

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 38 .0401

DEADLINE FOR RECEIPT: Tuesday, June 11, 2019

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 call our office to inquire concerning the staff recommendation.

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

In (1), line 9, I suggest ending the sentence after "cord." Then state "However, nothing..."

Also on line 9, please move the comma within the quotation marks.

In (6), what is the NCWM Policy and Interpretations and Guidelines section? Is it within the NIST Handbook?

In the History Note, line 37, delete the reference to G.S. 150B-21.6

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: May 28, 2019

02 NCAC 38 .0401 amended as published in 33:18 NCR 1855-1866 as follows:

SECTION .0400 - METHOD OF SALE OF COMMODITIES

02 NCAC 38 .0401 ADOPTION BY REFERENCE

The Board hereby adopts by reference including subsequent amendments and editions the NIST Handbook 130, "Method of Sale of Commodities Regulation" with the following additions and exceptions:

- (1) The preferred method for measuring fireplace and stove wood is by the cord or fractional parts of a cord, however, nothing in Section 2.4, "Fireplace and Stove Wood", shall be construed as preventing the purchaser and seller of fireplace or stove wood from agreeing on a quantity other than a cord or fractional parts of a cord.
- (2) Section 2.20, "Gasoline-Oxygenate Blends" is deleted.
- (3) Section 2.19. shall apply only to kerosene sold in a container or kerosene sold through a retail device. In addition, a container or a device shall indicate for 1-K kerosene "SUITABLE FOR USE IN UNVENTED HEATERS" and for 2-K kerosene "MAY NOT BE SUITABLE FOR USE IN UNVENTED HEATERS".
- (4) In Section 2.21., the temperature compensation requirements shall not be mandatory. However, if a company elects to sell liquefied petroleum gas on a temperature compensated basis, then all meters in the truck fleet shall be equipped with an activated automatic temperature compensator which shall remain in continuous operation for a period of not less than one year.
- (5) The price for propane dispensed into containers of less than 240 pounds water capacity may be on a minimum price basis provided that the seller displays the minimum price at the point of container fill and the point of sale. This Rule shall not apply to propane container exchange sales where an empty or partially empty container is exchanged for a full one.
- (6) Any variety of potatoes, defined as edible tubers in Section 2.3.2 of the NCWM Policy Interpretations and Guidelines section may also be sold by count providing they meet corresponding standard of "US Grade No. 1" as found in the most current version of the United States Department of Agriculture (USDA) "United States Standards for Sweet Potatoes" or the USDA "United States Standards for Potatoes," as appropriate. Any commercial shipping boxes or other containers, shipping documents and invoices shall be marked as "US Grade No. 1" potatoes.

Copies of NIST Handbook 130, "Method of Sale of Commodities Regulation" are available for inspection in the Office of the Director of the Standards Division and may be obtained for free at <http://www.nist.gov/pml/wmd/pubs/index.cfm>. Copies of the "United States Standards for Sweet Potatoes" and "United States Standards for Potatoes" are available for free at <http://www.ams.usda.gov/grades-standards/vegetables>.

History Note: Authority G.S. 81A-4; 150B-21.6;

1 *Eff. May 1, 1983;*
2 *Amended Eff. June 1, 1994; January 1, 1990; December 1, 1988; June 1, 1988;*
3 *Readopted Eff. March 1, ~~2017~~ 2017;*
4 *Amended Eff. July 1, 2019.*
5
6

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 52B .0204

DEADLINE FOR RECEIPT: Tuesday, June 11, 2019

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 call our office to inquire concerning the staff recommendation.

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

On the Submission for Permanent Rule form, Box 2, please provide the updated name of the Rule.

In (a), line 5, please replace "shall be" with "is hereby"

Also on line 5, I recommend inserting a comma after "reference"

In (b)(1), line 1, please incorporate this CFR by reference, as you did in (a) for 9 CFR Part 86. If you are comfortable incorporating all of the definitions in 9 CFR 78.1, you could simply add language to (a) to state "shall comply with 9 CFR 78.1 and Part 86, which are hereby incorporated by reference..." If you do not want to do that, then just insert the language in (b)(1). Please note, you will not need to repeat this incorporation by reference language for the subsequent mentions of 9 CFR 78.1 in this Rule.

