

**RULES REVIEW COMMISSION MEETING
MINUTES
October 21, 2016**

The Rules Review Commission met on Thursday, October 21, 2016, 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, and Stephanie Simpson.

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

The meeting was called to order at 10:03 a.m. with Chairman Dunklin presiding.

Chairman Dunklin introduced OAH extern Derrick Lloyd.

Chairman Dunklin introduced Senator Andy Wells, Senate Co-Chair of the Joint Legislative Administrative Procedure Oversight Committee.

Chairman Dunklin announced that Commissioner Currin was recently awarded the Long Leaf Pine award for her service to the State of North Carolina.

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 September 15, 2016 meeting. There were none and the minutes were approved as distributed.

FOLLOW UP MATTERS

Criminal Justice Education and Training Standards Commission

12 NCAC 09B .0203 - The agency is addressing the objection from the September meeting. No action was required by the Commission.

Environmental Management Commission

15A NCAC 02H .1019, .1042, .1043, .1044, .1045, .1050, .1051, .1052, .1053, .1054, .1055, .1056, .1059, and .1060 - The agency is addressing the objection from the September meeting. No action was required by the Commission.

LOG OF FILINGS (PERMANENT RULES)

Soil and Water Conservation Commission

All rules were unanimously approved.

Environmental Management Commission

All rules were unanimously approved with the following exception:

The Commission objected to 15A NCAC 02I .0501 for lack of statutory authority. Specifically, the Commission found that the existing language of the rule exceeds the statutory language of G.S. 150B-20 and creates a higher burden for the general public than required in the specific legislative directive of the General Assembly.

Craig Bromby, General Counsel with the Department of Environmental Quality, addressed the Commission.

Department of Transportation

19A NCAC 03D .0522 was unanimously approved.

Irrigation Contractors Licensing Board

All rules were unanimously approved.

LOG OF RULES (TEMPORARY RULES)**Social Services Commission**

All rules were unanimously approved.

The agency requested a waiver pursuant to G.S. 150B-21.1(a2) waiving the 210-day limitation found in G.S. 150B-21.1(a1). The waiver request was approved, with Commissioner Doran voting against.

Alexi Gruber, with the Attorney General's Office representing the agency, addressed the Commission.

State Board of Opticians

21 NCAC 40 .0202 was unanimously approved.

EXISTING RULES REVIEW**Commission for Public Health**

10A NCAC 39 - The Commission unanimously approved the report as submitted by the agency.

10A NCAC 43C - The Commission unanimously approved the report as submitted by the agency.

10A NCAC 43E - The Commission unanimously approved the report as submitted by the agency.

10A NCAC 43G - The Commission unanimously approved the report as submitted by the agency with the following exceptions for rules 10A NCAC 43G .0108, .0110, and .0111. The RRC designated these rules as "necessary with substantive public interest."

10A NCAC 43H - The Commission unanimously approved the report as submitted by the agency.

10A NCAC 43I - The Commission unanimously approved the report as submitted by the agency.

10A NCAC 43J - The Commission unanimously approved the report as submitted by the agency.

Department of Secretary of State

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

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

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

Department of Administration

01 NCAC 04 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than July 31, 2017 pursuant to G.S. 150B-21.3A(d)(2).

DHHS/Division of Medical Assistance

10A NCAC 23, 25 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than March 31, 2019 pursuant to G.S. 150B-21.3A(d)(2).

Department of Transportation

19A NCAC 02 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than August 31, 2019 pursuant to G.S. 150B-21.3A(d)(2).

COMMISSION BUSINESS

The Commission amended Rule 26 NCAC 05 .0211 to reflect changes in the Administrative Code.

At 10:30 a.m., Chairman Dunklin opened the meeting for a public hearing on the proposed amendment of Rule 26 NCAC 05 .0205. The Chair called on anyone present who wished to comment on 26 NCAC

05 .0205 as the rule was noticed in the North Carolina Register. No comments were submitted at the public hearing. The period to receive comments will expire at 5:00 p.m., October 31, 2016.

The Commission may vote on the adoption of Rule 26 NCAC 05 .0205 at its regularly scheduled meeting in November.

The public hearing portion of the meeting was closed at 10:32 a.m.

The meeting adjourned at 10:35 a.m.

The next regularly scheduled meeting of the Commission is Thursday, November 17th 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

October 20, 2016

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Jennifer Everett	DEQ
Helen Vandi	DOT
Alexi Gruber	DOJ
Elizabeth Everett	DCDEE
Dana Allen	DCDEE
Ann Wan	ADP
Craig Bromby	DEQ
David Williams	NCDACS / Soil & Water
John Henshaw	"
Ryan Boyce	NCDOT
Bob MARTIN	NC DPH
Katy Kingburn	Brooks Pierce
Joelle Burleson	NC DEQ-DAQ
Charminique Branson	NC CJETS
Carrie Hollis	OSBM
Patrick Krawlan	DEQ DAQ



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

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

October 20, 2016

J. Brian Ratledge, Rulemaking Coordinator
General Counsel
North Carolina Department of Administration
116 W. Jones Street
Raleigh, NC 27603-8003

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 01 NCAC 04

Dear Mr. Ratledge:

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 October 20, 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 July 31, 2017.

