

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

The Rules Review Commission met on Thursday, February 20, 2020, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were Anna Baird Choi, Bobby Bryan, Margaret Currin, Jeanette Doran, Garth Dunklin, Jeff Hyde, Brian LiVecchi, Paul Powell, and Tommy Tucker.

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

The meeting was called to order at 9:02 a.m. with Chairman Hyde presiding.

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 appearances of conflicts of interest.

APPROVAL OF MINUTES

Chairman Hyde asked for any discussion, comments, or corrections concerning the minutes of the January 16, 2020 meeting. There were none and the minutes were approved as distributed.

The Chair notified the Commissioners that the following items on the agenda would be taken up out of order at the end of the agenda: Follow-up matters for Private Protective Services Board and Psychology Board.

FOLLOW UP MATTERS

Department of Natural and Cultural Resources

07 NCAC 13F .0202, .0303, and .0304 - The agency is addressing the request for technical changes from the January meeting. 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.

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.

Criminal Justice Education and Training Standards Commission

12 NCAC 09E .0105 - The agency is addressing the objection from the January meeting. No action was required by the Commission.

Private Protective Services Board

14B NCAC 16 .0114, .0201, .0202, .0203, .0205, .0502, .0701, .0702, .0705, .0706, .0801, .0802, .0806, .0902, .0903, .0904, .0909, .0910, .0911, .0912, .1301, .1302, .1306, .1401, .1402, and .1406 – All rewritten rules were approved with Commissioners Hyde and LiVecchi voting against.

Jeff Gray, the rulemaking coordinator for the agency, addressed the Commission.

Environmental Management Commission

The agency is addressing the objection for 15A NCAC 02B .0240 (to be recodified as 15A NCAC 02B .0703). No action was required by the Commission.

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, and .1206 - The agency is addressing the objections. No action was required by the Commission.

Sedimentation Control Commission

15A NCAC 04A .0101 and .0105; 04B .0105, .0106, .0107, .0108, .0109, .0110, .0111, .0112, .0113, .0115, .0118, .0120, .0124, .0125, .0126, .0127, .0129, .0130, .0131, and .0132; 04C .0103, .0106, .0107, .0108, .0110, and .0111; 04D .0102; 04E .0101, .0102, .0104, .0201, .0203, .0403, .0405, .0406, .0501, .0502, .0503, and .0504 - The agency is addressing the request for technical changes from the January meeting. No action was required by the Commission.

Coastal Resources Commission

15A NCAC 07H .0304, .0305, .0309, .0313, .1901, .1902, .1904, and .1905 - The agency is addressing the request for technical changes from the January meeting. No action was required by the Commission.

Wildlife Resources Commission

15A NCAC 10F .0306 was unanimously approved.

Board of Examiners of Electrical Contractors

21 NCAC 18B .0212, .0303, .0404, .0408, and .0901 were unanimously approved.

State Board of Opticians

21 NCAC 40 .0321 was unanimously approved.

Prior to the review of the rule from the State Board of Opticians, Commissioner Choi recused herself and did not participate in any discussion or vote concerning the rule because her law firm provides legal representation to the Board.

At 10:16 a.m. the Chair called the meeting into a brief recess.

The meeting resumed at 10:24 a.m.

Psychology Board

21 NCAC 54 .2006 and .2008 - The Commission objected to these Rules based on lack of statutory authority. The Commission specifically found that G.S. 90-270.5 requires psychological associates to be supervised and that it is beyond the statutory authority of the Psychology Board to exempt a psychological associate from supervision requirements once he or she meets certain criteria. Commissioners Choi, LiVecchi, and Powell voted against the objection.

21 NCAC 54 .1602, .1605, .1606, .1607, .1608, .1609, .1610, .1611, .1612, .1701, .1702, .1703, .1705, .1706, .1707, .1802, .1803, .1901, .1903, .1904, .2001, .2002, .2005, .2007, .2009, .2101, .2102, .2103, .2104, .2202, .2203, .2301, .2302, .2303, .2304, .2305, .2308, .2309, .2311, .2314, .2401, .2402, .2601, .2701, .2703, .2704, .2705, .2706, .2801, .2802, .2803, .2804, .2805, and .2806 - The agency is addressing the request for technical changes from the January meeting. No action was required by the Commission.

