

**RULES REVIEW COMMISSION MEETING
MINUTES
October 17, 2019**

The Rules Review Commission met on Thursday, October 17, 2019, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were Andrew Atkins, Anna Baird Choi, Jeanette Doran, Garth Dunklin, Jeff Hyde, Paul Powell, and Tommy Tucker.

Staff members present were Commission Counsel Amber Cronk May, Ashley Snyder, and Amanda Reeder; and Julie Brincefield, Alex Burgos, and Dana McGhee.

The meeting was called to order at 9:00 a.m. with Chairman Hyde presiding.

Chairman Hyde 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 Hyde asked for any discussion, comments, or corrections concerning the minutes of the September 19, 2019 meeting. There were none and the minutes were approved as distributed.

FOLLOW UP MATTERS

Department of Administration

The agency is addressing the objection for 01 NCAC 05B .1520. No action was required by the Commission.

Board of Elections

The agency is addressing the objection for 08 NCAC 10B .0103. No action was required by the Commission.

Social Services Commission

10A NCAC 06S .0101, .0102, .0203, .0204, .0301, .0302, .0402, .0403, .0404, .0405, .0501, .0508; and 06T .0201 – All rules were unanimously approved.

Commission for the Blind

The agency is addressing the objections for 10A NCAC 63C .0203, .0204, .0403, and .0601. No action was required by the Commission.

Department of Justice

At the June meeting, the RRC voted pursuant to G.S. 150B-21.9 to ask the Office of State Budget and Management to determine if the adoption of 12 NCAC 02I .0306 has a substantial economic impact and therefore requires a fiscal note. The RRC is awaiting a response from the Office of State Budget and Management. No action was required by the Commission.

Private Protective Services Board

14B NCAC 16 .0110, .0805, .0806, .0807, .0808, .0809, .0901, .0904, .0906, and .0909 - All rules were unanimously approved.

The agency is addressing the objection to 14B NCAC 16 .0804. No action was required by the Commission.

Commissioner Tucker joined the meeting during the discussion of the rules from the Private Protective Services Board.

Environmental Management Commission

15A NCAC 02B .0101, .0103, .0104, .0106, .0108, .0110, .0201, .0202, .0203, .0204, .0205, .0206, .0208, .0211, .0212, .0214, .0215, .0216, .0218, .0219, .0220, .0221, .0222, .0223, .0224, .0225, .0226, .0227, .0228, .0230, .0231, .0301, .0302, .0303, .0304, .0305, .0306, .0307, .0308, .0309, .0310, .0311, .0312, .0313, .0314, .0315, .0316, and .0317 - All rules were unanimously approved.

Environmental Management Commission

15A NCAC 02B .0402, .0403, .0404, .0406, .0407, .0408, .0501, .0502, .0503, .0504, .0505, .0506, .0508, .0511; 02H .0101, .0102, .0103, .0105, .0106, .0107, .0108, .0109, .0111, .0112, .0113, .0114, .0115, .0116, .0117, .0118, .0120, .0121, .0124, .0125, .0127, .0138, .0139, .0140, .0141, .0142, .0143, .0401, .0402, .0403, .0404, .0405, .0406, .0407, .1201, .1202, .1203, .1204, .1205, .1206 - The agency is addressing the objections from the July meeting. No action was required by the Commission.

Board of Cosmetic Art Examiners

21 NCAC 14H .0101 and .0102 - The agency responded in accordance with the provisions of G.S. 150B-21.12(a)(2) indicating that it decided not to change the rules in response to the September objections and requested that the rules be returned to them in accordance with 150B-21.12(d). Because the objections were to language currently existing in the NCAC, these Rules will be removed from the Code. No further action was required by the Commission.

Board of Dental Examiners

21 NCAC 16V .0101 and .0102 – All rules were unanimously approved.

Board of Dietetics/Nutrition

The agency is addressing the objections for 21 NCAC 17 .0101 and .0303. No action was required by the Commission.

State Board of Opticians

21 NCAC 40 .0104, .0109, .0209, .0314, .0319, .0321, .0323, and .0325 - The agency is addressing the objections and requests for technical changes from the September meeting. No action was required by the Commission.

Prior to the review of the rules from the State Board of Opticians, Commissioner Choi recused herself and did not participate in any discussion or vote concerning the rules because her law firm represents the Board and assists the Board with rulemaking.

LOG OF FILINGS (PERMANENT RULES)**Department of Administration**

All rules were unanimously approved.

DHHS – Division of Health Service Regulation

All rules were unanimously approved.

Sheriffs' Education and Training Standards

All rules were withdrawn at the request of the agency. No action was required by the Commission.

Environmental Management Commission 15A NCAC 02B

The Commission extended the period of review for these Rules in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period in order to allow the agency to address technical changes and submit the rewritten rules at a later meeting.

