

**RULES REVIEW COMMISSION MEETING
AMENDED MINUTES
December 15, 2016**

The Rules Review Commission met on Thursday, December 15, 2016, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Danny Earl Britt, Jr., Bobby Bryan, Margaret Currin, Garth Dunklin, Jay Hemphill, Jeff Hyde, Jeff Poley, Paul Powell, and Stephanie Simpson.

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

The meeting was called to order at 10:04 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 November 17, 2016 meeting. There were none and the minutes were approved as distributed.

FOLLOW UP MATTERS

Structural Pest Control Committee

02 NCAC 34 .0328, .0502, .0503, .0505, and .0506 - All rewritten rules were unanimously approved.

Department of Insurance

11 NCAC 05A .0101, .0105, .0201, .0202, .0301, .0302, .0303, .0501, .0503, .0504, .0505, .0506, .0507, .0508, .0510, .0511, .0512, .0601, .0602, .0603, .0604, .0701, .0702, .0703, .0704, and .0705 - The Commission extended the period of review for the rules in accordance with G.S. 150B-21.10. They did so in response to staff recommendation to extend the period in order to allow the agency additional time to make technical changes, and to review and prepare responses to the staff opinions.

Manufactured Housing Board

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

Criminal Justice Education and Training Standards Commission

12 NCAC 09B .0203 – The rewritten rule was unanimously approved.

Social Work Certification and Licensure Board

21 NCAC 63 .0505 – The rewritten rule was unanimously approved.

LOG OF FILINGS (PERMANENT RULES)

Medical Care Commission 10A NCAC 13B, 13C

All rules were unanimously approved.

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

Medical Care Commission 10A NCAC 13P

All rules were unanimously approved.

Bethany Burgon, with the Attorney General's Office, representing the agency, addressed the Commission.

Nancy Dunn, with the Attorney General's Office, representing DHHS, addressed the Commission.

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

Criminal Justice Education and Training Standards Commission

All rules were unanimously approved.

Sheriffs Education and Training Standards Commission

12 NCAC 10B .2005 was unanimously approved.

Wildlife Resources Commission

15A NCAC 10F .0346 was unanimously approved.

Board of Barber Examiners

All rules were unanimously approved.

Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors

21 NCAC 50 .0106 was unanimously approved.

LOG OF RULES (TEMPORARY RULES)

Credit Union Division

04 NCAC 06C .0407 was unanimously approved.

Prior to the review of the temporary rule from the Credit Union Division, Commissioner Hemphill recused himself and did not participate in any discussion or vote concerning the rule because of a possible conflict of interest.

Industrial Commission

The Commission voted to approve 04 NCAC 10J .0103, with Commissioners Dunklin and Hyde Hemphill voting against.

Meredith Henderson, the Executive Secretary of the agency, addressed the Commission.

Renee Montgomery, with the Law Office of Parker Poe Adams & Bernstein, LLP, representing Surgical Care Affiliates, LLC, addressed the Commission.

DJ Hill, on behalf of the North Carolina Ambulatory Surgical Center Association, addressed the Commission.

Andy Ellen, with the North Carolina Retail Merchants Association, addressed the Commission.

Prior to the review of the temporary rule from the Industrial Commission, Commissioner Poley recused himself and did not participate in any discussion or vote concerning the rule because his law firm is involved in a dispute with the agency.

Prior to the review of the temporary rule from the Industrial Commission, Commissioner Simpson recused herself and did not participate in any discussion or vote concerning the rule because of a possible conflict with her husband's law firm representation.

EXISTING RULES REVIEW

Department of Administration

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

Indian Affairs Commission

01 NCAC 15 - The Commission unanimously approved the report as submitted by the agency.

Domestic Violence Commission

01 NCAC 17 - The Commission unanimously approved the report as submitted by the agency.

Department of Administration

01 NCAC 19 - The Commission unanimously approved the report as submitted by the agency.

01 NCAC 35 - The Commission unanimously approved the report as submitted by the agency.

State Board of Elections

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

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

08 NCAC 03 - The Commission unanimously approved the report as submitted by the agency.

08 NCAC 04 - The Commission unanimously approved the report as submitted by the agency.

08 NCAC 05 - The Commission unanimously approved the report as submitted by the agency.

08 NCAC 06 - The Commission unanimously approved the report as submitted by the agency.

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

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

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

08 NCAC 10 - The Commission unanimously approved the report as submitted by the agency.

08 NCAC 12 - The Commission unanimously approved the report as submitted by the agency.

Department of Insurance

11 NCAC 10 - The Commission unanimously approved the report as submitted by the agency.

11 NCAC 16 - The Commission unanimously approved the report as submitted by the agency.

Department of Public Safety

14B NCAC 01 - The Commission unanimously approved the report as submitted by the agency.

