

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.

1 02 NCAC 52J .0101 is readopted with substantive changes as published in 36:12 NCR 1001-1002 follows:

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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.

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

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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.

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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.

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

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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.

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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.

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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 Chapter150B.

(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 Chapter150B.

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:

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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.

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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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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:

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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 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)~~ (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)~~ 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)~~ 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)~~ 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)~~ 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 ~~(b)(f)~~ (f) 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 ~~(e)(k)~~ (k) 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

1 02 NCAC 52J .0209 is readopted with substantive changes as published in 36:12 NCR 1009-1010 as follows:

2
3 **02 NCAC 52J .0209 CLASSIFICATION AND SEPARATION**

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

6 (1) Females in season (estrus) shall not be housed in the same primary enclosure or exercise area with
7 intact or neutered males, except for planned breeding purposes. Breeding shall not be allowed in
8 animal shelters.

9 (2) In boarding kennels, animals of different owners shall not have contact with other animals, unless
10 written permission is obtained from the animal's owner. The documentation of this written
11 permission shall be kept as part of the animal's record for one year and must be renewed yearly
12 thereafter.

13 (3) Any dog or cat exhibiting an aggressive disposition shall be housed individually in a primary
14 enclosure. Housing of aggressive animals shall be such that the animals are prevented from biting
15 or injuring another animal or human.

16 (3)(4) Puppies or kittens less than ~~four~~ six months of age shall not be housed in the same primary enclosure
17 with adult dogs or cats other than their dams, except when permanently maintained in breeding
18 colonies, or if requested in writing, by the animals' owner, as in a boarding kennel. Puppies or kittens
19 between four and 16 weeks of age shall have daily access to human social interaction in addition to
20 the human interaction during the cleaning and sanitation of the enclosures, excluding animals which
21 pose a danger to humans or other animals.

22 (4)(5) Dogs shall not be housed in the same primary enclosure with cats, nor shall dogs or cats be housed
23 in the same primary enclosure with any other species of animals. Exceptions are allowed at boarding
24 kennels, if requested in writing by the animals' owner.

25 (5)(6) All facilities shall designate an isolation area for animals being treated or observed for
26 communicable diseases. Dogs or cats in isolation that are being treated for a communicable disease
27 shall be separated from other dogs or cats and other susceptible species of animals in such a manner
28 as to minimize dissemination of such disease. A sign shall be posted at the cage or isolation area
29 when in use, giving notice of a communicable ~~disease.~~ disease, including the identification of the
30 disease. Accessories, cleaning equipment and supplies used in isolation areas shall not be used in
31 other areas of the facility.

32 (6)(7) Animals in long term care ~~which are intended for adoption or sale~~ must be provided ~~the following:~~
33 with human interaction other than interaction for enclosure cleaning, same species social interaction,
34 opportunity for play and exercise, and environmental enrichment daily. The provision of these daily
35 interactions and enrichment shall be appropriate for the animal's species, age, size and behavior
36 needs. In addition:

37 (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.*

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 10, 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 7, 2022

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

AGENCY: N.C. Board of Agriculture

RULE CITATION: 02 NCAC 52J .0301 Vehicles.

DEADLINE FOR RECEIPT: June 10, 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: What is the agency's authority to regulate the transportation of all dogs and cats, including those privately owned?

(a), Page 1, Line 6: What does "mechanically sound" mean? Is this the same as passing the vehicle inspection required by the NCDOT DMV?

(c), Page 1, Line 10-12: Compare the language here to that of Rule 302(f). Consider whether 302(f) has more succinct language.

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 7, 2022

1 02 NCAC 52J .0301 is readopted with substantive changes as published in 36:12 NCR 1011 as follows:

2

3

SECTION .0300 - TRANSPORTATION STANDARDS

4

02 NCAC 52J .0301 VEHICLES

6 (a) Vehicles used in transporting dogs and cats shall be mechanically sound and equipped to provide fresh air to all
7 animals transported. ~~transported without harmful drafts.~~

8 (b) The animal cargo space shall be constructed and maintained so as to prevent engine exhaust fumes from ~~getting to~~
9 ~~the animals~~. entering the animal holding area.

10 (c) The interior of the animal ~~argo~~-holding space shall be ~~kept clean~~. cleaned after the transport of each animal. It
11 shall be sanitized daily or between shipments of animals if more than 1 shipment occurs in a 24-hour period. It shall
12 ~~be sanitized as deemed necessary.~~

13

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

15 *Eff. April 1, 1984;*

16 *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 .0302 Primary Enclosures in Transporting Dogs and Cats.

DEADLINE FOR RECEIPT: June 10, 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: "Insure" should be "ensure".

(a)(1), Page 1 Line 8: Define or delete "sufficient" or use "adequate" which is a defined term.

(a)(4), Page 1, Line 12: Is "holding area" different than the primary enclosure used during transport? Consider "The temperature in any area of a vehicle holding an animal shall be maintain..."

(a)(4), Page 1, Line 13: What is a "shelter"? Is it the same as the holding area or primary enclosure? Or does the agency mean "animal shelter" pursuant to G.S. 19A-23(5) and thus limiting the applicability of this sentence?

(a)(4), Page 1, Lines 13-15: As written, (4) states that if a "shelter" is equipped with operable temperature control mechanisms, the "shelter" will be deemed in compliance without regard to whether the temperature control mechanisms are being utilized. Is that what the agency intended?

(d), Page 1, Line 23: Define or delete "sufficient" or use "adequate" which is a defined term.

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 7, 2022

1 02 NCAC 52J .0302 is readopted with substantive changes as published in 36:12 NCR 1011 as follows:

2

3 **02 NCAC 52J .0302 PRIMARY ENCLOSURES USED IN TRANSPORTING DOGS AND CATS**

4 (a) Primary enclosures such as compartments or transport cages, cartons, or crates used by persons subject to the
5 Animal Welfare Act to transport cats and dogs shall be constructed, ventilated and designed to protect the health and
6 insure the safety of the animals. Such enclosures shall be constructed or positioned in the vehicle in such a manner
7 that:

8 (1) Each animal in the vehicle has sufficient fresh air for normal breathing.

9 (2) The openings of such enclosures are always easily accessible for emergency removals. ~~removals at~~
10 ~~all times.~~

11 (3) The animals are adequately protected from the elements.

12 (4) ~~The ambient~~ temperature within the holding area shall be maintained between 50 degrees F and 85
13 degrees F. A shelter shall be deemed as being in compliance if its vehicles' animal ~~containment~~
14 ~~units~~ holding areas are equipped with operable heating and air-conditioning ~~air conditioning, or~~
15 forced-air heating and cooling, and heating or other temperature control mechanisms. A functional
16 thermometer shall be present in the animal holding area of the vehicle.

17 (b) Animals transported in the same primary enclosure shall be of the same species. Puppies or kittens less than four
18 months of age shall not be transported in the same primary enclosure with adult dogs and cats other than their dams.

19 (c) Primary enclosures used to transport dogs and cats shall be large enough for each animal to turn about freely, and
20 to easily stand, sit, or lie down in a natural position. Primary enclosures used to transport dogs and cats shall be secured
21 to the vehicle to prevent sliding or tipping of the enclosure during transit.

22 (d) Special provisions during transport shall be provided to any animal that cannot maintain its normal body
23 temperature during the transport. These special provisions shall be sufficient for the animal to maintain its normal
24 body temperature and shall be documented in the animal's record.

25 ~~(d)(e)~~ (e) Animals shall not be placed in primary enclosures over other animals in transit unless such enclosure is
26 constructed ~~so as~~ to prevent animal excreta from entering lower enclosures.

27 ~~(e)(f)~~ (f) All primary enclosures used to transport dogs and cats shall be sanitized between use for shipments.

28

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

30 *Eff. April 1, 1984;*

31 *Amended Eff. March 23, 2009; 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 .0303 Food and Water Requirements.

DEADLINE FOR RECEIPT: June 10, 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: The structure of this Rule is confusing and appears repetitive. The agency should consider re-writing the Rule for clarity and succinctness.

