

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Board of Agriculture

RULE CITATION: Generally, to all rules submitted

DEADLINE FOR RECEIPT: June 6, 2022

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.

Does the agency have a Rule that limits the applicability of its rules? G.S. 19A-24 limits the authority of the agency to animals in certain categories. For example, Rule 205 (a) & (b), Page 1, Lines 4 and 9: It appears that the agency exceeds its authority by making this rule applicable to all dogs and cats. Consider limiting it to dogs and cats "as items of commerce" pursuant to G.S. 19A-21 or subject to the Animal Welfare Act. Rule 201(a) is another example.

It appears that the term "regulation" as used in the proposed rules refers to a "Rule" within the North Carolina Administrative Code. A "regulation" is a federal level rule. Please review the proposed rules to determine whether the agency means a rule under the NCAC, or a federal regulation.

The agency uses the term "and/or" in many of the proposed rules. This term is frowned upon. In most cases the word "or" is proper to convey the thought of "one, or the other, or any of them." If emphasis is needed, use such terms as "any of the following," "all of the following," "either of the following," and "or both."

The agency should review all of its rules and consider the inclusion of more Oxford Commas also known as the serial comma. Ex. "Cider, real ales, meat and vegetable pies, and sandwiches" is different than "Cider, real ales, meat pies, vegetable pies, and sandwiches".

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

William W. Peaslee
Commission Counsel

Date submitted to agency: June 2, 2022

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Board of Agriculture

RULE CITATION: 02 NCAC 52J .0101 Records; Animal Shelters, Etc.

DEADLINE FOR RECEIPT: June 6, 2022

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:

(4), Page 1, Line 16: Consider a comma after "adopted".

(6), Page 1, Line 27-31: Consider whether the addition of commas would bring clarity.

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

William W. Peaslee
Commission Counsel
Date submitted to agency: June 2, 2022

02 NCAC 52J .0101 is readopted with substantive changes as published in 36:12 NCR 1001-1002 follows:

SUBCHAPTER 52J - ANIMAL WELFARE SECTION

SECTION .0100 - RECORD KEEPING AND LICENSING

02 NCAC 52J .0101 RECORDS; ANIMAL SHELTERS, ETC.

Operators of all animal shelters, pet shops, public auctions, and dealers shall maintain records on all dogs and cats showing the following:

- (1) origin of animals (including names and addresses of consignors) and date animals were received;
- (2) description of animals including species, estimated age, sex, ~~breed~~, breed or breed type, and color markings;
- (3) location of ~~animal~~ animal, including complete address and contact information, if not kept at the licensed or registered facility;
- (4) disposition of animals including name and address of person to whom animal is sold, ~~traded~~ transferred, or adopted and the date and time of such transaction; name and address of intermediary transporter if used; in the event of death, the record shall show the date, signs of illness, ~~or~~ and cause of death if identified; if euthanized, the record shall show date and type of euthanasia; ~~and~~
- (5) record of veterinary care including medications, treatments, procedures, and immunization immunizations. ~~and date, time, description of medication (including name and dosage), and initials of person administering any product or procedure.~~ The record shall include: diagnosis(es), diagnostic testing and results, date and time of administration or procedure, description of medication and initials of person administering any product, medication or procedure. The description of the medication shall include the name, strength or concentration, dosage, and dosing regimen. The dosage regimen shall include the frequency, duration to include the number of dosages or days to be given and the reason for the administration; and
- (6) all records shall be created and/or updated within 48 hours of the occurrence of procedures, including but not limited to intake, change of location, medication or treatment administration and/or disposition. The record shall be accurate; creation of a misleading record or deliberate or non-incidental falsification of a record including medication administration documentation during or after an investigation or inspection shall be considered a violation of this regulation.

*History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005; April 1, 1985;
Readopted Eff. July 1, 2022.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Board of Agriculture

RULE CITATION: 02 NCAC 52J .0102 Records; Boarding Kennels

DEADLINE FOR RECEIPT: June 6, 2022

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:

(3), Page 1, Line 12: Consider replacing the comma between "frequency" and "duration" with the word "and".

(5), Page 1, Line 19: Change "must" to "shall".

(6), Page 1, Line 22: Change "must" to "shall".

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

William W. Peaslee
Commission Counsel
Date submitted to agency: June 2, 2022

1 02 NCAC 52J .0102 is readopted with substantive changes as published in 36:12 NCR 1002-1003 as follows:

2
3 **02 NCAC 52J .0102 RECORDS; BOARDING KENNELS**

4 Operators of boarding kennels shall maintain records of all dogs and cats showing the following:

- 5 (1) name and address of owner or person responsible for animal, the date of entry and signature of the
6 person leaving the animal; and the date of release and signature and address of individual to whom
7 animal is released; ~~released and the date of release~~;
- 8 (2) description of animal including ~~breed~~, breed or breed type, sex, age and color marking; ~~and~~
- 9 (3) veterinary care provided while boarded, which shall include date, ~~times~~, times of administration,
10 description of medication (~~including name and dosage~~) and initials of person administering product
11 or procedure. The description of the medication shall include the name, strength or concentration,
12 dosage, and dosing regimen. The dosage regimen shall include the frequency, duration to include
13 the number of dosages or days to be given and the reason for the administration;
- 14 (4) all records shall be created and/or updated at the time of the occurrence such as intake, medication
15 or treatment administration and/or release. The record shall be accurate; creation of a misleading
16 record or deliberate or non-incident falsification of a record including medication administration
17 during or after an investigation or inspection shall be considered a violation of this regulation;
- 18 (5) an incident file shall be kept within each facility for animals sustaining injury or illness requiring
19 veterinary care; animal death; and/or or any animal escape. Each report must include date of
20 incident, pet's name, breed or breed type/species, age, owner's name and contact information,
21 description of incident and course of action; and
- 22 (6) in the event of either an animal death or escape, the licensee must notify the Animal Welfare Section
23 within 48 hours.

24
25 *History Note: Authority G.S. 19A-24;*
26 *Eff. April 1, 1984;*
27 *Amended Eff. January 1, 2005;*
28 *Readopted Eff. July 1, 2022.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Board of Agriculture

RULE CITATION: 02 NCAC 52J .0103 Inspection of Records

DEADLINE FOR RECEIPT: June 6, 2022

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:

Page 1, Line 9: Does not the last sentence repeat G.S. 19A-31.1(g) and therefore is "not reasonably necessary"?

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

William W. Peaslee
Commission Counsel
Date submitted to agency: June 2, 2022

1 02 NCAC 52J .0103 is readopted with substantive changes as published in 36:12 NCR 1103 as follows:

2

3 **02 NCAC 52J .0103 INSPECTION OF RECORDS**

4 All operators of animal shelters, pet shops, boarding kennels, public auctions, and persons operating as dealers shall
5 make all required records available to the ~~director~~ Director or his or her authorized representative on request, during
6 the business and cleaning hours listed on the license ~~application~~ application and/or during an inspection of the facility
7 or an investigation. The operator must be able to match each animal to its record upon request. Records shall be
8 maintained for a period of one year after the animal is ~~released~~ released from a boarding kennel or sold from a pet
9 store or public auction. Animal shelters shall maintain records for a period of three years after the disposition of the
10 animal.

11

12 *History Note: Authority G.S. 19A-24; 19A-25;*

13 *Eff. April 1, 1984;*

14 *Amended Eff. January 1, 2005; April 1, 1985;*

15 *Readopted Eff. July 1, 2022.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Board of Agriculture

RULE CITATION: 02 NCAC 52J .0104 Definitions

DEADLINE FOR RECEIPT: June 6, 2022

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:

(20), Page 2, Line 11: This line should read, “(20) “Special provisions” means ...”

(23), Page 2, Line 25: “Subchapter” should be capitalized as it refers to a specific subchapter.

(24), Page 2, Line 27: Is there a difference between being licensed by a state and being licensed by the state Board of Veterinary Medicine? Ought not the licensee be in “good standing” and not the license?

