

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 41A .0302

DEADLINE FOR RECEIPT: Wednesday, April 5, 2017

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

On the Submission for Permanent Rule Form, you have indicated that the hearing is scheduled for April 1, 2017. The Register indicates that you all held the hearing on January 30, 2017. I assume that this was a mistake. Please confirm and correct the Form.

Given 21 CFR 1240.62, why is this Rule necessary? Is it because this Rule is providing some additional information by requiring notification of the caution language contained in (e)?

Please move the introductory statement of "10A NCAC 41A .0302 is amended as published in 31:13 NCR 1283-1284 as follows:" to line 1. Please also note the change in Rule citation (the one in the Rule submitted omitted some of the information.)

Is (a) necessary? Am I correct in assuming that you want some sort of information regarding your purpose to specifically link this Rule to 130A-144 in that this Rule is preventing the communicable disease of salmonellosis by limiting the sale of turtles?

If (a) is necessary, please turn it into a directive. A suggestion would be to combine (a) through (d). If you chose to do this, it would read something like the following:

(a) ~~Purpose of this Regulation. This Regulation rule is adopted to~~ To prevent the spread of salmonellosis from pet turtles to humans; humans, no turtle with a carapace length of less than four inches shall be sold, offered for sale, or bartered by any retail or wholesale establishments, except as follows

(1) the sale of turtles shall be allowed to institutions for scientific or educational purposes for food purposes;

(2) the sale of turtles shall be allowed for food purposes; and

(3) wholesale establishments dealing in the sale of turtles shall be allowed to sell turtles to other wholesale or retail establishments outside of the State of North Carolina, subject to the applicable state and federal laws.

Amber Cronk May
Commission Counsel

Date submitted to agency: March 21, 2017

~~(b) Sale of Turtles Prohibited. No turtle [with a carapace length of less than four inches] shall be sold, offered for sale, or bartered by any retail or wholesale establishment in North Carolina.~~

~~(c) Sale of Turtles for Scientific, Educational, or Food Purposes Exempted. Subsection (b) of this Regulation Paragraph [(b) of this rule] does not apply to the sale of turtles to institutions for scientific or educational purposes nor to the sale of turtles for food purposes.~~

~~(d) Sale of Turtles Outside North Carolina Exempted. Notwithstanding the provisions of Subsection [paragraph] (b) of this Regulation, [rule,] wholesale establishments in North Carolina dealing in the sale of turtles shall not be prohibited from selling turtles to other wholesale or retail establishments outside the State of North Carolina.~~

Please note that this is only a suggestion. You are in no way required to use this language.

In (d), what is meant by “for food purposes”? Does this mean that it is ok to sell to restaurants, farmers’ markets, etc.? Does this also mean that stores can sell these turtles if they are intended to be food for other animals?

In (e), I assume that the information contained on lines 23 through 29 is to be provided by posting or printing, but that is not clear. A suggestion would be as follows:

~~(e) Determination of Compliance. Authorized agents of the Department of Environment, Health, and Natural Resources and local health departments shall have authority to enter any retail or wholesale establishment at all times to determine compliance with this Regulation. For establishments selling turtles [as allowed by this section,] in accordance with Paragraph (a) of this Rule, the following information shall be posted at every display of turtles for retail sale, printed on the sales receipt issued by the seller at the time of the sale, or printed on an information sheet accompanying the sales receipt issued by the seller: [or substantially similar information shall be:]~~

~~(1) — [Posted or provided conspicuously at every display of turtles for retail sale; or,~~

~~(2) — Printed legibly on the sales receipt issued by the seller to the purchaser at the time of the sale; or,~~

~~(3) — Printed legibly on an information sheet accompanying the sales receipt issued by the seller to the purchaser at the time of the sale:]~~

~~[“CAUTION: Children under 5 years old and people with weak immune systems (such as chemotherapy patients or those with HIV/AIDS) should avoid contact with reptiles. These people can get very sick from a germ called Salmonella that reptiles carry. Reptiles include lizards, snakes, alligators, and turtles. Wash hands thoroughly after handling turtles or material that had contact with turtles. Do not allow water or any other substance that had contact with turtles to come in contact with food or areas where food is prepared. Do not bathe turtles or clean their tanks in your kitchen or bathroom and do not have close contact with turtles which could allow direct contamination of the mouth (e.g., kissing, etc.)”]~~

Alternatively, please delete or define the following:

In (e), “substantially similar”

In (e)(1), “conspicuously”

In (e)(2), “legibly”

In (e)(3), “legibly”

If (f), is the seller required to keep a record of all turtles, or just those that have a carapace length of less than 4 inches?

In (f), what is meant by “other dispositions”?

Amber Cronk May
Commission Counsel

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

Amber Cronk May
Commission Counsel
Date submitted to agency: March 21, 2017

1 **10A NCAC 41A .0302 SALE OF TURTLES RESTRICTED**

2
3 10 NCAC 41A .302 is amended as published in 31:13 NCR 1283 – 1284 as follows:

4
5 (a) ~~Purpose of this Regulation.~~ This ~~Regulation~~ rule is adopted to prevent the spread of salmonellosis from pet turtles to
6 humans.

7 (b) ~~Sale of Turtles Prohibited.~~ No turtle with a carapace length of less than four inches shall be sold, offered for sale, or
8 bartered by any retail or wholesale establishment in North Carolina.

9 (c) ~~Sale of Turtles for Scientific, Educational, or Food Purposes Exempted.~~ ~~Subsection (b) of this Regulation Paragraph (b)~~
10 of this rule does not apply to the sale of turtles to institutions for scientific or educational purposes nor to the sale of turtles for
11 food purposes.

12 (d) ~~Sale of Turtles Outside North Carolina Exempted.~~ Notwithstanding the provisions of ~~Subsection paragraph~~ (b) of this
13 ~~Regulation, rule,~~ wholesale establishments in North Carolina dealing in the sale of turtles shall not be prohibited from selling
14 turtles to other wholesale or retail establishments outside the State of North Carolina.

15 (e) ~~Determination of Compliance.~~ ~~Authorized agents of the Department of Environment, Health, and Natural Resources and~~
16 ~~local health departments shall have authority to enter any retail or wholesale establishment at all times to determine~~
17 ~~compliance with this Regulation.~~ For establishments selling turtles as allowed by this section, the following information or
18 substantially similar information shall be:

- 19 (1) Posted or provided conspicuously at every display of turtles for retail sale; or,
20 (2) Printed legibly on the sales receipt issued by the seller to the purchaser at the time of the sale; or,
21 (3) Printed legibly on an information sheet accompanying the sales receipt issued by the seller to the purchaser at the
22 time of the sale;

23 “CAUTION: Children under 5 years old and people with weak immune systems (such as chemotherapy patients or
24 those with HIV/AIDS) should avoid contact with reptiles. These people can get very sick from a germ called
25 Salmonella that reptiles carry. Reptiles include lizards, snakes, alligators, and turtles. Wash hands thoroughly after
26 handling turtles or material that had contact with turtles. Do not allow water or any other substance that had contact
27 with turtles to come in contact with food or areas where food is prepared. Do not bathe turtles or clean their tanks in
28 your kitchen or bathroom and do not have close contact with turtles which could allow direct contamination of the
29 mouth (e.g., kissing, etc.)”

30 (f) The seller shall keep a record of all purchases, losses, and other dispositions of turtles for at least one year.

31
32 *History Note: Authority G.S. 130A-144;*
33 *Eff. February 1, 1976;*
34 *Readopted Eff. December 5, 1977;*
35 *Amended Eff. May 1, 2017; February 3, 1992.*