If dogs or cats are transported for a period of more than six hours:

- (a) The transportation vehicle shall stop a minimum of once every six hours for a period of no less than one hour. Dogs shall be removed from their respective primary enclosures and provided exercise. During this one-hour period dogs and cats shall be continuously provided a supply of potable water.*
- (b) No dog or cat shall be subject to vehicular transport which has not been adequately fed within 24 hours of any time during transportation. No puppy or kitten less than six months of age shall be subject to vehicular transport which has not been adequately fed within 6 hours of any time during transportation.*
- (c) The primary enclosure used for transportation of cats shall be equipped with a litter box and properly clean litter.*

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 7, 2022

1 02 NCAC 52J .0303 is readopted with substantive changes as published in 36:12 NCR 1011-1012 as follows:

2

3 **02 NCAC 52J .0303 FOOD AND WATER REQUIREMENTS**

4 If dogs and cats are transported for a period of more than ~~42~~ six hours:

5 (1) The vehicle shall stop at least once every ~~42~~ six hours for a period of one hour. During the one hour
6 stop, potable water shall be continuously provided for dogs and cats. If the transport lasts for six
7 hours or more, the enclosures containing cats shall be equipped with a clean litter box with litter.

8 (2) Adult dogs and cats shall be fed at least once during each 24-hour period. Puppies and kittens less
9 than six months of age shall be fed every six hours.

10 (3) Dogs shall be removed from the vehicle, given fresh water and given the opportunity for exercise if
11 they have been confined in the vehicle for ~~36 hours~~ six hours or longer.

12

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

14 *Eff. April 1, 1984;*

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 .0304 Care in Transit.

DEADLINE FOR RECEIPT: June 10, 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 4: Define "frequently enough". Consider "adequately" or set a time period. E.g., Six hours. Consider "ensure" rather than "assure". Consider "Drivers or traveling attendants shall inspect each animal in transit with adequate frequency to determine the animal's comfort, health, and safety, and to obtain or provide relief or emergency care if needed."

(b), Page 1, Line 6: Consider "greater than six hours" to be consistent with other rules.

(b), Page 1, Line 8-9: Strike "but not limited to". Strike "and/or" and replace with "and". Who keeps the documentation?

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 7, 2022

1 02 NCAC 52J .0304 is readopted with substantive changes as published in 36:12 NCR 1012 as follows:

2

3 **02 NCAC 52J .0304 CARE IN TRANSIT**

4 (a) It shall be the responsibility of the attendant or driver to inspect animals frequently enough to assure health and
5 comfort and to determine if they need emergency care and to obtain it if needed.

6 (b) If a transport lasts six hours or longer, the transporter shall log the start and end times of the transport, the
7 species, identification of the transported animal(s), any visible injury, illness or other medical condition, and care
8 provided including but not limited to stops, exercise, watering, feeding and/or veterinary care. This documentation
9 shall be kept for a minimum of one year after the transport.

10

11 *History Note: Authority G.S. 19A-24;*
12 *Eff. April 1, 1984;*
13 *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 .401 Adoption by Reference

DEADLINE FOR RECEIPT: June 10, 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:

(1), (2), and (3), Page 1, Lines 10-15: These lines appear to be informational and unnecessary pursuant to G.S. 150B-21.9(3).

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 7, 2022

1 02 NCAC 52J .0401 is readopted with substantive changes as published in 36:12 NCR 1012 as follows:

2

3

SECTION .0400 - EUTHANASIA STANDARDS

4

5 **02 NCAC 52J .0401 ADOPTION BY REFERENCE**

6 A person required to obtain a certificate of registration pursuant to G.S. 19A, Article 3 may use any method of
7 euthanasia approved by the American Veterinary Medical Association (~~AVMA~~) (AVMA), and/or the Humane Society
8 of the United States (~~HSUS~~) (HSUS), or the American Humane Association (~~AHA~~) which are hereby incorporated
9 by reference, including subsequent amendments and editions. Copies of these documents may be obtained as follows:

- 10 (1) AVMA Guidelines on Euthanasia may be accessed at no cost on their website at www.avma.org.
- 11 (2) The HSUS Euthanasia ~~Training~~ Reference Manual can be ~~purchased through their website at~~
12 ~~www.hsus.org at a cost of nineteen dollars and ninety five cents (\$19.95).~~ accessed at no cost via
13 the link: <https://humanepro.org/sites/default/files/documents/euthanasia-reference-manual.pdf>.
- 14 (3) ~~The AHA publication, Euthanasia by Injection, can be purchased through their website at~~
15 ~~www.americanhumane.org at a cost of ten dollars (\$10.00).~~

16

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

18 *Eff. March 23, 2009;*

19 *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 .402 Authorized Persons

DEADLINE FOR RECEIPT: June 10, 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 4-6: By "only a Certified Euthanasia Technician", does the agency mean pursuant to Rule 403(1) or pursuant to Rule 412 as there appears to be a difference.

Page 1, Line 5: Consider adding a comma after "Carolina".

Page 1, Line 5: What is a "certified animal shelter"? Certified pursuant to what? Is the agency intention to make this only applicable to animal shelters?

Page 1, Line 6: Where are the standards and procedures for being certified in various methods of euthanasia?

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 7, 2022

1 02 NCAC 52J .0402 is readopted with substantive changes as published in 36:12 NCR 1012 as follows:

2

3 **02 NCAC 52J .0402 AUTHORIZED PERSONS**

4 Only a Certified Euthanasia ~~Technician~~ Technician, ~~Probationary Euthanasia Technician~~, or a veterinarian licensed to
5 practice veterinary medicine in North Carolina may euthanize an animal in a certified animal shelter. A Certified
6 Euthanasia Technician shall not euthanize animals using a method for which he or she is not currently certified except
7 as specified in 02 NCAC 52J .0700.

8

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

10 *Eff. March 23, 2009;*

11 *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 .403 Definitions

DEADLINE FOR RECEIPT: June 10, 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: Why does the agency have two definition rules (104 and 403) that are each equally applicable to Subchapter 52J? Or did the agency intend "as used in this Section" on Line 4?

In (1) And (2), Page 1, Lines 5-9: As written, a Certified Euthanasia Technician (CET) is an individual who has received "instruction" and is employed by "certified facility" so long as that facility employs at least one person who is likewise an individual who has received "instruction" and is employed by "certified facility". There is no reference to Rule 410 or 412. Is that what the agency intended?

(3), Page 1, Lines 10-12: What criteria will the AWS use to grant this permission to become an "approved CET trainer"? Are there any Rules concerning this process?

(5), Page 1, Line 16: Add "Certified" before "Euthanasia Technician". Is this pursuant to Rule 412?

(6), Page 1, Lines 19-24: Consider reorganizing Rule for clarity. Consider a reference to G.S. 19A-24(b)(7). Please explain the agency's authority to exceed the language of G.S. 19A-24(b)(7).

(7), Page 1, Line 25: Add parentheses before "Euthanasia" and after "(EBI)". "Approved" by whom? Pursuant to what?

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 7, 2022

1 02 NCAC 52J .0403 is readopted with substantive changes as published in 36:12 NCR 1012 as follows:

2

3 **02 NCAC 52J .0403 DEFINITIONS**

4 As used in this Subchapter:

5 (1) "Certified Euthanasia Technician" means a person employed by a certified facility who has been
6 instructed in the proper methods of humane euthanasia, security and record keeping.

7 (2) "Certified facility" means a ~~certified-registered animal shelter-shelter, kennel or pet shop~~ that
8 employs at least one Certified Euthanasia Technician or NC licensed veterinarian to perform
9 euthanasia on animals at that ~~certified~~-facility.

10 (3) "Approved Certified Euthanasia Technician trainer" means ~~a person or organization that~~ an
11 individual who has received permission from the Animal Welfare Section to provide training to
12 applicants or individuals seeking to be Certified Euthanasia Technicians.

13 (4) "Chemical Agent" means any chemical approved by the American Veterinary Medical Association
14 Association, and/or the Humane Society of the United States ~~or the American Humane Association~~²
15 which is used to induce death.