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

William W. Peaslee
Commission Counsel

Date submitted to agency: June 2, 2022

02 NCAC 52J .0104 is readopted with substantive changes a published in 36:12 NCR 1003-1004 as follows:

02 NCAC 52J .0104 DEFINITIONS

As used in this Subchapter:

- (1) "Accessories" means any objects used in cleaning and sanitizing primary enclosures, exercise areas, or objects to which an animal may have access, including, but not limited to toys, blankets, food and water utensils, and bedding.
- (2) "Adequate" means a condition which, when met, does not jeopardize an animal's comfort, safety or health. Adequate veterinary care means provision of veterinary care sufficient to address the relief of pain and/or suffering experienced by the animal and sufficient to address the medical condition.
- ~~(3)~~ "Behavioral-control device" means any apparatus used to control a pet animal's behavior.
- ~~(3)(4)~~ "Cage" means a primary enclosure which is enclosed on all sides ~~and also on~~ including the top and bottom.
- (5) "Compatible group" means all animals in the group comingle peacefully without the presence of aggressive, harassing, and/or agitating behaviors toward any other member(s) of the group.
- ~~(6)~~ "Common area(s)" means areas of the facility in which multiple animals may have access such as walkway(s), facility lobby(ies), hallway(s), area(s) around primary enclosures and exercise areas, and other such similar areas.
- ~~(7)~~ "Disposition" means the adoption, death, euthanasia, release, sale, trade, or transfer from a facility.
- ~~(8)~~ "Enrichment" means providing objects or activities, appropriate to the needs of the species as well as the age, size, and condition of the animal, that stimulates the pet and promotes the pet's well-being.
- ~~(9)~~ Exercise area means an enclosed space in which an animal(s) is confined, and which is large enough for species-appropriate activity such as walking, running, climbing, jumping, socialization and/or play to occur.
- ~~(4)(10)~~ "Husbandry" means the practice of daily care administered to animals.
- ~~(11)~~ "Impervious to moisture" means a surface that prevents the absorption of fluids and that can be thoroughly and repeatedly sanitized, will not retain odors, and from which fluids bead up and run off or can be removed without being absorbed into the surface material.
- ~~(12)~~ "Infirm" means not physically or mentally strong, especially through age or illness.
- ~~(5)(13)~~ "Isolation" means the setting apart of an animal from all other animals, food, and equipment in the facility for the sole purpose of preventing the spread of disease. separation, for the period of communicability, of infected animals from others in such place and under such conditions to prevent the direct or indirect transmission of the infectious agent from those infected to those that are susceptible or that may spread the agent to others.

- 1 (14) “Isolation area” means a location where animals infected with disease may be placed to contain,
2 control, and limit the spread of the disease.
- 3 ~~(6)~~(15) "License period" means July 1 through June 30.
- 4 ~~(7)~~(16) "Long term care" means the housing of an animal for a period of more than 30 consecutive days.
- 5 (17) “Potable” means suitable for drinking.
- 6 (18) “Properly cleaned” means the removal of carcasses, debris, food waste, excrement, urine, dirty or
7 soiled accessories and ~~or~~ other organic material with adequate frequency.
- 8 (19) “Social interaction” means friendly physical contact or play between animals of the same species or
9 with a person. Physical contact or play with the caretaker during cage cleaning and/or sanitation is
10 not considered social interaction.
- 11 (20) Special provisions – additional procedures, protocols, and/or equipment used when caring for,
12 housing and/or transporting animals with special needs. Examples of animals with “special needs”
13 include but are not limited to brachycephalic breeds, very young or old animals, animals with a
14 medical condition, infirm animals, and/or animals that are compromised or debilitated.
- 15 ~~(10)~~(21) "Suitable method of drainage" means drainage that allows for the elimination of water and waste
16 products, prevents contamination of animals, allows animals to remain dry, and complies with
17 applicable building codes and local ordinances.
- 18 ~~(11)~~(22) "Supervision ~~of animals~~" means at least one person (at least 16 years of age) present, at all times,
19 able to constantly, directly view all animals within the entirety of each enclosure or ~~common~~
20 exercise area.
- 21 (23) “Surgical procedure” for the purposes of this Subchapter 52J means any invasive procedure
22 performed on an animal to include but not be limited to: procedures to spay or neuter, any procedure
23 that invades a body cavity and/or requires suturing or repairing of tissues; and/or any treatment of
24 injuries or disorders of the body by incision, manipulation or alteration of organs or tissues with the
25 hands or with instruments. For the purposes of this subchapter, insertion of a microchip is not
26 considered to be a surgical procedure.
- 27 (24) “Veterinarian” means a veterinarian who is currently licensed by North Carolina and/or an adjacent
28 state. The license must be valid and be in good standing with the respective state Board of
29 Veterinary Medicine.

31 History Note: Authority G.S. 19A-24;
32 Eff. January 1, 2005;
33 Readopted Eff. July 1, 2022.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Board of Agriculture

RULE CITATION: 02 NCAC 52J .0105 Licenses and Registrations

DEADLINE FOR RECEIPT: June 6, 2022

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:

Page 1, Line 4: Change “must” to “shall”.

(2), Page 1, Line 8: Acronyms should be spelled out during first usage. Consider changing “AWS” to “Animal Welfare Section” (“AWS”).

(2), Page 1, Line 8: Is there a time within which applications are due?

(3), Page 1, Line 11: Any information which the facility is required to provide on the “Change Form” must be adopted pursuant to Article 2A of Chapter 150B.

(4), Page 1, Line 14: Any information which the facility is required to provide on the “application forms” which “may change yearly” must be adopted pursuant to Article 2A of Chapter 150B.

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

William W. Peaslee
Commission Counsel

Date submitted to agency: June 2, 2022

1 02 NCAC 52J .0105 is adopted as published in 36:12 NCR 1004 as follows:

2

3 **02 NCAC 52J .0105 LICENSES AND REGISTRATIONS**

4 All operators of an animal shelter, pet shop, public auction, dealers, and boarding kennels must have a valid
5 license/registration.

6 (1) Licenses and registrations are not transferable.

7 (2) In the event of a change of ownership or management of a regulated facility, the facility shall notify the
8 director of AWS in writing within 10 days of the change. Submission of a new license or registration
9 application and a facility inspection by AWS is required in the event of such a change.

10 (3) In the event of a change of name, address, phone, email, or point of contact for the facility, the facility
11 shall notify the director by the Change Form located on the AWS website or other written documentation
12 within 10 days of change.

13 (4) Renewal applications for license or registration renewal shall be submitted yearly to the AWS office
14 between April 1st and June 15th. Current application forms are located on the AWS website and may change
15 yearly.

16

17 *History Note: Authority G.S. 19A-24;*

18 *Eff. July 1, 2022.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Board of Agriculture

RULE CITATION: 02 NCAC 52J .0201 General

DEADLINE FOR RECEIPT: June 6, 2022

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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:

Note: The Submission for Permanent Rule misstates the Rule name.

(b), Page 1, Line 8: Does compliance with NC Building Code make the outlets "safe"? If it does not, consider what standard make the outlet "safe"?

(c), Page 1, Line 11: Consider defining "reliable and safe" as the AWA does not address electric power. Perhaps "adequate" electrical power as the word adequate is defined 02 NCAC 52J .0104?

(d)(1), Page 1, Line 19: There is an additional space between "separately" and "from".

(e), Page 1, Line 23: Provisions shall be made by whom?

(e), Page 1, Line 24: Add the word "the" between "assure" and "facility".

(g), Page 1, Line 28: Place a period after "temperature" and capitalize "A".

(h), Page 1, Line 30 & 32: Does the agency mean a five-foot "tall" perimeter fence?

(j), Page 1, Line 36: Add "(NCDA&CS)" after "Service" as this acronym is used later in the Rule.

(k), Page 1, Line 37: Why is this necessary? What ownership beyond that which is covered in the AWA is the agency addressing?

(l), Page 2, Line 1: Why is this necessary? Do they not already have to comply with the laws, rules, and regulations?

