

Fiscal Analysis for Proposed Readoption and Amendments to 15A NCAC 03P Rules

Rule Amendments: 15A NCAC 03P .0102, .0201-.0203, .0301-.0304

Name of Commission: N.C. Marine Fisheries Commission

Agency Contact: David Dietz, Fisheries Economics Program Manager
N.C. Division of Marine Fisheries
3441 Arendell Street
Morehead City, NC 28557
919-707-8573
David.Dietz@ncdenr.gov

Impact Summary: State government: Yes
Local government: No
Federal government: No
Substantial impact: No

Authority:

North Carolina General Statutes

G.S. 113-134.	Rules.
G.S. 113-182.	Regulation of fishing and fisheries.
G.S. 113-182.1.	Fishery management plans.
G.S. 113-201.	Legislative findings and declaration of policy; authority of Marine Fisheries Commission.
G.S. 142B-289.51.	Marine Fisheries Commission – creation; purposes.
G.S. 143B-289.52.	Marine Fisheries Commission – powers and duties.
G.S. 150B-4.	Declaratory rulings.
G.S. 150B-20.	Petitioning an agency to adopt a rule.

I. Necessity:

General Statute 150B-21.3A requires state agencies to review their existing rules every 10 years to determine which rules are still necessary, and to either readopt or repeal each rule as appropriate. Eight rules in chapter 15A NCAC 03P are proposed for readoption with substantive changes related to contested case hearings, declaratory rulings, and petitions for rulemaking.

II. Summary

Proposed rules for readoption seek to also improve clarity and efficiency to rules related to contested case hearings, declaratory rulings, and petitions for rulemaking. Overall, most changes are technical in nature and contain no anticipated fiscal impacts. However, a small set of proposed changes will incur benefits to the state from increased efficiency across these programs. Most benefits will be time-cost reductions for both Division staff and the public, while there are also benefits related to enhanced resource protection and reduced material costs for stakeholders submitting petitions in rulemaking. In total, this combination of benefits cannot be quantified but is not significant. No costs are anticipated, including no additional impacts to enforcement.

III. Introduction and Purpose of Rule Changes

These eight administrative procedures rules of the Marine Fisheries Commission are subject to readoption per G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules. Proposed changes conform the rules to the requirements of the Administrative Procedure Act, G.S. 150B, namely G.S. 150B-4, Declaratory rulings, G.S. 150B-20, Petitioning an agency to adopt a rule, and several articles of G.S. 150B that address administrative hearings and their judicial review. Throughout the rules, elements that merely repeat the content of law are proposed to be struck, per G.S. 150B-19. These proposed deletions bear no impact on the state. Additionally, proposed changes make minor technical and clarifying changes to these eight rules, which also incur no impact.

However, a small subset of proposed changes will likely incur a small impact to the state. These proposed changes are described below, while all proposed changes with no anticipated impacts will not be discussed further.

Rule 03P .0202, Procedure for Requesting Declaratory Rulings, currently contains many requirements more suitable for 03P .0203, Disposition of Requests for Declaratory Ruling. So, those elements are proposed to be struck from 03P .0202 and proposed to be added to 03P .0203 and in so doing, conforming changes based on the authorizing statutes are included.

Proposed changes to existing Paragraph (a) of 03P .0202 update and clarify to whom and where a request for a declaratory ruling shall be submitted. New Paragraph (b) has proposed text to update the rule with the third possible item on which a declaratory ruling can be requested, in Part (C) of Subparagraph (3), consistent with G.S. 150B-4. New Paragraph (c) clarifies the details that need to be included in a request, consistent with the item on which the ruling is being requested. New Paragraph (d) refers to requirements of G.S. 150B-23 for a contested case when a person similarly wishes to file a motion to intervene for a declaratory ruling. These proposed changes do not significantly alter requirements for submitting declaratory rulings, but rather provide improved detail and clarity on the overall process to improve efficiency and understanding.

Proposed changes to 03P .0203 include many of the elements proposed to be struck from 03P .0202. New Paragraph (e), which includes the elements of 03P .0202 old Paragraph (f), includes new sub-paragraphs (6) and (7). Together, these requirements take into account any effort previously expended by the Commission, Division, and stakeholders for material considered but rejected as not having merit when rulemaking originally occurred. In short, these requirements help to prevent someone from having a second opportunity for the same request that is made via a different tool (i.e., declaratory ruling vs. rulemaking). Being able to take into consideration any past efforts creates efficiencies for the declaratory ruling process and consistently applies the same set of standards in regards to requirements for activities under the Commission's authority.