16 (5) "Applicant" means a person seeking certification as a Euthanasia Technician.

17 ~~(6) "Commercially manufactured chamber" means a chamber built with the intention for sale with the~~
18 ~~purpose of euthanizing animals, and which meets the requirements of 02 NCAC 52J .0600.~~

19 ~~(7)~~(6) "Conviction of a criminal offense" means being found guilty, convicted, placed on probation or
20 entering a guilty plea that is accepted by the court, forfeiture of bail, bond or collateral deposited to
21 secure one's own appearance in a criminal proceeding or having received a withheld judgment,
22 prayer for judgment continued or suspended sentence by a court of competent jurisdiction in this
23 state, in a federal court or another state of any felony, as described by federal or state law, or any
24 criminal act that in any way is related to practicing as a Certified Euthanasia Technician.

25 (7) Euthanasia by injection (EBI) means the injection of an approved commercially- manufactured
26 euthanasia medication via an intravenous, intraperitoneal or intracardiac (subject to additional
27 conditions) injection into an animal to cause the death of that animal.

28

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

30 *Eff. March 23, 2009;*

31 *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 .0404 Certification Requirements for
Technicians

Euthanasia

DEADLINE FOR RECEIPT: June 10, 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 4: Change "must" to "shall".

(b) Page 1, Line 6: With regard to the "application", is there a rule regarding the required information an applicant must provide? Please see G.S. 150B-2(8a)(d).

(c) Page 1, Line 9: What criteria is being used by the AWS to in its decision to award a certification? What factors are considered?

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 7, 2022

1 02 NCAC 52J .0404 is readopted without substantive changes as published in 36:12 NCR 1012 as follows:

2

3 **02 NCAC 52J .0404 CERTIFICATION REQUIREMENTS FOR EUTHANASIA TECHNICIANS**

4 (a) Individuals who perform euthanasia must be trained and qualified as a Certified Euthanasia Technician as set forth
5 in this Section.

6 (b) Individuals seeking certification as a Euthanasia Technician shall submit a written application documenting their
7 qualifications to the Animal Welfare Section, North Carolina Department of Agriculture and Consumer Services, 1030
8 Mail Service Center, Raleigh, NC 27699-1030, on the form provided by the Animal Welfare Section.

9 (c) The Animal Welfare Section shall receive and review all applications for Euthanasia Technician certification and
10 determine whether or not to issue the individual applicant proof of certification in the form of a printed certificate.

11

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

13 *Eff. March 23, 2009;*

14 *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 .405 Certification Standards

DEADLINE FOR RECEIPT: June 10, 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 5: If the agency intended for any convicted felon to be ineligible, there needs to be a comma after "offense". As written, the felony offense would have to be involving animal abuse for the applicant to be ineligible.

Page 1, Line 6: "and in compliance with this Section" appears to be misplaced. Consider making it a separate sentence.

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 7, 2022

1 02 NCAC 52J .0405 is readopted without substantive changes as published in 36:12 NCR 1013 as follows:

2

3 **02 NCAC 52J .0405 CERTIFICATION STANDARDS**

4 Applicants for certification as a Certified Euthanasia Technician shall be at least 18 years of age at the date they
5 receive certification. Applicants are not eligible for certification if they have been convicted of a felony offense or a
6 crime or infraction involving animal abuse or neglect and shall demonstrate compliance with this Section.

7

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

9 *Eff. March 23, 2009;*

10 *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 .0406 Application Requirements

DEADLINE FOR RECEIPT: June 10, 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:

(1), Page 1, Line 5: With regard to the "form", is there a rule regarding the required information an applicant must provide? Please see G.S. 150B-2(8a)(d).

(2), Page 1, Line 7: The Rule refers to an "approved course". What course? Is this pursuant to Rule 407? Approved by whom?

(2), Page 1, Lines 9-11: What kind of documentation? How is this different than Lines 6-9?

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 7, 2022

1 02 NCAC 52J .0406 is readopted with substantive changes as published in 36:12 NCR 1013 as follows:

2

3 **02 NCAC 52J .0406 APPLICATION REQUIREMENTS**

4 An applicant for certification shall:

5 (1) submit a completed and signed application form; and

6 (2) provide a document from an approved Certified Euthanasia Technician trainer establishing that the
7 applicant has completed an approved course, passed the course written examination and passed a
8 practical examination in the ~~specific~~ euthanasia by injection (EBI) techniques ~~for which the~~
9 ~~applicant is seeking certification~~, or provide separate documentation of having taken an approved
10 course and passed the written examination and having passed a practical examination given by a
11 different approved Certified Euthanasia Technician ~~trainer, trainer,; and~~

12 ~~(3) specify in the application form the specific euthanasia techniques the applicant is requesting~~
13 ~~certification.~~

14

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

16 *Eff. March 23, 2009;*

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 .0407 Training and Examinations

DEADLINE FOR RECEIPT: June 10, 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 5-8: Consider simply enumerating the training and examinations and making the competency (e.g., 80%) a different paragraph.

(b), Page 1, Line 12: With regard to the "processes", please see G.S. 150B-21.6. Is there a citation to the direct the reader where the processes can be found?

(b)(4), Page 1, Line 20: Is there a specific reference to the Federal Code?

(b)(6), Page 1, Line 22: With regard to "EBI", anacronyms should be spelled out when first used in a rule.

(c), Page 1, Line 37: What does "that will be used by the trainer" mean?

(c), Page 2, Line 3: Change "must" to "shall".

(c), Page 2, Line 4: Does the agency mean a version of the written classroom examination?

(d), Page 2, Line 6-7: Is passage 80 percent, correct?

(e), Page 2, Line 8: Here you could use "EBI" if you have previously stated "Euthanasia by Injection ("EBI")"

(e), Page 2, Lines 8-31: Is this for the practical exam or both? If both, does the 80 percent passage rate demonstrate competency or is this in addition to the 80 percent passage rate?

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 7, 2022

1 02 NCAC 52J .0407 is readopted with substantive changes as published in 36:12 NCR 1013-1014 as follows:

2
3 **02 NCAC 52J .0407 TRAINING AND EXAMINATIONS**

4 (a) Training and examinations for euthanasia certification shall consist of:

- 5 (1) Classroom lecture covering the entire list of subjects in Paragraph (b) of this Rule;
- 6 (2) Earning a score of 80 percent correct on a written test provided by the Animal Welfare Section,
7 demonstrating knowledge of the subjects listed in Paragraph (b) of this Rule; and
- 8 (3) Passing a practical examination in ~~each of the euthanasia~~ by injection techniques, methods for which
9 ~~the applicant is seeking certification.~~

10 (b) The Animal Welfare Section shall develop Certified Euthanasia Technician training programs and materials or
11 accredit training programs and materials to be offered by other individuals, schools, agencies or veterinary practices.
12 The programs and materials shall conform to the processes set forth by the American Veterinary Medical Association
13 ~~Association, and/or the Humane Society of the United States or the American Humane Association~~ and shall include
14 the following topics:

- 15 (1) The theory and history of euthanasia methods and practice;
- 16 (2) ~~Relevant Animal~~ animal anatomy;
- 17 (3) Proper animal restraint, handling and methods for controlling animal stress;
- 18 (4) Proper chemical agent dosages, record keeping and usage documentation, chemical agent,
19 instrument and equipment storage, handling and disposal in accordance with rules and the Code of
20 Federal Regulations;
- 21 (5) Proper injection techniques;
- 22 (6) Proper dosing for the specific route of administration for the EBT
- 23 (7) Proper and accurate verification of lack of pain perception;
- 24 (6) ~~Proper euthanasia techniques not utilizing injected chemical agents;~~
- 25 (7)(8) Proper and accurate verification of animal death;
- 26 (8)(9) Proper record keeping including documentation of justification for intracardiac and for early
27 euthanasia;
- 28 (9)(10) Proper disposal of euthanized animals;
- 29 (10)(11) Stress management for euthanasia personnel;
- 30 (11)(12) Proper methods and techniques of euthanasia under extraordinary circumstances;
- 31 (12)(13) Proper methods, techniques and chemicals inducing anesthesia and sedation in animals prior to
32 euthanasia; and
- 33 (13)(14) Proper methods, techniques and chemicals used in the practical examination section for Certified
34 Euthanasia Technician.