(m), Page 2, Line 3: What does the agency mean by "cooperate fully"? This is unclear and ambiguous.

William W. Peaslee
Commission Counsel

Date submitted to agency: June 2, 2022

(m), Page 2, Line 4: What is a “review”? Is that different than an inspection or investigation?

(n), Page 2, Line 5-6: The terms “interfere with”, “abuse”, and “harass” are ambiguous. By “threaten” does the agency mean pursuant to G.S. 14-277.1?

(n), Page 2, Line 6: Capitalize “state” if referring to North Carolina only. Strike “such” in between “while” and “inspectors”.

(s), Page 2, Line 17: The preferred use is “G.S.”

(t), Page 2, Line 23: The preferred use is “G.S.”

History Note, Page 2, Line 30: Ought not G.S. 19A-30(3) be cited as an authority?

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

1 02 NCAC 52J .0201 is readopted with substantive changes as published in 36:12 NCR 1004-1005 as follows:

2
3 **SECTION .0200 - FACILITIES AND OPERATING STANDARDS**

4
5 **02 NCAC 52J .0201 GENERAL**

6 (a) Housing facilities for dogs and cats shall be structurally sound and maintained in good repair to protect the animals
7 from injury, contain the animals and restrict the entrance of other animals and people.

8 (b) All light fixtures and electrical outlets in animal areas shall be safe and in compliance with the State Building
9 Code. Electrical appliances, light fixtures, electrical outlets, and electrical cords shall be located or protected in such
10 a way that animals do not have access to them.

11 (c) Facilities shall have reliable and safe electric power as necessary to comply with the Animal Welfare Act.

12 (d) ~~Supplies of food and bedding shall be stored in facilities which adequately protect such supplies against infestation~~
13 ~~or contamination by vermin and insects. All open bags of food shall be stored in airtight containers with lids.~~
14 ~~Refrigeration shall be provided for supplies of perishable food.~~ Storage of food and bedding:

15 (1) food and bedding shall be stored in cabinets and/or sealed containers which adequately protect such
16 supplies against infestation or contamination by vermin and insects;

17 (2) all open bags of food and edible treats shall be stored in airtight containers with lids;

18 (3) refrigeration shall be provided for supplies of perishable food including opened cans of food;

19 (4) clean bedding and laundry shall be: stored in cabinets and/or sealed containers; stored separately from
20 soiled laundry and materials; and stored separately from general housing areas for animals; and

21 (5) in areas housing animals being observed or treated for contagious disease, bedding shall only be stored
22 in sealed cabinets if that clean laundry is dedicated solely for the use for those specific animals.

23 (e) Provisions shall be made for the daily removal and disposal of animal and food waste, soiled bedding and debris
24 from the ~~housing~~ facility in accordance with local ordinances, to assure facility will be maintained in a clean and
25 sanitary manner.

26 (f) Hot and cold running, potable water must be available. Facilities such as washroom, basin or sink shall be provided
27 to maintain cleanliness among animal caretakers, animals, and animal food and water receptacles.

28 (g) Each facility shall have the ability to confirm ambient ~~temperature~~. temperature, a functional room thermometer
29 shall be present in each separate area of indoor enclosures, common areas and exercise areas.

30 (h) A separate five-foot perimeter fence is required if any ~~animals~~ animal(s) has or have unsupervised access to an
31 outdoor primary enclosure, common area, and/or including unsupervised exercise areas. Supervision of animals is
32 required for any animal(s) within any outdoor enclosure, common area, or exercise area without a separate five-foot
33 perimeter fence.

34 (i) An adequate drainage system must be provided for the ~~housing~~ facility.

35 (j) All areas of a facility are subject to review or inspection by North Carolina Department of Agriculture and
36 Consumer Services employees during normal business hours (8:00 a.m. through 5:30 p.m. Monday through Friday).

37 (k) All animals in a facility are subject to the requirements of the Animal Welfare Act, regardless of ownership.

1 (l) A licensee or registrant shall comply with all federal, state and local laws, rules and ordinances relating to or
2 affecting the welfare of dogs and cats in its facility.

3 (m) A licensee or registrant and all agents of the facility shall cooperate fully and truthfully with NCDA&CS
4 employees during all phases of inspections, reviews and/or investigations.

5 (n) Neither an applicant for a license or registration nor a licensee or registrant or any agent of a facility may interfere
6 with, threaten, abuse (including verbally abuse), or harass any inspector, or state official, while such inspectors or
7 officials are carrying out their duties.

8 ~~(m)~~(o) No dog or cat shall be in a window display except during business hours and then only in compliance with
9 standards set forth in this Section.

10 (p) Battery operated or electrical behavioral control devices, such as shock collars, shock prods, or electrical fences,
11 as well as pinch-collars and prong-collars, may only be used on an animal in a boarding kennel with the specific
12 written consent of the owner of that animal.

13 (q) All facilities shall be equipped with an operational smoke alarm and carbon monoxide alarm and shall have a
14 means of fire suppression, such as functional fire extinguishers or a sprinkler system on the premises.

15 (r) All licensed and registered facilities must develop and maintain a plan of action for the continuity of care and/or
16 evacuation of animals in the event of a natural or manmade disaster.

17 (s) For the purposes of NCGS § 19A-23(5a), written standards for an “approved foster care provider” shall include
18 but not be limited to: the application process; sanitation protocols; provision of daily observation of the animals;
19 feeding and watering protocols; provision and documentation of veterinary care; provision and documentation of
20 human and same-species daily interaction, exercise, play and environmental enrichment for animals in long term care;
21 requirements for inspection by the shelter; and compliance by the foster care provider with the NC Animal Welfare
22 Act and its rules issued pursuant thereto.

23 (t) For the purposes of NCGS § 19A-23(5b), written standards for an “approved rescue organization” shall include but
24 not be limited to: the application process; sanitation protocols; provision of daily observation of the animals; feeding
25 and watering protocols; provision and documentation of veterinary care of the shelter’s animals; provision and
26 documentation of human and same-species daily interaction, exercise, play and environmental enrichment for the
27 shelter’s animals in long term care at the rescue; requirements for inspection by the shelter; and compliance by the
28 rescue with the NC Animal Welfare Act and its rules issued pursuant thereto.

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30 *History Note: Authority G.S. 19A-24;*
31 *Eff. April 1, 1984; Amended Eff. January 1, 2005;*
32 *Readopted Eff. July 1, 2022.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Board of Agriculture

RULE CITATION: 02 NCAC 52J .0202 Indoor Facilities

DEADLINE FOR RECEIPT: June 6, 2022

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:

(a)(1), Page 1, Lines 5-10: As "adequate" is defined in 02 NCAC 52J .0104, would the following not negate the need for (a)(1)-(3)? "The ambient temperature pursuant to G.S. 19A-23(3) in indoor facilities for dogs and cats shall be adequate a defined in Rule .0104 for all animals." Alternatively, if you prescribe (b) and (c), do you need (a)? Otherwise "special" in line 8 should be lower case.

(c), Page 1, Line 20: What is the difference between "adequate" and "sufficient"?

(e)(1), Page 1, Line 26: Why is the agency striking the term "a suitable method of drainage" which is defined in Rule 104(10) and replacing it with the arguably ambiguous term "drainage"?

(e)(3), Page 1, Line 30: As "sufficient" is undefined, consider using "adequate" which is defined.

History Note, Page 1, Line 34: Ought not G.S. 19A-30(3) be cited as an authority?

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

William W. Peaslee
Commission Counsel

Date submitted to agency: June 2, 2022

02 NCAC 52J .0202 is readopted with substantive changes as published in 36:12 NCR 1005-1006 follows:

02 NCAC 52J .0202 INDOOR FACILITIES

(a) Heating and cooling of indoor facilities:

(1) ~~indoor housing~~ facilities for dogs and cats shall be adequately heated and cooled ~~when necessary to~~ protect the dogs and cats from cold and ~~excessive~~ heat and provide for their health and ~~comfort~~, comfort;

(2) the ambient temperature shall not be allowed to fall below 50 degrees F. or exceed 85 degrees ~~F. F;~~ and

(3) Special provisions shall be provided to any animal that cannot maintain its normal body temperature.

