



Rulemaking Update



DEPARTMENT OF ENVIRONMENTAL QUALITY

Marine Fisheries

Marine Fisheries Commission Meeting | Catherine Blum | May 14, 2020



2019/2020 Rulemaking Cycle

- February 2020: Marine Fisheries Commission readopts:
 - 15A NCAC 03M .0509 (Tarpon)
 - 15A NCAC 03O .0108 (License and Commercial Fishing Vessel Registration Transfers)
- April 2020: Rules Review Commission approves rules
- Legislative review for final determination due to:
 - At least 10 letters of objection received (tarpon rule)
 - Session Law 2019-198 and G.S. 14-4.1, Legislative review of regulatory crimes (both rules)



2019/2020 Rulemaking Cycle

- “North Carolina Marine Fisheries Commission Rules April 1, 2020”
- No new rule changes became effective April 1
- Available at <http://portal.ncdenr.org/web/mf/rules-and-regulations>



2020/2021 Rulemaking Cycle

- Two packages of rules:
 - May 2020 (Package A)
 - August 2020 (Package B)
- Recreational Water Quality Program rules scheduled for action today to begin rulemaking



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 North Carolina Register
August-October 2020	Public comment period held
September 2020	Public hearing held (details to be determined)
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-December 2020	Public comment period held
October 2020	Public hearing held (details to be determined)
February 2021	MFC considers approval of permanent rules
April 2021	Rules reviewed by Office of Administrative Hearings Rules Review Commission
April 15, 2021	Commercial license sales begin
May 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.
May 1, 2021	Rulebook supplement available online



2020/2021 Rulemaking Cycle

- 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 (ocean beaches, sounds, bays, and estuarine rivers) for safe swimming standards
- Proposed effective date of April 1, 2021 coincides with the start of recreational swimming season



2020/2021 Rulemaking Cycle

- EPA's National Beach Guidance and Required Performance Criteria for Grants updated in 2014 for beach water quality
- Proposed rules would 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



Notice of Text for Rulemaking

The division recommends the Marine Fisheries Commission begin the rule readoption process for the seven Coastal Recreational Waters Monitoring, Evaluation, and Notification rules, by voting on Notice of Text for Rulemaking for readoption and readoption through repeal of 15A NCAC 18A .3400, including the corresponding fiscal analysis, per G.S. 150B-21.3A.



Rulemaking Update

Questions?



Notice of Text for Rulemaking

There are seven rules proposed for readoption or readoption through repeal in 15A NCAC 18A .3400:

- Rules .3402, .3403 and .3405 bring the Recreational Water Quality Program into compliance with new EPA criteria and standards.
- Rules .3403 and .3405 are simplified by pointing to the bacteriological limits provided in .3402 instead of repeating the limits in each rule.
- Rule .3401 changes definitions to conform to the other rule changes.
- Rule .3404 codifies requirements to notify the swimming public about health risks associated with wastewater spills (which the Recreational Water Quality Program has already implemented).
- Rules .3406 and .3407 are proposed for repeal, as they merely repeat requirements of G.S. 113-221.3.
- Additional proposed changes make minor and conforming changes, including punctuation, grammar, capitalization, and consistent use of terms.

