

**RULES REVIEW COMMISSION MEETING
MINUTES
May 17, 2018**

The Rules Review Commission met on Thursday, May 17, 2018, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeanette Doran, Garth Dunklin, Jeff Hyde, Jeff Poley, and Paul Powell.

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

Chairman Dunklin introduced OAH extern Michael Hutcherson.

The meeting was called to order at 10:02 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 April 19, 2018 meeting. There were none and the minutes were approved as distributed.

FOLLOW UP MATTERS

Commission of Navigation and Pilotage for the Cape Fear River and Bar

The agency is addressing the technical change requests from the April meeting. No action was required by the Commission.

Department of Transportation/Division of Motor Vehicles

Pursuant to G.S. 150B-21.12(d), the rule was returned to the agency. No action was required by the Commission.

LOG OF FILINGS (PERMANENT RULES)

Pre-Reviewed Rules

Department of Agriculture and Consumer Services

All rules were unanimously approved with the following exceptions:

The Commission extended the period of review for 02 NCAC 52B .0213 and 02 NCAC 52C .0701 in accordance with G.S. 150B-21.10. They did so in response to a request from the Department to extend the period to allow the agency to address the requests for technical changes and submit the rewritten rules at a later meeting.

Child Care Commission

10A NCAC 09 .0304 was unanimously approved.

The Commission extended the period of review for 10A NCAC 09 .0401, .1904, and .2208 in accordance with G.S. 150B-21.10 at the request of the agency.

In addition, the Commission objected to 10A NCAC 09 .2201, .2202, .2203, .2204, .2205, .2206, .2207, .2209, .2213, .2216, and .2217 in accordance with G.S. 150B-21.12 as follows:

- the Commission objected to Rule .2201, finding that Paragraph (b) was ambiguous as written;

- the Commission objected to Rule .2202, finding that it was not within the statutory authority of the agency to issue an administrative action against an “owner” of a child care facility and also found that this Rule was ambiguous as written; and
- the Commission objected to Rules .2203-.2207, .2209, .2213, .2216, and .2217, finding that it was not within the statutory authority of the agency to issue an administrative action against an “owner.”

Linda Piper of the North Carolina Licensed Child Care Association addressed the Commission.

Alexi Gruber, with the Attorney General’s office and representing the agency, addressed the Commission.

DHHS/Division of Health Service Regulation

All rules were unanimously approved.

Prior to the review of the rules from DHHS/Division of Health Service Regulation, Commissioner Poley recused himself and did not participate in any discussion or vote concerning the rules because of a law firm conflict.

Non Pre-Reviewed Rules

Alarm Systems Licensing Board

All rules were unanimously approved with the following exceptions:

The Commission objected to 14B NCAC 17 .0402 and .0403 in accordance with G.S. 150B-21.10. The Commission objected to the rules based upon lack of statutory authority because G.S. 74D-31, the statute authorizing these Rules, was repealed.

Commissioner Hyde was not present during the vote or discussion concerning these Rules.

Building Code Council

403.1.1 was unanimously approved.

Commissioner Choi was not present during the vote or discussion concerning the rule.

The chair called the meeting into a brief recess at 11:18 a.m.

The meeting resumed at 11:25 a.m.

EXISTING RULES REVIEW

Department of Administration

01 NCAC 06 – The Commission unanimously approved the report as submitted by the agency.

01 NCAC 30 – The Commission unanimously approved the report as submitted by the agency.

Commissioner Hyde was not present during the vote or discussion concerning these reports.

Department of Labor

13 NCAC 01 – The Commission unanimously approved the report as submitted by the agency.

13 NCAC 04 – The Commission unanimously approved the report as submitted by the agency.

13 NCAC 05 – The Commission unanimously approved the report as submitted by the agency.

13 NCAC 06 – The Commission unanimously approved the report as submitted by the agency.

13 NCAC 13 – The Commission unanimously approved the report as submitted by the agency.

13 NCAC 16 – The Commission unanimously approved the report as submitted by the agency.

13 NCAC 17 – The Commission unanimously approved the report as submitted by the agency.

13 NCAC 18 – The Commission unanimously approved the report as submitted by the agency.
13 NCAC 19 – The Commission unanimously approved the report as submitted by the agency.

Commissioner Hyde was not present during the vote or discussion concerning these reports.

Substance Abuse Professional Practice Board

21 NCAC 68 – The Commission unanimously approved the report as submitted by the agency.

Department of Administration

01 NCAC 38, 43A - As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than November 30, 2019 pursuant to G.S. 150B-21.3A(d)(2).

