

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 20B .0103

**DEADLINE FOR RECEIPT: Monday, September 10, 2018**

***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:

*In (a), lines 4 to 9 constitute one extremely long sentence. Why not break it up and on line 8 state "Advertising material or matter...?"*

*On line 4, what is "advertising material or matter"?*

*On line 5, why do you need to state "or any other person or persons whomsoever"? Why not just state "or any person"?*

*On line 6, delete "and the same hereby is"*

*On lines 6-7, please simplify the language "unless such distribution shall be within and from" to something like "unless distributed from"*

*On line 7, assigned by the Board or its staff, right? But designated by whom? What is the difference between the two? And I note on line 10, you only use the term "designated" for area.*

*On line 7, what is "duly authorized"? And upon what is this approval granted?*

*On line 8, how is the application made? And please simplify this language of "upon application thereto"*

*On line 8, do you need to repeat "kind, nature, or description" since it's on line 4?*

*If you do need to keep it, please insert a comma after "nature"*

*On line 9, what if the individual is holding the pamphlets or advertising materials and then hands them out based upon a someone accepting them? You say in the Rule that it must be on the counter or display area, but the peanuts they hand out to encourage people to buy a bag of them in a stall down the way are handed out of a smock and are not on a counter or display area.*

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: August 24, 2018

*On line 9, define “Promiscuous handing out”*

*On line 9, replace “such” with “the”*

*On line 10, delete “strictly”*

*Paragraph (b) forbids the operation of the truck or vehicle altogether, not the sound system. Does that mean the individual cannot drive the vehicle through the fair grounds, even if the PA system is not operating?*

*On lines 16-17, why do you need the “whether such” language?*

*If you need to keep it, please delete “thereof” on line 17.*

*On line 17, delete “hereby”*

*In (c), line 19, do you mean all of Section .0100, or this specific Rule, or do you mean the entire Subchapter, which is “Regulation of the State Fair”?*

*On line 19, delete “it is hereby determined that”*

*On line 20, delete “and constitute that certain area” and replace it with “the”*

*On line 21, isn’t Blue Ridge a road, not a boulevard?*

*On line 22, delete “thereof”*

*Why do you need Paragraph (d)? Paragraph (a) forbids the distribution of advertising. How is having a bumper sticker on a car going to count as “distribution”? If that does count, what about wearing apparel with logos or political messages? Won’t that also need to be exempted in this Rule?*

*On line 23, replace “regulations” with “rules”*

*On line 23, construed by whom? Why not just state “shall not apply to”*

*On line 24, what is a “lettered service truck”?*

*On line 24, what is a “concern”?*

*On line 24, who determines what deliveries are “necessary”? Does this term serve any purpose or should you delete it?*

*On line 25, define “normal” and “small”*

*In the History Note, move the “Amended Eff. October 1, 2018” to after line 32. It will look like this:*

*History Note: Authority G.S. 106-503;  
Eff. February 1, 1976;  
Amended Eff. October 1, 1993; July 17, 1981;*

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: August 24, 2018

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015;  
Amended Eff. October 1, 2018.*

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

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: August 24, 2018

1 02 NCAC 20B .0103 is amended as published in 32:20 NCR 1918 as follows:

2  
3 **02 NCAC 20B .0103 ADVERTISING MATTER**

4 (a) Distribution of advertising material or matter of any kind, nature, or description by concessionaires, exhibitors,  
5 patrons attending annual exhibitions on the State Fairgrounds, political parties, or by any other person or persons  
6 whomsoever, shall be, and the same hereby is, prohibited on the State Fairgrounds unless such distribution shall be  
7 within and from the assigned and designated space and shall have been first duly authorized by the State Fair Manager  
8 upon application thereto, and that advertising material or matter of any kind, nature or description shall be on the counter  
9 or display area and shall not be handed out unless a fair patron requests such materials. Promiscuous handing out of such  
10 material, even from designated areas, is strictly forbidden.

