

PROPOSED TEMPORARY RULES

Note from the Codifier: The OAH website includes notices and the text of proposed temporary rules as required by G.S. 150B-21.1(a1). Prior to the agency adopting the temporary rule, the agency must hold a public hearing no less than five days after the rule and notice have been published and must accept comments for at least 15 business days.

For questions, you may contact the Office of Administrative Hearings at 919.431.3000 or email oah_postmaster@oah.nc.gov.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Rulemaking Agency: Department of Environment and Natural Resources

Codifier of Rules received for publication the following notice and proposed temporary rule(s) on: December 6, 2013

Rule Citations: 15A NCAC 28 .0302

Public Hearing:

Date: December 19, 2013

Time: 10:00 a.m.

Location: Aquarium Division Office, 3125 Poplarwood Court, Raleigh, NC 27604

Reason: The purpose of the amended rule is to increase admissions fees to the North Carolina Aquariums to offset the loss of appropriated funds resulting from Session Law 2013-360, effective July 27, 2013, and increased costs associated with implementation of the Affordable Care Act.

General Statute 143B-289.44(b) establishes the North Carolina Aquarium Fund as a special and nonreverting fund, which shall be "used for repair, renovation, expansion, maintenance, educational exhibit construction, and operational expenses at existing aquariums, to pay the debt service and lease payments related to the financing of expansions of aquariums, and to match private funds that are raised for these purposes." All entrance fee receipts shall be credited to the North Carolina Aquarium Fund. G.S. 143B-289.44(c).

Session Law 2013-360 cut appropriations to the Aquariums by \$100,000 for FY 2013-14. This follows a \$2,000,000 cut for FY 2011-12 and \$2,250,000 cut for FY 2012-13. Session Law 2011-145. The \$2,250,000 reduction in appropriations for this biennium was to be offset by receipts from admission fees. Senate Appropriations Committee Report on the Continuation, Expansion and Capital Budgets, page H-10, item 56.

<http://www.ncleg.net/fiscalresearch/budget-legislation/budget-legislation-pdfs/2011-Money-Report.pdf>

Pursuant to the Federal Patient Protection and Affordable Care Act ("PPACA"), the Aquariums will be required to provide health insurance for any employees that work more than 30 hours on average per work for the year, which equates to 1,560 hours annually. Public Law 111-148, SEC. 4980H(c)(4)(A). The Aquariums currently employ over 50 temporary employees. To qualify as a temporary employee, these employees work 11 months out of the year and must take a one-month break in their employment, returning to work after the one-month break. To remain under the 30 hour per week average threshold to avoid providing health care, the Aquariums' temporary employees would only be permitted to work nine months out of the year and would likely seek employment elsewhere. The Aquariums' temporary employees are trained and skilled labor, so to continuously hire new temporary employees every nine months would be unduly burdensome and cost prohibitive.

The anticipated annual health insurance premiums will cost \$3,000 per employee. The hourly rates paid to temporary employees are only slightly less than the hourly rates paid to permanent employees. As such, the cost to hire temporary employees on a fulltime basis is only slightly more than the costs of temporary employee wages plus the cost to provide health insurance pursuant to the PPACA. The Aquariums would like to hire 36 temporary employees on a fulltime basis, while continuing to employ the remaining temporary employees, which would provide much needed continuity in staffing requirements.

The result of the cut in appropriations during the last biennium coupled with the increased costs associated with implementation of the PPACA, necessitates an increase in the admission fees charged by the Aquariums. The current fee structure has been in place since January 2006. A temporary rule is necessary because the Aquariums need to raise fees at the beginning of the Aquariums' busy season on May 26, 2014 to fully fund implementation of the PPACA. The Aquariums have commenced the permanent rule making process to raise the admission fees.

Furthermore, the General Assembly through Session Law 2013-360, Section 14.1 requires the Division of North Carolina Aquariums to develop a plan for the Aquariums to increase the amount of private funds raised through direct efforts of each North Carolina Aquarium in order to make the North Carolina Aquariums more financially self-sustaining. Increasing admissions fees will be a primary component of the Division of Aquariums' plan to become more financially self-sustaining.

Comment Procedures: Comments from the public shall be directed to: David R. Griffith, North Carolina Aquariums, 3125 Poplarwood Court, Raleigh, NC 27604. The comment period begins December 13, 2013 and ends January 9, 2014.

CHAPTER 28 – NORTH CAROLINA AQUARIUMS

SECTION .0300 - UNAUTHORIZED USE OF FACILITIES: FEES

15A NCAC 28 .0302 FEE SCHEDULE

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(a) The following schedule of fees is applicable to govern admission to the North Carolina Aquariums:

- (1) Roanoke Island:
 - Adult, 13 and over ~~\$8.00~~\$10.95
 - Military and Senior, 62 and over ~~\$7.00~~\$9.95
 - Child, 3 through 12 ~~\$6.00~~\$8.95
- (2) Fort Fisher:
 - Adult, 13 and over ~~\$8.00~~\$10.95
 - Military and Senior, 62 and over ~~\$7.00~~\$9.95
 - Child, 3 through 12 ~~\$6.00~~\$8.95
- (3) Pine Knoll Shores:
 - Adult, 13 and over ~~\$8.00~~\$10.95
 - Military and Senior, 62 and over ~~\$7.00~~\$9.95
 - Child, 3 through 12 ~~\$6.00~~\$8.95

(b) Free admission to the North Carolina Aquariums on Roanoke Island, at Pine Knoll Shores and at Fort Fisher is offered to the following groups:

- (1) Aquarium Society Members;
- (2) Preregistered North Carolina School groups;
- (3) Association of Zoos and Aquariums' reciprocals; and
- (4) Children under the age of three.

Free admission is offered on the following days: Martin Luther King, Jr. holiday and Veteran's Day on November 11.

(c) The following schedule of fees is applicable to govern admission ~~for fishing~~ on the educational fishing piers of the North Carolina Aquariums:

- (1) Daily Fishing Pass \$12.00 (maximum 24 hour period; two rods maximum;
(Ages 13 and over) \$2.00 for each rod over two)
- (2) Youth Fishing Pass \$6.00 (maximum 24 hour period; two rods maximum;
(Ages 12 and under) \$1.00 for each rod over two)
- (3) ~~Pin-Rig Fishing Rigs~~ \$3.00 addition to fishing pass fee per day (Live bait fishing)
- ~~(4) 3-Day Fishing Pass \$30.00 (any 3 days in a 7-day period from date purchased;
(Ages 13 and over) two rod maximum; \$2.00 per day for each rod over two)~~
- ~~(5) Youth 3-Day Fishing Pass \$15.00 (any 3 days in a 7-day period from date purchased;
(Ages 12 and under) two rod maximum; \$2.00 per day for each rod over two)~~
- ~~(6) 7-Day Fishing Pass \$65.00 (any 7 days in a 1-month period from date
(Ages 13 and over) purchased; two rod maximum; \$2.00 per day for each rod over two)~~
- ~~(7) Youth 7-Day Fishing Pass \$32.50 (any 7 days in a 1-month period from date
(Ages 12 and under) purchased; two rod maximum; \$2.00 per day for each rod over two)~~
- ~~(8) Sightseeing Pass \$2.00 (unlimited sightseeing for date of purchase)
(Ages 13 and over)~~
- ~~(9) Youth Sightseeing Pass \$1.00 (unlimited sightseeing for date of purchase)
(Ages 12 and under)~~

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