35 (c) The Animal Welfare Section shall prepare written examinations to be given to applicants. Following the classroom
36 training detailed in Paragraph (b) of this Rule, the applicant shall take a written examination provided by the Animal
37 Welfare Section that will be used by the approved trainer. Notes or other assistance are not allowed during the taking

1 of the written examination. Those passing the written examination for that classroom training session are eligible to
 2 take for the practical examination of the methods of euthanasia for which the applicant seeks certification. on the EBI
 3 techniques. Those failing this written examination shall attend another classroom training session and must pass a
 4 different written examination provided by the Animal Welfare Section before they are eligible to take the practical
 5 examination.

6 (d) The applicant must pass a practical examination on ~~each method of euthanasia for which he or she seeks~~
 7 ~~certification.~~ the EBI techniques.

8 (e) Applicants for certification in Euthanasia by Injection shall demonstrate the following knowledge and
 9 competencies:

- 10 (1) Correctly calculate chemical agent dosage based upon the species, age, weight and condition of the
 11 ~~animal;~~ animal and the route of administration;
- 12 (2) Correctly complete all required ~~documentation;~~ documentation and demonstrate proper technique
 13 for scanning an animal for a microchip;
- 14 (3) Correctly draw the properly calculated chemical dosage into a syringe and needle of a type and size
 15 appropriate for the ~~animal;~~ animal and for the route of administration;
- 16 (4) Correctly administer the chemical agent to the animal;
- 17 (5) Properly perform intravenous ~~and intraperitoneal~~ injections on dogs and intravenous or
 18 intraperitoneal injections on cats;
- 19 (6) Knowledge of the current euthanasia guidelines, medical procedures including lack of pain
 20 perception verification and drugs necessary for an animal to be euthanized by cardiac injection;
- 21 (7) Demonstrate ability to verify death ~~by:~~ by a combination of the following:
 - 22 (A) lack of respiration;
 - 23 (B) lack of ocular reflexes;
 - 24 (C) lack of a ~~heartbeat;~~ heartbeat verified by the use of a stethoscope;
 - 25 (D) greying of mucous membranes;
 - 26 (E) lack of response to firm toe pinch;
 - 27 (F) rigor mortis.
- 28 (8) Knowledge about the human health risks associated with the use of chemical agents used for
 29 euthanasia including signs and symptoms associated with accidental exposure of the Certified
 30 Euthanasia Technician; and
- 31 (9) Proper first aid for a person accidentally exposed to chemical agents used for euthanasia.

32 ~~(f) Applicants for certification in Euthanasia by Gas Inhalation shall meet the standards set forth in this Paragraph:~~

- 33 ~~(1) Demonstrate knowledge of the dangers and human health effects of exposure to carbon monoxide~~
 34 ~~gas;~~
- 35 ~~(2) Demonstrate knowledge about which animals Euthanasia by Gas Inhalation is approved and which~~
 36 ~~species, age, medical or physical conditions make it improper to use Euthanasia by Gas Inhalation;~~
- 37 ~~(3) Demonstrate proper techniques in placing animals into the chamber;~~

- 1 ~~(4) Demonstrate knowledge about the maintenance, operation and cleaning of the chamber, fittings, gas~~
2 ~~cylinder, valves, and other parts of the equipment;~~
- 3 ~~(5) Demonstrate proper operation of the chamber;~~
- 4 ~~(6) Demonstrate ability to verify death by:~~
5 ~~(A) lack of respiration;~~
6 ~~(B) lack of ocular reflexes;~~
7 ~~(C) lack of a heartbeat;~~
- 8 ~~(7) Demonstrate knowledge about the human health risks associated with the use of carbon monoxide~~
9 ~~when used for euthanasia. Such knowledge shall also include signs and symptoms associated with~~
10 ~~accidental exposure of the Certified Euthanasia Technician;~~
- 11 ~~(8) Demonstrate knowledge of proper first aid for a person accidentally exposed to carbon monoxide~~
12 ~~used for euthanasia.~~

13

14 *History Note: Authority G.S. 19A-24;*
15 *Eff. March 23, 2009;*
16 *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 .0408 Trainers

DEADLINE FOR RECEIPT: June 10, 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 4: As written items (1)-(4) are equally applicable to the AWS. Did the agency intend to place a comma after "Section"?

(a)(1), Page 1, Line 6: How is the evaluated? Is this accomplished by being a Certified Euthanasia Technician ("CET")? Does a CET trainer have to be an CET?

(a)(2), Page 1, Line 7: Euthanasia as defined by G.S. 19A-23 or lawful experience in North Carolina? Either or?

(a)(3), Page 1, Line 8: How does someone become a CET trainer if they have to have experience as a CET trainer prior to becoming a CET trainer? By experience from another state?

(b), Page 1, Line 11: With regard to the "guidelines", please see G.S. 150B-21.6.

(e), Page 1, Line 18: What is required to obtain approval? Documentation evidencing (a)(1)-(4)?

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 7, 2022

1 02 NCAC 52J .0408 is readopted with substantive changes as published in 36:12 NCR 1014 as follows:

2

3 **02 NCAC 52J .0408 TRAINERS**

4 (a) Certified Euthanasia Technician training shall be provided by the Animal Welfare Section or by companies or
5 individuals meeting the following criteria:

6 (1) Possess working knowledge of euthanasia conducted according to this Section;

7 (2) Have actual experience in euthanasia of animals;

8 (3) Have experience training staff in euthanasia; and

9 (4) Provide references from individuals or organizations ~~previously-trained.~~ trained or individuals or
10 organizations that can attest to satisfactory euthanasia experience.

11 (b) Information taught shall conform to this Section and the guidelines set forth by the American Veterinary Medical
12 ~~Association Association, and/or the Humane Society of the United States. States or the American Humane~~
13 ~~Association.~~

14 (c) Trainers shall disclose to their students and the Animal Welfare Section any affiliations with suppliers of equipment
15 or supplies used in euthanasia.

16 (d) The Animal Welfare Section may make unannounced audit of instruction and testing by trainers.

17 (e) Prior to providing euthanasia training leading to certification as a Euthanasia Technician, the person or company
18 shall obtain approval before each class for its training program from the Animal Welfare Section.

19 (f) Trainers shall return to the Animal Welfare Section office copies of the written tests, notification of results for the
20 written examinations and notification of results for the practical examinations within 10 days of the date of the tests.
21 These results shall include all examination outcomes for all applicants.

22

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

24 *Eff. March 23, 2009;*

25 *Readopted Eff. July 1, 2022.*

1 02 NCAC 52J .0409 is readopted as a repeal as published in 36:12 NCR 1014 as follows:

2

3 **02 NCAC 52J .0409 PROBATIONARY EUTHANASIA TECHNICIANS**

4

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

6 *Eff. March 23, 2009;*

7 *Repealed Eff. July 1, 2022.*

1 02 NCAC 52J .0410 is readopted with substantive changes as published in 36:12 NCR 1014 as follows:

2

3 **02 NCAC 52J .0410 EXAM REQUIRED**

4 An individual who has not passed the written exam and the practical examination may not serve as a Certified
5 Euthanasia ~~Technician~~ ~~Technician~~ or Probationary Euthanasia Technician.

6

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

8 *Eff. March 23, 2009;*

9 *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 .0411 New Application

DEADLINE FOR RECEIPT: June 10, 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 7: Consider "deny" rather than "cancel".

Page 1, Line 8: The agency should decide between "and" and "or". Does the agency intend four failed exams?

