



# *Rulemaking Update*



*DEPARTMENT OF ENVIRONMENTAL QUALITY*

Marine Fisheries

Marine Fisheries Commission Meeting | Catherine Blum | November 2020



## *Presentation Outline*

- Periodic Review and Expiration of Existing Rules
- 2020-2021 Rulemaking Cycle
  - “Package A”: final approval
  - “Package B”: progress update
- 2021-2022 Rulemaking Cycle Preview



# *Periodic Review and Expiration of Existing Rules*

## *(G.S. 150B-21.3A)*

- Regulatory Reform Act of 2013
- Review of rules at least once every 10 years
- Two parts:
  - Report (complete)
  - Readoption (underway)



# *Periodic Review and Expiration of Existing Rules (G.S. 150B-21.3A)*

Rules	2017	2018	2019	2020	2021	2022	2023	2024
Chapter 03 (172 rules)	Report	41 Rules Readopted	2 Rules Readopted	13 Rules Proposed	Rule Readoption (116)	6/30/22 Deadline		
Subchapter 18A (164 rules)			Report	42 Rules Proposed	Rule Readoption (122)			6/30/24 Deadline

Figure 1. Marine Fisheries Commission rule readoption schedule to comply with G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules.



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## *2020-2021 Rulemaking Cycle*

- “Package A” (7 rules): Recreational Water Quality Program – final approval
- “Package B” (50 rules):
  - Shellfish growing waters
  - Shellfish sanitation and processing
  - Shellfish lease user conflicts
  - General regulations: joint
  - Special Secondary Nursery Areas
  - Oyster sanctuaries



## 2020/2021 Rulemaking Cycle “Package A”

Time of Year	Action
February-April 2020	Fiscal analysis of rules prepared by DMF staff and approved by Office of State Budget and Management
May 2020	MFC approves Notice of Text for Rulemaking
August 2020	Publication of proposed rules in the <i>North Carolina Register</i>
August-October 2020	Public comment period held
Aug. 26, 2020	Public hearing held via WebEx
November 2020	MFC considers approval of permanent rules
January 2021	Rules reviewed by Office of Administrative Hearings/ Rules Review Commission
April 1, 2021	Proposed effective date of rules
April 1, 2021	Rulebook supplement available online
April 15, 2021	Commercial license sales begin