14B NCAC 02 - The Commission unanimously approved the report as submitted by the agency.

14B NCAC 03 - The Commission unanimously approved the report as submitted by the agency.

14B NCAC 04 - The Commission unanimously approved the report as submitted by the agency.

Crime Governor's Commission

14B NCAC 05 - The Commission unanimously approved the report as submitted by the agency.

Alcohol Law Enforcement

14B NCAC 06 - The Commission unanimously approved the report as submitted by the agency.

Prior to the review of the report from the Alcohol Law Enforcement, Commissioner Powell recused himself and did not participate in any discussion or vote concerning the report because of a conflict of interest.

Department of Public Safety

14B NCAC 07 - The Commission unanimously approved the report as submitted by the agency.

Environmental Management Commission

15A NCAC 02A - The Commission unanimously approved the report as submitted by the agency.

15A NCAC 02C - The Commission unanimously approved the report as submitted by the agency.

15A NCAC 02E – The Commission unanimously approved the report as submitted by the agency.

Credit Union Division

04 NCAC 06 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than February 28, 2018 pursuant to G.S. 150B-21.3A(d)(2).

Prior to the review of the readoptions from the Credit Union Division, Commissioner Hemphill recused himself and did not participate in any discussion or vote concerning the readoptions because of a possible conflict of interest.

Department of Revenue

17 NCAC 01, 12 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than August 31, 2017 pursuant to G.S. 150B-21.3A(d)(2).

Historical Commission

07 NCAC 04R .0702 - .0718 – As reflected in the attached letter, the Commission extended the period for the agency to readopt these Rules to June 30, 2017.

Local Government Commission

20 NCAC 03 - As reflected in the attached letter, the Commission voted to reschedule 20 NCAC 03 report in Rule 26 NCAC 05 .0211, and the report will be reviewed by the Commission at the December 2017 meeting.

Capital Facilities Finance Agency

20 NCAC 09 - As reflected in the attached letter, the Commission voted to reschedule 20 NCAC 09 report in Rule 26 NCAC 05 .0211, and the report will be reviewed by the Commission at the December 2017 meeting.

COMMISSION BUSINESS

Commissioner Dunklin lead a discussion to the Commission regarding legislation discussed at the December 6, 2016 APO meeting. The Commission voted to approve proposals for changing the APA, specifically G.S. 150B-21.3A and 21.5(a).

Commissioner Dunklin recognized Commissioner Britt for being elected to the North Carolina Senate.

The meeting adjourned at 12:00 p.m.

The next regularly scheduled meeting of the Commission is Thursday, January 19th 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,



Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:



Garth Dunklin, Chair

December 15, 2016

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Judith Estevez	DOJ
Tony Knox	NCCUD
Loretta Bunch	NCDOI
Joy Strickland	DOJ
Jennifer Everett	DEQ
Rick McIntyre	NCDOI
Micki Lilly	N.C. Social Work Board
Meredith Henderson	NCIC
Azzie Conkey	NC DHHS / DHSR
Tom Mitchell	NC DHHS / DHSR
Nadine Pfeiffer	NC DHHS / DHSR
Wally Ashworth	NC DHHS / DHSR
Dennis Slavers	BBE
Steven Combs	CS Standards
Charmaine Branson	CJETS
Keneé Montgomery	Counsel for PCA
DS Hill	Compass / NCASCA
Bethany Burgen	DOJ / MCC / IC
Victor Lennon	NCDA & CS
Jim Burnette	NCDA & CS
Dan Lujak	NCDA

December 15, 2016

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Katelyn Love	State Board of Elections
Rick Zechini	Williams Mullen
Ashley Snyder	Cultural Resources
Charlton Allen	NC Industrial Comm.
Carrie Hollis	OSTBM
Belt Work	PPAB
Nancy Hardison	NC DOJ
Margaret McDonald	DPS



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OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
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Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

December 15, 2016

Antonio Knox, Rulemaking Coordinator
Commerce - Credit Union
4314 Mail Service Center
Raleigh, NC 27699-4314

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **04 NCAC 06**

Dear Mr. Knox:

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 December 15, 2016 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 February 28, 2018.

