

Burgos, Alexander N

Subject: FW: 02 NCAC 52B and 52J Requests for Changes - September 2022 RRC

From: Liebman, Brian R <brian.liebman@oah.nc.gov>

Sent: Thursday, November 2, 2023 10:41 AM

To: Hayworth, Anna <Anna.Hayworth@ncagr.gov>

Cc: Harris, Catherine R <Catherine.Harris@ncagr.gov>; Norris, Patricia <Patricia.Norris@ncagr.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: 02 NCAC 52B and 52J Requests for Changes - September 2022 RRC

Hi Anna,

These look good. I'll recommend approval of all rules to the Commission at the meeting on the 16th. Can you please send the final version of all rules you haven't withdrawn to oah.rules@oah.nc.gov, copying me and Alex?

Thanks!

Brian

Brian Liebman

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

(984)236-1948

brian.liebman@oah.nc.gov

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

Burgos, Alexander N

Subject: FW: 02 NCAC 52B and 52J Requests for Changes - September 2022 RRC
Attachments: 02 NCAC 52J .0903.docx; 02 NCAC 52B .0214.docx

From: Hayworth, Anna <Anna.Hayworth@ncagr.gov>
Sent: Thursday, November 2, 2023 10:14 AM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Harris, Catherine R <Catherine.Harris@ncagr.gov>; Norris, Patricia <Patricia.Norris@ncagr.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 02 NCAC 52B and 52J Requests for Changes - September 2022 RRC

Good morning Brian,

Attached is the language with the revisions requested. Let me know if you need anything additional or have any questions.

Thank you!

Anna R. Hayworth | Agricultural Programs Specialist
Office of the Assistant Commissioner of Consumer Protection
NC Department of Agriculture and Consumer Services
1002 Mail Service Center | Raleigh, NC 27699
Office: (984) 236-4509 (new office)
Cell: (919) 745-9356
anna.hayworth@ncagr.gov

02 NCAC 52B. 0214 is amended with changes as published in 37:18 NCR 1870-1872 as follows:

**02 NCAC 52B .0214 IMPORTATION REQUIREMENTS: 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, 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 animal makes any intervening stop in a country or state with RHDV-2 detected, if the animal is commingled or exposed to any other 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 animal in the order of Lagomorpha not shipped directly from the point of origin together.

(b) The import permit application shall be accompanied by an official health ~~certificate~~ certificate, as detailed in 02 NCAC 52B .0202, certifying the animal to be free from any contagious animal disease, including RHDV-2, as follows:

- (1) If the animal is shipped directly without any intervening stops, without commingling or exposure to any other 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 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 animal is shipped with intervening stops, with commingling or exposure to another 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 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~~ country or state 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 rabbits, or any species in the order of Lagomorpha, including hare and pika, brought into the State on a temporary basis for the sole purpose of seeking veterinary services by a North Carolina licensed veterinarian, lasting only until the end of the veterinary service visit, and the animal is brought directly to the veterinary clinic and departs from the veterinary clinic to the originating state with no intervening stops.

(d) The application for ~~an~~ importation permit shall include the state of origin, ~~health certificate inspection date~~ the date that the official health inspection was conducted, the owner’s name, address, and phone number at the time of import, the import destination within the State of North Carolina, the name, address, and phone number of the person with control and responsibility over the animal at the import destination, and any federal licensing, permit, and documentation required for the importation of the animal if imported from outside of the United States of America.

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

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

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

(h) The requirement for an entry permit and official health certificate are waived for a rabbit, or any species in the order of Lagomorpha, including hare and pika, for ~~exhibitions/shows~~ ~~exhibitions or shows~~ that adhere to the following guidelines:

- (1) ~~A licensed and USDA accredited ~~veterinarian~~ veterinarian, specifically a professional veterinarian who has completed formal training from the National Veterinary Accreditation Program (NVAP) in the state in which they are licensed to practice veterinary medicine, performs a health assessment outside of the ~~exhibition/show~~ exhibition or show venue prior to any commingling of animals from ~~other~~ separate origins, and prior to entry of the ~~exhibition/show~~ exhibition or show venue. For the purposes of this subchapter, a health assessment conducted by a licensed and USDA accredited veterinarian involves the veterinary examination of an animal to ensure that the animal is in good health and well-being, as well as free of any visible signs of pain, distress, suffering, or displaying any symptoms consistent with RHDV-2. If an animal is found to exhibit any symptoms consistent with ~~RHDV2~~ RHDV-2, that animal as well as any ~~cohorts (same origin/traveled together/commingled)~~ cohorts, which includes animals from the same origin, animals that traveled together, or animals that where commingled, will be excluded from the ~~exhibition/show~~ exhibition or show and must return ~~directly~~ without any commingling of other animals directly to ~~the~~ its origin location.~~
- (2) ~~The ~~exhibition/show administrators~~ exhibition or show administrators, upon request from the NCDA&CS Veterinary Division, shall provide the name, address, phone ~~number~~ number, and number of animals for every participant in the ~~exhibition/show~~ exhibition or show for NCDA&CS disease epidemiological investigation and testing purposes.~~

History Note: Authority G.S. 106-317;
Emergency Adoption Eff. July 13, 2021;
Temporary Adoption Eff. September 24, 2021;
Eff. December 1, 2022;
Amended Eff. December 1, 2023.

02 NCAC 52J .0903 is adopted with changes as published in 37:18 NCR 1873 as follows:

02 NCAC 52J .0903 EVALUATION OF APPLICATIONS

(a) Each completed application shall be evaluated by ~~[AWS]~~ the Animal Welfare Section (AWS) ~~[staff based on the information provided in the application.]~~ staff.

(b) The staff shall review all applications for completeness. If an application is incomplete, the applicant shall be asked to reapply with a new, completed application.

