



# Mining Commission Rules Readoption Process Update

August 15, 2023

*Department of Environmental Quality*



# *Two Phases*

- Phase I – Categorization and Readoption of Existing Rules
- Phase II – Creation of New and Substantively Modified Rules

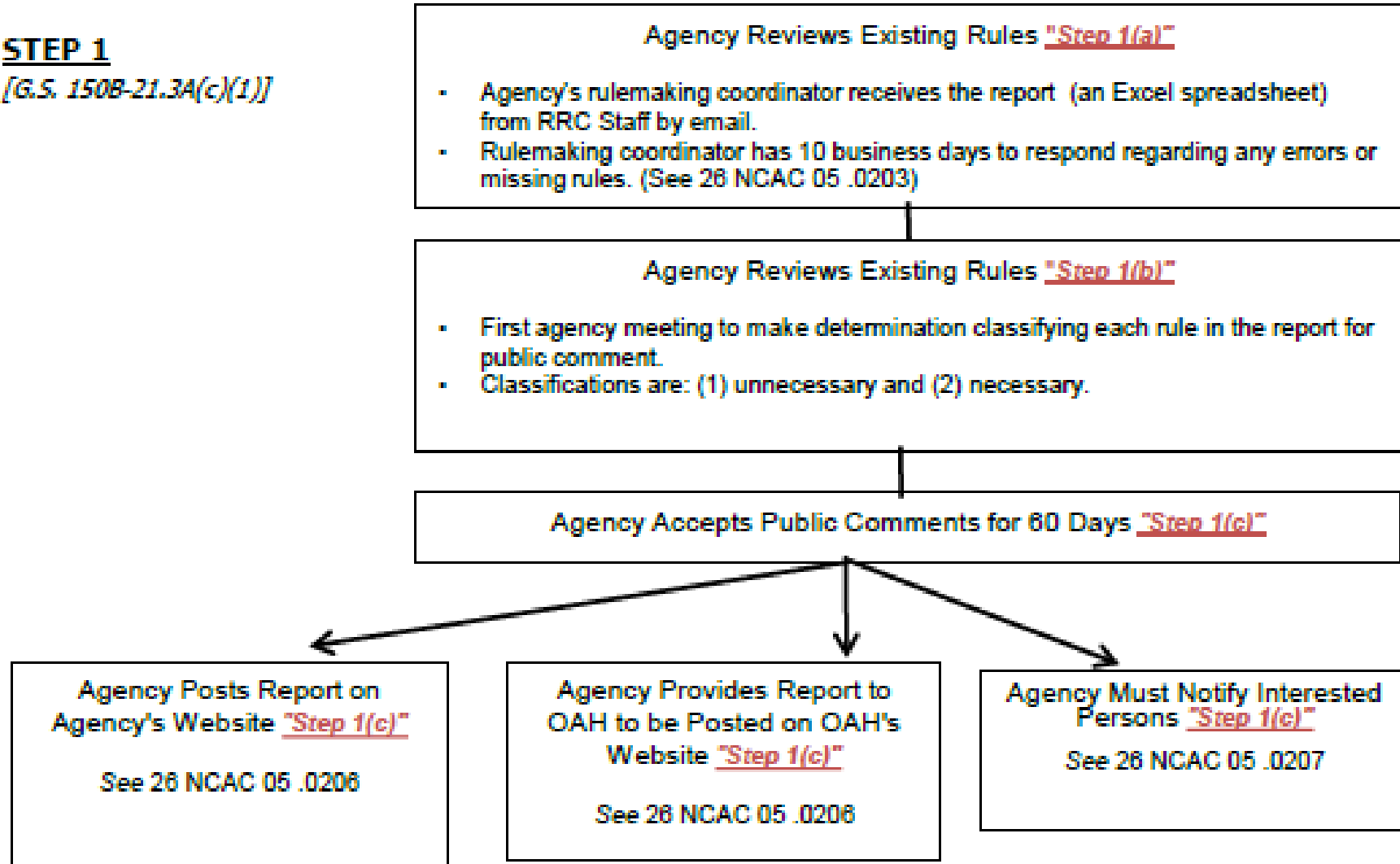


# Current Status

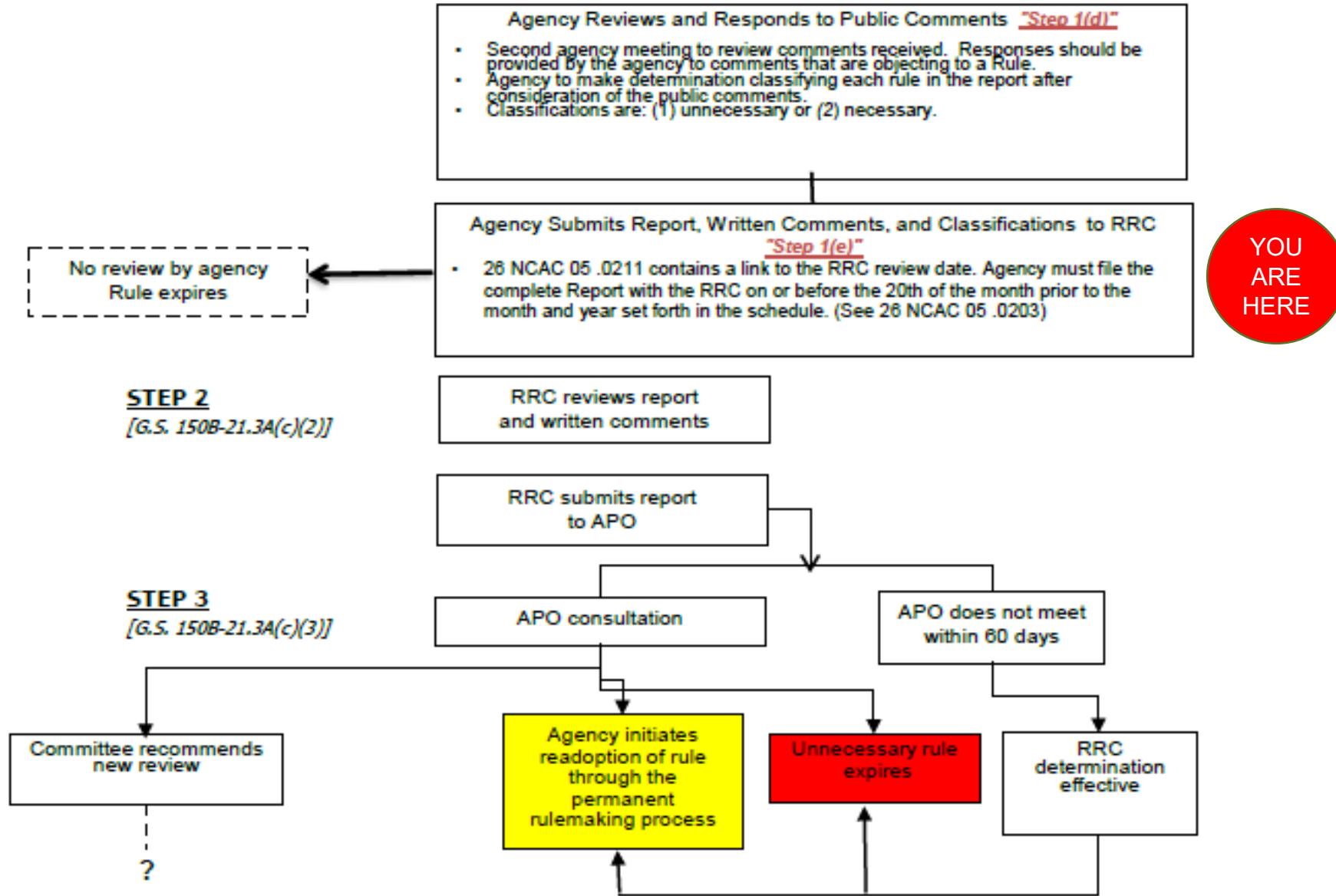
## Periodic Review and Expiration of Existing Rules

### **STEP 1**

*[G.S. 150B-21.3A(c)(1)]*



# Current Status (continued)



# *Phase II*

New and Substantively Modified Rules



# *Initial Drafting*

- DEQ will be using a Stakeholder Group
- Specifically requested by members of the mining industry
- Improves Efficiency
- Incorporates input from interested parties on the frontend rather than trying to modify language on the backend
- Supports limited DEMLR staff resources
- Gives Rules Committee a more complete, thorough and acceptable first draft of rules to use as a starting point when they begin their process
- Same process as many other Commissions
- David Lambert, DEQ's Project Liaison, will be serving as the Facilitator for the Stakeholder Group



# *Stakeholder Group Makeup*

- No more than 12 individuals (excluding Facilitator)
- DEMLR-Mining Staff
- DEQ Non-Mining Staff
- Industry Representatives (Aggregate, Sand, Lithium/Industrial Minerals)
- Conservation/Environmental Interests
- Local Government Representatives
- Economic Development Interest
- Zoning/Land Use Interest

# *Stakeholder Group Process*

1. DEMLR will solicit membership from broad cross-section of stakeholders
2. Stakeholder Group will recommend and review topics to be considered
3. Stakeholder Group will identify issues under each topic
4. Stakeholder Group will identify strategies for draft language on each issue
5. DEMLR will review and edit draft language from Stakeholder Group
6. Stakeholder Group will review draft language
7. DEMLR will make final revisions to draft language
8. DEMLR will present draft language to Rules Committee
9. Rules Committee will use draft language as a starting point for Mining Commission review



# FAQ

- Is this changing the Process?
