

## **Burgos, Alexander N**

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**Subject:** FW: 07 NCAC 14B - Dept of Cultural & Natural Resources - Rules Review  
**Attachments:** 07 ncac 14B .0403 Smoking and Fires (Final Pub Version - Tech Changes 2023.07.11).doc; 07 ncac 14B .0608 Rock Climbing (Final Pub Version - Tech Changes 2023.07.11 v2).doc; 07 ncac 14B .0609 Trail Access and Activities (Final Pub Version - Tech Changes 2023.07.11).doc

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**From:** Avery, Jonathan <jonathan.avery@dncr.nc.gov>  
**Sent:** Thursday, July 13, 2023 4:04 PM  
**To:** Rules, Oah <oah.rules@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Duke, Lawrence <lawrence.duke@oah.nc.gov>  
**Subject:** RE: 07 NCAC 14B - Dept of Cultural & Natural Resources - Rules Review

Hi,  
Attached are the 3 rules with changes based on RRC counsel's tech change requests, approved by RRC Counsel. If you need anything further, please let me know.  
Thanks,  
Jonathan

**Jonathan Avery**  
**Assistant General Counsel**  
**N.C. Department of Natural and Cultural Resources**  
**Physical Address: 109 East Jones Street | Raleigh, North Carolina 27699**  
**Mailing Address: 4601 Mail Service Center | Raleigh, North Carolina 27699**  
**P: 919-814-6771 (New phone number) | [jonathan.avery@dncr.nc.gov](mailto:jonathan.avery@dncr.nc.gov) (New email address)**

*E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties.*

1 07 NCAC 14B .0403 is amended **with changes** as published in 37:20 NCR 2013 as follows:

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3 **07 NCAC 14B .0403 FIRES: LIGHTED CIGARETTES: ETC, SMOKING AND FIRES**

4 ~~All fires except for personal smoking materials are prohibited except in designated areas. A competent person 16~~  
5 ~~years old or older must continuously tend any fire from the time it is kindled until it is extinguished.~~

6 (a) Smoking, **vaping** or the use of similar devices or materials is prohibited on Zoo property except where  
7 designated through posted signage.

8 (b) Starting or maintaining a fire on Zoo property is prohibited except as part of an organized Zoo program.

9

10 *History Note: Authority G.S. 143B-135.204(a);*

11 *Eff. February 1, 1976;*

12 *Transferred w/change from T15.12E Eff. August 1, 1982;*

13 *Amended Eff. October 1, 1984;*

14 *Transferred from 15A NCAC 22B .0403 Eff. April 1, 2017;*

15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1,*  
16 *~~2018-2018;~~*

17 *Amended Eff. August 1, 2023.*

1 07 NCAC 14B .0608 is adopted with changes as published in 37:20 NCR 2013-2014 as follows:

2  
3 **07 NCAC 14B .0608 ROCK CLIMBING**

4 (a) Rock climbing, bouldering, or rappelling is prohibited except in areas designated by the Zoo Director or their  
5 designee. The Zoo Director or their designee may designate a daily capacity limit for specific climbing routes and  
6 bouldering areas based on public safety and the protection and use of state property.

7 (b) A Day-Use Climbing Permit is required for each individual participating in climbing, ~~rappelling, and~~  
8 ~~bouldering~~ bouldering, and rappelling on Zoo property. Applications for permits may be made at [www.nczoo.org](http://www.nczoo.org). A  
9 completed Day-Use Climbing Permit application shall include the following information:

- 10 (1) the permittee's name, address, and contact information;
- 11 (3) the permittee's expected time to return to their vehicle;
- 12 (4) the permittee's vehicle registration number and state of vehicle registration;
- 13 (5) name and contact information of an emergency contact; and
- 14 (6) signature indicating agreement to abide by the terms and conditions of the permit.

15 (c) Day-Use Climbing Permits shall be issued upon receipt of a completed application unless:

- 16 (1) the daily capacity limit for a specific climbing route or area has been reached prior to receipt of the  
17 completed application;
- 18 (2) the activity would be detrimental to the protection and use of state property or threaten the health  
19 or safety of the public; or
- 20 (3) The activity or use would constitute a violation of applicable law or the rules of this Subchapter.