(c) The following ~~[general]~~ criteria shall be used to evaluate the applications:

~~[(1) — the completeness of the application including supporting documentation;]~~

~~[(2)]~~ (1) the thoroughness of the explanation of how the compliance violations will be resolved or significantly mitigated with the use of the grant funds;

~~[(3)]~~ (2) the thoroughness ~~[completeness]~~ of the explanation of the plans to ensure future compliance with the AWA ~~[and its associated rules; or]~~ (NCGS § 19A-20 – 31) and its associated rules (02 NCAC 52J);

~~[(4)]~~ (3) in the incidence of an unforeseen catastrophic occurrence, such as a hurricane, tornado, fire, flood, or other natural or man-made disaster, the thoroughness of the explanation of how the grant funds will be used to mitigate the damage done by the incident;

~~[(5)]~~ (4) the amount of funds available;

~~[(6)]~~ (5) the amount of funds requested; and

~~[(7)]~~ (6) the order in which the application was received.

History Note: Authority G.S. 19A-67; 19A-68;

Eff. December 1, 2023.

Burgos, Alexander N

Subject: FW: 02 NCAC 52B and 52J Requests for Changes - September 2022 RRC

From: Hayworth, Anna <Anna.Hayworth@ncagr.gov>

Sent: Wednesday, November 1, 2023 12:55 PM

To: Liebman, Brian R <brian.liebman@oah.nc.gov>

Cc: Harris, Catherine R <Catherine.Harris@ncagr.gov>; Norris, Patricia <Patricia.Norris@ncagr.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: 02 NCAC 52B and 52J Requests for Changes - September 2022 RRC

Thank you Brian, I will work on these revisions and have them back to you as quickly as possible.

Anna R. Hayworth | Agricultural Programs Specialist

Office of the Assistant Commissioner of Consumer Protection

NC Department of Agriculture and Consumer Services

1002 Mail Service Center | Raleigh, NC 27699

Office: (984) 236-4509 (new office)

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anna.hayworth@ncagr.gov

Burgos, Alexander N

Subject: FW: 02 NCAC 52B and 52J Requests for Changes - September 2022 RRC

From: Liebman, Brian R <brian.liebman@oah.nc.gov>

Sent: Wednesday, November 1, 2023 11:55 AM

To: Hayworth, Anna <Anna.Hayworth@ncagr.gov>

Cc: Harris, Catherine R <Catherine.Harris@ncagr.gov>; Norris, Patricia <Patricia.Norris@ncagr.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: 02 NCAC 52B and 52J Requests for Changes - September 2022 RRC

Hi Anna,

Thanks for making the edits, and for getting this back to me by the deadline. I know you guys are busy over there. I just have a few follow ups for you.

Rule 52B .0214

In (h)(1), line 10, what do you mean by USDA accredited?

A USDA Accredited veterinarian is a professional veterinarian who has completed formal training from the National Veterinary Accreditation Program (NVAP) in the state in which they are licensed to practice veterinary medicine. This is a commonly used term in the industry.

It may be a common industry term, but that doesn't mean its unambiguous as written in the Rule. Is there a definition in one of your other rules of "USDA Accredited"? If so, a cross-reference would be fine. If not, please state what you mean by "USDA accredited" in the Rule.

Also, when you say "licensed and USDA accredited" do you mean someone licensed in the State of North Carolina, or licensed in any state?

In (h)(1), line 10, what does it mean to perform a "health assessment"?

Per USDA's official website, a welfare assessment conducted by a veterinarian involves 'examining the animals to ensure good health and well-being as well as monitoring for any signs of pain, distress, or suffering.' This is a common and well-understood practice within the industry, as it mirrors the practices used to obtain an official certificate of veterinary inspection for various forms of travel.

Again, just because it is a common industry term doesn't mean that it's clear in the Rule. The term needs to be defined, either in your own words, or with an incorporation by reference (pursuant to G.S. 150B-21.6) of a "code, standard, or regulation" adopted by USDA.

Rule 52J .0903

In (c)(1), line 9, this seems to repeat (b), and moreover, it doesn't seem to be a criteria for evaluation, given that an incomplete application is merely returned to the applicant, rather than denied.

Changes made.

The change was to say "the provision of the documents required by 02 NCAC 52J .0902(a)(3) when applicable". A few questions:

What do you mean by "the provision of the documents"?

Did you mean .0902(b)(3)?

When would those documents not be applicable? .0902(b)(3) requires the applicant to provide documentation related to either a violation or a disaster, the two bases for receiving funds. Is there a situation when that documentation wouldn't be required?

Please return revised rules to me **no later than 5 PM on Wednesday, November 8.**

Thanks,
Brian

Brian Liebman
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brian.liebman@oah.nc.gov

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

Burgos, Alexander N

Subject: FW: 02 NCAC 52B and 52J Requests for Changes - September 2022 RRC
Attachments: 02 NCAC 52J .0903 Form-0400-permanent-rule.pdf; 02 NCAC 52J .0901 Form-0400-permanent-rule.pdf; 02 NCAC 52J .0902 Form-0400-permanent-rule.pdf; 02 NCAC 52B .0214 Form-0400-permanent-rule.pdf; 02 NCAC 52J .0903.docx; 02 NCAC 52J .0901.docx; 02 NCAC 52J .0902.docx; 02 NCAC 52B .0214.docx; 02 NCAC 52B and 52J Requests for Changes_final.docx

From: Hayworth, Anna <Anna.Hayworth@ncagr.gov>
Sent: Tuesday, October 31, 2023 1:20 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Harris, Catherine R <Catherine.Harris@ncagr.gov>; Norris, Patricia <Patricia.Norris@ncagr.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 02 NCAC 52B and 52J Requests for Changes - September 2022 RRC

Good afternoon Brian,

Attached are responses as well as amended language in request to the technical corrections, and the corrected permanent rule forms for:

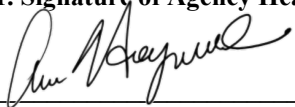
- 02 NCAC 52J .0901
- 02 NCAC 52J .0902
- 02 NCAC 52J .0903
- 02 NCAC 52B .0214

After further corrections, the Board would like to withdraw 02 NCAC 52J .0904 from consideration.