In (b)(1), lines 2-3, what is the "official interstate certificate of veterinary inspection or owner shipper statement" Does your regulated public know, or are these defined in a CFR?

In (b)(3)(A)(i) through (iii), so that I'm clear – these will not need to be tested for brucellosis?

In (b)(3)(A)(iii), line 22, what is the "official health certificate"? Is it the term as defined in 52B .0202?

In (b)(3)(B), line 26, replace "which" with "that"

On line 27, by "state" do you mean any state? If so, it's fine as written. If you mean "NC" specifically, please capitalize the term.

On line 30, replace "which" with "that"

As (b)(4)(B) is a restatement of (b)(3)(A), have you considered simply stating for (b)(4)(B), "Comply with Part (3)(A) of this Paragraph"?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: May 28, 2019

If you want to restate the language, then shouldn't it be the same as (b)(3)(A)? If so, on Page 3, line 1, state "test negative for brucellosis within 30 days..."

In (b)(4)(B)(iii)(a) through (c), please begin the phrases with lowercase letters to be consistent within the Rule.

In (c)(1), line 30, and (c)(2), lines 32 and 34, please capitalize "State" as I believe you mean "NC"

On line 33, what is "recently" here?

In the History Note, G.S. 106-361 confers rulemaking authority on the Commissioner, with advice and consent of the Board. So, given the other laws cited for authority, should the form reflect dual rulemaking authority?

§ 106-361. Rules and regulations.

The Commissioner of Agriculture, by and with the consent of the State Board of Agriculture, shall have full power to promulgate and enforce such rules and regulations that may hereafter be necessary to complete tick eradication in North Carolina. (1923, c. 146, s. 12; C.S., s. 4895(aa).)

On line 34, please incorporate 9 CFR Part 73 by reference, as you are relying upon it to set the standard.

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

02 NCAC 52B .0204 is readopted with substantive changes as published in 33:18 NCR 1856-1858 as follows:

02 NCAC 52B .0204 IMPORTATION REQUIREMENTS: BRUCELLOSIS CATTLE

(a) ~~All cattle imported into North Carolina are subject to the following requirements:~~ All cattle imported into North Carolina shall comply with 9 CFR Part 86, which shall be incorporated by reference including any amendments or subsequent editions. Copies of the Code of Federal Regulations may be obtained at no cost by accessing the website of the U.S. Government Printing Office at <http://www.gpoaccess.gov/cfr/index.html>.

~~(1) All cattle shall be identified by ear tag, or tattoo;~~

~~(2) cattle originating from any certified brucellosis free State, as defined in 9 Code of Federal Regulations (CFR) 78.1, may enter North Carolina provided the following is recorded on the official health certificate:~~

~~(A) individual identification of each animal; and~~

~~(B) brucellosis status of the State of origin;~~

~~(3) no cattle shall be accepted (other than those consigned to immediate slaughter) which have been adult vaccinated, in accordance with the current edition of the Uniform Methods and Rules for Brucellosis Eradication of the United States Department of Agriculture Animal and Plant Health Inspection Service, against brucellosis or originate from infected, exposed or quarantined herds.~~

(b) ~~In addition to the requirements of Paragraph (a) of this Rule, cattle imported from brucellosis class A states, as defined in 9 CFR 78.1, shall comply with the following:~~

~~(1) all females and bulls eight months of age and older must test negative for brucellosis within 30 days prior to entry into North Carolina, except:~~

~~(A) dairy heifers under 20 months of age that are vaccinated against brucellosis;~~

~~(B) heifers of the beef breeds less than 24 months of age that are vaccinated against brucellosis;~~

~~or~~

~~(C) cattle originating from any certified, brucellosis free herd, as defined in 9 CFR 78.1, provided the following is recorded on the official health certificate:~~

~~(i) individual identification of each animal;~~

~~(ii) herd certification number;~~

~~(iii) date of last herd test; and~~

~~(2) cattle from class A states which originate from the farm of origin and move directly to a state or federally licensed stockyard or to a farm in North Carolina in compliance with this Rule are not required to be tested between 45 and 120 days after entry. However, retests may be performed by a representative of the State Veterinarian at no expense to the owner. Eligible cattle which have been commingled in a stockyard prior to importation must, in addition to the requirements of this Rule, test negative for brucellosis between 45 and 120 days after arrival in this state.~~ Brucellosis

requirements for cattle imported into North Carolina:

