



CRC-25-10

TO: Coastal Resources Commission

FROM: Rachel Love-Adrick, Planning & Resiliency Section Chief

SUBJECT: Periodic Review of Existing Rules – 15A NCAC 07B

DATE: January 17, 2025

Rulemaking by the Coastal Resources Commission and other state agencies is governed by the [NC Administrative Procedure Act](#) (APA) which outlines the procedure for the adoption of administrative rules. State agencies are required to follow these procedures for conducting public hearings, adopting proposed rules, and filing the adopted rules for inclusion in the NC Administrative Code.

In 2013, the General Assembly enacted Session Law 2013-413 which added a “Periodic Review and Expiration of Existing Rules” section to the APA (G.S. § 150B-21.3A). This statute requires state agencies to review all of their rules every 10 years under a process and schedule established by the Rules Review Commission (RRC). If an agency does not conduct this review, then their rules will expire and be removed from the Administrative Code, unless the rule is required to implement or conform to federal law. Prior to 2013, rules did not expire.

Review Process

This process requires agencies to review their existing rules and classify them as:

- Necessary - any rule other than an unnecessary rule, or;
- Unnecessary - the agency determined the rule is obsolete, redundant or otherwise not needed.

These classifications must be posted on the Office of Administrative Hearings (OAH) and Department of Environmental Quality’s (DEQ) web sites. Public comments are to be accepted for a period of at least 60 days and agencies are required to review the comments and prepare a brief response to the merits of each comment.

Once the comment period ends and the agency has made its final determination, it sends the final report to the RRC. This report includes the agency's determinations, public comments received, and the agency's responses to those comments. The RRC will review the final report and public comments to determine if it agrees with the agency’s classification of their rules. The RRC may change a classification of a rule from “unnecessary” to “necessary” but does not have the authority to declare a rule as “unnecessary.” The RRC sends the report to the Joint Legislative Administrative Procedure Oversight



Committee (APOC) for consultation. The final determination on an agency's rules becomes effective when the APOC approves the report or on the 61st day after having received the report from the RRC if the APOC does not meet. The APOC may disagree with the Commission's determination and recommend to the General Assembly that the agency conduct a review of the rule the following year.

Effect of Final Determination

Rules designated as "necessary" must be readopted as if they were new rules following the permanent rulemaking procedures ([Article 2A of G.S. 150B](#)). If the rules are not readopted, they will be removed from the Administrative Code. Rules designated as "unnecessary" will be removed.

Schedule for Review of 15A NCAC 7B CAMA Land Use Planning Requirements

The RRC has developed a schedule for the review of agency rules. The majority of the CRC's rules are due for review by April and August 2026. However, the rules associated with the Land Use Planning Program (15A NCAC 7B CAMA Land Use Planning Requirements) are due for review by June 2025. Staff proposed the following timeline to meet this deadline, which the CRC approved.

- August 28, 2024 - Initial classification of rules as "Necessary".
- September 9 – November 7, 2024 - draft report was posted by OAH and DEQ for public comments. No comments were received.
- February 2025 - Adopt the final report at the February 2025 CRC meeting.
- File the final report with OAH before the May 20, 2025 deadline for June RRC review.
- After the RRC review, the report will be submitted to APOC for consultation. Provided the APOC approves the report, the CRC will then begin the permanent rulemaking procedures based on a readoption schedule set by the RRC.

The attached is the final report with all seven 15A NCAC 7B rules designated as "Necessary". Staff recommends the Commission adopt the final report for submission to the RRC and begin the permanent rulemaking process.

I will review the details of this process at our upcoming meeting in New Bern.

