

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

AGENCY: North Carolina Board of Agriculture

RULE CITATION: 02 NCAC 52B .0212

DEADLINE FOR RECEIPT: September 9, 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: G.S. 106-317 grants the Board authority to “establish a system of health certificates and permits for the better protection of swine and livestock.” Explain the agency’s authority to regulate other animals. Is there a definition of livestock by statute or code? Is a skunk “livestock”? Are camelids, elephants, or “any other species or hybrid of a mammal” livestock?

Generally, to the Rule: The agency is empowered to establish a system of health certificates and permits for the better protection of the swine and livestock of this State. Accordingly, the agency can set the standards for permit issuance. Explain the agencies authority to prohibit conduct outside the context of permit issuance.

Generally, to the Rule: Explain the agency’s authority to regulate wild animals.

Generally, to the Rule: What is the permit application process? Is that codified?

Page 1, Line 10: In paragraph (a) subparagraph (5), is “bobcat” otherwise ambiguous without the parenthetical? Can a more comprehensive list be made? The use of the word “includes” suggests there are others which are not listed. Would the use of “felines” and “etc.” include household cats? Additionally, in order to create a proper clause, place a comma after felines and add “such as.”

Page 1, Line 16, (b): Shouldn’t the sentence beginning “Furthermore...” be its own paragraph? Is the agency any addressing any wild animals listed in (a) or all wild animals? How must the applicant “show” compliance?

Page 1, Lines 19-32, (c): The paragraph applies to “camelids, bison, and other Bovidae other than domestic cattle, yet the last sentence then states that the requirements of this paragraph shall not apply to camelids. Which is it? This is facially unclear and ambiguous.

William W. Peaslee
Commission Counsel

Date submitted to agency: August 31, 0222

Page 1, Lines 35-37: What is an “imported” elephant? Aren’t all elephants imported? What is an “official” health certificate? How long must the certificate accompany the elephant?

Page 1, Line 33, (d): Explain the agency’s authority to regulate “any species or hybrid of mammal” which arguably would include humans.

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: August 31, 0222

02 NCAC 52B. 0212 is adopted as published in 36:19 NCR 1522-1533 as follows:

02 NCAC 52B .0212 IMPORTATION REQUIREMENTS: WILD ANIMALS

(a) A person shall obtain a permit from the State Veterinarian before importing any of the following animals into this State:

- (1) Skunk;
- (2) Fox;
- (3) Raccoon;
- (4) Ringtail;
- (5) Bobcat (includes Lynx and other North and South American felines as cougars, jaguars, etc.);
- (6) ~~Coyote~~;
- (7) Marten;
- ~~(8)(7)~~ Brushtail Possum (*Trichosurus vulpecula*).

(b) Permits for the importation into this State of any of the animals listed in Paragraph (a) of this Rule shall be issued only if the animal(s) will be used in a research institute, or for exhibition by a USDA licensed exhibitor, or organized entertainment as in zoos or circuses. Furthermore, permits for the importation of wild animals, as defined in G.S. 113-129, shall be issued only if the applicant shows compliance with applicable North Carolina Wildlife Resources Commission rules in 15A NCAC 10H.1400.

(c) Camelids, bison, and other bovidae other than domestic cattle may be imported into the State if accompanied by an official health certificate issued by a licensed, accredited veterinarian, as defined in 02 NCAC 52B .0401, which states that:

- (1) all animals six months of age or older have tested negative for brucellosis within 30 days prior to importation; and
- (2) all animals six months of age or older have tested negative for tuberculosis within 60 days prior to importation; and
- (3) the herd of origin has had no brucellosis or tuberculosis diagnosed within the past 12 months.

Additionally, all bison and other bovidae other than domestic cattle may be imported into the State only if officially identified in accordance with 9 CFR 86.1, which shall be incorporated by reference, including any subsequent amendments and editions, and can be obtained free of cost at https://www.ecfr.gov/cgi-bin/text-idx?SID&node=pt9.1.86&rgn=div5#se9.1.86_11. The requirements of this Paragraph shall not apply to camelids, llamas, vicunas, alpacas, and guanacos from other states that are tuberculosis Accredited-Free and brucellosis Certified-Free, when accompanied by an official health certificate.

(d) Any species or hybrid of a mammal not otherwise covered in the Administrative Code ~~that is found to exist in the wild or naturally occurs in the wild~~ must be accompanied by a valid certificate of veterinary inspection.

(e) Imported elephants shall be accompanied by an official health certificate issued by a licensed, accredited veterinarian, as defined in 02 NCAC 52B .0401, which states that “all animals have tested negative for tuberculosis within 365 days prior to importation.”

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2 *History Note: Authority G.S. 106-317; 106-400;*
3 *Eff. April 1, 1984;*
4 *Amended Eff. July 1, 1998; February 1, 1996; May 1, 1992;*
5 *Temporary Amendment Eff. February 18, 2002;*
6 *Temporary Amendment Expired August 1, 2002 (See Rule .0213);*
7 *Amended Eff. August 1, 2002;*
8 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26,*
9 *2017;*
10 *Amended Eff. September 1, 2022.*

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

AGENCY: North Carolina Board of Agriculture

RULE CITATION: 02 NCAC 52B .0214

DEADLINE FOR RECEIPT: September 9, 2022

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

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

Generally, to the Rule: Explain the agency's authority to regulate or issue permits regarding rabbits. Are rabbits livestock? If so, where is this defined?