If you have any questions, please feel free to reach out to me. Thank you!

Anna R. Hayworth | Agricultural Programs Specialist
Office of the Assistant Commissioner of Consumer Protection
NC Department of Agriculture and Consumer Services
1002 Mail Service Center | Raleigh, NC 27699
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Cell: (919) 745-9356
anna.hayworth@ncagr.gov

SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency:	
2. Rule citation & name (name not required for repeal):	
3. Action: <div style="display: flex; justify-content: space-between;"> ADOPTION AMENDMENT <input type="checkbox"/> REPEAL READOPTION*****TGRGCN'VJ TQW J 'TGCFQRVIQP </div>	
4. Rule exempt from RRC review? Yes. Cite authority: No	5. Rule automatically subject to legislative review? Yes. Cite authority: No
6. Notice for Proposed Rule: <input type="checkbox"/> Notice Required Notice of Text published on: Link to Agency notice: Hearing on: Adoption by Agency on: July, 17, 2023 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input type="checkbox"/> No	8. Fiscal impact 0Echeck all that apply0 Vj lu'Twag'y cu'f ct v'qht'e'go dlp'gf 'cpcr'f ulu0 Ucv'g'hw'pf u'c'h'g'w'f Local funds affected Substantial economic impact (≥\$1,000,000) Approved by OSBM No fiscal note required
<div style="text-align: center;">9. REASON FOR ACTION</div> 9A. What prompted this action? Check all that apply: <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> Agency Court order / cite: Federal statute / cite: Federal regulation / cite: </div> <div style="width: 45%;"> Legislation enacted by the General Assembly Cite Session Law: Petition for rule-making Other: </div> </div> 9B. Explain: 	
10. Rulemaking Coordinator: Rj qpg< G/O clκ< Cf f lskp'cr'ci gpe{ 'èqp'cev.'h'èp{ < Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator: <div style="text-align: center;">  <hr style="width: 80%; margin: 0 auto;"/> </div> *If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form. Typed Name: Title:
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

02 NCAC 52B. 0214 is amended as published in 37:18 NCR 1870-1872 as follows:

**02 NCAC 52B .0214 IMPORTATION REQUIREMENTS: 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, 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 animal makes any intervening stop in a country or state with RHDV-2 detected, if the animal is commingled or exposed to any other 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 animal in the order of Lagomorpha not shipped directly from the point of origin together.

(b) The import permit application shall be accompanied by an official health ~~certificate~~ certificate, as detailed in 02 NCAC 52B .0202, certifying the animal to be free from any contagious animal disease, including RHDV-2, as follows:

- (1) If the animal is shipped directly without any intervening stops, without commingling or exposure to any other 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 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 animal is shipped with intervening stops, with commingling or exposure to another 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 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~~ country or state 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 rabbits, or any species in the order of Lagomorpha, including hare and pika, brought into the State on a temporary basis for the sole purpose of seeking veterinary services by a North Carolina licensed veterinarian, lasting only until the end of the veterinary service visit, and the animal is brought directly to the veterinary clinic and departs from the veterinary clinic to the originating state with no intervening stops.

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

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

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

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

(h) The requirement for an entry permit and official health certificate are waived for a rabbit, or any species in the order of Lagomorpha, including hare and pika, for ~~exhibitions/shows~~ ~~exhibitions or shows~~ that adhere to the following guidelines:

(1) ~~A licensed and USDA accredited veterinarian performs a health assessment outside of the ~~exhibition/show~~ ~~exhibition or show~~ venue prior to any commingling of animals from ~~other~~ ~~separate~~ origins, and prior to entry of the ~~exhibition/show~~ ~~exhibition or show~~ venue. If an animal is found to exhibit any symptoms consistent with ~~RHDV2~~ ~~RHDV-2~~, that animal as well as any ~~cohorts (same origin/traveled together/commingled)~~ ~~cohorts, which includes animals from the same origin, animals that traveled together, or animals that where commingled~~, will be excluded from the ~~exhibition/show~~ ~~exhibition or show~~ and must return ~~directly~~ ~~without any commingling of other animals directly~~ to ~~the~~ ~~its~~ origin location.~~

(2) ~~The ~~exhibition/show administrators~~, ~~exhibition or show administrators~~, upon request from the NCDA&CS Veterinary Division, shall provide the name, address, phone ~~number~~ ~~number~~, and number of animals for every participant in the ~~exhibition/show~~ ~~exhibition or show~~ for NCDA&CS disease epidemiological investigation and testing purposes.~~

*History Note: Authority G.S. 106-317;
Emergency Adoption Eff. July 13, 2021;
Temporary Adoption Eff. September 24, 2021;
Eff. December 1, 2022;
Amended Eff. December 1, 2023.*

Request for Changes Pursuant to N.C. Gen. Stat. § 150B-21.10

Staff reviewed these Rules to ensure that each Rule is within the agency's statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

If the request includes questions, please contact the reviewing attorney to discuss.

In order to properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

Note the following general instructions:

1. You must submit the revised rule via email to oah.rules@oah.nc.gov. The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
 - Wrong: “~~a~~Association”
 - Right: “~~association~~ Association”
6. Treat punctuation as part of a word. For example:
 - Wrong: “day;, and”
 - Right: “~~day,~~ day, and”
7. Formatting instructions and examples may be found at:
www.ncoah.com/rules/examples.html

If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.

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

AGENCY: Board of Agriculture

RULE CITATION: All Forms

DEADLINE FOR RECEIPT: Thursday, September 14, 2023.