21 (d) ~~The permit may contain such additional conditions or restrictions as are consistent with protection and use of~~  
22 ~~the Zoo and public safety and health.~~

23 (e) ~~If a permit application is denied, the applicant shall be informed in writing ~~with~~ of the reason(s) for the ~~denial~~~~  
24 ~~set forth.~~ denial.

25 ~~(f)~~(e) Permittees shall maintain a copy of their signed Day-Use Climbing Permit with them at all times while on  
26 Zoo property.

27 ~~(g)~~(f) While rock climbing on Zoo property, permittees shall not:

- 28 (1) install permanent or fixed rock climbing anchors, such as pitons and expansion bolts;
- 29 (2) chip or glue holds onto the rock face;
- 30 (3) remove rock from its natural position except where failure to remove the rock poses a risk to  
31 public safety and such removal has been approved by the Zoo Director or their designee; and
- 32 (4) intentionally remove vegetation to clean a climbing route.

33 The following prohibitions shall apply to rock climbing on Zoo property:

- 34 (1) The installation of permanent or fixed rock climbing anchors, such as pitons and expansion bolts,  
35 is prohibited;
- 36 (2) Chipping or gluing holds onto the rock face is prohibited;

37 ~~(3) The removal of rock from its natural position is prohibited except where failure to remove the rock~~  
38 ~~poses a risk to public safety and such removal has been approved by the Zoo Director or their~~  
39 ~~designee; and~~

40 ~~(4) The intentional removal of vegetation to clean a climbing route is prohibited.~~

41 ~~(h)(g)~~ Violation of the terms and conditions of a Day-Use Climbing permit issued in accordance with this Section  
42 is prohibited and shall result in the revocation of the permit and removal of the violator from Zoo property.

43

44 History Note: Authority G.S. 143B-135.204(a);

45 Eff. August 1, 2023.

1 07 NCAC 14B .0609 is adopted with changes as published in 37:20 NCR 2014 as follows:

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3 **07 NCAC 14B .0609 TRAIL ACCESS AND ACTIVITIES**

4 (a) Public access to Zoo property, including all hiking trails, is available only between opening and closing hours  
5 as posted at www.nczoo.org.

6 (b) Public use of hiking trails on Zoo property shall be limited to each trail's designated uses as posted. The  
7 Division may prohibit or restrict public activity occurring on Zoo property if such activity would be detrimental to  
8 the protection and use of state property or threaten the health or safety of the public.

9 (c) A person using Zoo property located outside of the perimeter fence must remain on the marked trails or in a  
10 designated climbing area at all times.

11 (d) Use of bicycles, all-terrain vehicles, dirt bikes, golf carts, go-karts, scooters, skateboards, and other similar  
12 conveyances is prohibited on Zoo property outside of a trail designated for such use. Public use of motorized  
13 vehicles is prohibited on Zoo property except on designated public roads and designated parking areas.

14 (e) Horseback riding is prohibited on Zoo property outside of a trail designated for such use.

15 (f) The following activities are prohibited on Zoo property:

16 (1) [Hunting;]hunting;

17 (2) [Littering;]littering; and

18 (3) [Camping;]camping; except through a Zoo organized camping program.

19 (g) Public use of Ridges Mountain trails is available only by a reservation approved by the Zoo Director or their  
20 designee. Reservations shall be approved unless such use would be detrimental to the protection and use of state  
21 property or threaten the health or safety of the public. A completed reservation request shall include the following:

22 (1) [Requestor's]requestor's name and contact information;

23 (2) [The]the name of an organization or group coordinating the use;

24 (3) [The]the number of users;

25 (4) [The]the date of the requested use; and

26 (5) [The]the intended use.

