

**G.S. 150B-21.3A Report for 15A NCAC 12B, PARKS AND RECREATION AREAS**

Agency - Department of Environment and Natural Resources

Comment Period - June 4, 2014 - August 10, 2014

Date Submitted to APO - Filled in by RRC staff - November 24, 2014

Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(d1)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
SECTION .0100 - GENERAL PROVISIONS	15A NCAC 12B .0101	DEFINITIONS OF TERMS	Amended Eff. September 1, 1988	Necessary with substantive public interest	No		Yes	Necessary with substantive public interest	RRC not required to review comment(s)	Necessary with substantive public interest and must be readopted	Agency must readopt
	15A NCAC 12B .0103	TERRITORIAL SCOPE	Amended Eff. October 1, 1984	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	15A NCAC 12B .0104	PERMITS	Amended Eff. May 1, 2010	Necessary with substantive public interest	No		Yes	Necessary with substantive public interest	RRC not required to review comment(s)	Necessary with substantive public interest and must be readopted	Agency must readopt
SECTION .0200 - PRESERVATION OF THE PARK	15A NCAC 12B .0201	NATURAL AND CULTURAL RESOURCE PROTECTION	Amended Eff. May 1, 2010	Necessary with substantive public interest	No		Yes	Necessary with substantive public interest	RRC not required to review comment(s)	Necessary with substantive public interest and must be readopted	Agency must readopt
	15A NCAC 12B .0203	METAL DETECTORS PROHIBITED	Amended Eff. May 1, 2010	Necessary with substantive public interest	No		Yes	Necessary with substantive public interest	RRC not required to review comment(s)	Necessary with substantive public interest and must be readopted	Agency must readopt
	15A NCAC 12B .0204	ROCK OR CLIFF CLIMBING AND RAPPELLING	Amended Eff. May 1, 2010	Necessary with substantive public interest	No		Yes	Necessary with substantive public interest	RRC not required to review comment(s)	Necessary with substantive public interest and must be readopted	Agency must readopt
SECTION .0300 - BATHING	15A NCAC 12B .0301	BATHING AND SWIMMING ACTIVITIES: WHERE PROHIBITED	Amended Eff. May 1, 2010	Necessary with substantive public interest	No		Yes	Necessary with substantive public interest	RRC not required to review comment(s)	Necessary with substantive public interest and must be readopted	Agency must readopt
	15A NCAC 12B .0302	PUBLIC NUDITY	Amended Eff. September 1, 1988	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	15A NCAC 12B .0303	PROTECTION OF SWIMMING AREAS	Amended Eff. January 1, 1983	Necessary with substantive public interest	No		Yes	Necessary with substantive public interest	RRC not required to review comment(s)	Necessary with substantive public interest and must be readopted	Agency must readopt
SECTION .0400 - REFUSE AND RUBBISH	15A NCAC 12B .0401	DISPOSAL OF REFUSE: GARBAGE: ETC.	Amended Eff. May 1, 2010	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	15A NCAC 12B .0402	POLLUTION OF WATERS	Amended Eff. October 1, 1984	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
SECTION .0500 - TRAFFIC AND PARKING	15A NCAC 12B .0501	VEHICLES: WHERE PROHIBITED	Amended Eff. May 1, 2010	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	15A NCAC 12B .0502	PARKING	Amended Eff. May 1, 2010	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	15A NCAC 12B .0503	OBSTRUCTING TRAFFIC	Amended Eff. October 1, 1984	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
SECTION .0600 - BOATING AND CAMPING	15A NCAC 12B .0601	BOATING	Amended Eff. May 1, 2010	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	15A NCAC 12B .0602	CAMPING	Amended Eff. May 1, 2010	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
SECTION .0700 - SPORTS AND GAMES	15A NCAC 12B .0701	SPORTS AND GAMES: WHEN PERMITTED	Amended Eff. May 1, 2010	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	15A NCAC 12B .0702	HORSES	Amended Eff. January 1, 1983	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
SECTION .0800 - HUNTING AND FISHING	15A NCAC 12B .0801	HUNTING	Amended Eff. January 1, 1983	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	15A NCAC 12B .0802	FISHING	Amended Eff. May 1, 2010	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
SECTION .0900 - FIREARMS: EXPLOSIVES: FIRES: ETC	15A NCAC 12B .0901	FIREARMS: WEAPONS: EXPLO	Amended Eff. January 1, 2014	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	36 CFR 327.13(a)	No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	15A NCAC 12B .0903	FIRES: LIGHTED CIGARETTES: ETC.	Amended Eff. October 1, 1984	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
SECTION .1000 - DISORDERLY CONDUCT: PUBLIC NUISANCE: ETC	15A NCAC 12B .1001	NOISE REGULATION	Amended Eff. May 1, 2010	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	15A NCAC 12B .1003	INTOXICATING LIQUORS: CONTROLLED SUBSTANCE OR BEVERAGES	Amended Eff. May 1, 2010	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	15A NCAC 12B .1004	ANIMALS AT LARGE	Amended Eff. May 1, 2010	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
SECTION .1100 - COMMERCIAL ENTERPRISES: ADVERTISING: MEETINGS: EXHIBITIONS: ETC	15A NCAC 12B .1101	COMMERCIAL ENTERPRISES	Amended Eff. May 1, 2010	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt

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	15A NCAC 12B .1102	COMMERCIAL PHOTOGRAPHY	Amended Eff. October 1, 1984	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	15A NCAC 12B .1104	ADVERTISING	Amended Eff. October 1, 1984	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	15A NCAC 12B .1105	PUBLIC ASSEMBLIES AND MEETINGS; SPECIAL ACTIVITY PERMIT	Amended Eff. May 1, 2010	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	15A NCAC 12B .1106	ALMS AND CONTRIBUTIONS	Amended Eff. January 1, 1983	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
<b>SECTION .1200 - MISCELLANEOUS</b>	15A NCAC 12B .1201	CLOSING AND OPENING HOURS; RESTRICTED AREAS	Amended Eff. May 1, 2010	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	15A NCAC 12B .1202	MINORS	Amended Eff. January 1, 1983	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	15A NCAC 12B .1204	AVIATION	Amended Eff. October 1, 1984	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	15A NCAC 12B .1205	RESERVATION PERIODS	Amended Eff. May 1, 2010	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	15A NCAC 12B .1206	FEES AND CHARGES	Amended Eff. July 1, 2010	Necessary with substantive public interest	No		Yes	Necessary with substantive public interest	RRC not required to review comment(s)	Necessary with substantive public interest and must be readopted	Agency must readopt

15A NCAC 12B Comments

Rule Citation	Commenter Name	Company/ Organization	Do I agree with the Agency's determination?	I would determine this rule's classification as...	Do I want to submit a written comment on this rule?	My comment type on this rule is...	Do I want to enter a comment, or submit a file?	Comment Text
15A NCAC 12B .0201	Tom Gerow	registered forester	Yes		Yes	Another type of comment	Enter a comment	State Parks needs to consider actively managing its forests where appropriate. Park land need not always be a hands-off preserve in order to accomplish the long term goal of ecological sustainability. Beetle killed areas at Kerr Lake and stagnant pine stands at Jordan Lake are examples of needed management intervention. Excessive build up of fuel only endangers the Park lands to wildfire outbreaks that may otherwise be mitigated with forest resource management, through thinning or harvests or burning. Revenue from timber sales can go into a dedicated fund for park maintenance.
15A NCAC 12B .0104	Tom Gerow		Yes		Yes	Another type of comment	Enter a comment	Fees for certain special use permits should be considered, if not already being charged. If fees are being charged, then consider what the fair market value of the fee is today. All state agencies should examine opportunities to add revenue streams. Revenue from the fees can go into a special fund dedicated to park maintenance.
15A NCAC 12B .0204			No	Unnecessary	No			

15A NCAC 12B Comments

Rule Citation	Commenter Name	Company/ Organization	Do I agree with the Agency's determination?	I would determine this rule's classification as...	Do I want to submit a written comment on this rule?	My comment type on this rule is...	Do I want to enter a comment, or submit a file?	Comment Text
15A NCAC 12B .1206	Joan Curry	ENRI (seasonal office asst)	Yes		Yes	Another type of comment	Enter a comment	I would like to see the fee for primitive group camping changed to a fixed amount, perhaps dependent on the capacity of the campground, rather than the current \$2.00 per person. The problem is that when the party first arrives and checks in, they very often don't know how many other people in their group are going to show up. It's a headache for the park to try to manage this. Our group camps are far enough away that it's not feasible for the rangers to stop by there before closing to get a camper count and collect additional money.
15A NCAC 12B .0101	William Raney		Yes		Yes	Another type of comment	Enter a comment	All of the rules in this subchapter need a comprehensive review and substantial editing to clarify, and to make the rules enforceable in the face of arguments that they are overly broad or too vague. Many of the rules leave considerable discretion in the enforcement authorities. The enforcers would benefit by having clearer guidance. I expect many of these rules have never been reviewed and edited by a lawyer and were written by persons with little background in legal writing and interpretation. An in-house clean up of these rules is needed.
15A NCAC 12B .0303	Joan Curry		Yes		Yes	An objection to the rule	Enter a comment	I object to the part about metallic substances. It seems to imply that I can't have a metal water bottle on the beach, and that I can't carry my car keys to the beach. I doubt that's what you meant, but it needs to be clarified.