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:

In each of your Submission for Permanent Rule forms, you have not filled in the date these Rules were adopted by the Agency in Box 6. Please revise the forms and resubmit.

Changes made, date for all rules was July 17, 2023. Forms will be resubmitted to RRC attorney with amended language.

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

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

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 52B .0214

DEADLINE FOR RECEIPT: Thursday, September 14, 2023.

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:

With respect to statutory authority, are rabbits considered livestock under Ch. 106? I see that G.S. 106-317 gives the Board the authority to establish a system of health certificated and permits “for the better protection of the swine and livestock of this State”, but I am not sure whether rabbits fall under the definition of “livestock”.

The Board has a historically recognized authority to require health certificates for the importation any animal into the State that poses a risk of disease to swine, poultry, or livestock within the State. This authority is not limited to regulating the importation of swine or livestock. G.S. 106-317 states “The North Carolina Board of Agriculture under the authority of this section may by regulation establish a system of health certificates and permits for the better protection of the swine and livestock of this State.” This authority to require health certificates is not limited to requiring the permits for “swine and livestock,” but instead requires only that this system of health certificates be “for the better protection of swine and livestock.” Therefore, the Board has authority to require a health certificate or permit on *any* animal entering the state that may pose a risk of infectious disease and threaten the swine and livestock industries. This authority is both well established and critical to protecting both the essential food sources and economic benefits to the State represented by these industries.

The Board’s authority to promulgate rules to eradicate and prevent animal disease in the State by limiting or restricting the import of animals into the State is well established. This rule addressing the importation of wild animals was adopted in 1984, with subsequent amendments in 1992, 1996, and 1998, as well as approved temporary and permanent amendment in 2002.

G.S. 106-348 states that “The Commissioner of Agriculture, by and with the consent of the State Board of Agriculture, shall have full power to promulgate and enforce such rules and regulations as may be necessary to control and eradicate tuberculosis.”

Brian Liebman
Commission Counsel

Date submitted to agency: August 30, 2023

G.S. 106-361 states that “The Commissioner of Agriculture, by and with the consent of the State Board of Agriculture, shall have full power to promulgate and enforce such rules and regulations that may hereafter be necessary to complete tick eradication in North Carolina.”

G.S. 106-388 states that “It is hereby declared that the disease of animals known as brucellosis, or Bang's disease, is of an infectious and contagious nature, and animals affected with, or exposed to, or suspected of being carriers of the disease, shall be subject to quarantine and the rules and regulations of the Department of Agriculture and Consumer Services.”

G.S. 106-396 states that “The Commissioner of Agriculture, by and with the consent of the State Board of Agriculture, shall have full power to promulgate and enforce such rules and regulations as may be necessary to carry out the provisions of G.S. 106-388 to 106-398, and for the effective control and eradication of brucellosis, including the establishment of fees and charges for the collection of blood samples.”

G.S. 106-405.17 states that “The State Board of Agriculture shall have full power to promulgate and enforce such rules and regulations as it deems necessary for the control and eradication of equine infectious anemia.”

In (b), line 13, consider a cross reference to Rule .0202 for the contents and procedures for obtaining an official health certificate.

Changes made.

In (b)(2), line 25, please define “location”. In (a), the rule refers to countries and states, which would make sense here, but it isn't explicitly stated.

Changes made.

In (d), line 31, did you mean to say “application for an importation permit”?

Changes made.

In (d), line 31, what is the “health certificate inspection date”? Is this the date on the “official health certificate”?

Yes, it is the date on the official health certificate which is written by an accredited veterinarian.

In (h), please correct several formatting errors. Please see 26 NCAC 02C .0108 for OAH's formatting rule. Specifically, the text should be 1.5 spaced and justified. Also, please fix the indents on (h)(1) and (2).

Changes made.

Throughout (h), you use “exhibitions/shows”. Please say “exhibitions or shows”.

Changes made.

Brian Liebman
Commission Counsel

Date submitted to agency: August 30, 2023

In (h)(1), line 10, what do you mean by USDA accredited?

A USDA Accredited veterinarian is a professional veterinarian who has completed formal training from the National Veterinary Accreditation Program (NVAP) in the state in which they are licensed to practice veterinary medicine. This is a commonly used term in the industry.

In (h)(1), line 10, what does it mean to perform a “health assessment”?

Per USDA’s official website, a welfare assessment conducted by a veterinarian involves ‘examining the animals to ensure good health and well-being as well as monitoring for any signs of pain, distress, or suffering.’ This is a common and well-understood practice within the industry, as it mirrors the practices used to obtain an official certificate of veterinary inspection for various forms of travel.

In (h)(1), line 11, what does “other origins” mean? Other than what?

Changes made.

In (h)(1), line 12, is there a difference between a symptom that is “consistent with” the virus, and a symptom “of” the virus?

In the case of medical diagnoses and veterinary care, the term ‘consistent with’ in referring to symptoms means that the patient or animal is displaying symptoms commonly observed with said illness, but it has not been officially diagnosed. For example, lab cultures, blood or tissue samples, etc. may need to be taken to officially diagnose a specific illness, however, that animal can be observed as being ‘unwell’ with symptoms consistent with that illness, which warrant cautionary behavior so as to prevent the early onset of a sickness from spreading among others. This is a commonly utilized practice in veterinary care to minimize the potential spread of illness or disease when observed.

In (h)(1), line 12, add a hyphen between “RHDV” and “2”.

Changes made.

In (h)(1), line 13, please omit the parentheses and incorporate the parenthetical material into the text. In doing so, please eliminate the use of slashes.

Changes made.

In (h)(1), line 14, what does it mean to return “directly” to the origin location?

Changes made.

In (h)(2), line 16, add a comma following “phone number”.

Changes made.

In your History Note, please include the full text, including the emergency and temporary rule adoptions.

Changes made.

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

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

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 52J .0901

DEADLINE FOR RECEIPT: Thursday, September 14, 2023.