27 (h) [Pets, except as required by applicable federal and state law for service animals assisting individuals with  
28 disabilities, are not permitted on the Ridges Mountain property.]Pets are not permitted on the Ridges Mountain  
29 property except as required by federal and state law for service animals assisting individuals with disabilities.

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31  
32 *History Note:* Authority G.S. 143B-135.204(a);

33 *Eff. August 1, 2023.*

## **Burgos, Alexander N**

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**Subject:** FW: 07 NCAC 14B - Dept of Cultural & Natural Resources - Rules Review  
**Attachments:** 07 ncac 14B .0608 Rock Climbing (Final Pub Version - Tech Changes 2023.07.11 v2).doc; 07 ncac 14B .0609 Trail Access and Activities (Final Pub Version - Tech Changes 2023.07.11).doc; 07 ncac 14B .0403 Smoking and Fires (Final Pub Version - Tech Changes 2023.07.11).doc; Natural Cultural Resources - 07.2023 - 07 NCAC 14B - Change Requests (JCA edits 2023.07.11).docx

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**From:** Avery, Jonathan <jonathan.avery@dncr.nc.gov>  
**Sent:** Tuesday, July 11, 2023 5:25 PM  
**To:** Duke, Lawrence <lawrence.duke@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: 07 NCAC 14B - Dept of Cultural & Natural Resources - Rules Review

Hi Lawrence,  
Attached are the rules with tech changes based on your requests. Please review and let me know if these are sufficient to address your requests or if you'd like to discuss further.  
Thanks,  
Jonathan

**Jonathan Avery**  
**Assistant General Counsel**  
**N.C. Department of Natural and Cultural Resources**  
**Physical Address: 109 East Jones Street | Raleigh, North Carolina 27699**  
**Mailing Address: 4601 Mail Service Center | Raleigh, North Carolina 27699**  
**P: 919-814-6771 (New phone number) | [jonathan.avery@dncr.nc.gov](mailto:jonathan.avery@dncr.nc.gov) (New email address)**

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3 **07 NCAC 14B .0403 FIRES: LIGHTED CIGARETTES: ETC, SMOKING AND FIRES**

4 ~~All fires except for personal smoking materials are prohibited except in designated areas. A competent person 16~~  
5 ~~years old or older must continuously tend any fire from the time it is kindled until it is extinguished.~~

6 (a) Smoking, **vaping** or the use of similar devices or materials is prohibited on Zoo property except where  
7 designated through posted signage.

8 (b) Starting or maintaining a fire on Zoo property is prohibited except as part of an organized Zoo program.

9

10 *History Note: Authority G.S. 143B-135.204(a);*

11 *Eff. February 1, 1976;*

12 *Transferred w/change from T15.12E Eff. August 1, 1982;*

13 *Amended Eff. October 1, 1984;*

14 *Transferred from 15A NCAC 22B .0403 Eff. April 1, 2017;*

15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1,*  
16 *~~2018-2018;~~*

17 *Amended Eff. August 1, 2023.*

1 07 NCAC 14B .0608 is adopted with changes as published in 37:20 NCR 2013-2014 as follows:

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3 **07 NCAC 14B .0608 ROCK CLIMBING**

4 (a) Rock climbing, bouldering, or rappelling is prohibited except in areas designated by the Zoo Director or their  
5 designee. The Zoo Director or their designee may designate a daily capacity limit for specific climbing routes and  
6 bouldering areas based on public safety and the protection and use of state property.

7 (b) A Day-Use Climbing Permit is required for each individual participating in climbing, ~~rappelling, and~~  
8 ~~bouldering~~ bouldering, and rappelling on Zoo property. Applications for permits may be made at [www.nczoo.org](http://www.nczoo.org). A  
9 completed Day-Use Climbing Permit application shall include the following information:

- 10 (1) the permittee's name, address, and contact information;  
11 (3) the permittee's expected time to return to their vehicle;  
12 (4) the permittee's vehicle registration number and state of vehicle registration;  
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14 (6) signature indicating agreement to abide by the terms and conditions of the permit.

