by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services on behalf of the Department of Health and Human Services. The Findings of Need form filed indicates that the above-identified rules were adopted on November 24, 2014. The Commission declined to approve the above-captioned temporary rules based on the failure to comply with the Administrative Procedure Act (APA) in accordance with G.S. 150B-21.9.

The findings of need for the rule states that the temporary rule was required by Session Law 2014-53, which states the following:

SECTION 4. No later than October 1, 2014, the Department of Health and Human Services shall establish and adopt temporary rules to implement the provisions of this act.

The Commission disapproved the above-identified rules because the adoption date was after October 1, 2014 and therefore, the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services on behalf of the Department of Health and Human Services lacked the statutory authority for temporary rule making.

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

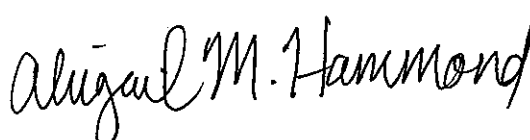
Clerk's Office
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Rules Review
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fax: 919/431-3104

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

Please respond to this letter in accordance with the provisions of G.S. 150B-21.1(b1) or (b2). If you have any questions regarding the Commission's action, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Abigail M. Hammond". The signature is written in a cursive style with a large, looped initial "A".

Abigail M. Hammond
Commission Counsel

cc: W. Denise Baker, Rule-making Coordinator – denise.baker@dhhs.nc.gov



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December 17, 2014

Sent via email: jennifer.everett@ncdenr.gov
Jennifer Everett, Rulemaking Coordinator
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

Re: 15A NCAC 02H .1030

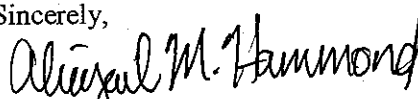
Dear Ms. Everett:

At its December 17, 2014 meeting, the Rules Review Commission objected to the above-identified rule in accordance with G.S. 150B-21.2(g) and 150B-21.9.

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. The rule as proposed indicated that "[t]he Division shall establish record-keeping, self-inspection, and self-reporting permit requirements." The rule, as adopted by the agency and submitted to the Rules Review Commission, deleted the referenced language and provided specific criteria, as set forth in Subparagraphs (c)(5), (c)(6), and (c)(7) of the rule.

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 action, please let me know.

Sincerely,


Abigail M. Hammond
Commission Counsel

cc: Evan Kane – evan.kane@ncdenr.gov

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December 17, 2014

Robert Josey
Mining and Energy Commission
Sent via email to: robert.josey@ncdenr.gov

Re: Objections to Rules 15A NCAC 05H .0804 and .1704

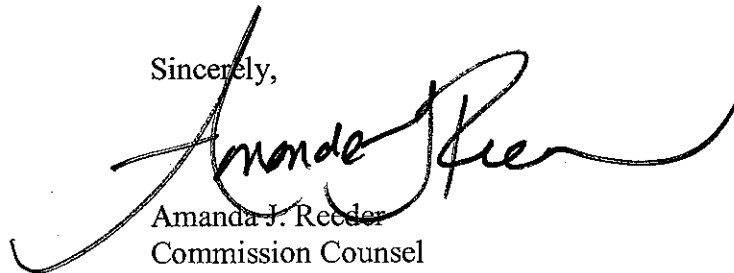
Dear Mr. Josey:

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

The Commission objected both rules based upon G.S. 150B-21.9(a)(3), finding they are unnecessary to implement an enactment of the General Assembly, as both rules simply recite statutory provisions.

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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December 17, 2014

Robert Josey
Mining and Energy Commission
Sent via email to: robert.josey@ncdenr.gov

Re: Extension of the Period of Review for Rules 15A NCAC 05H

Dear Mr. Josey

At its meeting this afternoon, the Rules Review Commission extended the period of review for the following rules in 15A NCAC 05H in accordance with G.S. 150B-21.10:

1. .0704, Completeness and Request for Additional Information
2. .1308, Permit Conditions
3. .1310, Permit Modifications
4. .1404, Disturbed Land Bond
5. .1405, Environmental Damage Bond
6. .1406, Inspection and Approval for Reclamation for Bond Release or Forfeiture
7. .1407, Bond Forfeiture Proceeding
8. .1603, Variance for Setbacks
9. .1613, Well Stimulation Requirements
10. .1804, Request for Investigation of Water Supply
11. .1902, Surface Water Source Documentation
12. .1903, Groundwater Source Documentations
13. .2003, Exploration and Production Waste Disposal

They did so in order to allow the agency to make technical changes and submit the rewritten rules at a later meeting.

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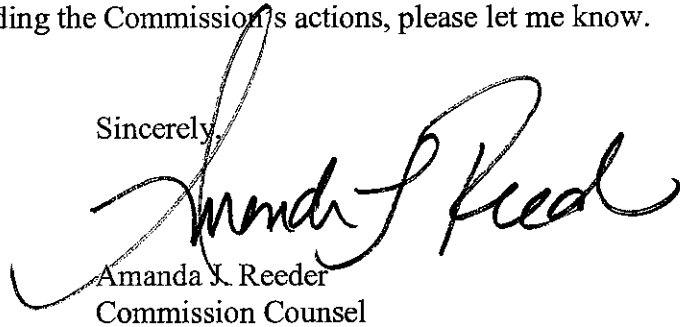
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Pursuant to G.S. 150B-21.13, when the Commission extends the period of review, it is required to approve or object to rules or call a public hearing on the same within 70 days. The agency indicated it will submit the rewritten rules for Commission review at its January 15, 2015 meeting.

Should you have any questions regarding the Commission's actions, please let me know.

Sincerely,

A handwritten signature in black ink, reading "Amanda J. Reeder". The signature is fluid and cursive, with a large initial "A" and "R".

Amanda J. Reeder
Commission Counsel



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December 17, 2014

Sent via email to jgray@bdixon.com:

Jeffrey P. Gray, Rulemaking Coordinator
Board of Landscape Architects
Post Office Box 1351
Raleigh, North Carolina 27602

Re: Extension of the Period of Review for rules filed November 14, 2014

Dear Mr. Gray:

At its December 17, 2014 meeting, the Rules Review Commission extended the period of review on the above-identified rules in accordance with G.S. 150B-21.10 and G.S. 150B-21.13. The Commission extended the period of review to allow the Board of Landscape Architects additional time to review staff's Request for Technical Changes, and any necessary Staff Opinions.

If you have any questions regarding the Commission's action, please do not hesitate to contact me directly at (919) 431-3076.

Sincerely,

Abigail M. Hammond
Commission Counsel

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