



February 6, 2025 - Sedimentation Control Commission

Periodic Review and Expiration of Existing Rules

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Periodic Review and Expiration of Existing Rules

- G.S. 150B-21.3A created by S.L. 2013-413.
- Requires agencies to review its rules every 10 years. First round was 2014-2019. Current round is 2024-2027
- Office of Administrative Hearings provides us a 'Report' (excel spreadsheet) containing a listing of each rule.
- Classify each rule as either Necessary or Unnecessary.

Unnecessary – a rule that the agency determines to be obsolete, redundant or otherwise not needed

Necessary – any rule other than an unnecessary rule



Periodic Review and Expiration of Existing Rules G.S. 150B-21.3A

- SCC approves initial determinations for proceeding to 60-day public comment period (no hearing required).
- Receive and review all public comments on the rules and the initial determinations.
- Respond to all comments that address any rule(s) or the initial determinations as defined in G.S. 150B-21.3A(a)(5). All comments & responses will be placed in the report itself.



Periodic Review and Expiration of Existing Rules G.S. 150B-21.3A



- The report, with the initial and final determinations, public comments with responses are filed to the Rules Review Commission (RRC) by the 20th day of the month before they are scheduled. SCC's report is due to the RRC for its January 2026 meeting.
- Once approved by the RRC, the report, public comments & responses are submitted to the Joint Legislative Administrative Procedure Oversight Committee.
- Report becomes effective if the Joint Legislative Administrative Procedure Oversight Committee meets, or 61 days have passed once it was submitted to the Committee.

Periodic Review and Expiration of Existing Rules G.S. 150B-21.3A

Once the report becomes effective:

- Rules that are Necessary = **Readoption** (Rulemaking)
- Rules that are Unnecessary = **Expire**

Readoption is rulemaking. Preparing proposed amendments to existing rules, proposing repeal of a rule or creating new rules.



Readoptions

Once the Report becomes effective, RRC staff attorney will contact me (consultation request) regarding the scheduling of the rules for re adoption.

The SCC will have within 60 days of receipt of the RRC's consultation request, or within 10 days after the SCC's next regularly scheduled meeting after receipt of the RRC's consultation request, whichever comes later.

Anticipate consultation request in the Spring of 2026.



Readoptions

The RRC codified a new rule, 26 NCAC 05 .0212(a) outlining criteria to be used for justification during the ‘consultation’ with the agency for establishing a re adoption deadline.

The agency shall submit to the RRC:

- (1) written documentation of the agency’s planned timeline for re adoption, providing planned dates for all steps required by G.S. 150B-21.2; and
- (2) written documentation of any of the agency's rulemaking priorities that the agency determines to be relevant to the timeline for re adoption.

* Staff will present to the SCC a draft re adoption date and timelines for approval before it’s submitted to the RRC. Anticipate this in Spring 2026.

Questions

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