

**RULES REVIEW COMMISSION MEETING
MINUTES
August 20, 2020**

The Rules Review Commission met on Thursday, August 20, 2020 in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx. The Commissioners held a WebEx meeting to ensure compliance with Executive orders limiting mass gatherings, and to encourage social distancing. The meeting was conducted in accordance with the provisions of G.S. 166A-19.24.

Commissioners Jeff Hyde, Randy Overton, and Tommy Tucker were present in the Commission room, and Commissioners present via teleconference were Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeanette Doran, Garth Dunklin, and Paul Powell.

Staff members present were Commission Counsel Ashley Snyder and Amanda Reeder; and Alex Burgos. Commission Counsel Amber Cronk May and Karlene Turrentine were present via WebEx.

The meeting was called to order at 9:04 a.m. with Chairman Hyde presiding.

Chairman Hyde read into the record the letter of appreciation to former Commissioner Brian LiVecchi.

Chairman Hyde read into the record the statement of economic interest for Randy Overton, which stated there was no actual conflict of interest or likelihood of conflict of interest.

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.

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the minutes of the July 16, 2020 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 8, noes 0 as follows: Voting in the affirmative: Atkins, Bryan, Choi, Currin, Doran, Dunklin, Overton, and Powell – 8. Voting in the negative: None.

FOLLOW UP MATTERS

Pesticide Board

02 NCAC 09L .0101, .0515, and .0529 - Upon the call of the Chair, the rules were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Atkins, Bryan, Choi, Currin, Doran, Dunklin, Overton, and Powell – 8. Voting in the negative: None.

Crime Victims Compensation Commission

14B NCAC 09 .0301, .0302, and .0305 – Upon the call of the Chair, the rules were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Atkins, Bryan, Choi, Currin, Doran, Dunklin, Overton, and Powell – 8. Voting in the negative: None.

14B NCAC 09 .0303 and .0304 - The agency is addressing the objections from the June meeting. No action was required by the Commission.

Private Protective Services Board

14B NCAC 16 .1001, .1002, .1003, .1207, .1304, and .1404 - The agency is addressing the objections from the June meeting. No action was required by the Commission.

State Board of Education

16 NCAC 06B .0111, .0112, .0113, and .0114 - The agency is addressing the technical change requests from the July meeting. No action was required by the Commission.

State Board of Education

16 NCAC 06C .0334, .0335, .0336, .0337, .0338, .0339, .0340, .0341, .0342, .0343, .0344, .0345, .0346, .0347, .0348, .0349, .0350, .0351., .0352, .0353, .0354, .0355, .0356, .0357, .0358, .0359, .0360, .0361, .0362, .0363, .0364, .0365, .0366, .0367, .0368, .0369, .0370, .0371, .0372, .0373, .0374, .0375, .0376, .0377, .0378, .0379, .0380, .0381, .0382, .0383, .0384, .0385, .0386, .0387, .0388, .0389, .0390, .0391, .0392, .0393, .0394, .0395, .0396, .0397, and .0701 - The agency is addressing the technical change requests from the July meeting. No action was required by the Commission.

State Board of Education

Upon the call of the Chair, the Commission approved 16 NCAC 06E .0106 by roll-call vote, ayes 8, noes 0 as follows: Atkins, Bryan, Choi, Currin, Doran, Dunklin, Overton, and Powell – 8. Voting in the negative: None.

Upon the call of the Chair, the Commission objected to 16 NCAC 06E .0204 and .0206 by roll-call vote, ayes 8, noes 0 as follows: Atkins, Bryan, Choi, Currin, Doran, Dunklin, Overton, and Powell – 8. Voting in the negative: None.

The Commission objected to 16 NCAC 06E .0204 for lack of clarity, necessity, and statutory authority. The Commission objected for lack of clarity and necessity because the rule repeats or conflicts with the requirements of 16 NCAC 06E .0202. The Commission objected to the rule for lack of statutory authority because the State Board did not cite authority to regulate the athletics of charter schools absent a provision to do so in the school's charter. Generally, charter schools are exempt from statutes and rules applicable to local boards of education. G.S. 115C-218.10. The State Board's authority to regulate participation in athletics applies to "interscholastic athletic activities conducted by local boards of education." As written, the rule applies to all charter schools and therefore exceeds the agency's statutory authority.

The Commission objected to 16 NCAC 06E .0206 for lack of necessity and clarity. The rule is unnecessary because it repeats portions of 16 NCAC 06E .0203 and is unclear because it differs from portions of 16 NCAC 06E .0203.