Section 03P .0300 contains requirements for petitions for rulemaking. Proposed changes to existing Paragraph (a) of 03P .0301, Form and Contents of Petitions for Rulemaking, update and clarify to whom and where a request for a petition for rulemaking shall be submitted. For existing Paragraph (b) and new Paragraph (c), proposed changes separate items that shall be submitted by the petitioner from those that may be submitted, in accordance with the authority

set out in G.S. 150B-20. New Paragraph (d) clarifies the minimum elements the Marine Fisheries Commission shall consider in its review of the petitioned rules. Again, this is consistent with G.S. 150B-20 and simply codifies the current practice of the Commission based on the small number of rulemaking petitions received in the last 15 years. Old Paragraph (c) is proposed to be deleted, removing a small burden from the petitioner by no longer requiring multiple hard copies of a petition to be submitted when the petition exceeds a certain length. Receipt of a rulemaking petition is a rare event and most, if not all, are submitted electronically, so the requirement is obsolete. Again, these proposed changes seek to increase efficiency and clarity to both the state and the public while submitting petitions for rulemaking.

Proposed changes to 03P .0302, Review of Rulemaking Petitions by a Committee of the Commission, are largely technical and clarifying in nature. One additional change is proposed in new Paragraph (e) to require the committee chair to allow one interested person to present the viewpoint of those who oppose initiating rulemaking. The chair retains the ability to determine whether additional interested persons shall make oral presentations before the committee, but this change provides balance to the request for the petitioned rules, in the interest of the public and the resource. This change also increases efficiency in the administration of committee meetings of the Commission. While receipt of a rulemaking petition is a rare event, it draws significant public interest and attendance at related meetings. Ensuring there is a balance to the presentations helps to minimize the number of interested persons who wish to make presentations at committee meetings, which translates to shorter, more efficient meetings for committee members, Division staff, and stakeholders that are involved.

Lastly, proposed changes to 03P .0303, Presentation of Rulemaking Petitions to the Commission, add elements to connect to requirements of the other rules of that Section, again with the intent of increasing logic and efficiency overall. In existing Paragraph (a), proposed changes connect to 03P .0301 for the submission of a complete petition. New paragraphs (b) and (c) compartmentalize requirements for a petition that was or was not referred to a committee of the Commission for review, respectively. These requirements harmonize with related requirements in rules of this Section. Additionally, new Paragraph (c) requires the Commission chair to allow one interested person to present the viewpoint of those who oppose initiating rulemaking. The chair retains the ability to determine whether additional interested persons shall make oral presentations before the Commission, but this change provides balance to the request for the petitioned rules, in the interest of the public and the resource. As for this same change made to 03P .0302, this change increases efficiency in the administration of Commission meetings. Proposed changes to new Paragraph (d) clearly state the statutorily-based requirement for the Commission to either grant or deny the petition and the subsequent requirements.

IV. Fiscal Impact Analysis

As part of the readoption process, these eight rules are proposed with changes intended to increase clarity and efficiency around contested case hearings, declaratory rulings, and petitions for rulemaking. Overall, the majority of these proposed changes offer technical changes that incur no additional impacts; proposed changes anticipated to incur impacts are summarized above.

Across all of the proposed changes described above, each rule is expected to incur benefits to the state from increased efficiency in contested case hearings, declaratory rulings, and petitions for rulemaking. Clarifying changes are proposed to decrease Division staff labor and effort by providing greater detail across each of these processes, as well as reducing unnecessary redundancies. Additionally, stakeholders will have a clearer understanding of each process and its associated requirements. This also reduces the time burden to stakeholders for contested case hearings, declaratory rulings, and petitions for rulemaking, providing another time-cost benefit to the state.

Aside from these time-cost benefits, there is also a small benefit to the state's marine resources through these proposed changes, as the increased efficiency in evaluating contested case hearings, declaratory rulings, and petitions for rulemaking should reduce resource degradation and ultimately improve resource access overall.

Lastly, one proposed change in NCAC 03P .0301 incurs an additional type of benefit, as petitioners are no longer required to submit 15 hard copies of petitions for rulemaking greater than 10 pages. This should incur another small benefit as overall material costs related to the petition for rulemaking process are reduced. While all these anticipated benefits cannot be accurately quantified, the impact of each of these is not expected to be large, and in combination these benefits should not be considered significant.

Finally, it should be noted that across all the proposed changes, no additional costs are anticipated. This includes enforcement, as none of the proposed changes should incur impacts to enforcement as well.