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 7, 2022

1 02 NCAC 52J .0411 is readopted with substantive changes as published in 36:12 NCR 1014-1015 as follows:

2

3 **02 NCAC 52J .0411 NEW APPLICATION**

4 ~~If the individual or applicant fails to pass the practical exam a second time and wishes to apply for certification again,~~
5 ~~the individual shall submit a new application to the Animal Welfare Section, attend a training program, pass the written~~
6 ~~exam and take and pass a practical examination on euthanasia. The Animal Welfare Section shall cancel the~~
7 ~~application of any applicant who fails the written examination twice. The Animal Welfare Section shall cancel the~~
8 ~~application of any applicant who fails the written examination twice and/or the practical examination twice. If the~~
9 ~~individual wishes to apply for certification again, the individual shall submit a new application to the Animal Welfare~~
10 ~~Section, attend a training program, pass the written examination and the practical examination before a certification~~
11 ~~can be issued.~~

12

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

14 *Eff. March 23, 2009;*

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 .0412 Issuance of Certification

DEADLINE FOR RECEIPT: June 10, 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: What "materials"? Does this include a passing examination grade?

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 7, 2022

1 02 NCAC 52J .0412 is readopted with substantive changes as published in 36:12 NCR 1015 as follows:

2

3 **02 NCAC 52J .0412 ISSUANCE OF CERTIFICATION**

4 Upon the receipt of materials specified in this Section the Animal Welfare Section shall issue a Euthanasia Technician
5 Certificate.

6

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

8 *Eff. March 23, 2009;*

9 *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 .0413 Length of Certification

DEADLINE FOR RECEIPT: June 10, 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: What "materials"? Does this include a passing examination grade?

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 7, 2022

1 02 NCAC 52J .0413 is readopted with substantive changes as published in 36:12 NCR 1015 as follows:

2

3 **02 NCAC 52J .0413 LENGTH OF CERTIFICATION**

4 A Euthanasia Technician Certificate issued by the Animal Welfare Section is valid for five years from the date of
5 issuance unless it is revoked pursuant to this Section or upon termination of employment ~~or volunteer status~~ as
6 described in this Section.

7

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

9 *Eff. March 23, 2009;*

10 *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 .0414 Termination of Employment

DEADLINE FOR RECEIPT: June 10, 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: What is "termination"? Is that being fired? What about an CET that leaves on facility to join another certified facility voluntarily? If the facility goes out of business, have its CETs been terminated?

Page 1, Line 4: By the very definition of Certified Euthanasia Technician pursuant to Rule 403, once a CET is no longer employed at a "certified facility" he or she ceases to be a CET.

Page 1, Line 5: Consider "...until recertified by the Animal Welfare Section pursuant to 02 NCAC 52J .0416."

Page 1, Lines 7-9: "at that certified facility" is confusing. Consider "from a certified facility, ...".

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 7, 2022

1 02 NCAC 52J .0414 is readopted with substantive changes as published in 36:12 NCR 1015 as follows:

2

3 **02 NCAC 52J .0414 TERMINATION OF EMPLOYMENT**

4 Upon termination of employment ~~or volunteer status~~ from a certified facility, a Certified Euthanasia Technician shall
5 not perform animal euthanasia in a certified facility until recertified by the Animal Welfare Section. The Certified
6 Euthanasia Technician's certification shall be canceled effectively upon termination of employment. ~~employment or~~
7 ~~volunteer status~~. No later than 10 days from the date of the termination of a Certified Euthanasia Technician's
8 employment ~~or volunteer status~~ at that certified facility the Certified Euthanasia Technician shall notify ~~complete a~~
9 ~~form notifying~~ the Animal Welfare Section of the termination of employment. ~~employment or volunteer status and~~
10 ~~shall return the form and the Certificate to the Animal Welfare Section.~~

11

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

13 *Eff. March 23, 2009;*

14 *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 .0415 Notice of Termination

DEADLINE FOR RECEIPT: June 10, 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: Consider combining this with Rule .0414.

Page 1, Line 5: What is "termination"? Is that being fired? What about an CET that leaves on facility to join another certified facility voluntarily? If the facility goes out of business, have its CETs been terminated?

Page 1, Line 4-5: Consider, "A certified facility shall notify the Animal Welfare Section of the termination of any Certified Euthanasia Technician within 10 days of the termination. Said notice shall be in writing and mailed to _____."

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 7, 2022

1 02 NCAC 52J .0415 is readopted with substantive changes as published in 36:12 NCR 1015 as follows:

2

3 **02 NCAC 52J .0415 NOTICE OF TERMINATION**

4 A certified facility shall notify the Animal Welfare Section in writing, no later than 10 days from the date of the
5 termination of a Certified Euthanasia Technician's employment ~~or volunteer status~~ at that certified facility.

6

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

8 *Eff. March 23, 2009;*

9 *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 .0416 Recertification

DEADLINE FOR RECEIPT: June 10, 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: Rule .0414, Line 5 uses the term "recertified". In this Rule, Line 6 uses terms "reinstatement" and "reinstatement". The agency should be consistent with its terminology to avoid ambiguity. A name change of this rule may be appropriate.

What criteria will the Animal Welfare Action use in determining reinstatement?

Page 1, Lines 13: "may" should be "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 7, 2022

1 02 NCAC 52J .0416 is readopted with substantive changes as published in 36:12 NCR 1015 as follows:

2

3 **02 NCAC 52J .0416 RECERTIFICATION**

4 ~~(a) If a former Certified Euthanasia Technician is employed or is accepted as a volunteer at a certified facility before~~
5 ~~the expiration of his or her certification, the former Certified Euthanasia Technician or employer may request~~
6 ~~reinstatement of his/her the certification from the Animal Welfare Section. The reinstated Certification shall be good~~
7 ~~for five years from the date of its initial issue.~~

8 ~~(b) If a former Certified Euthanasia Technician is employed or is accepted as a volunteer at a certified facility after~~
9 ~~the expiration of his certification, the former Certified Euthanasia Technician may only euthanize animals under the~~
10 ~~direct supervision of a licensed veterinarian or currently certified euthanasia technician for three months or until he/she~~
11 ~~passes practical examination whichever is less. The former Certified Euthanasia Technician and the manager of the~~
12 ~~certified facility shall each notify the Animal Welfare Section within 10 days of the date the former Certified~~
13 ~~Euthanasia Technician is employed or accepted as a volunteer. The Certified Euthanasia Technician may not~~
14 ~~euthanize animals until the certification has been reinstated by the Animal Welfare Section.~~

15

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

17 *Eff. March 23, 2009;*

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 .0417 Certification Renewal

DEADLINE FOR RECEIPT: June 10, 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, Line 7: Unless "EBI" is contained in a definition, consider replacing "EBI" with "Euthanasia by Injection ("EBI")" when the acronym is used the first time in a Rule.

(a)(1), Page 1, Line 7: Consider adding "pursuant to 02 NCAC 52J .407;"

(a)(2), Page 1, Lines 8 and 9: This sentence is vague and ambiguous.

(a)(3), Page 1, Line 10: What kind of stress management training? How will the agency determine the sufficiency of the training?

(b)(3), Page 1, Line 12: Any information which the applicant is required to provide on a "form" must be prescribed by a rule. Please see G.S. 150B-2(8a)(d.)

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 7, 2022

1 02 NCAC 52J .0417 is readopted with substantive changes as published in 36:12 NCR 1015 as follows:

2

3 **02 NCAC 52J .0417 CERTIFICATION RENEWAL**

4 (a) Certifications may be renewed every five years provided that:

5 (1) within the 12 months immediately preceding the application for certification renewal the Certified
6 Euthanasia Technician has taken and passed a practical examination ~~for each method of euthanasia~~
7 ~~for which they are seeking certification renewal;~~ in current EBI techniques;

8 (2) the applicant receives up-to-date information about ~~the method of euthanasia for which the applicant~~
9 ~~is seeking certification;~~ the current standards and guidelines on EBI; and

10 (3) the applicant receives training in stress management.

11 (b) The applicant shall submit an application for certification renewal to the Animal Welfare Section. The application
12 shall be on a form created by the Animal Welfare Section and shall include a document from an approved Certified
13 Euthanasia Technician trainer establishing that the applicant has passed a practical examination in the ~~specific~~
14 ~~euthanasia techniques for which he or she is seeking certification.~~ techniques of EBI.