16 NCAC 06E .0205 was withdrawn at the request of the agency. No action was required by the Commission. Pursuant to S.L. 2019-154, Sec. 27, the emergency rule will expire and be removed from the Code.

16 NCAC 06D .0211, .0212, .0307, .0308, .0309, .0310, .0311, .0313; 06E .0107; 06G .0314, .0315, .0316, .0503, .0504, .0505, .0506, .0507, .0508, .0509, .0510, .0511, .0512, .0513, .0514, .0515, .0516, .0517, .0518, .0519, .0520, .0521, .0522, .0523, and .0524 - The agency is addressing the technical change requests from the July meeting. No action was required by the Commission.

State Board of Education

16 NCAC 06H .0113, .0114, .0115, .0116, .0117; 06K .0101, .0103, .0104, and .0105 - The agency is addressing the technical change requests from the July meeting. No action was required by the Commission.

LOG OF FILINGS (PERMANENT RULES)**Department of Natural and Cultural Resources**

Upon the call of the Chair, the rule was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Atkins, Bryan, Choi, Currin, Doran, Dunklin, Overton, and Powell – 8. Voting in the negative: None.

Environmental Management Commission 15A NCAC 02B

Upon the call of the Chair, the rule was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Atkins, Bryan, Choi, Currin, Doran, Dunklin, Overton, and Powell – 8. Voting in the negative: None.

Environmental Management Commission 15A NCAC 02D .0400, .0500, .0600

Upon the call of the Chair, the period of review was extended by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Atkins, Bryan, Choi, Currin, Doran, Dunklin, Overton, and Powell – 8. Voting in the negative: None.

Environmental Management Commission 15A NCAC 02D .0900, .1400, .1700, .2600

Upon the call of the Chair, the period of review was extended by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Atkins, Bryan, Choi, Currin, Doran, Dunklin, Overton, and Powell – 8. Voting in the negative: None.

Environmental Management Commission 15A NCAC 13B

Upon the call of the Chair, the period of review was extended by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Atkins, Bryan, Choi, Currin, Doran, Dunklin, Overton, and Powell – 8. Voting in the negative: None.

Licensing Board for General Contractors

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Atkins, Bryan, Currin, Doran, Dunklin, Overton, and Powell – 7. Voting in the negative: None.

Prior to the review of the rules from the Licensing Board for General Contractors, Commissioner Choi recused herself and did not participate in any discussion or vote concerning the rules because her law firm provides legal representation to the Board. Additionally, she is the rulemaking coordinator for the Board.

Board of Cosmetic Art Examiners

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Bryan, Choi, Currin, Doran, Dunklin, Overton, and Powell – 7. Voting in the negative: None.

Prior to the review of the rules from the Board of Cosmetic Art Examiners, Commissioner Atkins recused himself and did not participate in any discussion or vote concerning the rules because of a conflict.

Following the approval of the rules from the Board of Cosmetic Art Examiners, Commissioner Tucker joined the meeting.

Board of Dental Examiners

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Atkins, Bryan, Choi, Currin, Doran, Dunklin, Overton, Tucker, and Powell – 9. Voting in the negative: None.

Medical Board

Upon the call of the Chair, the rule was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Bryan, Choi, Currin, Doran, Dunklin, Overton, Tucker, and Powell – 8. Voting in the negative: None.

Prior to the review of the rule from the Medical Board, Commissioner Atkins recused himself and did not participate in any discussion or vote concerning the rule because of a conflict.

State Human Resources Commission

Upon the call of the Chair, the rule was approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Atkins, Bryan, Choi, Currin, Doran, Dunklin, Overton, Tucker, and Powell – 9. Voting in the negative: None.

LOG OF FILINGS (TEMPORARY RULES)

Department of Commerce/Division of Employment Security

04 NCAC 24G .0104 was withdrawn at the request of the agency. No action was required by the Commission.

Manufactured Housing Board

11 NCAC 08 .0913 - Upon the call of the Chair, the rule was approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Atkins, Bryan, Choi, Currin, Doran, Dunklin, Overton, Tucker, and Powell – 9. Voting in the negative: None.

Industrial Commission

11 NCAC 23G .0104 - Upon the call of the Chair, the rule was approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Atkins, Bryan, Choi, Currin, Doran, Dunklin, Overton, Tucker, and Powell – 9. Voting in the negative: None.

