

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Natural and Cultural Resources

RULE CITATION: 07 NCAC 15 .0104

DEADLINE FOR RECEIPT: Wednesday, November 13, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On line 4, what are "approved private activities"? Approved by whom? In accordance with what? Rule .0105 of this Section? Do these activities take place during business hours of the aquarium,

Is the overall intent of this Rule that the group or individual won't sell to the public? Please review and clarify this Rule.

On line 4, what is meant by "approved by the aquarium or Pier Director"? What factors or considerations will be used in determining whether to approve sales or solicitations?

Overall, please revise this Rule to be written in the active voice and say who is to do (or not do) what? Do you mean something like the following (please note that if you choose to use this language or something similar to it, the formatting is correct):

Approved private activities may include sales or solicitations if approved by the Aquarium [or Pier] Director at least 10 days before the date of the activity. No other sales or solicitations by private groups and individuals are allowed on Aquarium [or Pier] property. No private groups or individuals shall sell or otherwise solicit the public during any private activity unless approved by the Aquarium or Pier Director at least 10 days before the date of the activity. In determining whether to grant a request to sell or solicit, the Aquarium or Pier Director shall consider the following factors:

- a) type of service or product to be sold (this is obviously just a guess on my part);
- b) whatever it is that you guys will consider; and
- c) whatever else it is that y'all will consider.

Please note that the above suggestion is just a suggestion. You are in no way required to use this. To the extent that you decide to use this suggestion, please ensure its complete accuracy and feel free to make changes as you deem necessary.

Amber May
Commission Counsel
Date submitted to agency: October 29, 2019

What is considered to be a "private group"? How is that different than a "public group"? Do you need to separate out "private group" and "individuals"? Can you just say "no user of the aquarium shall sell or solicit during any private activity?"

How is a private group or individual to request approval? Must it be in writing?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: October 29, 2019

1 07 NCAC 15 .0104 is readopted with changes as published in 34:03 NCR 157 as follows:

2

3 **07 NCAC 15 .0104 PERMISSIBLE ACTIVITIES**

4 Approved private activities may include sales or solicitations if approved by the Aquarium or Pier Director at least 10
5 days before the date of the activity. No other sales or solicitations by private groups and individuals are allowed on
6 Aquarium or Pier property.

7

8 *History Note: Authority G.S. ~~143B-135.182(a)(1b)b.~~; ~~143B-135.182(b).~~; 143B-135.182.*

9

Eff. February 1, 1987;

10

Amended Eff. April 1, 2010;

11

Transferred from 15A NCAC 28 .0104 Eff. April 1, 2017;

12

Readopted Eff. December 1, 2019.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Natural and Cultural Resources

RULE CITATION: 07 NCAC 15 .0105

DEADLINE FOR RECEIPT: Wednesday, November 13, 2019

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In reviewing this Rule, the staff recommends the following technical changes be made:

When would this Rule be applicable? Do you really mean "all potential users" (as in me, for example, if I just want to use the building to walk around to look at the attractions), or do you mean something like "anyone wishing to use the building or grounds for a private purpose"? If it's the latter, please say that, but then also say what a "private purpose" would be.

How is the Aquarium or Pier Director to determine whether he or she will grant permission for the use of the building? Please provide the factors or otherwise say how this determination will be made. Please note that I don't have issue with the discretion, but it's unclear how the determination will be made.

By "Approved users of the facilities shall sign a written contract" do you mean something like "Prior to the approved use, the user shall enter into a written contract setting forth the terms of the use of the aquarium or pier."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: October 29, 2019

1 07 NCAC 15 .0105 is readopted with changes as published in 34:03 NCR 157 as follows:

2

3 **07 NCAC 15 .0105 PERMISSION FOR USE**

4 All potential users shall obtain prior written permission from the Aquarium or Pier Director for use of the building or
5 grounds. Approved users of the facilities shall sign a written contract.

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7 *History Note: Authority G.S. ~~143B-135.182(a)(1b)b.~~; ~~143B-135.182(b).~~ 143B-135.182.*

8 *Eff. February 1, 1987;*

9 *Amended Eff. April 1, 2010;*

10 *Transferred from 15A NCAC 28 .0105 Eff. April 1, 2017;*

11 *Readopted Eff. December 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Natural and Cultural Resources

RULE CITATION: 07 NCAC 15 .0401

DEADLINE FOR RECEIPT: Wednesday, November 13, 2019

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In reviewing this Rule, the staff recommends the following technical changes be made:

Please review this Rule taking into consideration G.S. 14-269 and 14-415.11.

On line 4, what is considered to be a "lethal instrument"? Are knives to be included? What about pocket knives? Is fishing allowed off of the pier? If so, what about knives used to cut line? I note that the list set forth in this Rule is different than the list set forth in 14-269. If 14-269 has any applicability, please be consistent where you can.