Environmental Management Commission 15A NCAC 02D

All rules were unanimously approved, with the exception that Rule 15A NCAC 02D .0615 was withdrawn at the request of the agency.

Wildlife Resources Commission

All rules were unanimously approved.

Environmental Management Commission 15A NCAC 13B

All rules were unanimously approved.

Board of Funeral Service

The Commission objected to 21 NCAC 34A .0201 in accordance with G.S. 150B-21.10 for failure to comply with the Administrative Procedure Act and ambiguity. Specifically, the Commission found that the agency erroneously published in the NC Register an incorrect version of the rule that would increase fees without giving adequate notice of the change. Further, as the agency filed two different versions of the rule for review, it is unclear what changes were intended within this Rule.

The Commission extended the period of review for 21 NCAC 34B .0310; 34C .0305; and 34D .0105, .0203, and .0303 in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period in order to allow the agency to address the Requests for Technical Changes and submit the rewritten rules at a later meeting.

Prior to the review of the rules from the Board of Funeral Service, Commissioner Choi recused herself and did not participate in any discussion or vote concerning the rules because her law firm formerly represented the Board and assisted with rulemaking during the representation.

LOG OF FILINGS (TEMPORARY RULES)**State Board of Education**

16 NCAC 06C .0314 and .0315 were unanimously approved.

EXISTING RULES REVIEW**Commission for Public Health**

15A NCAC 18A – As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than March 1, 2024 pursuant to G.S. 150B-21.3A(d)(2).

COMMISSION BUSINESS

The meeting adjourned at 9:20 a.m.

The next regularly scheduled meeting of the Commission is Thursday, November 21, 2019 at 9:00 a.m.



Alexander Burgos, Paralegal



Minutes approved by the Rules Review Commission:

Jeanette Doran, Vice- Chair

October 17, 2019

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Julie Ventaloro	NC DEQ
CHRIS VENTALORO	NC DEQ
Kim Evans	NC DPI
Lon Martin	NC DPI
ANDREW SIOBELL	NC DPI
Melissa Strong	NC SBE
Paula Penny	NC DHHS
J.H. Hunt	WPSVS
Kirsten Ulandis	NC DHHS
Robt. Day - Tel...	NC DHS
HEATHER CARTER	NC DHHS - DAAS
Shanon Gerger	NC DOA
Martha Frisone	NC DHHS - DHSR
Larry M. ...	NC DHHS
Connie Brown	NC DWR
Virginia Nielsen	NC DHHS/CPH
Adrienne Weir	NC DWR
Lanna Bartley	Board of Dental Examiners
Michael Smallwood	NC WRC
Jessica Montie	NC DEQ DWM
Bridget Shelton	NC DEQ DWR

October 17, 2019

Rules Review Commission
Meeting
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STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

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6714 Mail Service Center
Raleigh, NC 27699-6700

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

October 17, 2019

Virginia Niehaus, Rulemaking Coordinator
Commission for Public Health
1931 Mail Service Center
Raleigh, NC 27699-1931

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **15A NCAC 18A**

Dear Ms. Niehaus:

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 September 19, 2019 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 1, 2024.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Amber May", is written over a horizontal line.

Amber May
Commission Counsel

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Assistants
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An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
May 16, 2019
APO Review: July 20, 2019
Public Health, Commission for
Total: 97**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>15A NCAC 18A .1001</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1002</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1003</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1004</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1006</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1011</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1012</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1014</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1019</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1021</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1301</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1302</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1304</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1305</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1306</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1307</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1308</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1309</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1310</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1311</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1312</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1313</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1314</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1315</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1316</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1317</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1318</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1319</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1320</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1321</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1323</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1324</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1327</u>	Necessary with substantive public interest

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<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2821</u>	Necessary with substantive public interest
<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2822</u>	Necessary with substantive public interest
<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2823</u>	Necessary with substantive public interest
<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2824</u>	Necessary with substantive public interest
<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2825</u>	Necessary with substantive public interest
<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2826</u>	Necessary with substantive public interest
<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2827</u>	Necessary with substantive public interest
<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2829</u>	Necessary with substantive public interest
<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2830</u>	Necessary with substantive public interest
<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2831</u>	Necessary with substantive public interest
<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2832</u>	Necessary with substantive public interest
<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2833</u>	Necessary with substantive public interest
<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2834</u>	Necessary with substantive public interest
<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2835</u>	Necessary with substantive public interest
<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2836</u>	Necessary with substantive public interest
<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2901</u>	Necessary with substantive public interest
<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.3101</u>	Necessary with substantive public interest
<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.3105</u>	Necessary with substantive public interest
<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.3107</u>	Necessary with substantive public interest
<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.3802</u>	Necessary with substantive public interest