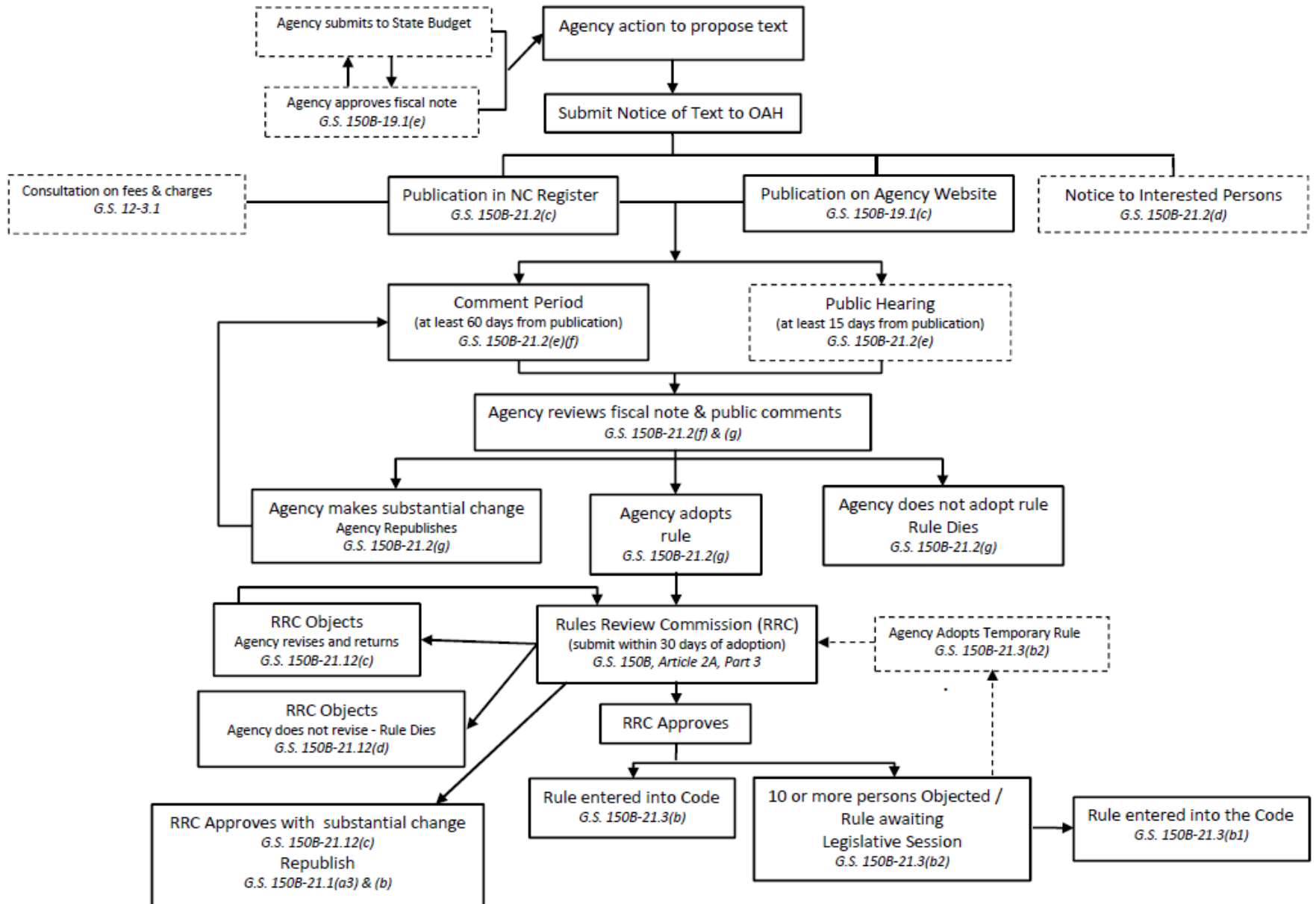


## 2020/2021 Rulemaking Cycle “Package B”

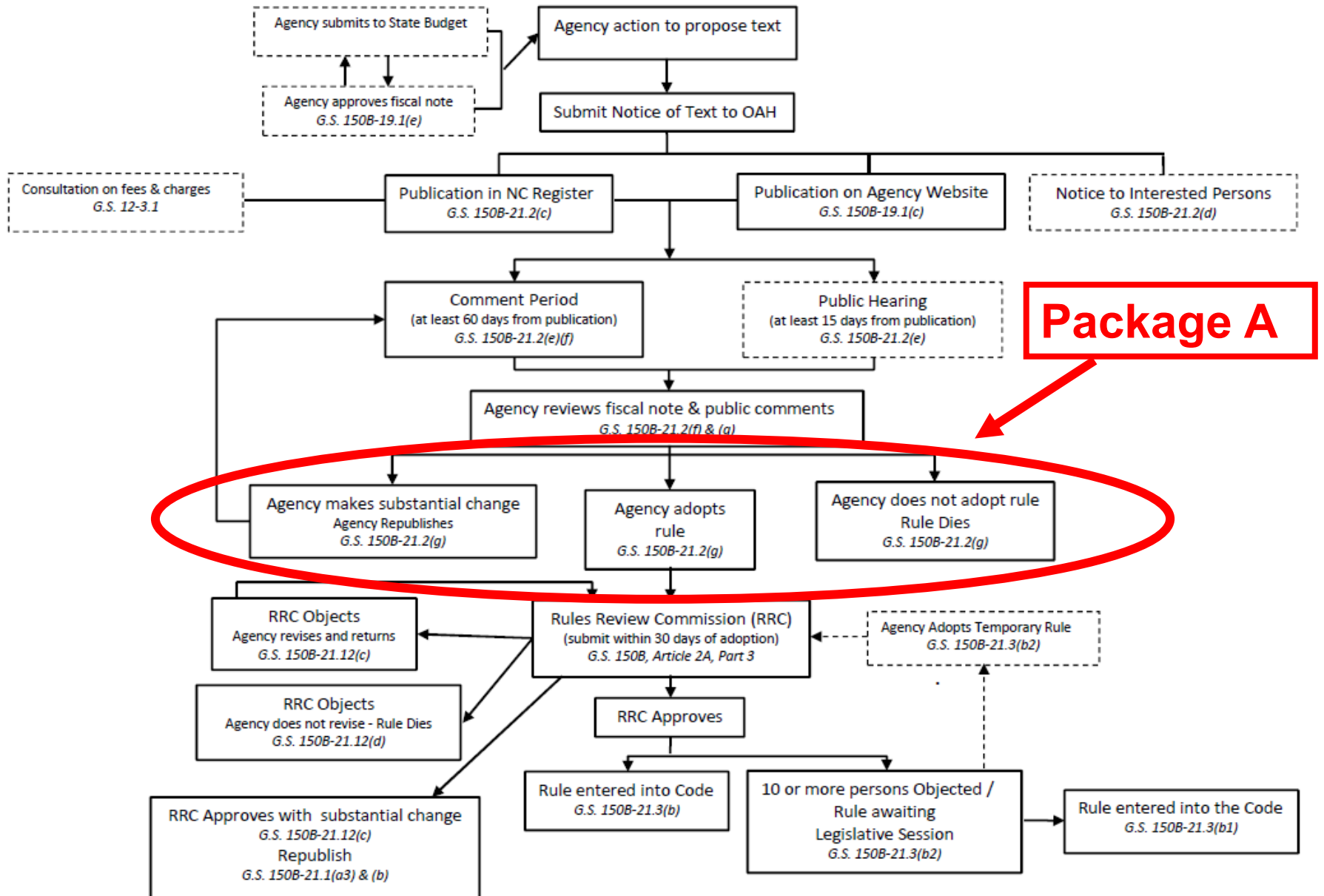
Time of Year	Action
February-July 2020	Fiscal analysis of rules prepared by DMF staff and approved by Office of State Budget and Management
August 2020	MFC approves Notice of Text for Rulemaking
October 2020	Publication of proposed rules in the North Carolina Register
October-November 2020	Public comment period held
Oct. 21 and 27, 2020	Public hearings held
February 2021	MFC considers approval of permanent rules
March 2021	Rules reviewed by Office of Administrative Hearings/ Rules Review Commission
April 1, 2021 or TBD	Proposed effective date of rules; some rules are subject to legislative review per S.L. 2019-198 and G.S. 14-4.1.
April 1, 2021	Rulebook supplement available online
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# Permanent Rulemaking Process