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

Sincerely,

A handwritten signature in cursive script that reads "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
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An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
January 21, 2016
APO Review: February 02, 2016
Administration, Department of
Total: 1**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>01</u> <u>NCAC 04A .0201</u>	Necessary with substantive public interest



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October 20, 2016

Sarah Pfau, Rulemaking Coordinator
Department of Health and Human Services
Division of Medical Assistance
2501 Mail Service Center
Raleigh, North Carolina 27699-2501

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 10A NCAC 23 & 10A NCAC 25

Dear Ms. Pfau:

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 October 20, 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 March 31, 2019.

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

Sincerely,

A handwritten signature in cursive script that reads "Abigail M. Hammond".

Abigail M. Hammond
Commission Counsel

Administration
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fax: 919/431-3100

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An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
May 19, 2016
APO Review: July 23, 2016**

**HHS - Medical Assistance, Division of
Total: 47**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>10A NCAC 23A .0103</u>	Necessary with substantive public interest
<u>10A NCAC 23C .0201</u>	Necessary with substantive public interest
<u>10A NCAC 23D .0101</u>	Necessary with substantive public interest
<u>10A NCAC 23D .0102</u>	Necessary with substantive public interest
<u>10A NCAC 23D .0201</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0101</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0102</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0103</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0104</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0105</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0106</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0107</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0108</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0201</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0202</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0203</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0204</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0205</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0206</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0207</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0208</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0209</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0210</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0211</u>	Necessary with substantive public interest
<u>10A NCAC 23G .0101</u>	Necessary with substantive public interest
<u>10A NCAC 23G .0201</u>	Necessary with substantive public interest
<u>10A NCAC 23G .0202</u>	Necessary with substantive public interest
<u>10A NCAC 23G .0203</u>	Necessary with substantive public interest
<u>10A NCAC 23G .0204</u>	Necessary with substantive public interest
<u>10A NCAC 23G .0303</u>	Necessary with substantive public interest
<u>10A NCAC 23G .0304</u>	Necessary with substantive public interest
<u>10A NCAC 23H .0106</u>	Necessary with substantive public interest
<u>10A NCAC 23H .0107</u>	Necessary with substantive public interest
<u>10A NCAC 23H .0108</u>	Necessary with substantive public interest
<u>10A NCAC 23H .0109</u>	Necessary with substantive public interest
<u>10A NCAC 23H .0110</u>	Necessary with substantive public interest

<u>10A</u>	<u>NCAC</u>	<u>23H</u>	<u>.0111</u>	Necessary with substantive public interest
<u>10A</u>	<u>NCAC</u>	<u>23H</u>	<u>.0112</u>	Necessary with substantive public interest
<u>10A</u>	<u>NCAC</u>	<u>23H</u>	<u>.0113</u>	Necessary with substantive public interest
<u>10A</u>	<u>NCAC</u>	<u>25A</u>	<u>.0201</u>	Necessary with substantive public interest
<u>10A</u>	<u>NCAC</u>	<u>25H</u>	<u>.0203</u>	Necessary with substantive public interest
<u>10A</u>	<u>NCAC</u>	<u>25K</u>	<u>.0201</u>	Necessary with substantive public interest
<u>10A</u>	<u>NCAC</u>	<u>25K</u>	<u>.0401</u>	Necessary with substantive public interest
<u>10A</u>	<u>NCAC</u>	<u>25M</u>	<u>.0201</u>	Necessary with substantive public interest
<u>10A</u>	<u>NCAC</u>	<u>25P</u>	<u>.0201</u>	Necessary with substantive public interest
<u>10A</u>	<u>NCAC</u>	<u>25P</u>	<u>.0301</u>	Necessary with substantive public interest
<u>10A</u>	<u>NCAC</u>	<u>25P</u>	<u>.0402</u>	Necessary with substantive public interest



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Raleigh, NC 27609-6285

October 20, 2016

Helen Landi, Rulemaking Coordinator
Department of Transportation
1501 Mail Service Center
Raleigh, North Carolina 27699-1501

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **19A NCAC 02**

Dear Ms. Landi:

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 October 20, 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, 2019.

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

Sincerely,

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Abigail M. Hammond
Commission Counsel

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An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
July 21, 2016
APO Review: September 06, 2016
Transportation, Department of
Total: 107**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>19A NCAC 02B .0143</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0145</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0150</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0152</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0153</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0154</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0155</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0156</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0157</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0158</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0202</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0208</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0240</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0315</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0316</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0432</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0433</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0507</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0102</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0104</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0402</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0403</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0404</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0405</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0406</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0408</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0410</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0414</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0415</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0421</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0425</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0535</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0538</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0539</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0602</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0607</u>	Necessary with substantive public interest

<u>19A NCAC 02E .0411</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0412</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0413</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0414</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0415</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0416</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0417</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0418</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0419</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0420</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0421</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0422</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0423</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0426</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0427</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0601</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0602</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0603</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0604</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0608</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0609</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0610</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0611</u>	Necessary with substantive public interest
<u>19A NCAC 02E .1006</u>	Necessary with substantive public interest
<u>19A NCAC 02E .1103</u>	Necessary with substantive public interest
<u>19A NCAC 02E .1105</u>	Necessary with substantive public interest
<u>19A NCAC 02E .1106</u>	Necessary with substantive public interest