Steven Shaber with Poyner Spruill representing the NC Psychological Association, addressed the Commission.

Ed Gaskins with Everett, Gaskins & Hancock, addressed the Commission.

Janet Heuring Larsen addressed the Commission.

Sondra Panico with the Attorney General's Office and representing the agency, addressed the Commission.

Dr. Vinston Goldman addressed the Commission.

Dr. Helen Brantley with the agency, addressed the Commission.

Building Code Council

Residential Code, N1106.2 (R406.2); Energy Conservation Code, R202; and Energy Conservation Code R406.2. – At the November meeting, the Commission voted pursuant to G.S. 150B-21.9 to ask the Office of State Budget and Management to determine if the above-referenced rules have a substantial economic impact and therefore require a fiscal note. A response to this request pursuant to G.S. 150B-21.9 will assist the Commission in determining whether the agency adopted the rules in accordance with the Administrative Procedure Act. OSBM has not formally responded to this request. No action was required by the Commission.

These rules will remain under the Commission's review until after review by OSBM and subsequent action by the agency pursuant to G.S. 150B-21.12.

LOG OF FILINGS (PERMANENT RULES)

Board of Agriculture

02 NCAC 09E .0116 was unanimously approved.

Credit Union Division

04 NCAC 06C .1302 was unanimously approved.

Department of Insurance

The Commission extended the period of review for 11 NCAC 12 .0321, .0514, .1501, .1502, .1503, .1504, .1505, .1506, .1507, .1508, .1509, and .1803 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 revised rules at a later meeting.

Board of Dental Examiners

All rules were unanimously approved.

Board of Nursing

21 NCAC 36 .0405 was unanimously approved.

Prior to the review of the rule from the Board of Nursing, Commissioner Choi recused herself and did not participate in any discussion or vote concerning the rule because her law firm provides legal representation to the Board.

Board of Recreational Therapy Licensure

All rules were unanimously approved.

Building Code Council

All rules were unanimously approved.

EXISTING RULES REVIEW

Department of Natural and Cultural Resources

07 NCAC 14B - As reflected in the attached letter, the Commission voted to schedule re adoption of the rules no later than July 31, 2021 pursuant to G.S. 150B-21.3A(d)(2).

COMMISSION BUSINESS

Staff provided an overview of S.L. 2019-198. Rulemaking Coordinators have been instructed to fill out box 5 on the Submission for Permanent Rule form if they are adopting or amending a rule subject to the requirements of S.L. 2019-198.

The meeting adjourned at 11:40 a.m.

The next regularly scheduled meeting of the Commission is Thursday, March 19, 2020 at 9:00 a.m.

Alexander Burgos, Paralegal

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

DRAFT

February 20, 2020

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Steven Shaber	NCPA
Helen Brantley	NC Psychology Board
John Brantley	NCPA
Martha Turner-Orest	NCPA
Sonda Parice	NC Psychology Bd
Hannah Jennigan	NCDOT
Julia M. Hunt	VPSS
Nancy Laney	NCPA
Mary Ann Olsen	NCAAP
Tien-Cheng	NC DOS
Carme Hollis	OSBUI
Eliot Silverstein	NCPA
Angela Ellis	NC BON
Reed Fountain	NCBEC
Jennifer Lewis	NCBON
Angie Hinchugh	NCBON
Jane Winstead	NCBON
Magdalene Bower	NCAAP
Tony Knox	NCCUR
George Ferguson	NCDA <S
LC Person	CSS



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

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

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

February 20, 2020

Mariah C. Street
Department of Natural and Cultural Resources
4601 Mail Service Center
Raleigh, NC 27699

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **07 NCAC 14B**

Dear Ms. Street:

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 February 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 document shall be readopted by the agency no later than July 31, 2021.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "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

An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW**

April 19, 2018

APO Review: May 01, 2018

Natural and Cultural Resources, Department of

Total: 6

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>07 NCAC 14B .0401</u>	Necessary with substantive public interest
<u>07 NCAC 14B .0504</u>	Necessary with substantive public interest
<u>07 NCAC 14B .0602</u>	Necessary with substantive public interest
<u>07 NCAC 14B .0605</u>	Necessary with substantive public interest
<u>07 NCAC 14B .0606</u>	Necessary with substantive public interest
<u>07 NCAC 14B .0607</u>	Necessary with substantive public interest