



NOTICE OF PERIODIC REVIEW AND EXPIRATION OF EXISTING RULES

In the 2013 legislative session, the General Assembly enacted [Session Law 2013-413](#). This law established G.S. § 150B-21.3A, “Periodic Review and Expiration of Existing Rules.” This statute requires the Rules Review Commission (“Commission”) to establish a process and schedule for those covered agencies to ensure compliance with the law. This schedule and process requires agencies to review all of their active rules codified in the NC Administrative Code (“the Code”) every 10 years.

NC DEPARTMENT OF LABOR RULES CURRENTLY UNDER REVIEW:

- 13 NCAC 01 – Departmental Rules**
- 13 NCAC 04 – Conciliation and Arbitration Division**
- 13 NCAC 05 – Elevator Division**
- 13 NCAC 06 – Mine and Quarry**
- 13 NCAC 13 – Boiler and Pressure Vessel**
- 13 NCAC 16 – Migrant Housing**
- 13 NCAC 17 – Private Personnel Services**
- 13 NCAC 18 – Job Listing Services**
- 13 NCAC 19 – Retaliatory Employment Discrimination**

As part of the process, agencies must classify each rule subject to review as:

- 1) “Necessary with substantive public interest,” generally meaning the rule is needed but there are known or suspected concerns about it from the public;
- 2) “Necessary without substantive public interest,” generally meaning the rule is needed and there is no known concerns from the public; or
- 3) “Unnecessary,” meaning the agency determined the rule is obsolete, redundant or otherwise no longer needed.

You may view the NC Dept. of Labor's Periodic Rule Review Report by scrolling through this Notice.

Members of the public may submit oral or written comments on any of the rules codified under 13 NCAC 01 – Departmental Rules, 13 NCAC 04 – Conciliation and Arbitration Division, 13 NCAC 05 – Elevator Division, 13 NCAC 06 – Mine and Quarry, 13 NCAC 13 – Boiler and Pressure Vessel, 13 NCAC 16 – Migrant Housing, 13 NCAC 17 – Private Personnel Services, 13 NCAC 18 – Job Listing Services, or 13 NCAC 19 – Retaliatory Employment Discrimination, which are currently under review. Comments should be submitted to the following:

Rulemaking Coordinator
North Carolina Department of Labor
Legal Affairs Division
1101 Mail Service Center
Raleigh, NC 27699-1101
(919) 733-0368 (telephone)
(919) 733-4235 (fax)
jill.cramer@labor.nc.gov

The initial public comment period ends July 1, 2017. **We are extending the comment period for an additional 60 days.** The North Carolina Department of Labor (NCDOL) is then required to respond in the report to each public comment if there is an objection to a rule. After the comment period is over and the NCDOL has had an opportunity to make its final classification, the NCDOL will send to the NC Rules Review Commission a report of the classification as well as public comments received and the agency's response.

Based upon a review of the public comments, the Commission will review the submission, and determine whether it agrees with the NCDOL's classification. When reviewing the comments to determine if they have merit, the Commission must use the standards of review in [G.S. § 150B-21.9](#), (generally meaning that the language is clear, that it is within the agency's statutory authority, and that it is necessary to implement law). The Commission must also determine if the comment addresses the substance of the rule. If the RRC disagrees with the NCDOL's determination that a rule is "necessary without substantive public interest" or "unnecessary," the Commission may move the classification of the rule to "necessary with substantive public interest." The Commission does not have the authority to declare that a rule is "unnecessary" if the NCDOL has not already classified it as "unnecessary."

The RRC will then send a report to the Joint Legislative Administrative Procedure Oversight Committee ("APO") at the General Assembly. The Commission determination will become final following consultation with APO or on the 61st day after the report is submitted if the APO does not meet. The APO may disagree with the Commission determination and recommend to the General Assembly that the agency conduct a review of the rule the following year.

Effect on Rules in the Code

Rules designated as "necessary without substantive public interest" will remain in the Code. Rules designated as "unnecessary" will be removed from the Code without any further action by the NCDOL. Rules designated as "necessary with substantive public interest" must be re-adopted as if they were new rules, following the permanent rulemaking process set forth in Article 2A. If the NCDOL does not re-adopt the rule, the rule will be removed from the Code.

If the NCDOL does not conduct the review, the rules will expire and be removed from the Code, unless the rule is required to implement or conform to federal law.