- (1) Cattle originating from any validated brucellosis-free state, as defined in 9 CFR 78.1, may enter North Carolina provided the following is recorded on the official interstate certificate of veterinary inspection or owner shipper statement:
- (A) Individual identification of each animal as required by 9 CFR Part 86; and
- (B) Brucellosis status of the state of origin.
- (2) No cattle shall be accepted, other than those consigned to immediate slaughter, which have been adult vaccinated, in accordance with the current edition of the Uniform Methods and Rules for Brucellosis Eradication of the United States Department of Agriculture-Animal and Plant Health Inspection Service (USDA-APHIS), against brucellosis or originate from infected, exposed or quarantined herds. A copy of the Uniform Methods and Rules for Brucellosis Eradication may be obtained at no cost by accessing the website of USDA-APHIS at https://www.aphis.usda.gov/animal_health/animal_diseases/brucellosis/downloads/umr_bovine_bruc.pdf.
- (3) In addition, cattle imported from brucellosis class A states, as defined in 9 CFR 78.1, shall comply with the following:
- (A) All females and bulls eight months of age and older must test negative for brucellosis within 30 days prior to entry into North Carolina, except:
- (i) Dairy heifers under 20 months of age that are vaccinated against brucellosis;
- (ii) Heifers of the beef breeds less than 24 months of age that are vaccinated against brucellosis; or
- (iii) Cattle originating from any certified brucellosis-free herd, as defined in 9 CFR 78.1, provided the following is recorded on the official health certificate:
- (a) individual identification of each animal;
- (b) herd certification number; and
- (c) date of last herd test; and
- (B) Cattle from class A states which originate from the farm of origin and move directly to a state or federally licensed stockyard or to a farm in North Carolina in compliance with this Rule are not required to be tested between 45 and 120 days after entry. However, retests may be performed by a representative of the State Veterinarian at no expense to the owner. Eligible cattle which have been commingled in a stockyard prior to importation must, in addition to the requirements of this Rule, test negative for brucellosis between 45 and 120 days after arrival in North Carolina.
- (4) In addition, cattle imported from class B states, as defined in 9 CFR 78.1, shall comply with the following:
- (A) A permit must be issued to the person importing the cattle by the State Veterinarian of North Carolina prior to entry;

(B) All females and bulls eight months of age or older must test negative within 30 days prior to entry into North Carolina except:

(i) Dairy heifers under 20 months of age that are vaccinated against brucellosis;

(ii) Heifers of the beef breeds less than 24 months of age that are vaccinated against brucellosis; or

(iii) Cattle originating from any certified brucellosis-free herd, as defined in 9 CFR 78.1, provided that the following is recorded on the official health certificate:

(a) Individual identification of each animal;

(b) Herd certification number; and

(c) Date of last herd test; and

(C) All cattle shall be quarantined upon arrival and must test negative between 45 and 120 days after arrival in order to be released from quarantine.

(c) In addition to the requirements of Paragraph (a) of this Rule, cattle imported from class B states, as defined in 9 CFR 78.1, shall comply with the following:

(1) a permit must be issued to the person importing the cattle by the State Veterinarian of North Carolina prior to entry;

(2) all females and bulls eight months of age or older must test negative within 30 days prior to entry into North Carolina except:

(A) dairy heifers under 20 months of age that are vaccinated against brucellosis;

(B) heifers of the beef breeds less than 24 months of age that are vaccinated against brucellosis;

(C) cattle originating from any certified brucellosis-free herd, as defined in 9 CFR 78.1, provided that the following is recorded on the official health certificate:

(i) individual identification of each animal;

(ii) herd certification number; and

(iii) date of last herd test;

(4) all cattle shall be quarantined upon arrival and must test negative between 45 and 120 days after arrival in order to be released from quarantine. Cattle fever tick and scabies importation

requirements:

(1) No cattle infested with ticks, *Boophilus annulatus*, *B. microplus*, or *Rhipicephalus evertsi evertsi*, or exposed to such infestation shall be shipped, trailed, driven, or otherwise imported into the state for any purpose.

