

RULES REVIEW COMMISSION MEETING
MINUTES
August 17, 2023

The Rules Review Commission met on Thursday, August 17, 2023, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx.

Commissioners Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeanette Doran, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho were present in the Commission Room. Commissioner Jay Hemphill was present via WebEx.

Staff member Alexander Burgos, Commission Counsel Seth Ascher, Lawrence Duke, Brian Liebman, and Bill Peaslee were present in the room.

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 notified the Commissioners that the following item on the agenda would be taken up out of order at the end of the agenda: Follow up matter Tab D for Coastal Resources Commission.

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the minutes of the July 20, 2023, meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the minutes were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

FOLLOW UP MATTERS

Environmental Management Commission

Upon the call of the Chair, 15A NCAC 02D .0103, .0501, .0546, .0605, .1903, .1904, .1905, .2203; 02Q .0104, .0105, .0206, .0304, .0305, .0307, .0505, .0507, .0508, and .0710 were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Environmental Management Commission

15A NCAC 02H .1301, .1401, .1402, .1403, .1404, and .1405 - The Commission objected to these Rules at the May 2022 meeting. The agency has not responded to the Commission's objection since August 2022. No action was required by the Commission.

Marine Fisheries Commission

15A NCAC 03M .0101 - The Commission objected to this Rule at the June meeting. No action was required by the Commission.

Coastal Resources Commission

Upon the call of the Chair, the Commission voted to approve 15A NCAC 07K .0207 and 15A NCAC 07M .0602 and to object to 15A NCAC 07H .0208 and 15A NCAC 07H .0308 by roll-call vote, ayes 8, noes 1 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay

Hemphill, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: Barbara Jackson - 1. The Commission found that 15A NCAC 07H .0208 and .0308 are unclear or ambiguous under G.S. 150B-21.9(a)(2). Additionally, the Commission objected to Rule 15A NCAC 07H .0208 for failure to comply with the APA under G.S. 150B- 21.9(a)(4).

Commissioner Atkins moved to approve 15A NCAC 07M .0603. The motion failed by roll-call vote, ayes 1, noes 8 as follows: Voting in the affirmative: Andrew Atkins. Voting in the negative: Wayne R. Boyles, III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8.

Commissioner Hyde moved to object to 15 NCAC 07M .0603 pursuant to G.S. 150B-21.9(a)(1) on the grounds that the CRC lacks statutory authority to regulate floating upweller systems. The motion was approved by roll-call vote, ayes 8, noes 1 as follows: Voting in the affirmative: Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: Andrew Atkins - 1.

Mary Lucasse, with the Department of Justice and representing the agency, addressed the Commission.

Chris Matteo, with the North Carolina Shellfish Growers Association, addressed the Commission.

Keith Larick, with the North Carolina Farm Bureau Federation, addressed the Commission.

Coastal Resources Commission

15A NCAC 07H .0501, .0502, .0503, .0505, .0506, .0507, .0508, .0509, .0510; 07I .0406, .0506, .0702; 07J .0203, .0204, .0206, .0207, .0208, and .0312 – At the February meeting, the Commission continued its objection to these Rules from the September 2022 meeting pursuant to G.S. 150B-21.12(c). The agency has not responded to the Commission's continued objection. No action was required by the Commission.

Coastal Resources Commission

15A NCAC 07H .2305 – At the February meeting, the Commission continued its objection to this Rule from the September 2022 meeting pursuant to G.S. 150B-21.12(c). The agency has not responded to the Commission's continued objection. No action was required by the Commission.

Coastal Resources Commission

15A NCAC 07M .0201, .0202, .0401, .0402, .0403, .0701, .0703, .0704, .1001, .1002, and .1101 – At the February meeting, the Commission continued its objection to these Rules from the September 2022 meeting pursuant to G.S. 150B-21.12(c). The agency has not responded to the Commission's continued objection. No action was required by the Commission.

LOG OF FILINGS (PERMANENT RULES)

Sheriffs' Education and Training Standards Commission

Upon the call of the Chair, 12 NCAC 10B .0702, .0705, .0803, .0901, .0903, .0906, .0910 were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Upon the call of the Chair, 12 NCAC 10B .0402, .0403, .0404, .0503, .0604, .0605, .0606, .0607, .0704, .0714, and .1302 – The Commission voted to extend the period of review by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Private Protective Services Board

Upon the call of the Chair, the Commission voted to extend the period of review for 14B NCAC 16 .0201, .0205, .0403, .0807, .1101, .1501, .1502, .1503, .1504, .1601, .1701, .1702, .1703, .1704, .1705, .1706, .1707, .1708, and .1709 by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Environmental Management Commission

Upon the call of the Chair, 15A NCAC 02B .0305 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: None.