These special provisions shall be sufficient for the animal to maintain its normal body temperature and shall be documented in the animal's record.

(b) Ventilation of indoor facilities:

(1) ~~Indoor~~indoor housing facilities for dogs and cats shall be adequately ventilated to provide for the health and comfort of the animals at all ~~times~~, times; ~~The~~the facilities shall be provided with fresh air either by means of windows, doors, vents and/or air conditioning and shall be ventilated so as to minimize ~~drafts~~, drafts;

(2) air vents and/or air filters shall be cleaned and/or changed as often as necessary to minimize buildup of debris, dust and biological material and as often as necessary to prevent inhibition or restriction of air flow; and

(3) ~~Air~~ air flow shall be ~~adequate~~ sufficient to minimize odors and moisture condensation.

(c) Indoor housing facilities for dogs and cats shall have ~~adequate~~ sufficient illumination to permit routine inspections, maintenance, cleaning and housekeeping of the facility and observation of the animals. Illumination shall provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the animal facilities.

(d) Interior building surfaces of indoor facilities with which animals come in contact shall be constructed and maintained so that they are impervious to moisture and can be readily sanitized.

(e) Drainage of indoor housing facility:

(1) ~~A suitable method of drainage~~ drainage shall be provided to rapidly eliminate excess water from an indoor housing ~~facility~~, facility;

(2) ~~If~~ if closed drain systems are used, they shall be equipped with traps and installed to prevent odors and backup of ~~sewage~~, sewage; and

(3) ~~The~~ the drainage system shall be ~~constructed~~ with barriers sufficient to prevent protect the animals from cross-contamination among animals with urine and fecal material from animals housed in adjacent and/or nearby enclosures and/or exercise areas.

*History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005;
Readopted Eff. July 1, 2022.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Board of Agriculture

RULE CITATION: 02 NCAC 52J .0203 Outdoor Facilities

DEADLINE FOR RECEIPT: June 6, 2022

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:

(a), Page 1, Lines 5: Did the agency intend to remove "in"?

(a)(1), Page 1, Line 7: What is the difference between "flooring" and "groundcover"?

(a)(2), Page 1, Line 8: "may" should be "shall".

(a)(2), Page 1, Line 9: Sanitary is an undefined term. Consider using "an adequate manner" as "adequate" is defined, or perhaps "adequately maintained". Or would a reference to Rule 207 be appropriate?

(b)(3), Page 1, Line 15: Consider "so long as it is adequately maintained,..."

(b)(4), Page 1, Line 17: "may" should be "shall". Consider comma after "dirt".

(b)(4), Page 1, Line 18: Consider inserting "properly" before "cleaned" as the term "properly cleaned" is a defined term in Rule 104 (18). Sanitary is an undefined term. Consider using "an adequate manner" as "adequate" is defined, or perhaps "adequately maintained". Or would a reference to Rule 207 be appropriate?

(b)(4), Page 1, Line 19: Consider comma after "management".

(c), Page 1, Lines 21-22: As (a) and (b) prescribe what can be used for "flooring or ground cover", why is (c) necessary?

(d)(1), Page 1, Line 26: Consider striking "easily".

(d)(3), Page 1, Line 31: "Must" should be "shall".

(d)(3), Page 1, Line 34: What is "sufficient"? Is that the same as "adequate"?

(d)(3), Page 1, Line 36: "May not" should be "shall not".

William W. Peaslee
Commission Counsel

Date submitted to agency: June 2, 2022

(d)(5), Page 2, Line 1: Is (d)(5) necessary as this appears to be covered in (e)?

(e), Page 2, Line 3: Consider “Dogs and cats in outdoor areas shall be provided adequate protection from inclement weather and the Sun.”

(e), Page 2, Line 5: “May not” should be “shall not”.

(f), Page 2, Line 6: Consider “properly cleaned”.

(h), Page 2, Line 10: Why is the agency striking the term “a suitable method of drainage” which is defined in Rule 104(10) and replacing it with the arguably ambiguous term “drainage”? Further, as the term “a suitable method of drainage” is used only twice in Subchapter 52J (Rules 202 and 203), why maintain a definition of the term in Rule 104 if the agency isn’t going to use the term? Rather than use “rapidly” consider “adequately”.

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

1 02 NCAC 52J .0203 is readopted with substantive changes as published in 36:12 NCR 1106 as follows:

2
3 **02 NCAC 52J .0203 OUTDOOR FACILITIES**

4 (a) In outdoor facilities that are subject to the Animal Welfare Act, primary ~~enclosures~~ enclosures, common areas and
5 walkways with which an animal comes ~~in contact~~ contact:

6 (1) shall have flooring or groundcover ~~be constructed~~ of sealed concrete or other surfaces impervious to
7 ~~moisture, moisture; and/or~~

8 (2) may use Gravel gravel may be used for groundcover so long as it is if maintained at a minimum depth of
9 six inches and kept in a sanitary manner.

10 (b) Exercise areas of outdoor facilities:

11 (1) shall have flooring or groundcover constructed of sealed concrete or other surfaces impervious to
12 moisture; and/or

13 (2) use gravel for groundcover so long as it is maintained at a minimum depth of six inches and kept in a
14 sanitary manner; and/or

15 (3) artificial turf may be allowed so long as it is maintained in good repair, is replaced when damaged, and
16 is cleaned and sanitized in accordance with Section .0207; and/or

17 (4) may contain established grass so long as the animal(s) do not have access to bare dirt and the grass covered
18 area(s) must be kept clean and sanitary. In the event of a contagious disease outbreak, the sanitation,
19 management and use of the grass area shall be addressed in the veterinarian's written protocol required by
20 52J .0210 (b) and (c).

21 (c) Sand and organic materials such as mulch, pine straw, or other similar material shall not be used as ground cover
22 in primary enclosures, common areas, exercise areas and/or walkways.

23 ~~(b)~~(d) Dogs and cats kept in outdoors-outdoor primary enclosures shall be provided housing to allow them to remain
24 dry and comfortable during inclement weather.

25 (1) ~~Housing-housing~~ shall be constructed of material which is impervious to moisture and which can be
26 disinfected- cleaned and easily sanitized in accordance with Section .0207;

27 (2) ~~One-one~~ house shall be available for each animal within each primary enclosure-enclosure except for a
28 mother and its unweaned offspring. The house(s) shall be of adequate size for the animal housed in the
29 enclosure. In the case of a mother and her unweaned offspring, one house of adequate size to comfortably
30 house the mother and all the offspring together shall be provided;

31 (3) housing structures in outdoor facilities must contain clean, dry bedding or a heat source when the
32 temperature falls below 32 degrees F;

33 (4) special provisions shall be provided to any animal that cannot maintain its normal body temperature when
34 housed outside. These special provisions shall be sufficient for the animal to maintain its normal body
35 temperature and shall be documented in the animal's record. If the animal cannot maintain its normal body
36 temperature even with special provisions, then that animal may not be housed outside. No infirm animal
37 may be housed outdoors; and

1 (5) ~~In~~ in addition to housing, the enclosure shall provide protection from excessive sun and inclement
2 weather.

3 (e) Dogs and cats placed in outdoor exercise areas shall be protected from inclement weather and excessive sun. This
4 protection shall be sufficient to protect all animals simultaneously in the exercise area. If an animal cannot maintain
5 its normal body temperature in an outdoor exercise area, the animal may not be placed in an outside exercise area.

6 (f) Outdoor common areas used for play, enrichment and elimination shall be maintained in good repair and be cleaned
7 and sanitized as set forth in Section .0207 to protect the animals from injury and/or illness.

8 ~~(d)~~(g) Animal owners shall be advised at the time of reservation and admission at a boarding kennel if the animal will
9 be kept in outside facilities. This shall be documented in the animal's record.