V. Appendix

Proposed Rules for Readoption

15A NCAC 03P .0102 is proposed for readoption with substantive changes as follows:

15A NCAC 03P .0102 CONTESTED CASE HEARING PROCEDURES

~~Administrative~~ Contested case hearings shall be held in accordance with G.S. 150B, ~~and the administrative hearing procedures codified at 15A NCAC 1B .0200.~~ Article 3 of Chapter 150B of the General Statutes.

History Note: Authority G.S. 113-134; 113-182; 143B-289.52;

Eff. January 1, 1991;

Amended Eff. August 1, 1999;

Readopted Eff. May 1, 2022.

15A NCAC 03P .0201 is proposed for readoption with substantive changes as follows:

SECTION .0200 - DECLARATORY RULINGS

15A NCAC 03P .0201 DECLARATORY RULINGS: GENERALLY

At the request of any person aggrieved, as defined in G.S. 150B-2(6), the Marine Fisheries Commission may issue a declaratory ruling as provided in G.S. ~~150B-4~~150B-4 and rules of this Section.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52; 150B-4;
Eff. April 1, 1999;
Readopted Eff. May 1, 2022.*

15A NCAC 03P .0202 is proposed for readoption with substantive changes as follows:

15A NCAC 03P .0202 PROCEDURE FOR REQUESTING DECLARATORY RULINGS

(a) All requests for a declaratory ruling shall be ~~filed~~ submitted in writing ~~with the Director of the~~ to the Marine Fisheries Commission Chair and addressed to the Marine Fisheries Commission Office, Division of Marine Fisheries, Department of Environment and Natural Resources (DENR), 3441 Arendell Street, P.O. Box 769, Morehead City, North Carolina NC 28557.

(b) All requests shall include the following:

- (1) ~~the aggrieved person's~~ petitioner's name and address;
- (2) the rule, ~~statute~~ statute, or order upon which a ruling is desired;
- (3) a ~~concise~~ concise statement as to whether the request is for a ruling ~~on~~ on:
 - (A) the validity of a ~~rule or rule~~ rule;
 - (B) ~~on~~ the applicability of a rule, ~~order~~ order, or statute to a given factual situation; or
 - (C) a conflict or inconsistency within the Commission or the Department of Environmental Quality regarding interpretation of a law or rule adopted by the Commission;
- (4) arguments or data ~~which that~~ that demonstrate ~~that~~ the petitioner is aggrieved by the rule or statute or its potential application to ~~him~~ the petitioner;
- (5) a statement of the consequences of a failure to issue a declaratory ruling in favor of the petitioner; and
- (6) a draft of the proposed ruling; and
- (7) a statement of whether an oral argument is desired, and, if so, the reasons for requesting such an oral argument.

~~(b)(c)~~ A request for a ruling on the validity of a Commission rule shall state the petitioner's reasons for questioning the validity of the rule and a brief or legal memorandum supporting the petitioner's position. A request for a ruling on the applicability of a rule, order, or statute must shall include a description of the statement of the specific facts to a given factual situation on which the ruling is to be based, and documentation supporting those facts. A request for a ruling on the validity of a Commission rule must state the aggrieved person's reasons for questioning the validity of the rule. A request for a ruling to resolve a conflict or inconsistency within the Commission or the Department regarding interpretation of a law or rule adopted by the Commission shall include a written description identifying the conflict or inconsistency, the interpretation provided by the agency, and the law or rule in question. A person may ask for both multiple types of declaratory rulings in a single request. A request for a ruling must include or be accompanied by:

- (1) ~~a statement of the facts proposed for adoption by the Commission; and~~
- (2) ~~a draft of the proposed ruling.~~

(d) In the manner provided in G.S. 150B-23(d), any other person may request to intervene in the request for declaratory ruling. The request to intervene shall be determined by the Commission Chair.