What is your authority to prevent someone who has a valid concealed carry permit from entering an aquarium or pier with a firearm? Is it G.S. 14-269(a2)? G.S. 14-415.11(c)(6)? Please review and add any additional pertinent statutory authority.

Are there any persons other than "law enforcement officials with jurisdictional authority" who may be able to carry these weapons (or other lethal instrument)? What about other folks set forth in G.S. 14-269 (b) and/ or 14-415.27?

Are any of the aquariums or pier considered a State Park as defined by G.S. 143B-135.44? If so, please review taking G.S. 14-415.11(c1) into consideration.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: October 29, 2019

1 07 NCAC 15 .0401 is readopted with changes as published in 34:03 NCR 157 as follows:

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3 **07 NCAC 15 .0401 LETHAL INSTRUMENTS**

4 Carrying or possessing firearms, airguns, bows and arrows, slingshots or lethal instruments of any kind in the Aquarium
5 or Pier or on Aquarium or Pier property, except by law enforcement officials with jurisdictional authority, is prohibited.

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7 *History Note: Authority G.S. ~~143B-135.182(a)(1b)~~; ~~143B-135.182(b)~~; 143B-135.182;*

8 *Eff. February 1, 1987;*

9 *Amended Eff. April 1, 2010;*

10 *Transferred from 15A NCAC 28 .0401 Eff. April 1, 2017;*

11 *Readopted Eff. December 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Natural and Cultural Resources

RULE CITATION: 07 NCAC 15 .0504

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In reviewing this Rule, the staff recommends the following technical changes be made:

What is meant by "pets"? Here do you mean something like "no person shall bring any animal inside the Aquarium buildings or Pier." I also want to be sure that you all do not allow dogs on the Pier (perhaps you don't, I just want to be sure I understand the intent here.)

Please consider breaking this Rule up into several paragraphs. Also, please consider revising for simplification and clarification purposes. A suggestion for this Rule would be something like the following (please note I've used the wording above, but feel free to change it as you deem necessary):

On line 4, what are considered to be "service animals"? Is there a federal definition and/or cross-reference?

How is an owner to attest to his or her animal being a service animal? Is there a form they must fill out? If so, what are the substantive requirements of the form?

On line 7, what is meant by "on the grounds"? Is this outside of the building of the aquarium?

On line 6, how will it be determined whether an animal is causing a nuisance.

On line 4, you've said that pets are not allowed in the pier at all, but on line 8, you've said that animal waste must be disposed of on the pier. These appear to contradict each other. Please review and revise.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: October 29, 2019

1 07 NCAC 15 .0504 is readopted with changes as published in 34:03 NCR 157 as follows:

2

3 **07 NCAC 15 .0504 PETS**

4 Pets are not allowed in the Aquarium ~~buildings, buildings or Pier~~. Service animals whose handlers attest to the animal's
5 status are allowed inside the buildings. Pets are allowed on the grounds provided they remain at all times under the
6 owners' control and are restrained by a leash. Any animal causing a nuisance or left unattended on Aquarium or Pier
7 property shall be removed by the owner upon the request of the Aquarium or Pier Director. Pet owners shall pick up their
8 animal's waste from Aquarium and Pier grounds and dispose of it.

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10 *History Note: Authority G.S. ~~143B-135.182(a)(1b); 143B-135.182(b); 143B-135.182;~~*

11 *Eff. February 1, 1987;*

12 *Amended Eff. May 1, 2010;*

13 *Transferred from 15A NCAC 28 .0504 Eff. April 1, 2017;*

14 *Readopted Eff. December 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Natural and Cultural Resources

RULE CITATION: 07 NCAC 15 .0603

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In reviewing this Rule, the staff recommends the following technical changes be made:

Please review this Rule to ensure that it is accurate and up to date (“photographs, video tapes or movies”)

On line 4, add a comma after “video tapes” (assuming you keep this language.)

On line 5, what is meant by “commercial purposes”?

On line 5, how is a person to request “permission” from the Aquarium or Pier Director? Is there a form? If so, what are the substantive requirements of the form?

On line 7, add a comma after “employees”

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: October 29, 2019

1 07 NCAC 15 .0603 is readopted with changes as published in 34:03 NCR 158 as follows:

2

3 **07 NCAC 15 .0603 PHOTOGRAPHS**

4 No person shall take photographs, video tapes or movies of the Aquarium or Pier facilities or on Aquarium or Pier
5 property for commercial purposes without the permission of the Aquarium or Pier Director. Permission shall be granted
6 when the activity is conducted at a time and in a manner that does not expose the Aquarium's or Pier's visitors,
7 employees or captive animals to harm.

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9 *History Note: Authority G.S. ~~143B-135.182(a)(1b); 143B-135.182(b); 143B-135.182;~~*

10 *Eff. February 1, 1987;*

11 *Amended Eff. May 1, 2010;*

12 *Transferred from 15A NCAC 28 .0603 Eff. April 1, 2017;*

13 *Readopted Eff. December 1, 2019.*