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Periodic Review and Expiration of Existing Rules

July 30, 2014
Agency Rulemaking

- NC Administrative Procedures Act
  - Procedures: rule format, public hearings, adoption, filing etc.


  - Timeframe: 8 - 12 Months
Review & Expiration of Rules

• Prior to 2013 rules did not expire
• 150B-21.3A requires 10-year review of most rules
• Unnecessary rules will expire
• Necessary rules with substantive public interest must be readopted or they also expire
• Necessary rules without substantive public interest do not expire nor need to be readopted
• CRC’s 7B rules scheduled for 2015, all other CRC rules are scheduled for 2017
Review Process

• Requires agencies to review their existing rules and classify them as:
  - **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 rules simply provides contact information.
  - **Unnecessary** - the agency determined the rule is obsolete, redundant or otherwise no longer needed.
Review Process cont.

- Classifications Posted for Public Comment
  - Office of Administrative Hearings
  - Rules Review Commission
  - 60 days

- Agency Response to Objections
  - Amend Classifications
  - Respond to all objections
  - Final Report & Public Comments Sent to RRC
Review of Final Report

• RRC Reviews Final Report & Public Comments
  - Agree or Disagree with agency classification of its rules.
  - May change a classification to “necessary with substantive public interest”
  - No authority to declare a rule as “unnecessary.”
  - Sends to Joint Legislative Admin. Procedures Oversight Committee

• Joint Legislative Admin Procedure Oversight Committee
  - Final Determination Effective Upon APOC Reviews or 61st day if the APOC does not meet.
  - May recommend the agency conduct a review of the rule the following year.
Final Determination

• Necessary **Without** Substantive Public Interest
  ○ Remain in Administrative Code.

• Unnecessary
  ○ Removed From Administrative Code

• Necessary **With** Substantive Public Interest
  ○ Need to be Re-adopted by CRC
Schedule for Review of CRC Rules

• Majority of CRC Rules - Jan 2018
• 7B CAMA Land Use Planning Guidelines – Dec 2015

• May 2015: Approve Report for RRC Review
• Jun 1, 2015: 15A NCAC 7B Submitted to RRC & OAH
• Jun 1 – Aug 7, 2015: Public Comment Period
• Oct 2015: Response to Comments, Final Categorizations
• Nov 15, 2015: Report Submitted to RRC
• Dec 2015: RRC Reviews CRC Report
• Jan 2016: RRC Submits Findings to JLAPOC
For More Information...

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