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:

Please consider rewriting the first sentence of each of the items in this Rule in the active tense. Who may request the grant money?

Local governments may apply to the Animal Support Fund for grants to pay for expenses related to their operation of a registered animal shelter for reasons detailed in NCGS § 19A -67(b).

In (4), line 23-24, are “fencing panels for runs” different than “fencing”?

Changes made.

In (5) and (6), what are the “rules adopted by the Board of Agriculture”? Please include a specific cross-reference.

Changes made.

In (5) and (6), the language seems repetitious of G.S. 19A-68(a). I think it would be helpful to define “administrative costs” and “capital expenditures” instead of repeating the statutory language.

Changes made.

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

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

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 52J .0902

DEADLINE FOR RECEIPT: Thursday, September 14, 2023.

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:

In (a), line 5, where and how does the Board wish the applicant to submit the application to the Animal Welfare Section?

Changes made.

In (a), is there a time frame for submitting the application?

No, as of now, this is a one-time grant opportunity unless the General Assembly decides to renew the funds either periodically or yearly. If it becomes more than a one-time grant, then we will submit this change to the Rule committee for revision.

In (b), line 19 should be moved up to follow the end of the sentence on line 18.

Changes made.

In (b), lines 19-20, isn't this just repeating (a)? Both paragraphs essentially say that applicants need to submit a form. Consider consolidating (a) and (b) into one paragraph.

Changes made.

In (b), line 20, has the Form gone through rulemaking, or are its contents or substantive requirements otherwise described in a rule or statute?

The form referenced and its requirements are set out in this rule, .0902, once amended.

In (b), line 20, are the "application" and the "Form" the same thing?

Changes made.

Brian Liebman
Commission Counsel

Date submitted to agency: August 30, 2023

Does the list under paragraph (b) contain all the information required for the application to be “complete”? This is particularly important here given how “completeness” is emphasized as a standard for judging the application in Rule .0903.

Yes, this is all the information that will be asked for in the application.

Where in (b) would the applicant provide the Board with the “itemized listing of the costs for which funding is sought” required in 19A-68(c)?

Changes made.

In (b)(1), line 21, “including” has an open-ended connotation. What other information are you requiring from the applicant?

Changes made.

In (b)(2), line 23, add a comma following “address”.

Changes made.

In (b)(3), line 25, please eliminate the “(s)” and either make “violation(s)” plural or say “violation or violations”. Same in (b)(5), line 30.

Changes made.

In (b)(4), line 28, add an “and” following the final semicolon.

Changes made.

I think you need to combine (3) and (4), otherwise the “or” may lead applicants to think that (4) and (5) are both optional.

Changes made.

In (b)(4), line 27, what is an “unforeseen catastrophic disaster”? I understand this term is used in G.S. 19A-67(b)(1), but while the General Assembly is free to be vague and ambiguous, an agency is not.

Changes made.

In (b)(5), line 29, please delete or define “significantly”.

Changes made.

In (b)(5), line 29, please consider revising in the active tense. For instance, “an explanation of how the applicant will use the grant funds to resolve or mitigate...”

Changes made.

In (b)(5), lines 30-31, what “rules” and “associated rules” are you referring to?

Changes made.

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

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

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 52J .0903

DEADLINE FOR RECEIPT: Thursday, September 14, 2023.

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:

In (a), is the implication here that the agency will only look at the four corners of the application, and will not consider any extraneous information when judging the application? If so, that should be stated more clearly. Otherwise it seems a little redundant to say the application will be judged based on the information in the application.

Changes made.

In (c), line 8, what do you mean by “general criteria”? Are there “specific” criteria unspoken here?

Changes made.

In (c)(1), line 9, this seems to repeat (b), and moreover, it doesn't seem to be a criteria for evaluation, given that an incomplete application is merely returned to the applicant, rather than denied.

Changes made.

In (c)(1), line 9, what “supporting documentation” are you referring to? I don't see anything else required in Rule .0902 besides the explanation in .0902(b)(5), and that's already mentioned in (c)(2) and (3), so obviously those are separate. To the extent that this is a separate requirement, please add it to Rule .0902 so that your regulated public will be able to submit a “complete” application.

Changes made.

In (c)(2), (3), and (4), please correct the formatting by keeping the text on the second line of each item flush with the indent on the first line.

Changes made.

Brian Liebman
Commission Counsel

Date submitted to agency: August 30, 2023

*In (c)(2), line 10, what are you evaluating for? All this says is that you will “evaluate” the explanation. It doesn’t say **how** you will evaluate it.*

Changes made.

In (c)(3), line 12, again, this seems to repeat (b), and moreover, it doesn’t seem to be a criteria for evaluation, given that an incomplete application is merely returned to the applicant, rather than denied.

Changes made.

*In (c)(4), line 14, what are you evaluating for? All this says is that you will “evaluate” the explanation. It doesn’t say **how** you will evaluate it.*

Changes made.

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

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

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 52J .0904

DEADLINE FOR RECEIPT: Thursday, September 14, 2023.

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:

As an initial matter, does the Board have statutory authority to require this Report, or to claw back a dispersed grant? I don't see anything explicit in Article 5A, and in fact your rulemaking authority in 19A-67(c) speaks only to issuing "rules detailing eligible expenses and application guidelines that comply with the requirements of this Article." Is there another more general statute that would give you this authority?

After further review, the Board requests to withdraw this rule from consideration.

In (a)(1), line 6, please define "detailed".

In (c), line 14, please define "contested funds".

In (c), line 14, please make the second instance of "contested fund" plural.

In (c), are you saying that the local government will have to return funds already spent by the shelter?

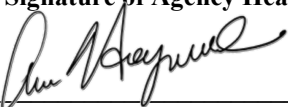
In (d), is there statutory authority to require the shelter to spend all or some of the funds within 60 days?