15

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

17 *Eff. March 23, 2009;*

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 .0418 Duties

DEADLINE FOR RECEIPT: June 10, 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:

- (1), Page 1, Line 7: Are there other prescribed procedures to “prepare animals”?*
- (1), Page 1, Line 8: This line is vague. What steps would the agency consider “reasonable” steps” to contact the owner? Is there a statute, rule, or standard that requires technicians to try to contact the owner?*
- (2), Page 1, Line 11: To what “identification number” is the agency referring?*
- (4), Page 1, Line 16: “State” should be capitalized if referring to North Carolina exclusively.*
- (5), Page 1, Line 18-19: Consider specifying which government agencies.*
- (7), Page 1, Line 23: State” should be capitalized if referring to North Carolina exclusively.*
- (8), Page 1, Lines 24-25: Isn’t this already required by Rules .0414 and .0415? If so, consider deleting.*

Unless “EBI” is contained in a definition, consider replacing “EBI” with “Euthanasia by Injection (“EBI)” when the acronym is used the first time in a Rule.

(a)(1), Page 1, Line 7: Consider adding “pursuant to 02 NCAC 52J .407;”

(a)(2), Page 1, Lines 8 and 9: This sentence is vague and ambiguous.

(a)(3), Page 1, Line 10: What kind of stress management training? How will the agency determine the sufficiency of the training?

(b)(3), Page 1, Line 12: Any information which the applicant is required to provide on a "form" must be prescribed by a rule. Please see G.S. 150B-2(8a)(d.)

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

02 NCAC 52J .0418 is readopted with substantive changes as published in 36:12 NCR 1015-1016 as follows:

02 NCAC 52J .0418 DUTIES

A Certified Euthanasia Technician ~~may~~ shall:

- (1) Prepare animals for ~~euthanasia~~; euthanasia, including scanning for a microchip and documentation of absence of microchip, or of reasonable but unsuccessful attempts to reach the owners associated with a microchip present in an animal or of emergency circumstances which precluded such attempts;
- (2) ~~Accurately Record~~ record the identification number of the animal, its species, sex, breed description and date, dosages and route of administration for drugs that are administered for sedation and euthanasia and amounts for drugs wasted;
- (3) Order euthanasia supplies;
- (4) Maintain the security of all controlled substances and other drugs in accordance with applicable state and federal laws and regulations;
- ~~(5) — Directly supervise probationary Euthanasia Technicians;~~
- ~~(6)~~ (5) Report to the appropriate government agencies violations or suspicions of a violation of the rules in this Subchapter or any abuse of drugs;
- ~~(7)~~ (6) Euthanize ~~animals~~; animals in accordance with the rules of this Section;
- ~~(8)~~ (7) Dispose of euthanized animals and expired or unwanted chemical agent(s) or the containers, instruments and equipment used in the administration of drugs in accordance with all applicable federal, state and local laws and regulations; and
- ~~(9)~~ (8) Notify the Animal Welfare Section as required in this Section upon leaving employment ~~or volunteer status at a covered~~ at a certified facility.

History Note: Authority G.S. 19A-24;
Eff. March 23, 2009;
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 .0419 Grounds for Discipline – Certified Euthanasia Technicians

DEADLINE FOR RECEIPT: June 10, 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, Lines 6: Consider adding “upon” after discipline? Is enter into consent agreements and negotiated settlements” necessary? Does not the agency have that authority without this language?

(1), Page 1, Line 9: Is the agency referring to the duties prescribed in Rule .0418?

(2), Page 1, Lines 10-14: This is vague. Would this include a technician who gets a DUI?

(6), Page 1, Lines 20-33: This is wordy. Consider re-writing to be more concise, clear, and unambiguous.

(6), Page 1, Line 21: Is the “conduct” of any kind or related to certification?

(6), Page 1, Line 22: “Agency” implies the government. Consider using another term or terms.

(6), Page 1, Lines 25-28: “Gross ignorance, incompetence (,) or inefficiency in the euthanizing of animals as determined by the practices generally and currently followed and accepted as approved by...” Is the agency referring to those prescribed by Rule .0401?

(6), Page 1, Line 32: What is the agency’s authority to conduct an “inspection”?

(7), Page 12, Line 7: “Conviction of a criminal offense” is a defined term. Therefore “as described in this Section” is unnecessary.

William W. Peaslee
Commission Counsel

Date submitted to agency: June 7, 2022

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 7, 2022

02 NCAC 52J .0419 is readopted with substantive changes as published in 36:12 NCR 1016 as follows:

02 NCAC 52J .0419 GROUND FOR DISCIPLINE - CERTIFIED EUTHANASIA TECHNICIANS

The Department may refuse to issue, renew, or reinstate the certification of a Euthanasia Technician, or may deny, revoke, suspend, sanction, or place on probation, impose other forms of discipline, and enter into consent agreements and negotiated settlements with Certified Euthanasia Technician pursuant to the procedures set forth in G.S. 150B, Article 3, for any of the following reasons:

- (1) Failure to Carry Out Duties. Failure to carry out the duties of a Certified Euthanasia Technician;
- (2) Abuse of Chemical Substances. Abuse of any drug or chemical substance by:
 - (a) Selling, diverting or giving away drugs or chemical substances;
 - (b) Stealing drugs or chemical substances;
 - (c) Misusing chemical substances; or
 - (d) Abetting anyone in the foregoing activities;
- (3) Euthanizing animals without supervision as required by this subchapter;
- (4) Allowing uncertified individuals to euthanize animals;
- ~~(5) Allowing probationary Euthanasia Technicians to euthanize animals outside of the Certified Euthanasia Technician's personal presence;~~
- ~~(6)~~(5) Fraud, misrepresentation, or deception in obtaining certification;
- ~~(7)~~(6) Unethical or Unprofessional Conduct. Unethical or unprofessional conduct means to knowingly engage in conduct of a character likely to deceive or defraud the ~~public~~, public and/or the Animal Welfare Section. Such conduct includes working in conjunction with any agency or person illegally practicing as a Certified Euthanasia Technician; failing to provide sanitary facilities or apply sanitary procedures for the euthanizing of any animal; euthanizing animals in a manner that endangers the health or welfare of the public; gross ignorance, incompetence or inefficiency in the euthanizing of animals as determined by the practices generally and currently followed and accepted as approved by the American Veterinary Medical ~~Association~~ Association, and/or the Humane Society of the United States ~~or the American Humane Association~~ and the rules of this Section; intentionally performing a duty, task or procedure involved in the euthanizing of animals for which the individual is not qualified; and swearing falsely in any testimony or affidavits relating to practicing as a Certified Euthanasia Technician and/or failing to provide requested information or the provision of inaccurate or misleading information during an investigation or inspection by the Animal Welfare Section;
- ~~(8)~~(7) Conviction of any criminal offense as described in this Section;
- ~~(9)~~(8) Improper Record Keeping. Failure to follow proper record keeping procedures as outlined in the rules in this Subchapter and/or entering of inaccurate or misleading information into the records of a certified facility;

- 1 (10) Improper Security and Storage for Chemical Agents. Failure to provide and maintain proper
2 security and storage for euthanasia and restraint drugs as established under applicable United States
3 Drug Enforcement Administration and North Carolina Department of Health and Human Services
4 statutes and rules;
- 5 (11) Improper Disposal of Chemical Agents and Equipment. Failure to dispose of drugs and the
6 containers, instruments and equipment in a manner permitted by this Subchapter;
- 7 (12) Improper Labeling of Approved Chemical Agents. Failure to properly label approved euthanasia
8 and restraint chemical agents;
- 9 (13) Revocation, Suspension or Limitation. The revocation, suspension, limitation, of a license,
10 certificate or registration or any other disciplinary action by another state or United States
11 jurisdiction or voluntary surrender of a license, certificate or registration by virtue of which one is
12 licensed, certified or registered to practice as a Certified Euthanasia Technician in that state or
13 jurisdiction on grounds other than nonpayment of the renewal fee; and
- 14 (14) Failure of any applicant or certificate holder to cooperate with the North Carolina Department of
15 Agriculture and Consumer Services during any investigation or inspection.