(2) No cattle affected with scabies shall be shipped, trailed, driven or otherwise imported into the state for any purpose. No cattle recently exposed to scabies or from an area quarantined on account of scabies shall be imported into the state except in accordance with 9 CFR Part 73.

History Note: Authority G.S. 106-307.5; 106-361; 106-400; Eff. April 1, 1984;

1 *Amended Eff. August 1, 2004; May 1, 1992; June 1, 1988; December 1, 1987;*
2 *Readopted Eff. July 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 52B .0205

DEADLINE FOR RECEIPT: Tuesday, June 11, 2019

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 call our office to inquire concerning the staff recommendation.

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

G.S. 106-361 confers rulemaking authority on the Commissioner, with advice and consent of the Board. So, given the other laws cited for authority, should the form reflect dual rulemaking authority?

§ 106-361. Rules and regulations.

The Commissioner of Agriculture, by and with the consent of the State Board of Agriculture, shall have full power to promulgate and enforce such rules and regulations that may hereafter be necessary to complete tick eradication in North Carolina. (1923, c. 146, s. 12; C.S., s. 4895(aa).)

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: May 28, 2019

02 NCAC 52B is repealed as published in 33:18 NCR 1858 as follows:

02 NCAC 52B .0205 IMPORTATION REQUIREMENTS: CATTLE FEVER TICK AND SCABIES

History Note: Authority G.S. 106-307.5; 106-361; 106-400;

Eff. April 1, 1984;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26,
2017.*

Repealed Eff. July 1, 2019.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 52B .0207

DEADLINE FOR RECEIPT: Tuesday, June 11, 2019

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 call our office to inquire concerning the staff recommendation.

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

In (a), line 4, please capitalize "state" as I believe you mean "NC"

On line 4, what is "an interstate commercial swine movement agreement"? Does your regulated public know?

On line 5, what is "immediate" slaughter?

Also on line 5, what is an "interstate certificate of veterinary inspection"? Is it the term as defined in 9 CFR 86.1?

On line 9, what is "clean and disinfected"?

On lines 10-11, please state "9 CFR Part 161" instead of "Title 9, Part 161 of the Code of Federal Regulations" In addition, please incorporate this standard by reference, pursuant to G.S. 150B-21.6

In (b), lines 12-15, what are the terms in quotation marks. It appears they are known, defined terms – where are they defined? In CFR?

On line 13, since I think you mean "state" to mean any state, please do not capitalize the term.

On line 17, please state "9 CFR 85.1" and incorporate it by reference.

In (c), line 19, what are the "Pseudorabies State II, II/III, or III" areas? Are they defined somewhere?

On line 25, what is a "Qualified Negative herd" and why is the term capitalized?

In (d), line 28, what are "healthy swine" and "for feeding purposes"? Does your regulated public know?

On line 28, replace "on which" with "where"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: May 28, 2019

On lines 29-30, and elsewhere the phrase is used, what is “state-federal approval” How is this approval requested or granted?

On line 31, I suggest replacing “Such” with “The”

On line 31, is “state” any state? If so, it’s fine as written. If it means “NC” then please capitalize the term.

In (e), line 33, please capitalize the term “State” as I believe you mean NC.

On line 33, and elsewhere the term is used, what is “immediate slaughter”?

On lines 34 and 35, I suggest making “federal” lowercase.

In (f), line 36, replace “which” with “that”

On line 37, please capitalize “State”

In (f)(1), Page 2, line 1, what are the contents of this form? Are they in rule or law? And how can this form be obtained?

On line 2, can’t you replace “veterinarian accredited pursuant to 9 CFR 161” with “an accredited veterinarian” given the definition in (a) on lines 10-11?

On line 3, please capitalize “State” if you mean NC.

In (f)(2), line 5, is ‘VS Form 1-27” the same as the form on line 1?

On line 6, does your regulated public know what “NCDA&CS” means?

On line 6, what is “authorized” by the State Veterinarian? How is this authorization given? Is this to allow employees of the State Veterinarian to act?