Wildlife Resources Commission/Marine Fisheries Commission

15A NCAC 03Q, Section .0100 and 15A NCAC 10C, Section .0100 - As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than June 30, 2022 pursuant to G.S. 150B-21.3A(d)(2).

Wildlife Resources Commission

15A NCAC 10B, 10C - As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than December 30, 2022 pursuant to G.S. 150B-21.3A(d)(2).

Real Estate Commission

21 NCAC 58 - As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than June 30, 2019 pursuant to G.S. 150B-21.3A(d)(2).

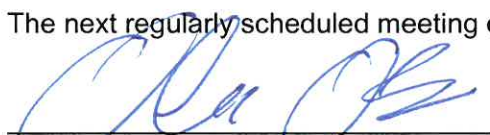
COMMISSION BUSINESS

The Chair reminded the Commission of the Periodic Review and Expiration of Existing Rules Readoption Schedule.

The Commission unanimously approved amendments to the Commission Bylaws, which shall become effective June 1, 2018.

The meeting adjourned at 11:33 a.m.

The next regularly scheduled meeting of the Commission is Thursday, June 14th at 10:00 a.m.



Alexander Burgos, Paralegal



Minutes approved by the Rules Review Commission:
Garth Dunklin, Chair

May 17, 2018

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Hannah Jeunigan	NC DOT
Madeline Pfeiffer	NC DHHS - DHSR
Clarence Ennis	NC DHHS - DHSR
JOHN F. MADDREY	DEPT. OF ADMINISTRATION
Shanon Gierger	NC Dept of Admin
Linda Piper	NCLicensed Child Care Assn
Alexi Grobler	NC DOJ
Melissa Stevenson	DHHS - DCDEE
Andrea Lewis	DHHS - DCDEE
Dan Alon	DHHS - DCDEE
Tien Cheng	NC DA & CS
Carlos Marzano	Law Student
Mike Mayes	NC DA & CS
Melissa Viotto	NC REC
Nagari Craven	ASUB
Benton Whitaker	NC DA
Carla Rose	NC DOL
Jill Cramer	NC DOL
Mike Hutchinson	OAH
Jennifer Everett	DEQ
John Thompson	DMA



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
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May 17, 2018

John F. Maddrey, Rulemaking Coordinator
North Carolina Department of Administration
116 W. Jones Street
Raleigh, North Carolina 27603-8003

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 01 NCAC 38, 43A

Dear Mr. Maddrey:

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 May 17, 2018 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 November 30, 2019.

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

Sincerely,

Amber May
Commission Counsel

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An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
February 15, 2018
APO Review: March 06, 2018
Administration, Department of
Total: 21**

RRC Determination: Necessary with substantive public interest

Rule	Determination
01 <u>NCAC 38 .0103</u>	Necessary with substantive public interest
01 <u>NCAC 38 .0201</u>	Necessary with substantive public interest
01 <u>NCAC 38 .0205</u>	Necessary with substantive public interest
01 <u>NCAC 38 .0302</u>	Necessary with substantive public interest
01 <u>NCAC 38 .0305</u>	Necessary with substantive public interest
01 <u>NCAC 38 .0308</u>	Necessary with substantive public interest
01 <u>NCAC 38 .0407</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0307</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0308</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0309</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0310</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0311</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0312</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0313</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0314</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0315</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0316</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0317</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0318</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0319</u>	Necessary with substantive public interest
01 <u>NCAC 43A .0320</u>	Necessary with substantive public interest



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May 17, 2018

Carrie Ruhlman, Rulemaking Coordinator
Wildlife Resources Commission
1701 Mail Service Center
Raleigh, NC 27699-1701

Jennifer Everett, Rulemaking Coordinator
Marine Fisheries Commission
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of ~~15A NCAC 03Q, Section .0100~~
and ~~15A NCAC 10C, Section .0100~~

Dear Mrs. Ruhlman and Ms. Everett:

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 May 17, 2018 Rules Review Commission meeting regarding 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 June 30, 2022.

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

Sincerely,

Amber May
Commission Counsel

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**RRC DETERMINATION
PERIODIC RULE REVIEW
December 14, 2017
APO Review: January 09, 2018**