16
17 *History Note:* *Authority G.S. 19A-24;*
18 *Eff. March 23, 2009;*
19 *Readopted Eff. July 1, 2022.*

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 10, 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 8, 2022

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

AGENCY: N.C. Board of Agriculture

RULE CITATION: 02 NCAC 52J .0501 Intracardiac Injection.

DEADLINE FOR RECEIPT: June 10, 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: Is intracardiac injection approved by either the American Veterinary Medical Association, the Humane Society of the United States, or the American Humane Association? If not, how does the agency have authority? See G.S. 19A-24(a)(5).

Page 1, Line 8: "May should be "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 8, 2022

1
2 02 NCAC 52J .0501 is readopted with substantive changes as published in 36:12 NCR 1016 -1017 as follows:

3
4 **SECTION .0500 – EUTHANASIA BY INJECTION**

5
6 **02 NCAC 52J .0501 INTRACARDIAC INJECTION**

7 ~~Intracardiac injection shall only be used on animals that have been anesthetized or heavily sedated.~~

8 Intracardiac injection for euthanasia may only be administered under the following conditions:

9 (1) due to injury or other medical condition, the animal is unconscious, or the animal has been rendered
10 unconscious by administration of a general anesthetic;

11 (2) due to medical condition of the animal and/or size of the animal, intravenous or intraperitoneal
12 administration is not practical or humane;

13 (3) the absence of a pain response has been verified prior to the administration of the intracardiac injection
14 and this verification is documented in the animal's record; and

15 (4) the justification for an intracardiac injection rather than an intravenous or intraperitoneal route of
16 administration has been documented in the animal's record.

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

19 *Eff. March 23, 2009;*

20 *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 .0701 Methods of Euthanasia Permitted Under Extraordinary Circumstances.

DEADLINE FOR RECEIPT: June 10, 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: Are “extraordinary circumstances” approved by the American Veterinary Medical Association, the Humane Society of the United States, or the American Humane Association? If not, how does the agency have authority? See G.S. 19A-24(a)(5).

The Rule uses examples of extraordinary circumstances without defining the term. Consider: For purposes of this Section, an extraordinary circumstance is one in which an animal is offsite from a shelter and is an immediate risk to animals, humans, or public health, or in which it would be inhumane to transport the animal, and no less extreme measure of euthanasia is feasible.

The agency may want to consider a new name to the Rule as it does not offer “methods”.

Page 1, Line 7: Is there a difference in this context between a circumstance and a situation?

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 8, 2022

1 02 NCAC 52J .0701 is readopted without substantive changes as published in 36:12 NCR 1017 as follows:

2

3

SECTION .0700 - EXTRAORDINARY CIRCUMSTANCES

4

5 **02 NCAC 52J .0701 METHODS OF EUTHANASIA PERMITTED UNDER EXTRAORDINARY**
6 **CIRCUMSTANCES AND SITUATIONS**

7 For purposes of this Section, extraordinary circumstance or situation includes a situation which is offsite from the
8 shelter, in which an animal poses an immediate risk to animal, human or public health and in which no alternative,
9 less extreme measure of euthanasia is feasible. It also includes circumstances or situations in which it would be
10 inhumane to transport an animal to another location to perform euthanasia.

11

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

13 *Eff. March 23, 2009;*

14 *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 .0702 Gunshot or Other Methods

DEADLINE FOR RECEIPT: June 10, 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 5: If “which is offsite from the shelter” is in Rule .0701, is “which occur offsite from a shelter” necessary?

Page 1, Line 5: What kind of training is 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 8, 2022

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02 NCAC 52J .0702 is readopted with substantive changes as published in 36:12 NCR 1017 as follows:

02 NCAC 52J .0702 GUNSHOT OR OTHER METHODS

Under extraordinary circumstances and situations which occur offsite from the shelter, a shelter employee trained in the euthanasia method for that species may use gunshot or other extreme method of euthanasia as set forth in the American Veterinary Medical Association Association, and/or Humane Society of the United States or American Humane Association Guidelines incorporated by reference in 02 NCAC 52J .0401.

History Note: Authority G.S. 19A-24;
Eff. March 23, 2009;
Readopted Eff. July 1, 2022.

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02 NCAC 52J .0703 is readopted with substantive changes as published in 36:12 NCR 1017 as follows:

02 NCAC 52J .0703 METHODS AND STANDARDS

The ~~Methods~~ methods of euthanasia used by a certified facility under an extraordinary circumstance or situation must be a method approved by the American Veterinary Medical Association~~Association~~, and/or the Humane Society of the United States ~~or the American Humane Association~~ for use on that species of animal and must conform to standards set forth by that organization.

History Note: Authority G.S. 19A-24;
Eff. March 23, 2009;
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 .0704 Technician Not Required

DEADLINE FOR RECEIPT: June 10, 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 6: What kind of training does the agency intend? What criteria for determining whether an employee has been trained will the agency employ? Can an employee who has not been trained in any methods of euthanasia but has been trained in firearms shoot the animal in an extraordinary circumstance?

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 8, 2022

1 02 NCAC 52J .0704 is readopted with substantive changes as published in 36:12 NCR 1017 as follows:

2

3 **02 NCAC 52J .0704 TECHNICIAN NOT REQUIRED**

4 If an extraordinary circumstance or situation occurs and euthanasia is necessary, the ~~person~~-shelter employee
5 performing the euthanasia is not required to be a Certified Euthanasia Technician at a certified ~~facility~~-facility so long
6 as the shelter employee is trained in the euthanasia method for that species that was used in the situation.

7

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

9 *Eff. March 23, 2009;*

10 *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 .0705 Reports

DEADLINE FOR RECEIPT: June 10, 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 6: Consider striking "final".

Page 1, Line 7: Consider "authorized" rather than "permitted".

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 8, 2022

1 02 NCAC 52J .0705 is readopted with substantive changes as published in 36:12 NCR 1017 as follows:

2

3 **02 NCAC 52J .0705 REPORTS**

4 A ~~licensee-certified facility~~ or registrant shall prepare a report of any euthanasia performed under extraordinary
5 circumstances or situations, and keep the report on file for at least two years. The report shall include the date, time,
6 identification of the animal, the name of the person performing the final euthanasia, the method of euthanasia and the
7 reason for euthanasia of the animal as permitted by this Section.

8

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

10 *Eff. March 23, 2009;*

11 *Readopted Eff. July 1, 2022.*

1 02 NCAC 52J .0801 is readopted with substantive changes as published in 36:12 NCR 1017 as follows:

2

3

SECTION .0800 – POLICY AND PROCEDURE MANUAL

4

02 NCAC 52J .0801 MANUAL REQUIRED

6 Any ~~animal shelter~~ certified facility performing euthanasia shall have a current policy and procedure manual about
7 euthanasia.

8

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

10 *Eff. March 23, 2009;*

11 *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 .0802 Contents

DEADLINE FOR RECEIPT: June 10, 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 5: What does the agency intend by the term "documentation requirements"? Is the documentation require by a Rule?

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 8, 2022

1 02 NCAC 52J .0802 is readopted with substantive changes as published in 36:12 NCR 1017 as follows:

2

3 **02 NCAC 52J .0802 CONTENTS**

4 The policy and procedure manual shall set forth the shelter's equipment, process, ~~and the procedures for individual~~
5 ~~separation of animals.~~ and documentation requirements for the euthanasia of animals.

6

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

8 *Eff. March 23, 2009;*

9 *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 .0803 Additional Contents

DEADLINE FOR RECEIPT: June 10, 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:

(2), Page 1, Line 8: Spell out "AVMA".

(6), Page 1, Line 17: "Annual Program of Veterinary Care" should not be capitalized. Add "pursuant to 02 NCAC 52J .0210."