In (f)(3), line 8, define “cleaned” “disinfected” and “immediately”

In (g)(1), line 29, “apparent’ to whom?

On lines 31-32, delete “but is not limited to”

On line 34, replace “which” with “that”

In (f)(2), line 35, capitalize “State”

In (g)(3), line 36, why do you need “To prevent the spread of contagious animal disease,”? Could you not just state “No person shall...”?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: May 28, 2019

02 NCAC 52B .0207 is readopted with substantive changes as published in 33:17 NCR 1750-1751 as follows:

02 NCAC 52B .0207 IMPORTATION REQUIREMENTS: SWINE

(a) All swine imported into the state, except by ~~special permit~~ an interstate commercial swine movement agreement or for immediate slaughter, shall be accompanied by ~~a health certificate~~ an interstate certificate of veterinary inspection issued by a state, federal, or accredited veterinarian stating that they are free from any signs of an infectious or communicable disease and are not known to have been exposed to same. The health certificate shall contain the ear tag or tattoo number of each animal. The health certificate must show the pseudorabies status of both the herd and state or area of origin. Swine imported for feeding or breeding purposes shall be moved in clean and disinfected trucks or other conveyances. "Accredited veterinarian" means a veterinarian accredited pursuant to Title 9, Part 161 of the Code of Federal Regulations.

(b) Breeding swine and all other swine being shipped to a breeding swine premise shall originate from a "Validated Brucellosis-Free" herd or a "Validated Brucellosis-Free" State and shall originate from a "Qualified Pseudorabies-Negative" herd, Qualified-Negative Gene-Altered Vaccinated Herd (QNV) or Pseudorabies Stage IV or V (Free) State. Breeding swine and all other swine being shipped to a breeding swine premise originating from Stage II, II/III or III areas or states must also be isolated and test negative to a statistical 95/5 sample test using a pseudorabies serological test approved pursuant to Title 9, Part 85.1 of the Code of Federal Regulations between 30 and 60 days after arrival and before being added to the herd.

(c) All feeder swine imported into the state from a Pseudorabies Stage II, II/III, or III state or area shall be accompanied by a permit for entry issued by the State Veterinarian within 30 days prior to entry. The permit number and the date of issuance shall be shown on the health certificate. The feeder swine in the shipment must have been vaccinated for pseudorabies using a USDA-licensed pseudorabies vaccine with gI deletion and must have tested negative on a statistical (95/2) test within 30 days prior to shipment, and they shall be isolated and quarantined until slaughtered. In addition, the swine must be tested on statistical (95/2) test between 30 and 45 days after arrival. The swine must originate from a Qualified Negative herd or a pseudorabies monitored herd that has tested negative on a statistical (95/10) test within 30 days prior to shipment. Feeder swine from a pseudorabies-free state or area may be imported in accordance with Paragraph (a) of this Rule.

(d) Healthy swine for feeding purposes may move directly from a farm of origin in a contiguous state on which they have been located for not less than 30 days to a livestock market or stockyard in North Carolina that has been state-federal approved for handling feeder swine, without the health certificate required herein, provided such swine are accompanied by proof of the pseudorabies status of the herd of origin. Such swine shall be inspected by a state or federal inspector or approved accredited veterinarian prior to sale at the market.

(e) Healthy swine may be shipped into the state for immediate slaughter without a health certificate provided they go directly to a slaughtering establishment under State or Federal inspection, or to a state-federal approved livestock market or stockyard for sale to a slaughtering establishment under State or Federal inspection for immediate slaughter only.

(f) Swine from a pseudorabies-quarantined herd or swine which have been in contact with pseudorabies-quarantined swine may be imported into the state for immediate slaughter only under the following conditions:

- (1) the swine must be accompanied by a shipping permit (Veterinary Services Form 1-27) issued by a veterinarian accredited pursuant to 9 CFR 161, or a state or federal animal health employee, consigning the swine only to a slaughtering establishment under state or federal inspection;
- (2) the vehicle transporting the swine must be sealed after loading with an official USDA or state of origin seal. The seal number must be recorded on the VS Form 1-27. The seal can be broken or removed only by an NCDA&CS or a USDA employee or other individual authorized by the State Veterinarian; and
- (3) the vehicle used to transport the swine must be cleaned and disinfected immediately after unloading the swine and prior to using the vehicle to transport other livestock.
- (g) ~~Sporting swine; Feral Swine:~~
- ~~(1) For purposes of this Rule:~~
- ~~(A) "Sporting swine" means any domestic or feral swine intended for hunting purposes and includes the progeny of these swine whether or not the progeny are intended for hunting purposes; and~~
- ~~(B) "Feral swine" means any swine that have lived any part of its life free roaming.~~
- ~~(2) No person shall import sporting swine into North Carolina unless:~~
- ~~(A) The swine have not been fed garbage within their lifetime; and the herd of origin is validated brucellosis free and qualified pseudorabies negative; and~~
- ~~(B) The swine have not been members of a herd of swine known to be infected with brucellosis or pseudorabies within the previous 12 months; and~~
- ~~(C) The individual animals six months of age or over have a negative brucellosis and pseudorabies test within 30 days of movement; and~~
- ~~(D) The swine have not been a part of a feral swine population or been exposed to swine captured from a feral swine population within the previous 12 months; and~~
- ~~(E) The swine are accompanied by a health certificate or certificate of veterinary inspection identifying each animal by ear tag, breed, age, sex, the state of origin, and certifying that the swine meet the import requirements of North Carolina.~~
- (1) As used in this section, "feral swine" means any untamed or undomesticated hog, boar, or pig; swine whose reversion from the domesticated state to the wild state is apparent; or an otherwise freely roaming swine having no visible tags, marking, or characteristics indicating that such swine is from a domestic herd. Feral swine includes members of the species *Sus scrofa* Linnaeus, including, but not limited to, swine commonly known as old world swine, Russian wild boar, European wild boar, Eurasian wild boar, and razorbacks. Feral swine does not include members of the species *Sus domestica* which are involved in domestic hog production.
- (2) No person shall import or transport live feral swine in this state.
- (3) To prevent the spread of contagious animal disease, no person shall release any hog, boar, pig, or swine to live as a feral swine in North Carolina.

1 ~~Note: Violation of this Rule is a Class 2 misdemeanor under G.S. 106-307.6.~~

2
3 *History Note: Authority G.S. 106-307.5; 106-316.1; 106-317; 106-318;*

4 *Eff. April 1, 1984;*

5 *Amended Eff. February 1, 1996; May 1, 1992; June 1, 1989; January 1, 1989;*

6 *Temporary Amendment Eff. April 3, 2000; February 21, 2000; April 30, 1999;*

7 *Amended Eff. April 1, 2001; July 1, ~~2000~~-2000;*

8 *Readopted Eff. July 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 52B .0213

DEADLINE FOR RECEIPT: Tuesday, June 11, 2019

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 call our office to inquire concerning the staff recommendation.

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

In the last rulemaking for this Rule in 2018, it was established that this Rule is within the rulemaking authority of both the Board and the Commissioner of Agriculture. Please confirm that both bodies participated in this rulemaking process and readopted the Rule, and submit a new form naming both rulemaking bodies.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: May 28, 2019

02 NCAC 52B .0213 is readopted as published in 33:17 NCR 1751 as follows:

02 NCAC 52B .0213 IMPORTATION REQUIREMENTS: CERVIDS

(a) No farmed cervids shall be imported into North Carolina from:

- (1) a herd located in a county or its equivalent, if not within the United States or in a territory without counties, where Chronic Wasting Disease ("CWD") has been diagnosed;
- (2) a herd located in a county or its equivalent, if not within the United States or in a territory without counties, that is contiguous to a county or its equivalent, if not within the United States or in a territory without counties, where CWD has been diagnosed; or
- (3) a CWD-positive, exposed, or suspect farmed cervid facility.

(b) Any imported farmed cervid that fails to comply with G.S. 106-549.97, 02 NCAC 52L, or this Rule, shall be deemed a CWD-suspect animal until further investigation by the North Carolina Department of Agriculture and Consumer Services' Veterinary Division.

(c) No CWD-susceptible cervids, as identified by the North Carolina Department of Agriculture and Consumer Services' Veterinary Division or the USDA, shall be imported into North Carolina without first being tested negative for CWD using an antemortem test approved by the USDA.