10 ~~(e)~~(h) ~~A suitable method of Drainage shall be provided.~~ provided so that water is rapidly drained from the primary
11 enclosures, common areas, exercise areas and walkways and so that the animal(s) does/do not have access to standing
12 water.

13
14 History Note: Authority G.S. 19A-24;
15 Eff. April 1, 1984;
16 Amended Eff. March 23, 2009; January 1, 2005;
17 Readopted Eff. July 1, 2022.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Board of Agriculture

RULE CITATION: 02 NCAC 52J .0204 Primary Enclosures

DEADLINE FOR RECEIPT: June 6, 2022

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:

- (a), Page 1, Line 6: Add "Rule" before .0203, and capitalize "Section".*
- (b), Page 1, Line 9: Change "must" to "shall".*
- (d), Page 1, Line 13: "Easily" is subjective and ambiguous. Consider striking.*
- (e), Page 1, Line 15-16: This Subsection is subjective and ambiguous. Can the amount of room necessary be determined? Ex. X number of yards per animal in the exercise area.*
- (f), Page 1, Line 17: Consider adding "high" after "five feet".*
- (h), Page 1, Line 19-20: Can the amount of space be quantified?*
- (i), Page 1, Line 29: "May not" should be "shall not".*
- (p)(1)-(4), Page 2, Lines 12-21: Is a semicolon or period the correct punctuation?*
- (p)(2), Page 2, Line 14: Change "may" to "shall".*
- (p)(3), Page 2, Line 16: Change "may" to "shall".*

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

William W. Peaslee
Commission Counsel
Date submitted to agency: June 2, 2022

1 02 NCAC 52J .0204 is readopted with substantive changes as published in 36:12 NCR 1006-1007 as follows:

2
3 **02 NCAC 52J .0204 PRIMARY ENCLOSURES**

4 (a) Primary enclosures and exercise areas shall be constructed so as to prevent contamination from waste and
5 wastewater from animals in other enclosures. All surfaces with which an animal comes in contact shall be impervious
6 ~~to moisture.~~moisture excluding the ground cover options of gravel and grass allowed for in .0203 of this section.

7 (b) For primary enclosures and exercise areas placed into service on or after January 1, 2005, no wood shall be within
8 the animal's reach. For primary enclosures and exercise areas in use in a licensed or registered facility prior to January
9 1, 2005, any damaged wood must be replaced in a manner that does not permit contact with wood by the animal.

10 ~~(b)(c)~~ (c) Primary enclosures and exercise areas for dogs and cats shall be structurally sound and maintained in good
11 repair and in a manner to prevent injury to animals and keep other animals out.

12 (d) Primary enclosures shall be constructed so as to provide space to allow each dog or cat to walk, ~~turn~~ turn about
13 freely, and to easily stand with their tails erect, sit, or lie in a natural ~~position~~ with their limbs extended without
14 touching other animals within the enclosure or the sides or top covering of the enclosure.

15 (e) Exercise areas shall be constructed to provide adequate space to allow each dog or cat to run and express natural
16 play behaviors typical of the species.

17 (f) The height of a primary enclosure or an exercise area other than a cage shall be no less than five feet.

18 (g) All primary enclosures and exercise areas shall be constructed to prevent the escape of animals.

19 ~~(e)(h)~~ (h) Each primary enclosure and exercise area shall be provided with a solid resting surface or surfaces adequate to
20 comfortably hold all occupants of the primary enclosure and exercise area at the same time. All resting surfaces must
21 be of a non-porous or easily sanitized material, such as a solid floor, towel, or a disposable material such as newspaper.
22 The resting surface or surfaces shall be elevated in primary enclosures housing two or more cats.

23 ~~(4)(i)~~ (i) In addition to Paragraph (b) of this Rule, each dog shall be provided a minimum square footage of floor space
24 equal to the mathematical square of the sum of the length of the dog in inches, as measured from the tip of its nose to
25 the base of its tail, plus six inches, then divide the product by 144. The calculation is: (length of dog in inches + 6) x
26 (length of dog in inches + 6) = required floor space in square inches. Required floor space in square inches ÷ 144 =
27 required floor space in square feet. The calculation shall be expressed in square feet.

28 (j) Not more than four adult dogs shall be housed or confined in the same primary enclosure or exercise area without
29 supervision. Dogs younger than six months of age may not be housed or confined or comingled with adult dogs other
30 than their dams without supervision; this includes any animals owned by the staff or operator of the facility.

31 ~~(e)(k)~~ (k) If more than four dogs including animals owned by the staff or operator of the facility are housed or confined
32 in an exercise area ~~are housed in a common area or~~ primary enclosure, then there must be at least one person constantly
33 supervising each 10 dogs housed or confined within each primary enclosure or ~~common~~ exercise area. This supervision
34 must be conducted from within the exercise area or primary enclosure such that the person(s) has/have immediate
35 access to the animals in the event of an emergency, aggression or fight between animals.

36 (l) Pregnant dogs and cats shall be housed singly in a primary enclosure. Nursing dogs and cats shall be housed only
37 with their litter in a primary enclosure until the litter has been weaned. The primary enclosure shall be of sufficient

1 size to allow the dam and all animals in the litter to walk, turn about freely, nurse, and to easily stand with their tails
2 erect, sit, or lie in a natural position with their limbs extended without touching other animals within the enclosure the
3 sides or top covering of the enclosure and to leave the whelping/queening area for exercise.

4 ~~(f)(m)~~ In addition to ~~Paragraph (b)~~ Paragraphs (d), (e) and (h) of this Rule, each feline older than six months housed
5 in any primary enclosure or exercise area shall be provided a minimum of four square feet of floor space which may
6 include elevated resting surfaces. Each feline younger than six months shall be provided 1.5 square feet.

7 ~~(n)~~ Not more than 12 cats shall be housed or confined in the same primary ~~enclosure~~ enclosure or exercise area.

8 ~~(g)(o)~~ In all cat primary enclosures and exercise areas, ~~enclosures~~, a clean receptacle containing clean litter shall be
9 provided for waste. A minimum of one receptacle per three cats is ~~required~~ required for each primary enclosure and
10 exercise area.

11 (p) Pools in primary enclosures and/or exercise areas:

12 (1) Whenever water in a pool is deeper than the height at the shoulder of the shortest dog in the pool area, an
13 ingress-egress area shall be provided;

14 (2) No dog may have access to the pool or pool area other than a typical kiddie wading pool without
15 supervision;

16 (3) Facilities must be constructed, maintained, and managed to protect animals from illness, injury, and death
17 resulting from access to pools or pool areas;

18 (4) Pools with a capacity of less than 100 gallons must have the water changed and be cleaned and sanitized
19 daily. Pools with a capacity of 100 gallons or more shall have commercially manufactured filtration and
20 cleaning systems installed and the manufacturer recommendations followed for cleaning, sanitation and
21 water quality; and

22 (5) Typical kiddie wading pools are to be considered accessories for the purposes of cleaning, sanitation,
23 repair and maintenance.

24
25 *History Note: Authority G.S. 19A-24;*

26 *Eff. April 1, 1984;*

27 *Amended Eff. January 1, 2005; April 1, 1985;*

28 *Readopted Eff. July 1, 2022.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Board of Agriculture

RULE CITATION: 02 NCAC 52J .0205 Feeding

DEADLINE FOR RECEIPT: June 6, 2022

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:

(a) & (b), Page 1, Lines 4 and 9: It appears that the agency exceeds its authority by making this rule applicable to all dogs and cats. Consider limiting it to dogs and cats "as items of commerce" pursuant to G.S. 19A-21 or subject to the Animal Welfare Act.

(g), Page 1, Line 28: Change "must" to "shall".

(g), Page 1, Line 29: If it does not conflict with the agency's intention, consider "...to ensure that each animal receives adequate feed." "Adequate feed" is a defined term. See G.S. 19A-23 (1).

(i), Page 1, Line 31: Did the agency mean "within 24 hours"? Change "must" to "shall".

(j), Page 1, Line 32: Change "must" to "shall".