In (d), does this requirement implicitly mean that the shelter must spend the funds within 60 days?

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

Brian Liebman
Commission Counsel
Date submitted to agency: August 30, 2023

SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency:	
2. Rule citation & name (name not required for repeal):	
3. Action: <div style="display: flex; justify-content: space-between;"> ADOPTION AMENDMENT <input type="checkbox"/> REPEAL READOPTION*****TGRGCN'VJ TQW J 'TGCFQRVIQP </div>	
4. Rule exempt from RRC review? Yes. Cite authority: No	5. Rule automatically subject to legislative review? Yes. Cite authority: No
6. Notice for Proposed Rule: <input type="checkbox"/> Notice Required Notice of Text published on: Link to Agency notice: Hearing on: Adoption by Agency on: <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input type="checkbox"/> No	8. Fiscal impact 0Echeck all that apply0 Vj lu'Twag'y cu'f ct v'qhl'e'eqo dlp'gf 'cpcr'f ulu0 Ucv'g'hw'pf u'c'h'g'w'f Local funds affected Substantial economic impact (≥\$1,000,000) Approved by OSBM No fiscal note required
<div style="text-align: center;">9. REASON FOR ACTION</div> 9A. What prompted this action? Check all that apply: <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> Agency Court order / cite: Federal statute / cite: Federal regulation / cite: </div> <div style="width: 45%;"> Legislation enacted by the General Assembly Cite Session Law: Petition for rule-making Other: </div> </div> 9B. Explain: 	
10. Rulemaking Coordinator: Rj qpg< G/O cl<< Cf f lskp'cr'ci gpe{ 'eqp'cev.'hl'cp{ < Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator: <div style="text-align: center;">  </div> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> *If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form. Typed Name: Title:
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

02 NCAC 52J .0901 is amended as published in 37:18 NCR 1872 as follows:

CHAPTER 52 – VETERINARY

SUBCHAPTER 52J – ANIMAL WELFARE SECTION

SECTION .0900 – ANIMAL SHELTER SUPPORT FUND

02 NCAC 52J .0901 ELIGIBLE EXPENSES

Eligible expenses include:

- (1) Veterinary costs – ~~Reimbursement~~Grant money may be requested for veterinary expenditures incurred for the assessment, diagnostic and triage evaluation, medical treatment, minor surgical treatment, medications, first aid and minor medical supplies, vaccinations, parasite control/treatment, or euthanasia of animals housed at the ~~shelter at the time of the event or impounded during the interim or transition period shelter.~~
- (2) Sanitation costs – ~~Reimbursement~~Grant money may be requested for expenditures related to sanitation of the ~~affected~~ shelter, including detergent/disinfectant supplies, cleaning supplies, labor costs for the sanitation of the shelter, and waste and carcass disposal costs.
- (3) Animal sustenance and supplies – ~~Reimbursement~~Grant money may be requested for expenditures for animal food, provision of water to the shelter, and food and water bowls or buckets, as well as labor costs for the feeding and watering of the shelter animals.
- (4) Temporary housing and sheltering of animals – ~~Reimbursement~~Grant money may be requested for expenditures for animal cages and kennels, animal transport carriers, fencing panels for runs, tarps, fencing, dog or cat houses and other construction supplies, as well as labor costs or equipment or facility leasing expenses incurred during the construction or repair of temporary animal housing.
- (5) Administrative Costs – Grant money may be requested for administrative costs [only if such costs are directly required for the facility to comply with the North Carolina Animal Welfare Act (AWA) or the rules adopted by the Board of Agriculture implementing that Act,] such as salaries, wages, mailing, copying, and printing.
- (6) Capital Expenditures – Grant money may be requested for capital expenditures for [facilities and equipment costs only if such costs are directly required for the facility to comply with the AWA or the rules adopted by the Board of Agriculture implementing that Act.] facility repairs, purchase of land or building(s) and equipment costs such as kennels, runs, or automated sanitation systems.
- (7) Grant money may be requested for administrative costs and capital expenditures as described in Subsection 5 and 6 above only if only if such costs are directly required for the facility to comply with the AWA (NCGS § 19A -20 – 31) or the rules adopted by the Board of Agriculture (02 NCAC 52J) implementing that Act.

1

2 *History Note:* *Authority G.S. 19A-67; 19A-68;*

3 *Temporary Adoption Eff. November 29, 2016;*

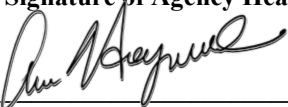
4 *Temporary Adoption Expired Eff. September 11, 2017;*

5 *Eff. November 1, 2017;*

6 *Readopted Eff. September 1, 2022.*

7 *Amended Eff. December 1, 2023.*

SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency:	
2. Rule citation & name (name not required for repeal):	
3. Action: <div style="display: flex; justify-content: space-between;"> ADOPTION AMENDMENT <input type="checkbox"/> REPEAL READOPTION*****TGRGCN'VJ TQW J 'TGCFQRVIQP </div>	
4. Rule exempt from RRC review? Yes. Cite authority: No	5. Rule automatically subject to legislative review? Yes. Cite authority: No
6. Notice for Proposed Rule: <input type="checkbox"/> Notice Required Notice of Text published on: Link to Agency notice: Hearing on: Adoption by Agency on: <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input type="checkbox"/> No	8. Fiscal impact 0Echeck all that apply0 Vj lu'Twag'y cu'f ct v'qhl'e'eqo dlp'gf 'cpcr'f ulu0 Ucv'g'hw'pf u'c'h'g'w'gf Local funds affected Substantial economic impact (≥\$1,000,000) Approved by OSBM No fiscal note required
<div style="text-align: center;">9. REASON FOR ACTION</div> 9A. What prompted this action? Check all that apply: <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> Agency Court order / cite: Federal statute / cite: Federal regulation / cite: </div> <div style="width: 45%;"> Legislation enacted by the General Assembly Cite Session Law: Petition for rule-making Other: </div> </div> 9B. Explain: 	
10. Rulemaking Coordinator: Rj qpg< G/O ckk< Cf f lskp'cr'ci gpe{ 'eqp'cev.'h'cp{ < Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator: <div style="text-align: center;">  </div> <hr/> *If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form. Typed Name: Title:
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

