



Periodic Review and Expiration of Existing Rules

DEPARTMENT OF ENVIRONMENTAL QUALITY

Marine Fisheries

Marine Fisheries Commission | Catherine Blum | Nov. 17, 2016



Periodic Review and Expiration of Existing Rules

- Periodic Review and Expiration of Existing Rules (G.S. § 150B-21.3A) was added to the North Carolina Administrative Procedure Act in 2013.
- Agencies must conduct a periodic review of their rules every 10 years using a process and schedule established by the Rules Review Commission or the rules expire.
- Marine Fisheries Commission rules are found in Chapter 03 and Chapter 18A of Title 15A of the North Carolina Administrative Code.
- Rules in Chapter 03 are scheduled to be reviewed by the Rules Review Commission in December 2017 per 26 NCAC 05 .0211. Rules in Chapter 18A are scheduled to be reviewed in January 2019.

Periodic Review Process

- Review and classify each rule citation.
 - *Necessary with substantive public interest* - the agency has received public comment within the last two years; it affects property interest or a person might object to the rule.
 - *Necessary without substantive public interest* - the agency has not received public comment within the last two years or the rule simply provides contact information.
 - *Unnecessary* - the agency determined the rule is obsolete, redundant or otherwise no longer needed.
- Seek input on initial draft agency determination of classification from Marine Fisheries Commission.
- Submit recommendation on initial agency determination to the Department of Environmental Quality.

Periodic Review Process

- Publish initial agency determination for 60-day public comment period (Spring 2017). Public comments must be in writing and have merit.
- Compile report that responds to comments received and amends initial agency determination if necessary.
- Seek input on report from the Marine Fisheries Commission (August 2017).

Periodic Review Process

- Submit report through the Department of Environmental Quality to the Rules Review Commission (October 2017) for consideration at its December 2017 meeting.
- The Rules Review Commission sends report to Joint Legislative Administrative Procedures Oversight Committee for its consideration.

Periodic Review Process

- Necessary with substantive public interest - the agency has received public comment within the last two years; it affects property interest or a person might object to the rule.
Final determination: Rules must be readopted or they expire.
- Necessary without substantive public interest - the agency has not received public comment within the last two years or the rule simply provides contact information.
Final determination: Rules do not expire nor need to be readopted if there is no change.
- Unnecessary - the agency determined the rule is obsolete, redundant or otherwise no longer needed.
Final determination: Rules expire and are removed from the Code.

Summary

Rules	2017	2018	2019	2020	2021
Chapter 03	Report	Rulemaking			
Chapter 18A		Report	Rulemaking		

Next Step

Seek input on initial draft agency determination of classification from Marine Fisheries Commission at its February 2017 meeting.

Questions ?