**Marine Fisheries Commission/Wildlife Resources Commission
Total: 20**

RRC Determination: Necessary with substantive public interest

Rule	Determination
15A <u>NCAC 03Q .0101</u>	Necessary with substantive public interest
15A <u>NCAC 03Q .0102</u>	Necessary with substantive public interest
15A <u>NCAC 03Q .0103</u>	Necessary with substantive public interest
15A <u>NCAC 03Q .0104</u>	Necessary with substantive public interest
15A <u>NCAC 03Q .0105</u>	Necessary with substantive public interest
15A <u>NCAC 03Q .0106</u>	Necessary with substantive public interest
15A <u>NCAC 03Q .0107</u>	Necessary with substantive public interest
15A <u>NCAC 03Q .0108</u>	Necessary with substantive public interest
15A <u>NCAC 03Q .0109</u>	Necessary with substantive public interest
15A <u>NCAC 10C .0101</u>	Necessary with substantive public interest
15A <u>NCAC 10C .0102</u>	Necessary with substantive public interest
15A <u>NCAC 10C .0103</u>	Necessary with substantive public interest
15A <u>NCAC 10C .0104</u>	Necessary with substantive public interest
15A <u>NCAC 10C .0105</u>	Necessary with substantive public interest
15A <u>NCAC 10C .0106</u>	Necessary with substantive public interest
15A <u>NCAC 10C .0107</u>	Necessary with substantive public interest
15A <u>NCAC 10C .0108</u>	Necessary with substantive public interest
15A <u>NCAC 10C .0109</u>	Necessary with substantive public interest
15A <u>NCAC 10C .0110</u>	Necessary with substantive public interest
15A <u>NCAC 10C .0111</u>	Necessary with substantive public interest



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May 17, 2018

Carrie Ruhlman, Rulemaking Coordinator
Wildlife Resources Commission
1701 Mail Service Center
Raleigh, NC 27699-1701

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **15A NCAC 10B, 10C**

Dear Mrs. Ruhlman:

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 May 17, 2018 Rules Review Commission meeting ~~regarding 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 December 30, 2022.

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

Sincerely,

Amber May
Commission Counsel

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**RRC DETERMINATION
PERIODIC RULE REVIEW
December 14, 2017
APO Review: January 09, 2018
Wildlife Resources Commission
Total: 101**

RRC Determination: Necessary with substantive public interest

Rule	Determination
15A <u>NCAC 10B .0101</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0102</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0105</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0106</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0107</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0109</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0110</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0111</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0113</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0114</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0115</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0116</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0117</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0118</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0119</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0120</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0121</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0122</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0123</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0124</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0125</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0126</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0127</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0201</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0202</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0203</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0205</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0206</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0207</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0208</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0209</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0210</u>	Necessary with substantive public interest
15A <u>NCAC 10B .0211</u>	Necessary with substantive public interest

15A NCAC 10C .0309 Necessary with substantive public interest
15A NCAC 10C .0310 Necessary with substantive public interest
15A NCAC 10C .0311 Necessary with substantive public interest
15A NCAC 10C .0312 Necessary with substantive public interest
15A NCAC 10C .0313 Necessary with substantive public interest
15A NCAC 10C .0314 Necessary with substantive public interest
15A NCAC 10C .0315 Necessary with substantive public interest
15A NCAC 10C .0316 Necessary with substantive public interest
15A NCAC 10C .0317 Necessary with substantive public interest
15A NCAC 10C .0318 Necessary with substantive public interest
15A NCAC 10C .0319 Necessary with substantive public interest
15A NCAC 10C .0320 Necessary with substantive public interest
15A NCAC 10C .0401 Necessary with substantive public interest
15A NCAC 10C .0402 Necessary with substantive public interest
15A NCAC 10C .0404 Necessary with substantive public interest
15A NCAC 10C .0405 Necessary with substantive public interest
15A NCAC 10C .0406 Necessary with substantive public interest
15A NCAC 10C .0407 Necessary with substantive public interest
15A NCAC 10C .0501 Necessary with substantive public interest
15A NCAC 10C .0502 Necessary with substantive public interest
15A NCAC 10C .0503 Necessary with substantive public interest
15A NCAC 10C .0601 Necessary with substantive public interest
15A NCAC 10C .0602 Necessary with substantive public interest
15A NCAC 10C .0603 Necessary with substantive public interest



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May 17, 2018

Melissa Vuotto, Rulemaking Coordinator
Real Estate Commission
Post Office Box 17100
Raleigh, North Carolina 27699-2420

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 21 NCAC 58

Dear Mrs. Vuotto:

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 May 17, 2018 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 June 30, 2019.

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

Sincerely,

Amber May
Commission Counsel

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**RRC DETERMINATION
PERIODIC RULE REVIEW
March 15, 2018
APO Review: May 19, 2018
Real Estate Commission
Total: 4**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>21</u> <u>NCAC 58A .0108</u>	Necessary with substantive public interest
<u>21</u> <u>NCAC 58A .0506</u>	Necessary with substantive public interest
<u>21</u> <u>NCAC 58A .0612</u>	Necessary with substantive public interest
<u>21</u> <u>NCAC 58A .2002</u>	Necessary with substantive public interest