



**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

April 19, 2021

Helen Landi
Department of Transportation – Division of Motor Vehicles
Sent via email only to: hlandi@ncdot.gov

Re: Extension of the Period of Review for Rules 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; and Objection to Rules 19A NCAC 03C .0230, .0234, .0236, .0403, .0404, .0414, .0419, .0429, .0520

Dear Ms. Landi:

At its meeting on April 15, 2021, the Rules Review Commission extended the period of review for 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 in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period of review. Please note that when the Commission extends the period of review, it is required to approve or object to rules or call a public hearing on the same within 70 days pursuant to G.S. 150B-21.13.

In addition, the Commission objected to 19A NCAC 03C .0230, .0234, .0236, .0403, .0404, .0414, .0419, .0429, .0520 in accordance with G.S. 150B-21.10 as follows:

- 19A NCAC 03C .0230: The Commission objected to this Rule for lack of statutory based upon the cited authority.
- 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to this Rule for lack of statutory authority as the reference to “staggered registration” in the cited authority was repealed by S.L. 1993-761.

Julian Mann, III, Director
Chief Administrative Law Judge

Fred G. Morrison, Jr.
Senior Administrative Law Judge

Linda T. Worth
Deputy Director

An Equal Employment Opportunity Employer

1711 New Hope Church Road, Raleigh, NC 27609
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- 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 and 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.”

Please respond to the Commission’s objections in accordance with the provisions of G.S. 150B-21.12.

If you have any questions regarding the Commission’s actions, please let me know.

Sincerely,

Amber May
Commission Counsel

cc: Hannah Jernigan

Julian Mann, III, Director
Chief Administrative Law Judge

Fred G. Morrison, Jr.
Senior Administrative Law Judge

Linda T. Worth
Deputy Director

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April 15, 2021

Daniel Ortiz
Environmental Management Commission
Sent via email only to: Daniel.ortiz@mecklenburgcounty.nc.gov

Re: Extension of the Period of Review for Rules 21 NCAC 62 .0407 and .0411

Dear Mr. Ortiz:

At its meeting this morning, the Rules Review Commission extended the period of review for the above-referenced 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 the requested technical changes.

Pursuant to G.S. 150B-21.13, when the Commission extends the period of review, it is required to approve or object to rules or call a public hearing on the same within 70 days.

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

Sincerely,

Amber May
Commission Counsel

cc: Donna Coffey

Julian Mann, III, Director
Chief Administrative Law Judge

Fred G. Morrison, Jr.
Senior Administrative Law Judge

Linda T. Worth
Deputy Director

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