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

William W. Peaslee
Commission Counsel

Date submitted to agency: June 2, 2022

1 02 NCAC 52J .0205 is readopted with substantive changes as published in 36:12 NCR 1007-1008 as follows:

2
3 **02 NCAC 52J .0205 FEEDING**

4 (a) ~~Adult Dogs~~dogs and cats and puppies and kittens older than six months shall be fed at least once each 24-hour
5 period~~period, except as otherwise might be required to provide adequate veterinary care. Food shall be commercially~~
6 prepared food which complies with laws applicable to animal feed or the food shall be provided by the owner. The
7 food shall be free from contamination, wholesome, palatable, and of adequate quality and quantity appropriate for the
8 given size, age, and condition of an animal to meet the daily requirements for nutritional value.

9 (b) Puppies and kittens less than six months of age shall be fed at least twice in each 24-hour period. An eight-hour
10 interval between feedings is required if only two feedings are offered in a 24-hour period.

11 (c) Should a veterinarian prescribe a feeding regime different from the ones described in Paragraphs (a) and (b) of this
12 section for a specific animal, documentation of such veterinary care is required and shall include:

13 (1) the original veterinary directive signed by the veterinarian issuing it;

14 (2) the printed name of the veterinarian;

15 (3) the reason for the restriction;

16 (4) the specific feeding directions;

17 (5) the origination and review dates of the directive;

18 (6) the facility shall have the veterinarian review and renew the directive every 30 days until it is no longer
19 required;

20 (7) the date of the cessation of the directive; and

21 (8) documentation by the facility of each feeding as prescribed by the veterinarian.

22 (d) Food shall be commercially prepared food which complies with laws applicable to animal feed or the food shall
23 be provided by the owner.

24 (e) The food shall be free from contamination, wholesome, palatable, and of sufficient quality and quantity appropriate
25 of the given size, age, and condition of an animal to meet the daily requirements for nutritional value.

26 (f) ~~(b)~~ Food receptacles shall be accessible to all dogs or cats and shall be located so as to minimize contamination by
27 waste.

28 (g) For every adult animal, there must be at least one food receptacle offered. When multiple animals are housed
29 together, caretakers shall observe each animal feeding to ensure that animals have sufficient access to food.

30 (h) Food receptacles shall be durable and shall be kept clean and sanitized.

31 (i) Uneaten food within food receptacles must be discarded after 24 hours or sooner if spoiled or contaminated.

32 (j) Damaged food receptacles shall be replaced. Disposable food receptacles may be used but must be discarded after
33 each feeding.

34 (k) ~~(e)~~ Food and water receptacles in outdoor facilities shall be protected from the elements.

35
36 *History Note: Authority G.S. 19A-24;*

37 *Eff. April 1, 1984;*

1 *Amended Eff. January 1, 2005; April 1, 1985;*
2 *Readopted Eff. July 1, 2022.*

1 02 NCAC 52J .0206 is readopted with substantive changes as published in 36:12 NCR 1008 as follows:

2
3 **02 NCAC 52J .0206 WATERING**

4 (a) Animals shall have continuous access to ~~fresh~~ fresh, potable water, except as might otherwise be required to
5 provide adequate veterinary care.

6 (b) Veterinary care for a specific animal that requires water to be withheld, given in intervals, or any variation other
7 than continuous access by an animal can only be prescribed by a veterinarian and shall be documented in writing by
8 the facility. The documentation shall include:

9 (1) the original veterinary directive signed by the veterinarian issuing it;

10 (2) the printed name of the veterinarian;

11 (3) the reason for the restriction;

12 (4) the specific watering directions;

13 (5) the origination and review dates of the directive;

14 (6) the facility shall have the veterinarian review and renew this directive every 30 days until it is no longer
15 required;

16 (7) the date of the cessation of the directive; and

17 (8) documentation by the facility of each watering as prescribed by the veterinarian.

18 (c) Water in receptacles shall be changed daily and whenever visibly soiled.

19 (d) Watering receptacles shall be durable and kept clean and sanitized.

20 (e) Damaged receptacles shall be replaced.

21
22 *History Note: Authority G.S. 19A-24;*
23 *Eff. April 1, 1984;*
24 *Amended Eff. January 1, 2005;*
25 *Readopted Eff. July 1, 2022.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Board of Agriculture

RULE CITATION: 02 NCAC 52J .0207 Sanitation

DEADLINE FOR RECEIPT: June 6, 2022

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:

(a), Page 1, Line 6: Change "must" to "shall".

(b), Page 1, Line 9: It appears the word "in" is missing.

(d)(3), Page 1, Line 21: Should this read "Primary enclosures, cages, rooms, hard-surfaced or artificial turf exercise areas, pens, and runs shall..."

(d)(3)(B), Page 1, Line 28: Consider replacing "correct" with "adequate".

(d)(3)(B), Page 1, Line 31: Should "chemical" be plural?

(d)(8), Page 2, Lines 7-9: Consider "Fans, including floor fans, ceiling fans, wall fans, vent fans, etc. shall be kept clean of accumulated debris, dust, and biological material."

(e), Page 2, Lines 10-14: This appears overly broad to include areas to which the applicable animals would not have access. Accordingly, the agency would lack authority in those areas.

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

William W. Peaslee
Commission Counsel
Date submitted to agency: June 2, 2022

1 02 NCAC 52J .0207 is readopted with substantive changes as published in 36:12 NCR 1008-1009 as follows:

2
3 **02 NCAC 52J .0207 SANITATION**

4 (a) Waste shall be removed from primary-~~enclosures~~ enclosures, and exercise areas and common areas to prevent
5 contamination of the dogs or cats contained therein and to reduce disease hazards and odors. Enclosures and exercise
6 areas for dogs and cats must be properly cleaned a minimum of two times per day. The animal must be able to walk
7 or lie down without coming in contact with any waste or debris.

8 (b) When a hosing or flushing method is used for cleaning an enclosure, dogs or cats contained therein shall be
9 removed during the cleaning process, and adequate measures shall be taken to protect the animals ~~in other such clean~~
10 enclosures from being contaminated with water and other wastes.

11 (c) Cross contamination barriers shall be in place in primary enclosures and be sufficient to prevent feces, urine and
12 cleaning waste water from entering another occupied primary enclosure.

13 ~~(b)~~(d) Sanitation shall be as follows:

14 (1) Prior to the introduction of dogs or cats into empty primary enclosures previously occupied,
15 enclosures and accessories shall be sanitized in the manner provided in Subparagraph ~~(b)~~(d)(3) of
16 this Rule.

17 (2) In addition to primary enclosures being properly cleaned a minimum of two times per day,
18 enclosures and accessories shall be sanitized a minimum of once every seven days in the manner
19 provided in Subparagraph ~~(b)~~(d)(3) of this Rule if the same animal is housed in the same enclosure
20 ~~more than~~ for seven or more days.

21 (3) Primary enclosures, ~~Cages, cages,~~ rooms and hard-surfaced exercise areas, pens or runs and
22 exercise areas with artificial turf flooring shall be sanitized by:

23 (A) washing them with hot water (180 degrees F.) and soap or detergent as in a mechanical
24 cage washer; or

25 (B) ~~washing all soiled surfaces with a detergent solution to remove all organic matter followed~~
26 ~~by application of a safe and effective disinfectant; removal of visible organic matter,~~
27 precleaning all soiled surfaces with a detergent or degreaser solution, followed by the
28 application, at the correct concentration, of an animal-safe disinfectant labeled to be
29 effective against common pathogens. The disinfectant is to be left on the surfaces for the
30 time indicated by the manufacturer. After such time, all surfaces shall be thoroughly rinsed
31 to remove all residual chemical and then the area dried prior to returning the animal(s) to
32 this area; or

33 (C) cleaning all soiled surfaces with live steam, The area is to be cooled and dried prior to the
34 return of the animal(s).