  - No, this is merely the method the Agency is going to use to provide the requested “first draft” from the Agency so that the Rules Committee doesn’t have to start from scratch
- Why aren’t there any members of the Commission in the Stakeholder Group?
  - If members of the Commission were included this could require treating the Stakeholder Group as a sub-committee of the Commission or Rules Committee rather than an independent group of contributors selected by the Agency.
- Doesn’t this exclude the Rules Committee from the Drafting Process?
  - No, both the Committee and full Commission will have control over the rules once the agency presents its first draft to the Committee and Commission. This is merely the Agency’s preliminary work.

## *FAQ (continued)*

- Is this taking Rulemaking away from the Commission?
  - No, once this first draft is completed, the Rules Committee will then begin their normal process to review and modify the draft rules as desired. Once the Committee completes their task and approves the full set of draft rules, the rules package will be presented to the Commission for its review and approval as well.
- Is this different than what other Commissions do?
  - No, this is a similar process to that used by many other Commissions for many other rules.
- Will this delay the rulemaking process?
  - No, this should actually allow the process to be more efficient. By incorporating more stakeholders and feedback at the beginning of the rulemaking process, this will allow for a more complete and comprehensive rules package that should be more acceptable and less subject to challenge in the future.

# *Next Steps*

- Rules Committee meeting on August 29, 2023
  - DEMLR staff will be prepared to present their initial topic list for consideration by the Stakeholder Group
  - Committee will request additional topics for the Stakeholder Group to include in its process
- DEQ to form the Stakeholder Group and schedule first meeting
- Stakeholder Group to meet and finalize topic list for drafting consideration then start the drafting process with DEMLR staff
- Update to Mining Commission on Stakeholder Group status at meeting on October 18



*Questions?*



*Department of Environmental Quality*