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

Sincerely,

Abigail M. Hammond
Commission Counsel

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

Rules Division
919/431-3000
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**RRC DETERMINATION
PERIODIC RULE REVIEW
August 18, 2016
APO Review: September 06, 2016**

**Commerce, Department of - Credit Union Division
Total: 31**

RRC Determination: Necessary with substantive public interest

Rule	Determination
04 <u>NCAC 06B .0402</u>	Necessary with substantive public interest
04 <u>NCAC 06C .0101</u>	Necessary with substantive public interest
04 <u>NCAC 06C .0201</u>	Necessary with substantive public interest
04 <u>NCAC 06C .0202</u>	Necessary with substantive public interest
04 <u>NCAC 06C .0203</u>	Necessary with substantive public interest
04 <u>NCAC 06C .0209</u>	Necessary with substantive public interest
04 <u>NCAC 06C .0301</u>	Necessary with substantive public interest
04 <u>NCAC 06C .0302</u>	Necessary with substantive public interest
04 <u>NCAC 06C .0304</u>	Necessary with substantive public interest
04 <u>NCAC 06C .0306</u>	Necessary with substantive public interest
04 <u>NCAC 06C .0307</u>	Necessary with substantive public interest
04 <u>NCAC 06C .0311</u>	Necessary with substantive public interest
04 <u>NCAC 06C .0312</u>	Necessary with substantive public interest
04 <u>NCAC 06C .0313</u>	Necessary with substantive public interest
04 <u>NCAC 06C .0401</u>	Necessary with substantive public interest
04 <u>NCAC 06C .0402</u>	Necessary with substantive public interest
04 <u>NCAC 06C .0404</u>	Necessary with substantive public interest
04 <u>NCAC 06C .0407</u>	Necessary with substantive public interest
04 <u>NCAC 06C .0409</u>	Necessary with substantive public interest
04 <u>NCAC 06C .0501</u>	Necessary with substantive public interest
04 <u>NCAC 06C .0502</u>	Necessary with substantive public interest
04 <u>NCAC 06C .0601</u>	Necessary with substantive public interest
04 <u>NCAC 06C .0707</u>	Necessary with substantive public interest
04 <u>NCAC 06C .0801</u>	Necessary with substantive public interest
04 <u>NCAC 06C .0901</u>	Necessary with substantive public interest
04 <u>NCAC 06C .1001</u>	Necessary with substantive public interest
04 <u>NCAC 06C .1002</u>	Necessary with substantive public interest
04 <u>NCAC 06C .1201</u>	Necessary with substantive public interest
04 <u>NCAC 06C .1204</u>	Necessary with substantive public interest
04 <u>NCAC 06C .1301</u>	Necessary with substantive public interest
04 <u>NCAC 06C .1302</u>	Necessary with substantive public interest



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December 15, 2016

David Lingerfelt, Rulemaking Coordinator
Laura Lansford, Rulemaking Coordinator
Department of Revenue
Post Office Box 871
Raleigh, North Carolina 27602

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 17 NCAC 01, 12

Dear Mr. Lingerfelt and Ms. Lansford:

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 December 15, 2016 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, 2017.

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

Sincerely,

A handwritten signature in cursive script, reading "Abigail M. Hammond".

Abigail M. Hammond
Commission Counsel

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**RRC DETERMINATION
PERIODIC RULE REVIEW
June 16, 2016
APO Review: August 20, 2016**

**Revenue, Department of
Total: 30**

RRC Determination: Necessary with substantive public interest

Rule	Determination
17 <u>NCAC 01C .0308</u>	Necessary with substantive public interest
17 <u>NCAC 01C .0502</u>	Necessary with substantive public interest
17 <u>NCAC 01C .0503</u>	Necessary with substantive public interest
17 <u>NCAC 01C .0504</u>	Necessary with substantive public interest
17 <u>NCAC 01C .0505</u>	Necessary with substantive public interest
17 <u>NCAC 01C .0507</u>	Necessary with substantive public interest
17 <u>NCAC 01C .0508</u>	Necessary with substantive public interest
17 <u>NCAC 01C .0509</u>	Necessary with substantive public interest
17 <u>NCAC 01C .0510</u>	Necessary with substantive public interest
17 <u>NCAC 01C .0511</u>	Necessary with substantive public interest
17 <u>NCAC 01C .0601</u>	Necessary with substantive public interest
17 <u>NCAC 12A .0201</u>	Necessary with substantive public interest
17 <u>NCAC 12A .0202</u>	Necessary with substantive public interest
17 <u>NCAC 12A .0303</u>	Necessary with substantive public interest
17 <u>NCAC 12A .0503</u>	Necessary with substantive public interest
17 <u>NCAC 12B .0106</u>	Necessary with substantive public interest
17 <u>NCAC 12B .0107</u>	Necessary with substantive public interest
17 <u>NCAC 12B .0402</u>	Necessary with substantive public interest
17 <u>NCAC 12B .0403</u>	Necessary with substantive public interest
17 <u>NCAC 12B .0404</u>	Necessary with substantive public interest
17 <u>NCAC 12B .0410</u>	Necessary with substantive public interest
17 <u>NCAC 12B .0412</u>	Necessary with substantive public interest
17 <u>NCAC 12B .0413</u>	Necessary with substantive public interest
17 <u>NCAC 12B .0414</u>	Necessary with substantive public interest
17 <u>NCAC 12B .0502</u>	Necessary with substantive public interest
17 <u>NCAC 12C .0301</u>	Necessary with substantive public interest
17 <u>NCAC 12C .0302</u>	Necessary with substantive public interest
17 <u>NCAC 12C .0304</u>	Necessary with substantive public interest
17 <u>NCAC 12D .0102</u>	Necessary with substantive public interest
17 <u>NCAC 12D .0103</u>	Necessary with substantive public interest