(e) ~~Before deciding the merits of the request, the Commission may:~~

- (1) ~~request additional written submissions from petitioner(s);~~

- ~~(2) request a written response from the Division staff or any other person; or~~
- ~~(3) hear oral argument from the petitioner(s) and Division staff.~~

~~(d) Unless the Division waives the opportunity to be heard, it shall be a party to any request for declaratory ruling. Upon written request, the requesting party and the Division may each be allowed to present oral arguments to the Commission at a regularly scheduled meeting. Neither party may offer testimony or conduct cross-examination before the Commission. The declaratory ruling shall be determined on the basis of the statement of facts submitted by the parties.~~

~~(e) Whenever the Commission believes "for good cause" that the issuance of a declaratory ruling is undesirable, the Commission may refuse to issue such ruling. The Commission shall notify in writing the person requesting the ruling, stating the reasons for the refusal to issue a ruling on the request.~~

~~(f) For purposes of Paragraph (e) of this Rule, the Commission shall ordinarily refuse to issue a ruling on a request for declaratory ruling on finding that:~~

- ~~(1) the petitioner(s) and the Division cannot agree on a set of facts sufficient to support a meaningful ruling;~~
- ~~(2) there has been a similar determination in a previous contested case or declaratory ruling;~~
- ~~(3) the matter is the subject of a pending contested case hearing or litigation in any North Carolina or federal court; or~~
- ~~(4) no genuine controversy exists as to the application of a statute or rule to the factual situation presented.~~

~~(g) The Commission shall keep a record of each declaratory ruling, which shall include at a minimum the following items:~~

- ~~(1) the request for a ruling;~~
- ~~(2) any written submissions by the parties;~~
- ~~(3) the statement of facts on which the ruling was based;~~
- ~~(4) any transcripts of oral proceedings, or, in the absence of a transcript, a summary of all arguments;~~
- ~~(5) any other matter considered by the Commission in making the decision; and~~
- ~~(6) the declaratory ruling, or the decision to refuse to issue a declaratory ruling, together with the reasons therefore.~~

~~(h) A declaratory ruling is binding on the Commission and the person requesting it unless it is altered or set aside by the court. The Commission may not retroactively change a declaratory ruling, but nothing in this Section prevents the Commission from prospectively changing a ruling.~~

~~(i) Unless the requesting party consents to the delay, failure of the Commission to issue a ruling on the merits or deny the request within 60 days of receipt of the request for such ruling shall constitute a denial of the request as well as a denial of the merits of the request and shall be subject to judicial review.~~

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52; 150B-4;
Eff. April 1, 1999;
Readopted Eff. May 1, 2022.*

15A NCAC 03P .0203 is proposed for readoption with substantive changes as follows:

15A NCAC 03P .0203 ~~DEFINITION~~DISPOSITION OF REQUESTS FOR DECLARATORY RULING

(a) The Marine Fisheries Commission Chair shall make a determination on the completeness of a request for declaratory ruling based on the requirements of this Section.

(b) Before the Commission decides the merits of the request, the Commission Chair may:

- (1) request additional written submissions from the petitioner;
- (2) allow the petitioner to file a reply to the response submitted in accordance with Subparagraph (1) of this Paragraph; and
- (3) request oral arguments from the petitioner or their legal counsel.

(c) Unless the Division of Marine Fisheries waives the opportunity to be heard, it shall be a party to any request for declaratory ruling. The Division shall be allowed to present a written response and oral arguments to the Commission at a regularly scheduled meeting.

(d) The Commission shall make a decision to grant or deny the request in accordance with G.S. 150B-4.

(e) The Commission shall deny the request upon making any of the following findings:

- (1) the request is not complete;
- (2) the petitioner is not a person aggrieved;
- (3) there has been a similar determination in a previous contested case or declaratory ruling;
- (4) the matter is the subject of a pending contested case hearing or litigation in any North Carolina or federal court;
- (5) no genuine controversy exists as to the application of a statute, order, or rule to the factual situation presented;
- (6) the factual context put forward as the subject of the declaratory ruling was considered upon the adoption of the rule being questioned, as evidenced by the rulemaking record;
- (7) the information provided by the petitioner, the Department, or any interveners does not support a determination that a rule is invalid; or
- (8) there is no material conflict or inconsistency within the Commission or Department regarding the law or rule identified by the petitioner.

(f) The Commission shall keep a record of each declaratory ruling, which shall include the following items:

- (1) the request for a ruling;
- (2) any written submission by a party;
- (3) the statement of facts on which the ruling was based;
- (4) any transcripts of oral proceedings, or, in the absence of a transcript, a summary of all arguments;
- (5) any other matter considered by the Commission in making the decision; and
- (6) the declaratory ruling, or the decision to refuse to issue a declaratory ruling, together with the reasons therefore.

