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CRC-24-11

TO: Coastal Resources Commission
FROM: Rachel Love-Adrick, District Planner
SUBJECT: Periodic Review of Existing Rules – 15A NCAC 07B
DATE: July 29, 2024

Rulemaking by the Coastal Resources Commission and other state agencies is governed by [NC Administrative Procedure Act](#) (APA) which outlines the procedure for the adoption of administrative rules. State agencies are required to follow these procedures for conducting public hearings, adopting proposed rules and filing the adopted rules for inclusion in the NC Administrative Code.

In 2013, the General Assembly enacted Session Law 2013-413 which added a “Periodic Review and Expiration of Existing Rules” section to the APA (G.S. § 150B-21.3A). This statute requires agencies to review all of their rules every 10 years under a process and schedule established by the Rules Review Commission (RRC). If an agency does not conduct the review, its rules will expire and be removed from the Administrative Code, unless the rule is required to implement or conform to federal law. Prior to 2013, rules did not expire.

Review Process

This process requires agencies to review their existing rules and classify them as:

- Necessary - any rule other than an unnecessary rule, or;
- Unnecessary - the agency determined the rule is obsolete, redundant or otherwise not needed.

These classifications must be posted on the Office of Administrative Hearings (OAH) and DEQ web sites. Public comments are to be accepted for a period of at least 60 days and agencies are required to review the comments and prepare a brief response to the merits of each comment.

Once the comment period ends and the agency has made its final determination, it sends a report to the RRC. This report includes the agency's determinations, public comments received, and the agency's responses to those comments.

The RRC will review the final report and public comments to determine if it agrees with the agency's classification of its rules. The RRC may change a classification of a rule from “unnecessary” to “necessary” but does not have the authority to declare a rule as “unnecessary.”



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The RRC sends the report to the Joint Legislative Administrative Procedure Oversight Committee (APOC) for consultation. The final determination on an agency's rules becomes effective when the APOC approves the report or on the 61st day after having received the report from the RRC if the APOC does not meet. The APOC may disagree with the Commission's determination and recommend to the General Assembly that the agency conduct a review of the rule the following year.

Effect of Final Determination

Rules designated as "necessary" must be readopted as if they were new rules following the permanent rulemaking procedures ([Article 2A of G.S. 150B](#)). If the rules are not readopted, they will be removed from the Administrative Code. Rules designated as "unnecessary" will be removed.

Schedule for Review of 15A NCAC 7B CAMA Land Use Planning Requirements

The Rules Review Commission has developed a schedule for the review of agency rules. The majority of the CRC rules are due for review by April and August 2026. However, the rules associated with the Land Use Planning Program (15A NCAC 7B CAMA Land Use Planning Requirements) are due for review by June 2025. Staff proposes the following timeline to meet this deadline.

- Approve the initial classification report at the August 28, 2024 meeting.
- Initiate the required 60 day comment period September 9 – November 7, 2024.
- Adopt the final report at the November 2024 or February 2025 meeting.
- File with OAH before the May 20, 2025 deadline for June RRC review.
- After the RRC review, the report will be submitted to APOC for consultation. Provided the APOC approves the report, the CRC will then begin the permanent rulemaking procedures based on a readoption schedule set by the RRC.

The attached is the draft initial report with seven rules designated as "Necessary". If the Commission agrees with these initial determinations, the report will be posted by OAH and DEQ for public comments. The Commission will then review any public comments at the November 2024 or February 2025 meeting before adopting it as final.

I will review the details of this process at our upcoming meeting in Beaufort.



G.S. 150B-21.3A Report for 15A NCAC 07B, STATE GUIDELINES FOR LAND USE PLANNING

Agency - Coastal Resources Commission

Comment Period -

Date Submitted to APO - Filled in by RRC staff

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Required to Implement or Conform to Federal Regulation [150B-21.3A(d1)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
SUBCHAPTER 07B – STATE GUIDELINES FOR LAND USE PLANNING	SECTION .0600 – INTRODUCTION	15A NCAC 07B .0601	AUTHORITY	Amended Eff. February 1, 2016	Necessary	No		Select One	Necessary	Select One	Select One	Select One
	SECTION .0700 – LAND USE PLANNING REQUIREMENTS	15A NCAC 07B .0701	PLANNING OPTIONS	Readopted Eff. February 1, 2016	Necessary	No		Select One	Necessary	Select One	Select One	Select One
		15A NCAC 07B .0702	LAND USE PLAN ELEMENTS	Readopted Eff. February 1, 2016	Necessary	No		Select One	Necessary	Select One	Select One	Select One
	SECTION .0800 –LAND USE PLAN AND AMENDMENT REVIEW AND CERTIFICATION	15A NCAC 07B .0801	STATE REVIEW AND COMMENT ON DRAFT PLAN	Eff. February 1, 2016	Necessary	No		Select One	Necessary	Select One	Select One	Select One
		15A NCAC 07B .0802	PUBLIC HEARING AND LOCAL ADOPTION REQUIREMENTS	Amended Eff. February 1, 2019	Necessary	No		Select One	Necessary	Select One	Select One	Select One
		15A NCAC 07B .0803	CERTIFICATION AND USE OF THE PLAN	Amended Eff. February 1, 2019	Necessary	No		Select One	Necessary	Select One	Select One	Select One
		15A NCAC 07B .0804	REQUIRED PERIODIC IMPLEMENTATION STATUS REPORTS	Eff. February 1, 2016	Necessary	No		Select One	Necessary	Select One	Select One	Select One