Environmental Management Commission

Upon the call of the Chair, the Commission voted to extend the period of review for 15A NCAC 02D .0503, .0506, .0532, .0614, .0918, .0926, .0927, .0928, .0932, .0960, .0961, .0964, .1403, and .1708; 02Q .0102, and .0706 by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Wildlife Resources Commission

Upon the call of the Chair, 15A NCAC 10B .0113; 10F .0102, .0104, .0109, .0310, and .0374 were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Local Government Commission

Upon the call of the Chair, 20 NCAC 03 .0701, .0702, .0703, .0704, .0705, .0706, .0707, .0708, .0709, .0710, .0711, .0712, .0713, .0714 and .0715 were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Board of Certified Public Accountant Examiners

Upon the call of the Chair, 21 NCAC 08F .0103, .0105, .0401, .0410; 08H .0101; 08J .0112; 08M .0105, 08N .0205, .0209, .0211, .0215, .0304, .0305, .0307, .0308, .0309, .0403, .0404, .0405, .0406, .0409, .0410, .0411, and .0412 were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Board of Examiners in Optometry

Upon the call of the Chair, 21 NCAC 42B .0304 was approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Board of Pharmacy

Upon the call of the Chair, 21 NCAC 46 .1616 and .1821 were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Veterinary Medical Board

Upon the call of the Chair, 21 NCAC 66 .0108, .0206, .0901, .0902, .0903, .0904, and .0905 were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None

In accordance with G.S. 150B-21.3(b2), the Commission received over ten letters of objection requesting legislative review and a delayed effective date for 21 NCAC 66 .0206, .0902, .0903, and .0904.

Office of Administrative Hearings

Upon the call of the Chair, 26 NCAC 03 .0106 and .0401 were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None

LOG OF FILINGS (TEMPORARY RULES)

State Human Resources Commission

Upon the call of the Chair, 25 NCAC 01E .1901, .1902, .1903, .1904, .1905, .1906, .1907, and .1908 were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None

COMMISSION BUSINESS

The Chair announced that due new appointments of members to the RRC, the Commission may postpone the Elections of Commission Officers regularly scheduled at the September meeting.

Upon the call of the Chair, the Commission voted to adopt an oral resolution recognizing outgoing Commissioners Andrew Atkins, Bobby Bryan, and Bob Rucho for their service to the RRC by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None

The meeting was adjourned at 10:06 a.m.

The next regularly scheduled meeting of the Commission is Thursday, September 21, 2023, at 9:00 a.m.



Alexander Burgos, Paralegal



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

August 17, 2023

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Jennifer Everett	DEQ
Keith Lanick	NC Farm Bureau
Chris Matteo	NC Shellfish Growers Association
Jason Sass	NC Dept. State Treasurer
Debbie Tomasko	NC Dept. State Treasurer
Jaura Puzo	Dept State Treasurer
CINDY AIKEN	Dept of State Treasurer
Denise Mazza	OSHR
Boz Zellings	NC DOJ
Melissa Bowman	NC DOJ
Keith West	NC Veterinary Medical Board
Grace Handwick	OSBM
Ann B. Wall	Sec of State
Adriene Weaver	DEP
Julie Ventaloro	NC OSBM
DAVID NANCE	NC CPA
Lynn Sanders	NCCPA Board
Frank Trainer	" "
Blake Thomas	OSHR
Joanna LeFebvre	OSBM
ROBERT BROOME	NCACPA

Rules Review Commission Meeting August 17, 2023
Via WebEx

Name	Agency
Ann Elmore	SOSNC
Dana Lee	ncauditor.net
Katherine Quinlan	DEQ
Julie Peck	DHHS
Joelle Burluson	DEQ
Emily Jones	DOT
Rachel Love-Adrick	DEQ
Tancred Miller	DEQ
Jonathan Howell	DEQ
Debbie Hamrick	NCFB
Misty Piekaar	DHHS
Kirstin Greene	DOJ
Clint Pinyan	Pharmacy
Janice Peterson	Optometry
Anna Hayworth	Agriculture
Christine A Goebel	DEQ
Sirena Jones	SHETS
Jonathan Carr	jordanprice.com
Ruhlman, Carrie A	WRC
Drew Hargrove	Parker Poe
Phillip Reynolds	DOJ
Paul Wojoski	DEQ
Ross Smith	myncma.org
Angela Willis	DEQ
Hannah Jernigan	DOT
John McHugh	aspca.org
Hope Ascher	
Richard Squires	DOJ
Melva Bonner	WRC
Ashley McClung	DEQ