15 (c) Day-Use Climbing Permits shall be issued upon receipt of a completed application unless:

- 16 (1) the daily capacity limit for a specific climbing route or area has been reached prior to receipt of the  
17 completed application;  
18 (2) the activity would be detrimental to the protection and use of state property or threaten the health  
19 or safety of the public; or  
20 (3) The activity or use would constitute a violation of applicable law or the rules of this Subchapter.

21 (d) ~~The permit may contain such additional conditions or restrictions as are consistent with protection and use of~~  
22 ~~the Zoo and public safety and health.~~

23 (e) ~~If a permit application is denied, the applicant shall be informed in writing ~~with~~ of the reason(s) for the ~~denial~~~~  
24 ~~set forth.~~ denial.

25 ~~(f)~~(e) Permittees shall maintain a copy of their signed Day-Use Climbing Permit with them at all times while on  
26 Zoo property.

27 ~~(g)~~(f) While rock climbing on Zoo property, permittees shall not:

- 28 (1) install permanent or fixed rock climbing anchors, such as pitons and expansion bolts;  
29 (2) chip or glue holds onto the rock face;  
30 (3) remove rock from its natural position except where failure to remove the rock poses a risk to  
31 public safety and such removal has been approved by the Zoo Director or their designee; and  
32 (4) intentionally remove vegetation to clean a climbing route.

33 The following prohibitions shall apply to rock climbing on Zoo property:

- 34 (1) The installation of permanent or fixed rock climbing anchors, such as pitons and expansion bolts,  
35 is prohibited;  
36 (2) Chipping or gluing holds onto the rock face is prohibited;



37 ~~(3) The removal of rock from its natural position is prohibited except where failure to remove the rock~~  
38 ~~poses a risk to public safety and such removal has been approved by the Zoo Director or their~~  
39 ~~designee; and~~

40 ~~(4) The intentional removal of vegetation to clean a climbing route is prohibited.~~

41 ~~(h)~~(g) Violation of the terms and conditions of a Day-Use Climbing permit issued in accordance with this Section  
42 is prohibited and shall result in the revocation of the permit and removal of the violator from Zoo property.

43

44 History Note: Authority G.S. 143B-135.204(a);

45 Eff. August 1, 2023.

1 07 NCAC 14B .0609 is adopted with changes as published in 37:20 NCR 2014 as follows:

2  
3 **07 NCAC 14B .0609 TRAIL ACCESS AND ACTIVITIES**

4 (a) Public access to Zoo property, including all hiking trails, is available only between opening and closing hours  
5 as posted at www.nczoo.org.

6 (b) Public use of hiking trails on Zoo property shall be limited to each trail's designated uses as posted. The  
7 Division may prohibit or restrict public activity occurring on Zoo property if such activity would be detrimental to  
8 the protection and use of state property or threaten the health or safety of the public.

9 (c) A person using Zoo property located outside of the perimeter fence must remain on the marked trails or in a  
10 designated climbing area at all times.

11 (d) Use of bicycles, all-terrain vehicles, dirt bikes, golf carts, go-karts, scooters, skateboards, and other similar  
12 conveyances is prohibited on Zoo property outside of a trail designated for such use. Public use of motorized  
13 vehicles is prohibited on Zoo property except on designated public roads and designated parking areas.

14 (e) Horseback riding is prohibited on Zoo property outside of a trail designated for such use.

15 (f) The following activities are prohibited on Zoo property:

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17 (2) [Littering;]littering; and

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19 (g) Public use of Ridges Mountain trails is available only by a reservation approved by the Zoo Director or their  
20 designee. Reservations shall be approved unless such use would be detrimental to the protection and use of state  
21 property or threaten the health or safety of the public. A completed reservation request shall include the following:

22 (1) [Requestor's]requestor's name and contact information;

23 (2) [The]the name of an organization or group coordinating the use;

24 (3) [The]the number of users;

25 (4) [The]the date of the requested use; and

26 (5) [The]the intended use.