11 ~~(b) The distribution in any manner of advertising material having a gummed or adhesive backing, such as labels, lapel~~  
12 ~~badges, car bumper or window stickers, etc., whether such distribution shall be from a contracted exhibit or concession~~  
13 ~~space or elsewhere, is prohibited upon the State Fair grounds. Persons or firms found distributing such materials shall~~  
14 ~~immediately forfeit all space right and, in addition, may be held financially responsible for any and all damage done to or~~  
15 ~~occasioned by the State Fair as a result of these materials being affixed to State Fair property by third parties.~~

16 ~~(e)~~(b) Operation of a sound truck or other mobile vehicle equipped with a public address system or sign, whether such  
17 vehicle is in motion or parked on the fair grounds, whether within or without the fenced-off area thereof, is hereby  
18 prohibited.

19 ~~(d)~~(c) For the purpose of enforcing the provisions of this Section, it is hereby determined that the State Fair grounds  
20 shall consist of and constitute that certain area of land in Wake County bounded on the south by Hillsborough Street, on  
21 the east by Blue Ridge Boulevard, on the north by Trinity Road, and on the west by the Gov. James B. Hunt, Jr. Horse  
22 Complex, and includes the area without as well as within the fenced portion thereof.

23 ~~(e)~~(d) The prohibitions and restrictions relating to advertising in these regulations shall not be construed as being  
24 applicable to lettered service trucks advertising a concern or its products while making necessary deliveries of  
25 merchandise or service to concessionaires or exhibitors on the State Fair grounds, or the normal small advertising on  
26 bumpers and windows of vehicles.

27  
28 *History Note: Authority G.S. 106-503;*  
29 *Eff. February 1, 1976;*  
30 *Amended Eff. October 1, 1993; July 17, 1981; October 1, 2018;*  
31 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19,*  
32 *2015.*  
33

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 43L .0337

**DEADLINE FOR RECEIPT: Monday, September 10, 2018**

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:

*Please insert line numbers [See Rule 26 NCAC 02C .0108(1)(f)]*

*In (a), capitalize "State"*

*In (b)(8), insert a comma after "safety"*

*In the History Note, I do not understand the relevance of either citation. Do you not just mean to cite to G.S. 106-503?*

*If you intend to cite to more than one statute, please be sure they are in numerical order.*

*Please be sure to move the "Amended Eff. October 1, 2018" line to below the 150B-21.3A lines, as shown for Rule 02 NCAC 20B .0103.*

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

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: August 24, 2018

02 NCAC 43L .0337 is amended with changes as published in 32:20 1919 as follows:

**02 NCAC 43L .0337 ALCOHOLIC BEVERAGES**

(a) ~~A person shall not possess any alcoholic beverage on Agricultural Center property except as permitted by the Agricultural Center Manager and in compliance with the rules of the North Carolina Alcoholic Beverage Control Commission. The possession, sale, or consumption of any alcoholic beverage shall be in compliance with the state alcoholic beverage control laws set forth in G.S. 18B and rules set forth in 14B NCAC 15.~~

(b) ~~Alcoholic beverages shall not be sold during the annual North Carolina Mountain State Fair. The sampling or sale of alcoholic beverages at an event on the Western NC Agricultural Center, including the Mountain State Fair, shall require approval by the Manager of the Western NC Agricultural Center or his or her designee in negotiation and at the time of the signing of the contract to rent the premises. In making this determination, the Manager of the Western NC Agricultural Center Manager shall consider the following factors:~~

- ~~(1) the nature of the event;~~
- ~~(2) the time of the event;~~
- ~~(3) the number of attendees at the event;~~
- ~~(4) the age of the attendees at the event;~~
- ~~(5) prior history of the event;~~
- ~~(6) other events on Western NC Agricultural Center property at that time;~~
- ~~(7) security needed and available at the time of the event; and~~
- ~~(8) the health, safety and welfare of all patrons on [State Fair] Western NC Agricultural Center property.~~

*History Note: Authority G.S. 106-530; 106-6.1;*

*Eff. June 1, 1994;*

*Amended Eff. October 1, 2018;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.*