15A NCAC 12B Comments

<b>Rule Citation</b>	<b>Commenter Name</b>	<b>Company/ Organization</b>	<b>Do I agree with the Agency's determination?</b>	<b>I would determine this rule's classification as...</b>	<b>Do I want to submit a written comment on this rule?</b>	<b>My comment type on this rule is...</b>	<b>Do I want to enter a comment, or submit a file?</b>	<b>Comment Text</b>
15A NCAC 12B .0203			Yes		Yes	An objection to the rule	Enter a comment	this rule is not supported by the General Statute. there is no public safety or health reason to (1) prohibit metal detectors; and (2) there is no GS support to charge a fee
15A NCAC 12B .0101			Yes		Yes	Another type of comment	Enter a comment	definition of Public Nudity needs to be revised to NOT include children/toddlers/infants
15A NCAC 12B .0303	William Raney		Yes		Yes	An objection to the rule	Enter a comment	The prohibition of "metallic substances" is too broad. It could prohibit car keys, metal coolers, watches, bracelets and many other items that are perfectly fine for swimming areas.

## **15A NCAC 12B .0101 DEFINITIONS OF TERMS**

### **Comment (Name unknown):**

Definition of Public Nudity needs to be revised to NOT include children/toddlers/infants

### **Comment (William Raney):**

All of the rules in this subchapter need a comprehensive review and substantial editing to clarify, and to make the rules enforceable in the face of arguments that they are overly broad or too vague. Many of the rules leave considerable discretion in the enforcement authorities. The enforcers would benefit by having clearer guidance. I expect many of these rules have never been reviewed and edited by a lawyer and were written by persons with little background in legal writing and interpretation. An in-house clean up of these rules is needed.

### **Agency Response:**

We will consider these comments during the readoption process.

## **15A NCAC 12B .0104 PERMITS**

### **Comment (Tom Gerow):**

Fees for certain special use permits should be considered, if not already being charged. If fees are being charged, then consider what the fair market value of the fee is today. All state agencies should examine opportunities to add revenue streams. Revenue from the fees can go into a special fund dedicated to park maintenance.

### **Agency Response:**

We will consider this comment during the readoption process.

## **15A NCAC 12B .0201 NATURAL AND CULTURAL RESOURCE PROTECTION**

### **Comment (Tom Gerow):**

State Parks needs to consider actively managing its forests where appropriate. Park land need not always be a hands-off preserve in order to accomplish the long term goal of ecological sustainability. Beetle killed areas at Kerr Lake and stagnant pine stands at Jordan Lake are examples of needed management intervention. Excessive build up of fuel only endangers the Park lands to wildfire outbreaks that may otherwise be mitigated with forest resource management, through thinning or harvests or burning. Revenue from timber sales can go into a dedicated fund for park maintenance.

### **Agency Response:**

We will consider this comment during the readoption process.



**15A NCAC 12B .0203 METAL DETECTORS PROHIBITED**

**Comment (name unknown):**

This rule is not supported by the General Statute. There is no public safety or health reason to (1) prohibit metal detectors; and (2) there is no GS support to charge a fee

**Agency Response:**

We will consider this comment during the readoption process.

**15A NCAC 12B .0204 ROCK OR CLIFF CLIMBING AND RAPPELLING**

**Comment (name unknown):**

Disagreed with Agency's determination. Stated the determination should be Unnecessary.

**Agency Response:**

Thank you for your input. The classification will stay as Necessary with Substantive Public Interest.

## **15A NCAC 12B .0303 PROTECTION OF SWIMMING AREAS**

### **Comment (William Raney):**

The prohibition of "metallic substances" is too broad. It could prohibit car keys, metal coolers, watches, bracelets and many other items that are perfectly fine for swimming areas.

### **Comment (Joan Curry):**

I object to the part about metallic substances. It seems to imply that I can't have a metal water bottle on the beach, and that I can't carry my car keys to the beach. I doubt that's what you meant, but it needs to be clarified.

### **Agency Response:**

We will consider these comments during the readoption process.

## **15A NCAC 12B .1206 FEES AND CHARGES**

### **Comment (Joan Curry):**

I would like to see the fee for primitive group camping changed to a fixed amount, perhaps dependent on the capacity of the campground, rather than the current \$2.00 per person. The problem is that when the party first arrives and checks in, they very often don't know how many other people in their group are going to show up. It's a headache for the park to try to manage this. Our group camps are far enough away that it's not feasible for the rangers to stop by there before closing to get a camper count and collect additional money.

### **Agency Response:**

We will consider the comment during the readoption process.