27 (h) [Pets, except as required by applicable federal and state law for service animals assisting individuals with  
28 disabilities, are not permitted on the Ridges Mountain property.]Pets are not permitted on the Ridges Mountain  
29 property except as required by federal and state law for service animals assisting individuals with disabilities.

30  
31  
32 *History Note:* Authority G.S. 143B-135.204(a);

33 *Eff. August 1, 2023.*

**REQUEST FOR § 150B-21.10 CHANGES**

AGENCY: NC Department of Natural & Cultural Resources

RULE CITATION: 07 NCAC 14B .0403

**DEADLINE FOR RECEIPT: Friday, July 14, 2023**

***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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*In Paragraph (a), please add an oxford comma after “vaping”.*

Please retype the rule accordingly and resubmit it to our office electronically.

## REQUEST FOR § 150B-21.10 CHANGES

AGENCY: NC Department of Natural & Cultural Resources

RULE CITATION: 07 NCAC 14B .0608

**DEADLINE FOR RECEIPT: Friday, July 14, 2023**

***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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*In Paragraphs (a) and (b), “climbing, bouldering, or rappelling” and “climbing, rappelling, and bouldering” are used. Choose one and stay consistent, if you can. Paragraph (b) has been edited to address staff concern.*

*In Paragraph (b), should the sentence on lines 8 and 9 read: “A completed Day-Use Climbing Permit **application** shall include the following information:”*

*Paragraph (d) is vague. More information and clarity is needed if unlisted conditions or restrictions are to be imposed. Who can impose these? For what reasons? Must they be reasonable? Are they appealable? Paragraph (d) has been deleted and the subsequent paragraphs renumbered.*

*In Paragraph (e), would the permit be denied? Or, would the permit application be denied? The application would be denied New paragraph (d) has been edited to address staff concern. It may read better if it reads “informed of” instead of “informed with”. Also, “set forth” is unnecessary and should be deleted.*

*In Paragraph (g), active verbs are encouraged. Is there a way to state this better? Perhaps: “While rock climbing on Zoo property, Permittees shall not: (1) install permanent or fixed rock climbing anchors, such as pitons and expansion bolts; (2) chip or glue holds onto the rock face;....” New paragraph (f) has been edited to address staff concern.*

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke  
Commission Counsel

Date submitted to agency: July 10, 2023

**REQUEST FOR § 150B-21.10 CHANGES**

AGENCY: NC Department of Natural & Cultural Resources

RULE CITATION: 07 NCAC 14B .0609

**DEADLINE FOR RECEIPT: Friday, July 14, 2023**

***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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*In Paragraphs (f) and (g), the first letter of each subparagraph should not be capitalized.*

*Paragraph (h) may be clearer if it read: "Pets are not permitted on the Ridges Mountain property except as required by federal and state law for service animals assisting individuals with disabilities." Paragraph (h) has been edited to address staff concern.*

Please retype the rule accordingly and resubmit it to our office electronically.

## **Burgos, Alexander N**

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**From:** Duke, Lawrence  
**Sent:** Monday, July 10, 2023 3:39 PM  
**To:** Avery, Jonathan  
**Cc:** Burgos, Alexander N  
**Subject:** 07 NCAC 14B - Dept of Cultural & Natural Resources - Rules Review  
**Attachments:** Natural & Cultural Resources - 07.2023 - 07 NCAC 14B - Change Requests.docx

Good Afternoon,

I am the attorney who has reviewed the Rules submitted by the Dept. of Natural & Cultural Resources for the July 2023 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, July 20, 2023, at 9:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get closer to the meeting. If there are any other representatives from your Board who will want to attend virtually, let me know prior to the meeting, and we will get invites out to them as well.

Please submit the revised Rules and forms to me via email, no later than 5 p.m. on Friday, July 14, 2023.

In the meantime, please let me know if you have any questions or concerns about these changes.

Thanks,

**Lawrence Duke**



**Counsel to the North Carolina Rules Review Commission**  
**Office of Administrative Hearings**  
[Lawrence.Duke@ncslr.gov](mailto:Lawrence.Duke@ncslr.gov)  
**(919) 296-1938**

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