(d) All cervids entering North Carolina shall be accompanied by all of the following:

- (1) an interstate certificate of veterinary inspection ("ICVI") issued within 30 days prior to arrival;
- (2) the following statement shall also appear on the ICVI: "All cervidae on this certificate originate from a Chronic Wasting Disease (CWD) monitored or certified herd in which these animals have been kept for at least one year or were natural additions. There has been no diagnosis, signs, or epidemiological evidence of CWD in this herd or any herd contributing to this herd for the previous five years."; and
- (3) proof of a negative USDA-approved tuberculosis test for animals six months of age or older conducted within 60 days prior to arrival if the animal originates from a tuberculosis accredited herd. If the animal is six months of age or older and originates from a herd of unknown status, two negative USDA approved tests for tuberculosis shall be required with the second being greater than 90 days from the initial test and within 60 days prior to arrival. If the animal is less than six months of age and from a herd of unknown status, one negative USDA approved tuberculosis test shall be required. The herd of origin and commingled susceptible species shall have had no diagnosis of tuberculosis in the 36 months preceding shipment.

(e) All farmed cervids entering North Carolina shall be accompanied by all of the following:

- (1) individual animal identification required by 02 NCAC 52L .0112 and noted on the ICVI; and
- (2) a valid transportation permit issued by the North Carolina Department of Agriculture and Consumer Services' Veterinary Division.

(f) The State Veterinarian of North Carolina may issue orders prohibiting the importation of certain farmed cervids or issue moratoriums pending the investigation of any threat of disease based on his or her expertise and experience

1 that will pose a risk of spreading disease that will damage or harm the North Carolina farmed cervid industry,
2 including the control or spread of CWD.

3
4 *History Note:* Authority G.S. 106-307.5; 106-317; 106-399.4; 106-400; 106-549.97(a2);
5 Eff. August 1, 2002;
6 Amended Eff. July 1, ~~2018~~; 2018;
7 Readopted Eff. July 1, 2019.
8

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 52E .0402

DEADLINE FOR RECEIPT: Tuesday, June 11, 2019

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 call our office to inquire concerning the staff recommendation.

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

In (a)(2), line 6, difficult for whom to read?

In (a)(3), line 7, what is "close likeness"? Is this to conform with G.S. 80-60? If so, consider stating "is a close likeness to another brand, as set forth in G.S. 80-60."

In (b), line 8, who determines what is "practical"?

On line 9, define "easily" read here and by whom?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: May 28, 2019

02 NCAC 52E .0402 is readopted as published in 33:17 NCR 1751 as follows:

02 NCAC 52E .0402 STYLE AND LOCATION OF BRAND

(a) No brand shall be accepted for registration that:

- (1) contains any numbers;
- (2) because of shape would be difficult to read when affixed to the animal; or
- (3) is a close likeness to another registered brand.

(b) If practical, a brand shall be located on either the right or left hip to the rear of the hip bone. In any event, the brand shall be easily read from a side or top view of the animal.

*History Note: Authority G.S. 80-61;
 Eff. April 1, ~~1984~~. 1984;
 Readopted Eff. July 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 52G .0303

DEADLINE FOR RECEIPT: Tuesday, June 11, 2019

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 call our office to inquire concerning the staff recommendation.

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

On lines 4-5, delete "herein referred to"

What authority are you relying upon to treat these public records as confidential? If you are using G.S. 132-1.2(1), please state that (or the other applicable statute.) Otherwise, I do not see that you have authority for this Rule.

In the History Note, please add G.S. 106-709, as that confers rulemaking authority on the Board for the registration of biologics.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: May 28, 2019

02 NCAC 52G .0303 is readopted as published in 33:17 NCR 1751 as follows:

02 NCAC 52G .0303 PROTECTION OF CONFIDENTIAL INFORMATION

Information submitted by producers, handlers, dealers, distributors, vendors, manufacturers, or users of biologics herein referred to shall be treated as confidential information to the extent that the release thereof will divulge the contents or formulation of such product.

History Note: Authority G.S. 106-712;
Eff. April 1, ~~1984~~.1984;
Readopted Eff. July 1, 2019.