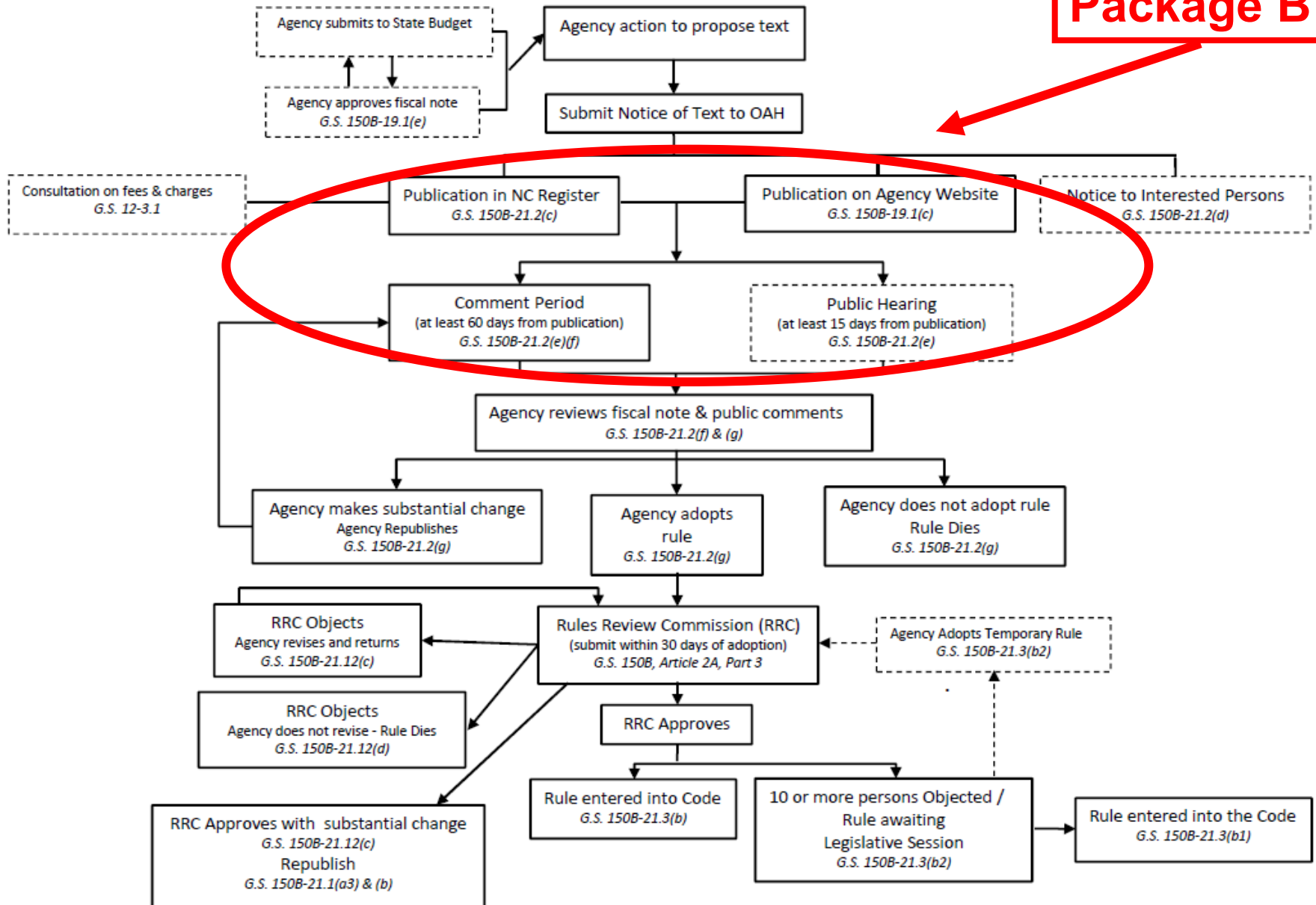


# Permanent Rulemaking Process



# Permanent Rulemaking Process

**Package B**



## *2020-2021 Rulemaking Cycle “Package A”*

- Readoption of 15A NCAC 18A .3400, Coastal Recreational Waters Monitoring, Evaluation, and Notification (seven rules)
- Update the rules to bring them into compliance with Environmental Protection Agency (EPA) criteria
- Protection of public health by monitoring recreational coastal waters for safe swimming standards
- EPA’s National Beach Guidance and Required Performance Criteria for Grants updated in 2014



## *2020-2021 Rulemaking Cycle “Package A”*

- Comply with the updated criteria and result in North Carolina remaining grant eligible
- Shift protocols for monitoring recreational waters and notifying the public of swimming alerts
- Ensure equal protection for all swimmers regardless of how frequently a beach is used
- Minimize delays in notifying the public and reduce confusion
- Proposed effective date of April 1, 2021 coincides with the start of recreational swimming season





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## *2020-2021 Rulemaking Cycle “Package A”*

The division recommends the Marine Fisheries Commission approve readoption of 15A NCAC .3401-.3407 as published in the *N.C. Register*, per G.S. 150B-21.3A.



## *2021-2022 Rulemaking Cycle Preview*

- Chapter 03 (Marine Fisheries)
  - 116 rules remaining
- Subchapter 18A (Sanitation)
  - Approximately 40 rules
- Two rule packages:
  - “Package A”: May 2021 start
  - “Package B”: August 2021 start



# *Rulemaking Update*

## Questions?