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December 21, 2016

Shawn Middlebrooks
Department of Cultural and Natural Resources
4605 Mail Service Center
Raleigh, North Carolina 27699-4605

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 07 NCAC 04 .0702 - .0718

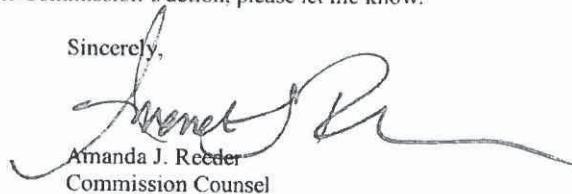
Dear Mr. Middlebrooks:

At its meeting on December 15, 2016, the Rules Review Commission considered the Historical Commission's request to extend the schedule for the readoption of the above-referenced rules.

Pursuant to G.S. 150B-21.3A(d)(2), these rules shall be readopted by the agency no later than June 30, 2017.

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

Sincerely,



Amanda J. Reeder
Commission Counsel

cc: Ashley Snyder, Agency Legal Specialist

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December 15, 2016

Sent via electronic mail

Patrice Alexander, Rulemaking Coordinator
Local Government Commission
3200 Atlantic Avenue
Raleigh, North Carolina 27604

Re: Existing Rules Review Report for 20 NCAC 03

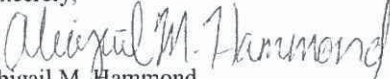
Dear Ms. Alexander:

At its meeting on November 17, 2016, the Rules Review Commission (RRC) reviewed the above-referenced Periodic Review and Expiration of Existing Rules Report pursuant to G.S. 150B-21.3A. Based upon an inquiry at that meeting, the RRC requested clarification as to the identity of the agency that actually conducted the analysis, made the initial determinations, posted the report for the 60-day comment period, and made the final determinations. A response has been provided that the actions were not taken by the Local Government Commission.

The periodic review of the rules set forth in the report for 20 NCAC 03 needs to be rescheduled to ensure proper compliance with G.S. 150B-21.3A(c)(1). This report shall be rescheduled in Rule 26 NCAC 05 .0211 as follows: the report for 20 NCAC 03 must be completed and filed with the Office of Administrative Hearings by the rulemaking agency by November 15, 2017. The report will be reviewed by the RRC at the **December 2017** meeting.

If you have any questions regarding the RRC's actions, please let me know.

Sincerely,


Abigail M. Hammond
Commission Counsel

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919/431-3000
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December 15, 2016

Sent via electronic mail

Patrice Alexander, Rulemaking Coordinator
Capital Facilities Finance Agency
3200 Atlantic Avenue
Raleigh, North Carolina 27604

Re: Existing Rules Review Report for 20 NCAC 09

Dear Ms. Alexander:

At its meeting on November 17, 2016, the Rules Review Commission (RRC) reviewed the above-referenced Periodic Review and Expiration of Existing Rules Report pursuant to G.S. 150B-21.3A. Based upon an inquiry at that meeting, the RRC requested clarification as to the identity of the agency that actually conducted the analysis, made the initial determinations, posted the report for the 60-day comment period, and made the final determinations. A response has been provided that the actions were not taken by the Capital Facilities Finance Agency.

The periodic review of the rules set forth in the report for 20 NCAC 09 needs to be rescheduled to ensure proper compliance with G.S. 150B-21.3A(c)(1). This report shall be rescheduled in Rule 26 NCAC 05 .0211 as follows: the report for 20 NCAC 09 must be completed and filed with the Office of Administrative Hearings by the rulemaking agency by November 15, 2017. The report will be reviewed by the RRC at the **December 2017** meeting.

If you have any questions regarding the RRC's actions, please let me know.

Sincerely,

Abigail M. Hammond
Abigail M. Hammond
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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