

Burgos, Alexander N

Subject: FW: Comment on 26 NCAC 05 .0116

From: Seavers, Dennis <dennis.seavers@nc.gov>
Sent: Wednesday, July 10, 2024 10:20 AM
To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: Comment on 26 NCAC 05 .0116

Thanks for the reference to 26 NCAC 5 .0103. I'll submit comments that way to rrc.comments@oah.nc.gov. Please note that both your Notice of Text and website instead say to submit to you.

Have a great week
Dennis

From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Sent: Tuesday, July 9, 2024 4:25 PM
To: Seavers, Dennis <dennis.seavers@nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: Comment on 26 NCAC 05 .0116

Mr. Seavers,

Thank you for the comment. It is my opinion that G.S. 143B-30.1(f) does not provide authority for the RRC to require agencies to maintain the applicable requirements in G.S. 150B-19.1(c) on their web sites. As stated in the Notice of Text, "the rule seeks to ensure" and "aims to prevent" state agencies from removing information required for the rule-making process from their web sites prior to being reviewed by the RRC. As you know, the APA doesn't mandate that agencies maintain the applicable information on their web sites. However, the rule will hopefully encourage agencies to leave the applicable information on their web sites during the RRC review process. If not, agencies should consider documenting authenticated proof of compliance with G.S. 150B-19.1(c) to provide it to RRC counsel if asked during the review process.

The process for submitting written comments concerning permanent rules to the RRC is found in [26 N.C.A.C. 5.0103](#).

Thank you,

Travis C. Wiggs
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1929
Email: travis.wiggs@oah.nc.gov

From: Seavers, Dennis <dennis.seavers@nc.gov>
Sent: Tuesday, July 9, 2024 3:42 PM
To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Subject: Comment on 26 NCAC 05 .0116

Dear Mr. Wiggs,

Please accept this public comment on behalf of my agency.

The Reason for Proposed Action section of the Notice of Text indicates that the purpose of this rule is to “prevent state agencies from removing information required for rule-making from their websites prior to being reviewed by the Rules Review Commission.” However, the rule itself appears only to require an attestation that the agency met the applicable requirements in G.S. 150B-19.1(c), perhaps through a field on Form 0400, not that the agency also maintain the information on the website until after Rules Review Commission review. If the Commission’s intent is to both require an attestation and, further, require agencies to maintain the information on the website, this rule doesn’t appear to accomplish that.

If the Commission’s intent is simply to require an attestation, my agency has no objection to the rule.

Thank you for taking the time to review this comment.

Dennis Seavers
Executive Director
NORTH CAROLINA BOARD OF BARBER AND ELECTROLYSIS EXAMINERS
(919) 814-0641 (Office)
(919) 981-5068 (Fax)
7001 Mail Service Center
Raleigh, NC 27699-7000
www.bbee.nc.gov
barbers@nc.gov | electrolysis@nc.gov

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