(g) For purposes of ~~Rule .0202~~ of this Section, a declaratory ruling shall be deemed to be ~~"in effect"~~ until in effect until:

- (1) the statute or rule interpreted by the declaratory ruling is repealed or the relevant provisions of the statute or rule are amended or altered;~~amended, altered or repealed;~~
- (2) any court of the Appellate Division of the General Court of Justice construes the statute or rule that is the subject of the declaratory ruling in a manner plainly irreconcilable with the declaratory ruling;
- (3) ~~until~~ the Commission changes the declaratory ruling ~~prospectively for good reasons;~~prospectively;
or
- (4) ~~until~~ any court sets aside the declaratory ruling in litigation between the Commission or Department of ~~Environment and Natural Resources~~ Environmental Quality and the party requesting the ruling; or until any court of the Appellate Division of the General Court of Justice shall construe the statute or rule which is the subject of the declaratory ruling in a manner plainly irreconcilable with the declaratory ruling.

History Note: Authority G.S. 113-134; 113-182; 143B-289.52; 150B-4;
Eff. April 1, 1999;
Readopted Eff. May 1, 2022.

15A NCAC 03P .0301 is proposed for re-adoption with substantive changes as follows:

SECTION .0300 - PETITIONS FOR RULEMAKING

15A NCAC 03P .0301 FORM AND CONTENTS OF ~~PETITION~~PETITIONS FOR RULEMAKING

(a) Any person wishing to request the adoption, amendment, or repeal of a rule of the Marine Fisheries Commission (~~hereinafter referred to as the Commission~~) shall ~~make his~~submit their request in a written petition ~~addressed to the Chairman of the Marine Fisheries Commission~~ Chair and submitted addressed to the Marine Fisheries Commission Office, Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557. ~~Commission staff at:~~

~~Marine Fisheries Commission~~

~~Division of Marine Fisheries~~

~~PO Box 769~~

~~Morehead City, North Carolina 28557.~~

(b) The petition shall specify it is filed pursuant to G.S. 150B-20 and shall contain the following information:

- ~~(1) the text of the proposed rule(s);~~
- ~~(2) the statutory authority for the agency to promulgate the rule(s);~~
- ~~(3) a statement of the reasons for adoption of the proposed rule(s);~~
- ~~(4) a statement of the effect on existing rules;~~
- ~~(5) copies of any documents and data supporting the proposed rule(s);~~
- ~~(6) a statement of the effect of the proposed rule(s) on existing practices in the area involved, including an estimate of cost factors for persons affected by the proposed rule(s);~~
- ~~(7) a description of those most likely to be affected by the proposed rule(s); and~~
- ~~(8) the name(s) and address(es) of the petitioner(s).~~
- (1) the text of the proposed rules for adoption or amendment;
- (2) a statement of the reasons for adoption or amendment of the proposed rules, or the repeal of existing rules;
- (3) a statement of the effect of the requested rule changes on:
 - (A) existing rules;
 - (B) existing practices in the area involved; and
 - (C) those most likely to be affected by the requested rule changes; and
- (4) the name and address of the petitioner.

(c) The petitioner may include the following information within the request:

- (1) the statutory authority for the agency to promulgate the rules;
- (2) a statement of the cost factors for persons affected by the proposed rules;
- (3) a statement explaining the computation of the cost factors;

(4) a description, including the names and addresses, if known, of those most likely to be affected by the proposed rules; and

(5) documents and data supporting the proposed rules.

~~(e) When petitions and supporting documents and data exceed 10 pages in length, 15 copies of the entire petition and any attachments shall be submitted.~~

(d) In its review of the proposed rules, the Commission shall consider:

(1) whether it has the authority to adopt the rules;

(2) the effect of the proposed rules on existing rules, programs, and practices;

(3) probable costs and cost factors of the proposed rules; and

(4) the impact of the rules on the public and regulated entities.

~~(d)(e) Petitions~~ A petition failing to contain the required information shall be returned by the Marine Fisheries Commission Chairman/Chair.

*History Note: Authority G.S. 113-134; 113-182; 113-182.1; 113-201; 143B-289.51; 143B-289.52; 150B-20;
Eff. April 1, 1999;
Readopted Eff. May 1, 2022.*

15A NCAC 03P .0302 is proposed for readoption with substantive changes as follows:

15A NCAC 03P .0302 REVIEW OF RULEMAKING PETITIONS BY A COMMITTEE OF THE COMMISSION

(a) The Marine Fisheries Commission ~~Chairman~~Chair may refer ~~duly submitted petitions~~complete petitions, as set forth in Rule .0301 of this Section, to the appropriate standing advisory ~~committee(s)~~committees or other advisory ~~committee(s)~~committees of the Commission for review and recommended action. Copies of petitions for rulemaking shall be distributed to the Commission members when referred to a committee of the Commission.