35 (4) Common areas, any area accessible to multiple animals and exercise areas not covered by .0207
36 (d)(3) shall be kept clean and sanitary. These areas are to be properly cleaned a minimum of two
37 times per day. Hard and/or impervious surfaces of these areas shall be sanitized a minimum of once

1 every seven days in the manner provided in Subparagraph (d)(3):

2 ~~(4)(5)~~ Food and water receptacles shall be sanitized daily with hot water, detergent, and disinfectant. The
3 disinfectant shall be used consistent with the manufacturer's directions;

4 ~~(5)(6)~~ Soiled linens and cloth products shall be mechanically washed with detergent and ~~sanitized.~~
5 sanitized;

6 ~~(6)(7)~~ Any area accessible to multiple animals shall be kept clean and ~~sanitary,~~ sanitary; and

7 ~~(8)~~ Fans, including but not limited to floor fans, ceiling fans, wall fans, vent fans, etc. shall be cleaned
8 routinely in intervals sufficient to prevent the accumulation of debris, dust and/or biological
9 material.

10 ~~(e)(e)~~ Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from
11 injury and to facilitate the prescribed husbandry practices set forth in this Rule. Premises shall remain free of
12 accumulations of trash, junk, waste products, and discarded matter. Weeds, grasses, and bushes must be controlled
13 so as to facilitate cleaning of the premises and to improve pest control, and to protect the health and well-being of the
14 animals.

15 ~~(4)(f)~~ An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be
16 established and maintained.

17
18 *History Note: Authority G.S. 19A-24;*

19 *Eff. April 1, 1984;*

20 *Amended Eff. January 1, 2005; April 1, 1985;*

21 *Readopted Eff. July 1, 2022.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Board of Agriculture

RULE CITATION: 02 NCAC 52J .0208 Employees

DEADLINE FOR RECEIPT: June 6, 2022

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:

Generally, to the Rule: It does not appear that the agency has the authority nor is the Rule reasonably necessary pursuant to G.S. 150B-21.9.

Page 1, Line 4: "Sufficient" and "sufficiently" are subjective and undefined. Accordingly, the Rule is unclear and ambiguous.

Page 1, Lines 5-8: The agency's intention is unclear. Does the agency intend that while husbandry is being practiced by an employee that a supervisor who has acknowledged that they have read and understood Subchapter 52J and the AWA must be present? What does the agency mean by "supervise"? Who is a "supervisor" or "caretaker"? Is it anyone who has acknowledged they have read and understood Subchapter 52J and the AWA?

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

William W. Peaslee
Commission Counsel

Date submitted to agency: June 2, 2022

1 02 NCAC 52J .0208 is readopted with substantive changes as published in 36:12 NCR 1009 as follows:

2

3 **02 NCAC 52J .0208 EMPLOYEES**

4 A sufficient number of employees shall be utilized to sufficiently care for the animals in the facility and maintain the
5 prescribed level of husbandry practices set forth in this Rule. Such practices shall be under the supervision of an animal
6 caretaker who ~~has a background in animal husbandry or care.~~ is adequately trained and/or experienced in animal
7 husbandry and care and has read and acknowledged their understanding of these rules and the NC Animal Welfare
8 Act.

9

10 *History Note: Authority G.S. 19A-24;*
11 *Eff. April 1, 1984;*
12 *Readopted Eff. July 1, 2022.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Board of Agriculture

RULE CITATION: 02 NCAC 52J .0209 Classification and Separation

DEADLINE FOR RECEIPT: June 6, 2022

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:

Page 1, Line 4: "And/or" should just be "or".

(4), Page 1, Lines 18-21: Is there a minimum amount of human social interaction?

(5), Page 1, Line 22: What about exercise areas, etc.?

(7), Page 1, Line 33: Is there a minimum amount of human or same species social interaction?

(7)(a), Page 2, Line 1: Does the type or duration need to be documented?

(8), Page 2, Line 12: Spell out Animal Welfare Section unless the acronym has been previously established in the Rule. Consider replacing "and in" with "for".

Page 1, Line 4: "Sufficient" and "sufficiently" are subjective and undefined. Accordingly, the Rule is unclear and ambiguous.

Page 1, Lines 5-8: The agency's intention is unclear. Does the agency intend that while husbandry is being practiced by an employee that a supervisor who has acknowledged that they have read and understood Subchapter 52J and the AWA must be present? What does the agency mean by "supervise"? Who is a "supervisor" or "caretaker"? Is it anyone who has acknowledged they have read and understood Subchapter 52J and the AWA?

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

William W. Peaslee
Commission Counsel

Date submitted to agency: June 2, 2022

02 NCAC 52J .0209 is readopted with substantive changes as published in 36:12 NCR 1009-1010 as follows:

02 NCAC 52J .0209 CLASSIFICATION AND SEPARATION

Animals housed in the same primary enclosure and/or confined to an exercise area shall be maintained in compatible groups, with the following additional restrictions:

- (1) Females in season (estrus) shall not be housed in the same primary enclosure or exercise area with intact or neutered males, except for planned breeding purposes. Breeding shall not be allowed in animal shelters.
- (2) In boarding kennels, animals of different owners shall not have contact with other animals, unless written permission is obtained from the animal's owner. The documentation of this written permission shall be kept as part of the animal's record for one year and must be renewed yearly thereafter.
- (3) Any dog or cat exhibiting an aggressive disposition shall be housed individually in a primary enclosure. Housing of aggressive animals shall be such that the animals are prevented from biting or injuring another animal or human.
- ~~(3)~~(4) Puppies or kittens less than ~~four~~ six months of age shall not be housed in the same primary enclosure with adult dogs or cats other than their dams, except when permanently maintained in breeding colonies, or if requested in writing, by the animals' owner, as in a boarding kennel. Puppies or kittens between four and 16 weeks of age shall have daily access to human social interaction in addition to the human interaction during the cleaning and sanitation of the enclosures, excluding animals which pose a danger to humans or other animals.
- ~~(4)~~(5) Dogs shall not be housed in the same primary enclosure with cats, nor shall dogs or cats be housed in the same primary enclosure with any other species of animals. Exceptions are allowed at boarding kennels, if requested in writing by the animals' owner.
- ~~(5)~~(6) All facilities shall designate an isolation area for animals being treated or observed for communicable diseases. Dogs or cats in isolation that are being treated for a communicable disease shall be separated from other dogs or cats and other susceptible species of animals in such a manner as to minimize dissemination of such disease. A sign shall be posted at the cage or isolation area when in use, giving notice of a communicable ~~disease~~. disease, including the identification of the disease. Accessories, cleaning equipment and supplies used in isolation areas shall not be used in other areas of the facility.
- ~~(6)~~(7) Animals in long term care ~~which are intended for adoption or sale~~ must be provided ~~the following:~~ with human interaction other than interaction for enclosure cleaning, same species social interaction, opportunity for play and exercise, and environmental enrichment daily. The provision of these daily interactions and enrichment shall be appropriate for the animal's species, age, size and behavior needs. In addition:
 - (a) ~~Daily access to both human and same species social interaction.~~ The provision of the daily

1 social interactions and enrichment shall be documented in the animal's records and the
2 records maintained for three years; and

3 (b) ~~Daily access to space other than the primary enclosure.~~Exemptions from these long-term care
4 provisions are allowed only for safety or health reasons and must be approved by a
5 veterinarian. This exemption must be reviewed and renewed every 30 days if the
6 continuation is necessary. Documentation of the exemption must include the reason for the
7 exemption, the name and contact information of the veterinarian authorizing the
8 exemption, the original exemption date and the dates of review and renewal and
9 alternative(s) offered if any.

10 ~~(c) A species and size appropriate toy, unless it poses a health threat.~~

11 (7)(8) All animals shall be confined in primary enclosures or exercise areas. Primary enclosures and
12 exercise areas must be inspected by AWS and in compliance with the rules of 02 NCAC 52J before
13 an animal can be confined in the enclosure or area.