Page 1, Line 7-13, (a)(1) & (2): Detected by whom? How would one check? Or is this based upon actual knowledge of the importer?

Page 1, Line 14-28, (b): What is an "official" health certificate? Who issues the certificate? Are there any protocols prior to the issuance of the certificate or can one be issued without an examination? If an examination is required, what kind of examination?

Page 1, Lines 20-26, (c)(1): Why is this language necessary? Also, please note the (i) should be (1).

Page 2, Line 1: (ii) should be (2).

Page 2, Line 2: Consider further definition of "temporary".

Page 2, Lines 9-10: By "documentation required for importation" does the agency mean any federally required documentation? If so, is there part of the United States Code to which a referral can be made? If not federally required documentation, to what documentation does the agency refer?

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: August 31, 0222

02 NCAC 52B. 0214 is adopted with changes as published in 36:22 NCR 1775-1776 as follows:

**02 NCAC 52B .0214 IMPORTATION REQUIREMENTS: ~~RABBITS~~ RABBITS, OR ANY SPECIES IN
THE ORDER LAGOMORPHA, INCLUDING HARES AND PIKAS**

(a) An import permit from the State Veterinarian is required for the importation of a ~~rabbit~~ rabbit, or any species in the order of Lagomorpha, including hare and pika, into the State of North Carolina originating from:

- (1) any country or state with Rabbit Hemorrhagic Disease Virus-2 ("RHDV-2") detected; or
- (2) a state or country without RHDV-2 if the ~~rabbit~~ animal makes any intervening stop in a country or state with RHDV-2 detected, if the ~~rabbit~~ animal is commingled or exposed to any other ~~rabbit~~ animal in the order of Lagomorpha not being shipped directly from the point of origin together, or if the imported rabbit is exposed to materials such as cages, beddings, and supplies that have been in contact with another ~~rabbit~~ animal in the order of Lagomorpha not shipped directly from the point of origin together.

(b) The ~~rabbit~~ import permit application shall be accompanied by an official health certificate certifying the ~~rabbit~~ animal to be free from any contagious animal disease, including RHDV-2, as follows:

- (1) If the ~~rabbit~~ animal is shipped directly without any intervening stops, without commingling or exposure to any other ~~rabbit~~ animal in the order of Lagomorpha not being shipped directly from the point of origin together, and without exposure to materials such as cages, beddings, and supplies that have been in contact with another ~~rabbit~~ animal in the order of Lagomorpha not shipped directly from the point of origin together, then the official health certificate shall be obtained within 7 days of the date of importation into North Carolina.
- (2) If the ~~rabbit~~ animal is shipped with intervening stops, with commingling or exposure to another ~~rabbit~~ animal in the order of Lagomorpha not being shipped directly from the point of origin together, or with exposure to materials such as cages, beddings, and supplies that have been in contact with another ~~rabbit~~ animal in the order of Lagomorpha not shipped directly from the point of origin together, then the official health certificate shall be obtained from the location of the last intervening stop, commingling, or exposure, and within 7 days of the date of importation into North Carolina.

(c) No permit is needed ~~for~~ for:

- (i) direct shipment of a ~~rabbit~~ rabbit, or any species in the order of Lagomorpha, including hare and pika, from a country or state without RHDV-2 or if the ~~rabbit~~ animal makes intervening stops only in countries or states without RHDV-2, the ~~rabbit~~ animal is not commingled or exposed to another ~~rabbit~~ animal in the order of Lagomorpha not shipped directly from the point of origin together, and the ~~rabbit~~ animal is not exposed to materials such as cages, beddings, and supplies that have been in contact with another ~~rabbit~~ animal in the order of Lagomorpha not shipped directly from the point of origin ~~together.~~ together; or

1 (ii) rabbits, or any species in the order of Lagomorpha, including hare and pika, brought into the State
2 on a temporary basis for the sole purpose of seeking veterinary services by a North Carolina licensed
3 veterinarian, lasting only until the end of the veterinary service visit, and the animal is brought
4 directly to the veterinary clinic and departs from the veterinary clinic to the originating state with
5 no intervening stops.

6 (d) The application for ~~rabbit~~ a importation shall include the state of origin, health certificate inspection date, the
7 owner's name, address, and phone number at the time of import, the import destination within the State of North
8 Carolina, the name, address, and phone number of the person with control and responsibility over the ~~rabbit~~ animal at
9 the import destination, and any federal licensing, permit, and documentation required for the importation of the ~~rabbit~~
10 animal if imported from outside of the United States of America.

11 (e) A ~~rabbit~~ rabbit, or any species in the order of Lagomorpha, including hare and pika, requiring an import permit
12 that is imported into North Carolina shall be accompanied by an official health certificate with the import permit
13 number and shall be made available for inspection by the State Veterinarian or his or her designee upon request.

14 (f) An intervening stop is defined as a stop in a country or state longer than 24 hours but less than 10 days. The
15 location of any stop for longer than 10 days shall be deemed the new country or state of origin.

16 (g) Health certificates issued outside of the United States shall be issued in English and by a veterinarian with a valid
17 license to practice veterinary medicine in the country of export.

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19 *History Note: Authority G.S. 106-317;*
20 *Eff. September 1, 2022.*