02 NCAC 52J .0902 is amended as published in 37:18 NCR 1872-1873 as follows:

02 NCAC 52J .0902 APPLICATION GUIDELINES

(a) A local government applying for ~~reimbursement~~ grant money from the Animal Shelter Support Fund (the Fund) shall submit the ~~request for reimbursement~~ completed application ~~[form]~~ to the Animal Welfare Section (AWS) of the North Carolina Department of Agriculture and Consumer ~~Services~~. Services via email to agr.aws@ncagr.gov or by mail to Animal Welfare Section (AWS), NCDA&CS, 1030 Mail Service Center, Raleigh, NC 27699.

~~(b) The request shall:~~

- ~~(1) be received by AWS by mail, email, or fax within 60 days of the date the eligible expense was incurred;~~
- ~~(2) include a completed "Animal Shelter Support Fund Reimbursement Application" with the county name, tier of county, facility name, facility license number, and contact information. This application can be found on the AWS website (<http://www.ncagr.gov/vet/AWS/>);~~
- ~~(3) include an itemized listing of eligible expenses for which reimbursement is sought;~~
- ~~(4) include proof that matching funds have been provided; and~~
- ~~(5) include proof of payment of the eligible expense. If the payment of expense occurs after the application was submitted, proof of payment shall be submitted to AWS within 30 days of payment of the expense.~~

(b) Application ~~[forms and]~~ instructions are available online at: <https://www.ncagr.gov/vet/aws/>.

~~[To be eligible for consideration for grant funds from the Fund, applicants shall complete the Animal Shelter Support Fund Application Form.]~~ This application shall contain the following information:

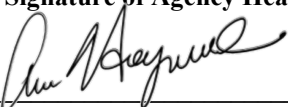
- ~~(1) [local government information including] the name and contact information for the [municipal official that oversees the operation of the government animal shelter;] local government official that will administer the grant money, and the name and contact information for the local government official that oversees the operation of the government animal shelter;~~
- ~~(2) name, [address] address, and contact information for the animal shelter for which the funds are being applied;~~
- ~~(3) a copy of the AWS Order of Suspension, AWS Order of Revocation, or AWS Facility Compliance Inspection report citing the specific [violation(s)] violation or violations for which the county is applying for the grant [funds; or] funds or the date and description of the incident and damage incurred by the unforeseen catastrophic disaster such as a hurricane, tornado, fire, flood, or other natural or man-made disaster at the animal shelter;~~
- ~~(4) [the date and description of the incident and damage incurred by the unforeseen catastrophic disaster at the animal shelter;] an explanation of how the applicant will use the grant funds to resolve or mitigate the cited violation or violations of the Animal Welfare Act (AWA) and its rules and how~~

1 the applicant will ensure further compliance with the AWA (NCGS § 19A -20 – 31) and its
2 associated rules (02 NCAC 52J); and

3 (5) ~~[an explanation of how the use of the grant funds will resolve or significantly mitigate the cited~~
4 ~~violation(s) of the AWA and its rules and how the applicant will ensure future compliance with the~~
5 ~~AWA and its associated rules.]~~ an itemized listing of the costs for which funding is sought.

6
7 *History Note:* Authority G.S. 19A-67; 19A-68;
8 Temporary Adoption Eff. November 29, 2016;
9 Temporary Adoption Expired Eff. September 11, 2017;
10 Eff. November 1, 2017;
11 Readopted Eff. September 1, 2022.
12 Amended Eff. December 1, 2023.

SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency:	
2. Rule citation & name (name not required for repeal):	
3. Action: <div style="display: flex; justify-content: space-between;"> ADOPTION AMENDMENT <input type="checkbox"/> REPEAL READOPTION*****TGRGCN'VJ TQW J 'TGCFQRVIQP </div>	
4. Rule exempt from RRC review? Yes. Cite authority: No	5. Rule automatically subject to legislative review? Yes. Cite authority: No
6. Notice for Proposed Rule: <input type="checkbox"/> Notice Required Notice of Text published on: Link to Agency notice: Hearing on: Adoption by Agency on: <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input type="checkbox"/> No	8. Fiscal impact 0Echeck all that apply0 Vj lu'Twag'y cu'f ct v'qhl'e'eqo dlp'gf 'cpcr'f ulu0 Ucv'g'hw'pf u'c'h'g'w'g'f Local funds affected Substantial economic impact (≥\$1,000,000) Approved by OSBM No fiscal note required
<div style="text-align: center;">9. REASON FOR ACTION</div> 9A. What prompted this action? Check all that apply: <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> Agency Court order / cite: Federal statute / cite: Federal regulation / cite: </div> <div style="width: 45%;"> Legislation enacted by the General Assembly Cite Session Law: Petition for rule-making Other: </div> </div> 9B. Explain: 	
10. Rulemaking Coordinator: Rj qpg< G/O ckk< Cf f lskp'cr'ci gpe{ 'eqp'cev.'h'c'p{ < Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator: <div style="text-align: center;">  <hr style="width: 80%; margin: 0 auto;"/> </div> *If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form. Typed Name: Title:
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

02 NCAC 52J .0903 is adopted as published in 37:18 NCR 1873 as follows:

02 NCAC 52J .0903 EVALUATION OF APPLICATIONS

(a) Each completed application shall be evaluated by [AWS] the Animal Welfare Section (AWS) [staff based on the information provided in the application.] staff.

(b) The staff shall review all applications for completeness. If an application is incomplete, the applicant shall be asked to reapply with a new, completed application.

