

**RULES REVIEW COMMISSION MEETING
MINUTES
June 15, 2023**

The Rules Review Commission met on Thursday, June 15, 2023, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx.

Commissioners Andrew Atkins, Wayne R. Boyles III, Jeanette Doran, Jeff Hyde, Randy Overton, 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. Due to technical difficulties with the Webex streaming, the Chair called the meeting into recess at 9:11 a.m., and then restarted the agenda at 9:22 a.m. to give members of the public joining remotely the opportunity to hear the full meeting agenda.

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 E for Marine Fisheries Commission.

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the minutes of the May 18, 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 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

The Chair asked for any discussion, comments, or corrections concerning the general account of the May 18, 2023 closed session. There were none and the general account was approved as distributed.

Upon the call of the Chair, the general account of the May 18, 2023 RRC closed session was approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

FOLLOW UP MATTERS

Medical Care Commission

10A NCAC 13B .3801, .3903, .4103, .4104, .4106, .4305, .4603, .4801, .4805, .5102, .5105, .5406, .5408, and .5411 – These Rules remain on the agenda pending the agency's intention to seek a legislative fix to address the overarching objection for lack of statutory authority. No action was required by the Commission.

Criminal Justice Education and Training Standards Commission

Upon the call of the Chair, 12 NCAC 09E .0107 was approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, and Bob Rucho – 6. 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.

Environmental Management Commission

Upon the call of the Chair, 15A NCAC 02B .0315 was approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

Marine Fisheries Commission

The Commission objected to 15A NCAC 03M .0101 in accordance with G.S. 150B-21.10. Specifically, the Commission adopted the staff opinion dated June 14, 2023, finding that the rule was unclear or ambiguous pursuant to G.S. 150B-21.9(a)(2), by roll-call vote, ayes 5, noes 1 as follows: Voting in the affirmative: Andrew Atkins, Jay Hemphill, Jeff Hyde, Randy Overton, and Bob Rucho – 5. Voting in the negative: Wayne R. Boyles III - 1.

Phillip Reynolds, with the Department of Justice and representing the agency, addressed the Commission.

Tamara Zmuda, with the Department of Justice and representing the Wildlife Resources Commission, addressed the Commission.

Christian Waters, with the Wildlife Resources Commission, 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.

Medical Board

21 NCAC 32B .1002 - The Commission extended the period of review for this Rule at the May meeting. No action was required by the Commission.

LOG OF FILINGS (PERMANENT RULES)**Child Care Commission**

Upon the call of the Chair, 10A NCAC 09 .0713, .2513, and .2809 were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

Environmental Management Commission

Upon the call of the Chair, the Commission extended the period of review for 15A NCAC 02D .0103, .0501, .0546, .0605, .1903, .1904, .1905, .2203; 02Q .0104, .0105, .0206, .0304, .0305, .0307, .0505, .0507, .0508, and .0710 by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

Coastal Resources Commission

Upon the call of the Chair, the Commission extended the period of review for 15A NCAC 07H .0208, .0308; 07K .0207; 07M .0602, and .0603 by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

Board of Dental Examiners

Upon the call of the Chair, 21 NCAC 16C .0501; 16H .0105; 16I .0201; and 16R .0204 were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

Board of Nursing

Upon the call of the Chair, 21 NCAC 36 .0221 was approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

Board of Examiners in Optometry

Upon the call of the Chair, 21 NCAC 42B .0107 was approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

Real Estate Commission

Upon the call of the Chair, 21 NCAC 58A .0114 was approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, 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 01C .1007 was approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

LOG OF FILINGS (TEMPORARY RULES)

Wildlife Resources Commission

Upon the call of the Chair, 15A NCAC 10B .0501, .0502, .0503, .0504, and .0505 were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

COMMISSION BUSINESS

The Commission voted to deny the request from the Department of the Secretary of State to have rules in chapter 18 NCAC 07 removed from the 2024-2027 Existing Rules Review Schedule by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.


Ann Wall, the rulemaking coordinator with the agency, addressed the Commission.

The meeting was adjourned at 10:11 a.m.

The next regularly scheduled meeting of the Commission is Thursday, July 20, 2023, at 9:00 a.m.



Alexander Burgos, Paralegal



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

Rules Review Commission Meeting June 15, 2023
Via WebEx

Name	Agency
Bradley Howard	WRC
Ann Elmore	SOSNC
Jessica Montie	DEQ
Elizabeth Kountis	DEQ
Karen Higgins	DEQ
Daniel Johnson	DOT
Denise Mazza	OSHR
Hannah Jernigan	DOT
Emily Wiley	DOT
Pfeiffer, Nadine A	DHHS
Brooks Rainey Pearson	SELNC
William Rafferty	Optometry
Janice Peterson	Optometry
Jesse Bisette	DEQ
John Barkley	DOJ
Monty Crump	gorockingham.com
Bridget Shelton	DEQ
Brandi Salmon	DEQ
Michelle Schilling	DOJ
Will Polk	DPS
Ellen Roeber	PT Board
Jill Cramer	Labor
Melva Bonner	WRC
Laura Rowe	Treasurer
Kyle Briggs	WRC
Anne Coan	NCFB
Corey Oakley	WRC
Jessica Helms	DOJ
Brooks Rainey Pearson	SELNC
Angela Ellis	BON
Chris Matteo	
Paul Wojoski	DEQ
Jason Rock	DEQ
Dan Zapf	DEQ
Shawn Maier	DEQ
Jason Walsh	DEQ
Mary Lucasse	DOJ

Catherine Blum	DEQ
Peck, Julie C	DHHS

RRC Closed Session General Account


May 18, 2023

Closed Session called to order by Chair Doran at 9:36 AM


Review and Approval of April 2023 Closed Session General Account

- Due to technical difficulties, Commissioners Jackson, Boyles, and Hemphill were not present.
- Staff counsel Liebman distributed the general account to the Commissioners.
- The Chair asked for any discussion, comments, or corrections concerning the general account of the April 20, 2023 closed session. There were none and the minutes were approved as distributed.
- Commissioner Atkins moved to approve the general account.
 - Vice Chair Bryan seconded the motion.
 - There was no discussion.
 - The general account was approved by roll-call vote, ayes 7, noes 0 as follows:
 - Voting in the affirmative: Andrew Atkins, Bobby Bryan, Jeanette Doran, Jeff Hyde, Randy Overton, Paul Powell, and Bob Rucho.
 - Voting in the negative: None.

Closed session ended at 9:38 AM



Brian Liebman
Staff Counsel



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

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Nadine Pfeiffer	DHHS / DHSR
CHRIS MILLIS	NCHBA
Ann Wall	Sec of State
Paul Cox	NC St. Bd Electing
Adam Steele	NC St. Bd of Electing