14
15 *History Note: Authority G.S. 19A-24;*
16 *Eff. April 1, 1984;*
17 *Amended Eff. January 1, 2005;*
18 *Readopted Eff. July 1, 2022.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Board of Agriculture

RULE CITATION: 02 NCAC 52J .0210 Veterinary Care

DEADLINE FOR RECEIPT: June 6, 2022

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:

(a), Page 1, Line 5: Consider placing a comma between “animals” and “and”.

(a)(2), Page 1, Line 13: Spell out Animal Welfare Section unless the acronym has been established in the Rule.

(a)(3), Page 1, Line 14: Does pointing out that the failure to follow the PVC is a violation imply that the failure to follow other Rules is not a violation?

(b), Page 1, Line 18: Consider a more descriptive term than “disease problem”. Does the documentation of consultation need to be filed anywhere or just held by the facility? For how long must the facility keep the record?

(d), Page 1, Line 24: Are facilities required to designate “the animal caretaker in charge”? “His” should be made gender neutral.

(e), Page 1, Line 30: Consider “Facilities certified to perform euthanasia pursuant to Rule _____, shall maintain a list of personnel approved by _____ to perform euthanasia. The list shall be part of the Policy and Procedure Manual prescribed by 02 NCAC 52J.0800.”

(h), Page 2, Line 2: If it does not alter the agency’s intention, consider “This subsection shall not apply to any dog or cat known to be less than 12 weeks old or animals which have been in the facility less than 15 days.” Otherwise, what does “disapproved” mean? Is this a denial of licensure?

(i)(6), Page 2, Line 19: As currently written “the facility shall” does not meet grammatically with (6).

(j), Page 2, Line 21: Did the agency mean “boarding kennel” facilities as defined in G.S. 19A-23(5c)? Does the word “medication” mean all medications or just those that calm an animal?

William W. Peaslee
Commission Counsel

Date submitted to agency: June 2, 2022

(j), Page 2, Line 23: Does the agency intend that there are three prerequisites or are these alternatives? As written in the context of the Rule, it appears that the agency would require the direction of a veterinarian along with a written prescription by that veterinarian and then only with the consent of the animal's owner. What is the difference between direction and a prescription? Or did the agency intend it to be under the direction of a veterinarian or a prescription by a veterinarian?

(j), Page 2, Line 27: If a written prescription is required, would the written prescription need to be part of the documentation retained? This does not appear to be covered by Rule 102.

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

1 02 NCAC 52J .0210 is readopted with substantive changes as published in 36:12 NCR 1010-1011 as follows:

2
3 **02 NCAC 52J .0210 VETERINARY CARE**

4 (a) A written program of veterinary care (PVC) to include disease control and prevention, vaccination, euthanasia
5 (animal shelters only), disposition of diseased, ill, injured, infirm or deformed animals and provision of adequate
6 routine and emergency veterinary care shall be established with the assistance of a licensed veterinarian by any person
7 who is required to be licensed or registered under the Animal Welfare Act, Article 3 of Chapter 19A of the General
8 Statutes. The following is required of each PVC:

9 (1) The PVC for animal shelters and pet stores shall be established with the assistance of a veterinarian and
10 the veterinarian's information and signature shall be included in the appropriate section of the
11 license/registration application/renewal application;

12 (2) The PVC for boarding kennels shall be submitted as part of the license/registration application/renewal
13 and must be approved by the AWS Inspector assigned to the facility;

14 (3) The facility shall implement and follow the PVC. Failure to follow the PVC shall be considered a
15 violation; and

16 (4) Changes to the PVC shall be submitted for approval to the Animal Welfare Section within 10 days of the
17 effective date.

18 (b) If there is a disease problem that persists for more than 7 days at the facility, the facility operator shall consult with
19 a veterinarian for procedures to mitigate the problem. This consultation shall be documented by the facility.

20 ~~(b)~~(c) If there is a disease problem that persists for more than 30 days at the facility, the facility operator shall obtain
21 and follow a veterinarian's written recommendations for correcting the problem. These recommendations shall
22 include, at a minimum: sanitation of primary enclosures, common areas, exercise areas and accessories, and protocols
23 for animal intake, evaluation, isolation, disease recognition and treatment and euthanasia (in animal shelters).

24 ~~(c)~~(d) Each dog and cat shall be observed daily by the animal caretaker in charge, or by someone under his direct
25 supervision who has training and/or experience in animal husbandry. Sick or diseased, injured, lame, or blind dogs or
26 cats shall be provided with adequate veterinary care in a timely manner or be euthanized, provided that this the
27 euthanasia shall not affect compliance with any state or local law requiring the holding, for a specified period, of
28 animals suspected of being diseased. If an animal cannot be euthanized due to a required holding period and does not
29 meet the criteria of G. S. §19A-32.1(b)(2), then adequate veterinary care shall be provided to the animal.

30 (e) If euthanasia is performed at a certified facility, a list of personnel approved to perform euthanasia shall be
31 maintained in a Policy and Procedure Manual as described in 02 NCAC 52J .0800.

32 (f) ~~Diseased~~Diseased, injured, infirm or deformed animals shall be sold or adopted only under the policy set forth in
33 the "Program of Veterinary Care." PVC.

34 (g) Full written disclosure of the medical condition of the animal shall be provided to the new owner, and all veterinary
35 medical treatments provided to the animal shall be provided to the person or organization receiving, adopting,
36 purchasing or otherwise acquiring the animal. Proof of written disclosure signed by the person or organization
37 receiving the animal shall be maintained as part of the animal's record.

1 ~~(d)~~(h) All animals in a licensed or registered facility shall be in compliance with the North Carolina rabies law, G.S.
2 130A, Article 6, Part 6. However, no shelter shall be disapproved following inspection or otherwise cited for failure
3 to inoculate any dog or cat known to be less than 12 weeks old or until such animals have been in the shelter at least
4 15 days.

5 (i) If surgical procedures are performed at the registered/licensed facility, the facility shall:

6 (1) only perform surgical procedures on animals owned by the facility. The facility shall ~~may~~ not perform
7 surgery on animals owned by the public unless the practice of veterinary medicine at that facility falls under
8 the jurisdiction of the NC Board of Veterinary Medicine;

9 (2) appoint a NC licensed veterinarian to be the supervising veterinarian to direct, oversee and be responsible
10 for the performance of all surgical procedures and for the condition of the surgical facility;

11 (3) ensure all surgical procedures are performed by a NC licensed veterinarian and performed within the
12 designated surgical area;

13 (4) ensure that the designated surgical area meets the minimum standards for surgery in 21 NCAC 66
14 .0207(b)(9), the drug procedures meet the minimum standards in 21 NCAC 66 .0207(b)(11) and the
15 recordkeeping procedures meet the minimum standards in 21 NCAC 66 .0207(b)(12);

16 (5) ensure that the minimum standards for after-hours emergency service in 21 NCAC 66 .0207(b)(19) for
17 the provision of after-hours emergency veterinary care for an animal receiving surgical procedure(s) are met;
18 and

19 (6) surgical procedures are not performed until the inspection of the surgical facility and supporting
20 procedures noted in this section has occurred and all deficiencies have been corrected.

21 (j) Boarding facilities may not administer prescription medications or tranquilizers, sedatives, or any pharmaceutical
22 drug designed to calm an animal unless the medication or drug is administered under the direction of the animal's
23 veterinarian, with a written prescription from the animal's veterinarian, and with written permission from the animal's
24 owner. In the event a boarding facility agrees to administer such medications or substances, the medications must be
25 in the original container issued by a veterinarian or pharmacy and administered according to label directions. The label
26 must include: client name/pet name, dosage, drug name, veterinarian's name, and date issued. The administration of
27 these medications or substances shall be documented as required by 02 NCAC 52J .0102.

28 (k) Nothing in these rules allows the practice of veterinary medicine in North Carolina beyond what is otherwise
29 authorized by the NC Veterinary Medical Board pursuant to the NC Veterinary Practice Act.

30
31 *History Note: Authority G.S. 19A-24;*
32 *Eff. April 1, 1984;*
33 *Amended Eff. March 23, 2009; January 1, 2005;*
34 *Readopted Eff. July 1, 2022.*