(c) The following [general] criteria shall be used to evaluate the applications:

(1) [the completeness of the application including supporting documentation;] the provision of the documents required by 02 NCAC 52J .0902(a)(3) when applicable;

(2) the thoroughness of the explanation of how the compliance violations will be resolved or [significantly] mitigated with the use of the grant funds;

(3) the thoroughness [completeness] of the explanation of the plans to ensure future compliance with the AWA [and its associated rules; or] (NCGS § 19A -20 – 31) and its associated rules (02 NCAC 52J);

(4) in the incidence of an unforeseen catastrophic occurrence, such as a hurricane, tornado, fire, flood, or other natural or man-made disaster, the thoroughness of the explanation of how the grant funds will be used to mitigate the damage done by the incident;

(5) the amount of funds available;

(6) the amount of funds requested; and

(7) the order in which the application was received.

History Note: Authority G.S. 19A-67; 19A-68;

Eff. December 1, 2023.

Burgos, Alexander N

Subject: FW: 02 NCAC 52B and 52J Requests for Changes - September 2022 RRC

From: Hayworth, Anna <Anna.Hayworth@ncagr.gov>

Sent: Friday, October 27, 2023 6:52 PM

To: Liebman, Brian R <brian.liebman@oah.nc.gov>

Cc: Harris, Catherine R <Catherine.Harris@ncagr.gov>; Norris, Patricia <Patricia.Norris@ncagr.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: 02 NCAC 52B and 52J Requests for Changes - September 2022 RRC

Understood Brian. After working through them today, I believe we are on track to meet the deadline next week. I appreciate the clarification.

Anna R. Hayworth | Agricultural Programs Specialist

Office of the Assistant Commissioner of Consumer Protection

NC Department of Agriculture and Consumer Services

1002 Mail Service Center | Raleigh, NC 27699

Office: (984) 236-4509 (new office)

Cell: (919) 745-9356

anna.hayworth@ncagr.gov

From: Liebman, Brian R <brian.liebman@oah.nc.gov>

Sent: Friday, October 27, 2023 4:17 PM

To: Hayworth, Anna <Anna.Hayworth@ncagr.gov>

Cc: Harris, Catherine R <Catherine.Harris@ncagr.gov>; Norris, Patricia <Patricia.Norris@ncagr.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: 02 NCAC 52B and 52J Requests for Changes - September 2022 RRC

Hi Anna,

I'm sorry I missed your call earlier. In answer to your question, yes, the deadline for your responses to my requests for changes is November 1. The 70 days mentioned in the statute binds the Commission, not the agency. So the Commission has to either approve, object, or hold a public hearing within 70 days of the extension.

If you can't make the November 1 deadline, you really have two options. You could withdraw the rules from Commission review. Otherwise, I will have to issue staff opinions recommending objection to any rules that don't meet the 150B-21.9 criteria.

Feel free to reach out with any further questions or concerns.

Thanks,
Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings

(984)236-1948

brian.liebman@oah.nc.gov

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

Burgos, Alexander N

Subject: FW: 02 NCAC 52B and 52J Requests for Changes - September 2022 RRC

From: Hayworth, Anna <Anna.Hayworth@ncagr.gov>

Sent: Saturday, September 9, 2023 10:07 AM

To: Liebman, Brian R <brian.liebman@oah.nc.gov>

Cc: Harris, Catherine R <Catherine.Harris@ncagr.gov>; Norris, Patricia <Patricia.Norris@ncagr.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: 02 NCAC 52B and 52J Requests for Changes - September 2022 RRC

Thank you Brian!

Anna R. Hayworth | Agricultural Programs Specialist

Office of the Assistant Commissioner of Consumer Protection

NC Department of Agriculture and Consumer Services

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anna.hayworth@ncagr.gov

Burgos, Alexander N

From: Liebman, Brian R
Sent: Friday, September 8, 2023 9:47 AM
To: Hayworth, Anna
Cc: Harris, Catherine R; Norris, Patricia; Burgos, Alexander N
Subject: Re: 02 NCAC 52B and 52J Requests for Changes - September 2022 RRC

Hi Anna,

Thanks for the request. I will recommend that the Commission grant your request at the upcoming meeting

Thanks!
Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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From: Hayworth, Anna <Anna.Hayworth@ncagr.gov>
Sent: Friday, September 8, 2023 9:45:13 AM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Harris, Catherine R <Catherine.Harris@ncagr.gov>; Norris, Patricia <Patricia.Norris@ncagr.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 02 NCAC 52B and 52J Requests for Changes - September 2022 RRC

Good morning Brian,

Given our current fair commitments and the turnaround time, I would like to request an extension for our review of these rules to adequately address the changes.

Please let me know if this request is sufficient or if anything additional if needed. Thank you!

Anna R. Hayworth | Agricultural Programs Specialist
Office of the Assistant Commissioner of Consumer Protection
NC Department of Agriculture and Consumer Services
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From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Wednesday, August 30, 2023 9:35 PM

To: Hayworth, Anna <Anna.Hayworth@ncagr.gov>

Cc: Harris, Catherine R <Catherine.Harris@ncagr.gov>; Norris, Patricia <Patricia.Norris@ncagr.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: 02 NCAC 52B and 52J Requests for Changes - September 2022 RRC

Good evening,

I'm the attorney who reviewed the Rules submitted by the Board for the September 2023 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, September 21, 2023, at 9:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get closer to the meeting. If there are any other representatives from your agency who will want to attend virtually, let me know prior to the meeting, and we will get evites out to them as well.

Please submit the revised Rules and forms to me via email, no later than 5 p.m. on Thursday, September 14, 2023.

In the meantime, please do not hesitate to reach out via email with any questions or concerns.

Thanks,

Brian

Brian Liebman

Counsel to the North Carolina Rules Review Commission

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