(12), Page 1, Line 29: Consider "The name and contact information of the suppliers of:"

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 8, 2022

1 02 NCAC 52J .0803 is readopted with substantive changes as published in 36:12 NCR 1017-1018 as follows:

2
3 **02 NCAC 52J .0803 ADDITIONAL CONTENTS**

4 A certified facility's policy and procedure manual shall be kept consistent with the publications listed below and reflect
5 the current information for each. The manual shall include:

- 6 (1) A copy of the current North Carolina Animal Welfare Act and the rules in this Subchapter;
- 7 (2) A copy of the ~~2000 Report of the American Veterinary Medical Association Panel on Euthanasia~~
8 most recent AVMA Guidelines for the Euthanasia of Animals and any future revisions,
9 replacements, supplements or changes thereto issued by that organization;
- 10 (3) A ~~current~~ copy of the most recent Euthanasia Training-Reference Manual of the Humane Society of
11 the United States;
- 12 ~~(4) A copy of the publication on euthanasia by the American Humane Association;~~
- 13 ~~(5)~~(4) A list of methods of euthanasia allowed at the shelter and the policy and procedures for each method;
14 A copy of the facility's policies and/or procedures for euthanasia by injection;
- 15 ~~(6)~~(5) A list of Certified Euthanasia ~~Technicians~~ Technicians, ~~the methods of euthanasia in which they~~
16 ~~have received training~~, and the date of training certification;
- 17 ~~(7)~~(6) The name, address and contact information for the veterinarian responsible for the Annual Program
18 of Veterinary Care;
- 19 ~~(8)~~(7) The name, address and contact information for veterinarians responsible for the veterinary medical
20 care of the animals. The contact information shall include telephone numbers for working hours,
21 weekends, nights and holidays;
- 22 ~~(9)~~(8) Euthanasia procedure to use in emergencies, after hours, holidays and weekends;
- 23 ~~(10)~~(9) Procedures to follow if no Certified Euthanasia Technician is present and euthanasia of an animal
24 is necessary;
- 25 (10) Procedures to follow including the names(s) of shelter manager designee(s) when the shelter
26 manager is not available to make the decisions necessary and complete the required paperwork when
27 an animal is to be euthanized prior to the end of the 72-hour holding period;
- 28 (11) Methods of verifying death of an animal after a euthanasia process is performed;
- 29 (12) The name and contact information of the supplier of materials. It shall include:
- 30 ~~(a) Bottled gas (if applicable);~~
- 31 ~~(b) Manufacturer of the chamber used to euthanize animals by inhalant gas (if applicable);~~
- 32 ~~(c)~~(a) Injectable euthanasia solution;
- 33 ~~(d)~~(b) Tranquilizer, sedation, or and anesthetic solution medications;
- 34 (13) Original of U.S. Drug Enforcement Administration certification permitting the use of controlled
35 substances;

- 1 (14) ~~A material safety data sheet for any chemical or gas used for euthanasia in that shelter.~~Original of
2 the NC Health and Human Services certificate permitting the storage and use of controlled
3 substances;
- 4 (15) ~~A material~~Material safety data sheets ~~sheet~~ for ~~any~~all chemical, anesthetic, or tranquilizing,
5 tranquilizing, sedation and euthanasia medications used in that facility;
- 6 (16) ~~Notice of~~Information detailing the signs and symptoms associated with human exposure to the
7 agents used for euthanasia at the facility;
- 8 (17) Information detailing First Aid for people accidentally exposed to the agents used for euthanasia at
9 the facility; and
- 10 (18) Contact information of the physician or medical facility providing medical treatment to employees
11 of the facility. The information shall include the name of the medical facility, the telephone number
12 for both working and after-hours contact and directions to the medical facility from the certified
13 facility including a map. If the medical facility does not provide service after-hours, on weekends
14 or on holidays, there must be contact information as described in this item for the nearest medical
15 facility, urgent care clinic or emergency room that does provide care during that time.

16
17 *History Note:* Authority G.S. 19A-24;
18 Eff. March 23, 2009;
19 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 .0901 Eligible Expenses

DEADLINE FOR RECEIPT: June 10, 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 5: Consider "The following are expenses are eligible for reimbursement from the Animal Shelter Support Fund."

(1), Page 1, Line 9: What is the "event"? Consider: following an event described in G.S. 19A-67(b).

(4), Page 1, Line 15: What is the agency's authority to include the listed items, including "construction supplies" and "equipment or facility leasing" without limit when G.S. 19A-68(a) prohibits "capital expenditures for facilities and equipment"?

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 8, 2022

1 02 NCAC 52J .0901 is readopted without substantive changes as published in 36:12 NCR 1018 as follows:

2

3

SECTION .0900 – ANIMAL SHELTER SUPPORT FUND

4 **02 NCAC 52J .0901 ELIGIBLE EXPENSES**

5 Eligible expenses include:

- 6 (1) Veterinary costs – Reimbursement may be requested for veterinary expenditures incurred for the
 7 assessment, diagnostic and triage evaluation, medical treatment, minor surgical treatment,
 8 medications, first aid and minor medical supplies, vaccinations, parasite control/treatment, or
 9 euthanasia of animals housed at the shelter at the time of the event or impounded during the interim
 10 or transition period.
- 11 (2) Sanitation costs – Reimbursement may be requested for expenditures related to sanitation of the
 12 affected shelter, including detergent/disinfectant supplies, cleaning supplies, labor costs for the
 13 sanitation of the shelter, and waste and carcass disposal costs.
- 14 (3) Animal sustenance and supplies – Reimbursement may be requested for expenditures for animal
 15 food, provision of water to the shelter, and food and water bowls or buckets, as well as labor costs
 16 for the feeding and watering of the shelter animals.
- 17 (4) Temporary housing and sheltering of animals – Reimbursement may be requested for expenditures
 18 for animal cages and kennels, animal transport carriers, fencing panels for runs, tarps, fencing, dog
 19 or cat houses and other construction supplies, as well as labor costs or equipment or facility leasing
 20 expenses incurred during the construction or repair of temporary animal housing.

21

22 *History Note: Authority G.S. 19A-67; 19A-68;*
 23 *Temporary Adoption Eff. November 29, 2016;*
 24 *Temporary Adoption Expired Eff. September 11, 2017;*
 25 *Eff. November 1, 2017;*
 26 *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 .0902 Application Guidelines

DEADLINE FOR RECEIPT: June 10, 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: Consider changing the Rule title from "Guidelines" to "Requirements". A guideline is not a requirement. If it is not required, it probably doesn't belong in a Rule.

Is there a time limit by which applications must be filed?

What criteria will the agency consider in making a determination of the local government's request?

(b)(1), Page 1, Lines 7-8: As the agency does not appear to have a "contact Rule" to which a reference can be made, the mailing address, email address, and fax number should be included in the Rule.

(b)(2), Page 1, Line 9: Any substantive information which the agency requires on the application must be contained in a rule. See G.S. 150B-2(8a)(d). Does (2) though (5) include all the information required?

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 8, 2022

1 02 NCAC 52J .0902 is readopted without substantive changes as published in 36:12 NCR 1018 as follows:

2

3 **02 NCAC 52J .0902 APPLICATION GUIDELINES**

4 (a) A local government applying for reimbursement from the Fund shall submit the request for reimbursement to the
5 Animal Welfare Section (AWS) of the North Carolina Department of Agriculture and Consumer Services.

6 (b) The request shall:

7 (1) be received by AWS by mail, email, or fax within 60 days of the date the eligible expense was
8 incurred;

9 (2) include a completed "Animal Shelter Support Fund Reimbursement Application" with the county
10 name, tier of county, facility name, facility license number, and contact information. This
11 application can be found on the AWS website (<http://www.ncagr.gov/vet/AWS/>);

12 (3) include an itemized listing of eligible expenses for which reimbursement is sought;

13 (4) include proof that matching funds have been provided; and

14 (5) include proof of payment of the eligible expense. If the payment of expense occurs after the
15 application was submitted, proof of payment shall be submitted to AWS within 30 days of payment
16 of the expense.

17

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

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

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

21 *Eff. November 1, 2017;*

22 *Readopted Eff. July 1, 2022.*