Alarm Systems Licensing Board

14B NCAC 17 .0201 - Upon the call of the Chair, the rule was approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Atkins, Bryan, Choi, Currin, Doran, Dunklin, Overton, Tucker, and Powell – 9. Voting in the negative: None.

Wildlife Resources Commission

15N NCAC 10B .0202 - Upon the call of the Chair, the rule was approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Atkins, Bryan, Choi, Currin, Doran, Dunklin, Overton, Tucker, and Powell – 9. Voting in the negative: None.

Board of Landscape Architects

21 NCAC 26 .0309 - Upon the call of the Chair, the rule was approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Atkins, Bryan, Choi, Currin, Doran, Dunklin, Overton, Tucker, and Powell – 9. Voting in the negative: None.

EXISTING RULES REVIEW

Environmental Management Commission

15A NCAC 02E – Upon the call of the Chair, the Commission voted to schedule the readoption of the rules no later than May 31, 2023 by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Atkins, Bryan, Choi, Currin, Doran, Dunklin, Overton, Tucker, and Powell – 9. Voting in the negative: None.

Social Services Commission

10A NCAC 70,71 – The request to reschedule the readoption date was withdrawn at the request of the agency. No action was required by the Commission.

Raj Premakumar, with the Department of Justice and representing the agency, addressed the Commission.

Penny Paris, the rulemaking coordinator with the agency, addressed the Commission.

Department of Insurance

11 NCAC 04 – The request to reschedule the readoption date was withdrawn at the request of the agency. No action was required by the Commission.

John Hoomani, with the agency, addressed the Commission.

COMMISSION BUSINESS

The Chair reminded the Commissioners that in accordance with the RRC bylaws, the RRC will be holding its Elections of Officers at the September meeting.

The meeting adjourned at 10:26 a.m.

The next regularly scheduled meeting of the Commission is Thursday, September 17, 2020 at 9:00 a.m.

Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:
Jeff Hyde, Chair

**Rules Review Commission Meeting August 20, 2020
Held Via WebEx**

Name

Paris Penny
Raj Premakumar
Rebecca Stevens
Sharnese Ransome
Drew Pledger
Adriene Weaver
Allen Hardison
Burt Jenkins
Carrie Pickett
Chris Ventaloro
Christine Ryan
Danice Henderson
Tom Ziko
Eskabonna Henderson
James Baker
John Hoomani
Kathy Shortt
Kjirsten Durand-Johnson
Loretta Peace Bunch
Natt Wilson
Joe Sadler
Gina Cammarano
Jennifer Everett

Agency

Department of Health and Human Services
Department of Health and Human Services

NC Association of County Directors of Social Services
Social Services Commission
EMC
EMC
State Board of Education
Division of Air Quality
Division of Water Resources
SHRC

State Board of Education

Manufactured Housing Board
Department of Insurance
Department of Insurance

Department of Insurance

Department of Insurance
Industrial Commission
DEQ



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6700

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1711 New Hope Church Rd
Raleigh, NC 27609-6285

August 20, 2020

Jennifer Everett, Rulemaking Coordinator
Environmental Management Commission
1601 Mail Service Center
Raleigh, NC 27699-1601

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **15A NCAC 02E**

Dear 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 August 20, 2020 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 May 31, 2023.

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

Sincerely,

A handwritten signature in blue ink that reads "Amber May".

Amber May
Commission Counsel

Administration 919/431-3000 fax: 919/431-3100	Rules Division 919/431-3000 fax: 919/431-3104	Judges and Assistants 919/431-3000 fax: 919/431-3100	Clerk's Office 919/431-3000 fax: 919/431-3100	Rules Review Commission 919/431-3000 fax: 919/431-3104	Civil Rights Division 919/431-3036 fax: 919/431-3103
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An Equal Employment Opportunity Employer

RRC DETERMINATION
PERIODIC RULE REVIEW
December 15, 2016
APO Review: January 03, 2017

Environmental Management Commission
Total: 77

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>15A NCAC 02C .0101</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0102</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0105</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0107</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0108</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0109</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0110</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0111</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0112</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0113</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0114</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0116</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0117</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0118</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0119</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0201</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0202</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0203</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0204</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0206</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0207</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0208</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0209</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0210</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0211</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0217</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0218</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0219</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0220</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0221</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0222</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0223</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0224</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0225</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0226</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0227</u>	Necessary with substantive public interest

