

**RULES REVIEW COMMISSION MEETING
MINUTES
April 15, 2021**

The Rules Review Commission met on Thursday, April 15, 2021 in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx. The Commissioners held a WebEx meeting to ensure compliance with Executive Orders limiting mass gatherings, and to encourage social distancing. The meeting was conducted in accordance with the provisions of G.S. 166A-19.24.

Commissioner Bob Rucho was present in the Commission Room. Commissioners present via WebEx were Andrew Atkins, Bobby Bryan, Margaret Currin, Jeanette Doran, Jeff Hyde, and Randy Overton.

Staff members present were Alex Burgos and Commission Counsel Amanda Reeder. Commission Counsel Amber May and Ashley Snyder were present via WebEx.

The meeting was called to order at 9:00 a.m. with Chair Doran presiding.

The Chair 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 appearance of conflicts of interest.

The Chair read into the record the statement of economic interest for Senator Bob Rucho, which stated there was no actual conflict of interest or likelihood of conflict of interest.

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the minutes of the March 18, 2021 meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the minutes was approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

FOLLOW UP MATTERS

Department of Environmental Quality

01 NCAC 41C .0101, .0201, .0202, .0203, .0204, .0205, .0206, .0207, .0208, .0209, .0210, .0211, .0301, .0302, .0303; 41D .0101, .0102, .0201, .0202, .0301, .0302, and .0401 - The agency is addressing the technical change requests from the March meeting. No action was required by the Commission.

Coastal Resources Commission

15A NCAC 07H .0401, .0404, .0405, .0406; 07J .0403, .0404, .0405, .0406, .0407, .0409, .0410; and 07K .0207 - The agency is addressing the technical change requests from the March meeting. No action was required by the Commission.

State Board of Education

Prior to the review of the rule from the State Board of Education, Commissioner Hyde recused himself and did not participate in any discussion or vote concerning the rule because he is a member of two North Carolina Charter School Boards and the rules pertain to charters.

16 NCAC 06G .0508 - Upon the call of the Chair, the rule was approved by roll-call vote, ayes 5, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Randy Overton, and Bob Rucho – 5. Voting in the negative: None.

The Commission received over 10 letters of objection to 16 NCAC 06G .0508. Pursuant to G.S. 150B-21.3, the rule is subject to legislative review and a delayed effective date.

Building Code Council

Residential Code, N1101.13(R401.2) – In February, the Commission voted pursuant to G.S. 150B-21.9 to ask the Office of State Budget and Management (OSBM) to determine if the rule has a substantial economic impact and therefore requires a fiscal note. This rule will remain under the Commission's review until after review by OSBM and subsequent action by the agency pursuant to G.S. 150B-21.12.

LOG OF FILINGS (PERMANENT RULES)

Plant Conservation Board

Upon the call of the Chair, 02 NCAC 48F .0301 was approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

Department of Commerce - Division of Employment Security

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

04 NCAC 24D .0206 was withdrawn at the request of the agency. No action was required by the Commission.

Criminal Justice Education and Training Standards Commission

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

Sheriffs' Education and Training Standards Commission

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

Marine Fisheries Commission 15A NCAC 030 and 03R

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

Wildlife Resources Commission

Upon the call of the Chair, the Commission waived Rule 26 NCAC 05 .0103 and allowed the submission of written comments submitted in letters of objection regarding the rules by a roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

The Commission received over 10 letters of objection to 15A NCAC 10D .0103. Pursuant to G.S. 150B-21.3, the rule is subject to legislative review and a delayed effective date.

Environmental Management Commission

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

Marine Fisheries Commission 15A NCAC 18A

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

Department of Transportation - Division of Motor Vehicles

Prior to the review of the rules from the Department of Transportation, Commissioner Bryan recused himself and did not participate in any discussion or vote concerning the rules because his family is involved in litigation with the agency.

19A NCAC 03C .0101, .0102, .0201, .0225, .0227, .0229, .0233, .0237, .0423, .0427, and .0431 – Upon the call of the Chair, the rules were approved by roll-call vote, ayes 5, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 5. Voting in the negative: None.

19A NCAC 03C .0202, .0220, .0221, .0222, .0223, .0224, .0226, .0228, .0232, .0235, .0420, .0421, .0424, .0425, .0426, .0428, .0432, .0433, .0436, .0501, .0521, and 03E .0401 - Upon the call of the Chair, the period of review was extended by roll-call vote, ayes 5, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 5. Voting in the negative: None.

19A NCAC 03C .0230, .0234, .0236, .0403, .0404, .0414, .0419, .0429, and .0520 - Upon the call of the Chair, the Commission objected to the rules in accordance with G.S. 150B-21.10 by roll-call vote, ayes 5, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 5. Voting in the negative: None.