(b) ~~The Chairman~~Within 10 days of the assignment of the complete petition, the Chair of the Committee assigned to review a submitted petition for rulemaking shall announce the date of a meeting to consider the ~~petition within 10 days of the assignment of the~~ petition.

(c) At least 15 days before the Committee meeting, the Committee ~~Chairman~~Chair shall send notice of the Committee meeting to the petitioner, members of the Commission, and persons who have requested notice of petitions for rulemaking.

(d) ~~The~~If the petition is referred to a Committee, the petitioner shall be afforded the opportunity to present the petition for rulemaking to the Committee. The Fisheries Director, through Division of Marine Fisheries staff, or their legal counsel may make a presentation to the Committee.

(e) The Committee Chair shall allow one interested person to present the viewpoint of those who oppose initiating rulemaking. The Committee Chair may determine whether additional interested persons shall make oral presentations before the Committee.

~~(e)~~(f) InterestedAt least 10 days before the Committee meeting, interested persons ~~must~~shall request the opportunity to make a presentation to the ~~Committee(s)~~Committees through the ~~Committee(s) chair(s)~~Chairs of the Committees.

The request shall:

- (1) state the interest of the ~~person~~person;
- (2) state the person's position on the petition for rulemaking, rulemaking; and
- (3) be accompanied by supporting materials.

~~The Chairman of the Committee will determine whether additional interested persons make oral presentations before the Committee.~~

~~(f) The Chairman of the Committee will determine whether a public meeting should be conducted by the Committee before it makes a recommendation on the petition for rulemaking.~~

(g) During the ~~Committee's~~Committee's review, members of the Commission, other than Committee members, who are present may participate as a member of the Committee in discussions of the petition but may not vote on the recommended action on the petition.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52; 150B-20;
Eff. April 1, 1999;
Readopted Eff. May 1, 2022.*

15A NCAC 03P .0303 is proposed for re adoption with substantive changes as follows:

15A NCAC 03P .0303 PRESENTATION OF RULEMAKING PETITIONS TO THE COMMISSION

(a) ~~Petitions~~ A complete petition for rulemaking, when deemed complete by the Marine Fisheries Commission Chairman, as set forth in Rule .0301 of this Section, shall be presented to the Marine Fisheries Commission for its consideration and determination at the next regularly scheduled meeting of the Commission.

(b) If the petition for rulemaking was reviewed by a Committee pursuant to Rule .0302 of this Section, the petition and the Committee's recommended action shall be presented through the Chair of the Committee or other designated member of the Committee during the business session of the Commission. Unless the Commission Chair rules otherwise, discussion on the petition shall be limited to the members of the Commission, legal counsel to the Commission, the Fisheries Director, Division of Marine Fisheries staff, legal counsel to the Division, the petitioner, and the petitioner's legal counsel.

(c) For a petition not referred to a Committee, the Commission Chair shall allow one interested person to present the viewpoint of those who oppose initiating rulemaking. The Commission Chair may determine whether additional interested persons shall make oral presentations before the Commission. At least 10 days before the Commission meeting, interested persons shall request the opportunity to make a presentation to the Commission through the Commission Chair. The request shall:

- (1) state the interest of the person;
- (2) state the person's position on the petition for rulemaking; and
- (3) be accompanied by supporting materials.

~~(b)(d)~~ Within 120 days following submission of the petition requesting rulemaking, the Marine Fisheries Commission shall:

- (1) grant the petition in writing, notify the petitioner in writing, and initiate rulemaking proceedings in accordance with G.S. 150B-20 and notify the person(s) who submitted the petition of the decision in writing; 150B-20; or
- (2) deny the petition in writing, stating the reason or reasons for the denial, and send the written denial to the ~~person(s)~~ person or persons who submitted the petition.

*History Note: Authority G.S. 113-134; 113-182; ~~143B-289.51; 143B-289.52~~; 150B-20;
Eff. April 1, 1999;
Readopted Eff. May 1, 2022.*

15A NCAC 03P .0304 is proposed for repeal through readoption as follows:

15A NCAC 03P .0304 RECOURSE TO DENIAL OF THE PETITION

~~If the Marine Fisheries Commission denies the petition for rulemaking, the petitioner(s) may seek judicial review of the denial under G.S. 150B, Article 4 of Chapter 150B of the General Statutes.~~

History Note: *Authority G.S. 113-134; 113-182; 143B-289.51; 150B-20;*
Eff. April 1, 1999;
Repealed Eff. May 1, 2022.