



NORTH CAROLINA MARINE FISHERIES COMMISSION DEPARTMENT OF ENVIRONMENTAL QUALITY

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Jan. 7, 2020

Jeffery T. Hyde, Chair
N.C. Rules Review Commission
N.C. Office of Administrative Hearings – Rules Division
1711 New Hope Church Rd.
Raleigh, NC 27609

Dear Chairman Hyde:

North Carolina General Statute 150B-21.3A(c) requires each agency to conduct a review of all its rules at least once every 10 years in accordance with a prescribed process of reporting and readoption. Once the final determination report becomes effective, N.C.G.S. 150B-21.3A(d)(2) requires the Rules Review Commission (RRC) to establish a date by which an agency must readopt its rules after consultation with the agency and consideration of the agency's rulemaking priorities in establishing the readoption date.

An evaluation of the rules under the authority of the Marine Fisheries Commission (MFC) was undertaken in two lots (see Figure 1.) The MFC has 211 rules in 15A NCAC 03, of which 172 are subject to readoption, and 164 rules in 15A NCAC 18A, Sections .0100, .0300-.0900, and .3400 that regulate shellfish sanitation and recreational water quality processes that are also subject to readoption. At its June 14, 2018 meeting, the RRC approved the schedule for readoption of the rules in Chapter 03 to be completed by June 30, 2022; readoption of these rules is underway within the four-year schedule.

Rules	2017	2018	2019	2020	2021	2022	2023	2024
Chapter 03 (172 rules)	Report	41 Rules Readopted	Rule Readoption (131)			6/30/22 deadline		
Subchapter 18A (164 rules)			Report	Rule Readoption (164)			6/30/24 deadline	

Figure 1. Marine Fisheries Commission rule readoption schedule to comply with G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules.

This letter is in regard to the 164 rules in 15A NCAC 18A for which the MFC needs to schedule readoption per G.S. 150B-21.3A(d)(2). All rules were determined to be necessary with substantive public interest. The corresponding RRC determinations are attached.

At its Nov. 15, 2019 business meeting, the MFC approved a recommended schedule for readoption of the 164 rules in 15A NCAC 18A to be completed by June 30, 2024. In approving the readoption schedule, the MFC considered its rulemaking priorities:

- The MFC has 164 rules subject to readoption in 15A NCAC 18A, a relatively large number.
- The MFC strives to undertake a single package of rules each year to assist stakeholders with anticipating changes and making informed decisions about continued participation in various fisheries based on those rule changes. The MFC generally meets quarterly, providing only four opportunities per year to take action on rules.
- The MFC is currently in the process of readopting another 172 rules in 15A NCAC 03 and there is interplay between the two groups of rules, adding complexity to the readoption process.
- The MFC has a diverse group of stakeholders affected by the wide variety of issues regulated by these rules. By nature of managing a limited natural resource, the rules are generally controversial.

A deadline of June 30, 2024 would provide a concurrent four-year schedule within which the MFC would undertake readoption of an average of 41 rules per year. The schedule also accommodates the requirement to develop fiscal analyses of proposed rules that have substantive changes for approval by the Office of State Budget and Management.

For these reasons, the MFC requests a schedule for readoption of its 164 rules in 15A NCAC 18A to be completed by June 30, 2024. Pending approval of this request, the process of rule readoption is scheduled to begin at the MFC's May 2020 business meeting.

Sincerely,



W. Robert Bizzell, Chairman
N.C Marine Fisheries Commission

Attachment

cc: Stephen W. Murphey, N.C. Division of Marine Fisheries Director

WRB/cb

**RRC DETERMINATION
PERIODIC RULE REVIEW
January 17, 2019
APO Review: March 24, 2019
Marine Fisheries Commission
Total: 164**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>15A NCAC 18A .0134</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0135</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0136</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0137</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0138</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0139</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0140</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0141</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0142</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0143</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0144</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0145</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0146</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0147</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0148</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0149</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0150</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0151</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0152</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0153</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0154</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0155</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0156</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0157</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0158</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0159</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0160</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0161</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0162</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0163</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0164</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0165</u>	Necessary with substantive public interest
<u>15A NCAC 18A .0166</u>	Necessary with substantive public interest

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