- 19A NCAC 03C .0230: The Commission objected to this Rule for lack of statutory authority as powers of attorney and powers of a guardian are provided by the North Carolina General Statutes.
- 19A NCAC 03C .0234: The Commission objected to this Rule for ambiguity, finding that the overall intent of this Rule is unclear. To the extent this Rule is intended to provide that statutes are inapplicable to rules, the Commission found that it is beyond the authority of the agency.
- 19A NCAC 03C .0236: The Commission objected to this Rule for lack of statutory authority, finding that this Rule expands the exceptions set forth in G.S. 20-73.
- 19A NCAC 03C .0403: The Commission objected to this Rule for lack of statutory authority as there is no reference to van pools or van pool license plates in the cited authority.
- 19A NCAC 03C .0404: The Commission objected to this Rule for lack of statutory authority as the reference to “staggered registration” was repealed by S.L. 1993-761.
- 19A NCAC 03C .0414: The Commission objected to this Rule as being ambiguous, finding that it is unclear what is meant by “short periods.” Further, it is unclear as to when and how the Division will determine whether it will “license vehicles owned by nonresidents.” Finally, it is unclear what it means to “license” a vehicle.
- 19A NCAC 03C .0419: The Commission objected to this Rule for lack of statutory authority, finding that this Rule conflicts with G.S. 20-54 and G.S. 20-4.01.
- 19A NCAC 03C .0429: The Commission objected to this Rule for lack of statutory authority, finding that this Rule is addressed by or conflicts with G.S. 20-64.

- 19A NCAC 03C .0520: The Commission objected to this Rule for ambiguity, finding that the overall intent of this Rule is unclear as the term “for hire operations” does not appear to be used elsewhere in the agency’s rules or authorizing statutes. To the extent “for-hire” is necessary to implement or interpret Chapter 20 of the North Carolina General Statutes, this term is addressed by G.S. 20-4.01 in the definitions of “for-hire motor carrier” and “for-hire passenger vehicle.”

Board of Environmental Health Specialist Examiners

Upon the call of the Chair, the period of review was extended by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6 Voting in the negative: None.

State Human Resources Commission

Upon the call of the Chair, 25 NCAC 01E .0908 was approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

25 NCAC 01C .0405 was withdrawn at the request of the agency. No action was required by the Commission.

LOG OF FILINGS (TEMPORARY RULES)

Code Officials Qualification Board

11 NCAC 08 .0735, and .0736 – Upon the call of the Chair, the Commission voted to approve 11 NCAC 08 .0735 and object to 11 NCAC 08 .0736 for failure to comply with the APA by roll-call vote, ayes 2, noes 4 as follows: Voting in the affirmative: Jeff Hyde and Bob Rucho – 2. Voting in the negative: Andrew Atkins, Bobby Bryan, Margaret Currin, and Randy Overton – 4. The motion failed.

Upon the call of the Chair, both rules were approved by roll-call vote, ayes 4, noes 3 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, and Randy Overton – 4. Voting in the negative: Jeanette Doran, Jeff Hyde, and Bob Rucho - 3.

Tom Felling with the Department of Justice, and representing the agency, addressed the Commission.

COMMISSION BUSINESS

Amendments to the Style Guide were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

The meeting adjourned at 10:01 a.m.

The next regularly scheduled meeting of the Commission is Thursday, May 20, 2021 at 9:00 a.m.

Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:
Jeanette Doran, Chair

**Rules Review Commission Meeting April 15, 2021
Held Via WebEx**

Name	Agency
Brandi Salmon	DENR
Ben Edwards	Mathis Consulting
Elias Admassu	DES
Amy Mull	OAH extern
Beth Williams	DOI
Chrissy Waggett	Agriculture
Daron Barnes	WRC
Brenda Rivera	DOJ
Brandon Walker	DPI
Andrew Haines	DENT
Thomas Ziko	SBOE
Brian Mcrae	WRC
Denise Mazza	SHRC
Christian Waters	WRC
Shannon Jenkins	DENR
Ashley Pekrul	WRC
Bradley Howard	WRC
Tom Felling	Code Officials
Jennifer Everett	DEQ
Helen Landi	DOT
Jacob Boyd	DENR
John Barkley	DOJ
Autumn Hanna	DOJ
Jessica Montie	DENR
Regina Adams	DES
Carrie Ruhlman	WRC
Phil Wilson	Agriculture
Lou Martin	SBOE
Charminique Williams	CJETS
Loretta Peace-Bunch	DOI
Diane Konopka	DOJ
Catherine Blum	DENR
Lori Wright	Agriculture