

1 02 NCAC 09C .0501 is readopted with changes as published in 31:05 NCR 355-356 as follows:

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3 **SECTION .0500 - SMOKED AND SMOKE-FLAVORED FISH**

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5 **02 NCAC 09C .0501 GENERAL: CURRENT GOOD MANUFACTURING PRACTICES AND FISH AND**  
6 **FISHERY PRODUCTS**

7 (a) The criteria in 21 CFR Part 110 shall apply in determining whether the facilities, methods, practices, and controls used for  
8 the manufacture, processing, packing, or holding of fish and seafood products are in conformance comply with and are  
9 operated or administered in conformity with good manufacturing practices to produce, under sanitary conditions, food for  
10 human consumption.

11 (b) The criteria in 21 CFR Part 123 – Fish and Fishery [Products] Products, as adopted by reference in 02 NCAC 09B  
12 [~~.0116(o)(56)~~ .0116(o)(56), shall apply to facilities subject to Part 123 [that engage in processing of] process fish and fishery  
13 products.

14 ~~(b)~~ (e) The criteria in these Rules set forth additional requirements for the smoked or smoke-flavored fish industry.

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16 *History Note: Authority G.S. 106-139; ~~106-267; 106-267.2;~~*

17 *Eff. January 1, ~~1985.~~ 1985;*

18 *Readopted Eff. March 1, 2017.*

1 02 NCAC 09C .0502 is readopted with changes as published in 31:05 NCR 356 as follows:

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**02 NCAC 09C .0502 DEFINITIONS**

The following definitions ~~shall apply;~~ apply to this Section:

- (1) Smoked or smoke-flavored fishery products means the finished food prepared by:
  - (1) Treating fish with salt (sodium chloride), and
  - (2) Subjecting it to the direct action of smoke from burning wood, sawdust, or similar material ~~and/or~~ or  
imparting to it the flavor of smoke by a means other than the direct action of smoke such as immersing  
it in a solution of wood smoke. This definition ~~does~~ shall not alter the labeling requirements.
- ~~"Smoked fish" means any fish that is prepared by treating it with salt (sodium chloride) and then subjecting it to the direct action of smoke from burning wood, sawdust, or similar material.~~
- ~~(2) "Smoke flavored fish" means any fish that is prepared by treating it with salt (sodium chloride) and then imparting to it the flavor of smoke by other than the direct action of smoke.—This Paragraph does not alter the labeling requirements.~~
- ~~(2)~~ (2) "Hot process smoked or hot-process smoke-flavored fish" means the finished food prepared by subjecting forms of smoked fish to heat.

*History Note: Authority G.S. 106-139; ~~106-267; 106-267.2;~~  
Eff. January 1, ~~1985.~~ 1985;  
Readopted Eff. March 1, 2017.*

1 02 NCAC 09C .0503 is readopted with changes as published in 31:05 NCR 356 as follows:

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**02 NCAC 09C .0503 PLANTS AND GROUNDS**

(a) Unloading platforms shall be:

- (1) ~~made of readily cleanable material;~~ maintained free of refuse; and
- (2) equipped with drainage facilities adequate to accommodate all seepage and wash water.

(b) The following processes ~~should~~ shall be carried out in separate rooms or facilities, and the interior walls separating these processes ~~should~~ shall extend from floor to ceiling and contain only necessary openings (such as for conveyors and doorways):

- (1) ~~Receiving~~ receiving or shipping;
- (2) ~~Storage~~ storage of raw fish;
- (3) ~~Presmoking~~ presmoking operations (thawing, dressing, brining, etc.);
- (4) ~~Drying~~ drying and ~~smoking~~ smoking;

~~(c) The following processes shall be carried out in separate room or facilities and the interior walls separating these processes shall extend from floor to ceiling and contain only necessary openings (such as for conveyors and doorways):~~

- ~~(4)~~ (5) ~~Cooling~~ cooling and packing; and
- ~~(2)~~ (6) ~~Storage~~ storage of final product.

~~(d)~~ (c) The product shall be so processed as to prevent contamination by exposure to areas, utensils, ~~or equipment,~~ equipment involved in earlier processing steps, ~~refuse, or other objectionable areas,~~ or refuse.

*History Note: Authority G.S. 106-139; ~~106-267; 106-267.2;~~  
Eff. January 1, ~~1985;~~ 1985;  
Readopted Eff. March 1, 2017*

1 02 NCAC 09C .0504 is readopted with changes as published in 31:05 NCR 356 as follows:

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**02 NCAC 09C .0504 SANITARY FACILITIES**

- (a) ~~[Adequate hand washing]~~ Hand-washing and sanitizing facilities shall be located in ~~[the]~~ all processing ~~[room(s)]~~ rooms or in one area easily accessible from the processing ~~[room(s)]~~ rooms.
- (b) Readily understandable signs directing employees to wash and sanitize their hands after each absence from post of duty shall be ~~[conspicuously]~~ posted in ~~[the processing room(s)]~~ all processing rooms and elsewhere in the plant as ~~[conditions require.]~~ appropriate, such as bathrooms or break areas.
- (c) Offal shall be placed in ~~[suitable]~~ covered containers for removal at least once a day, or more frequently if necessary, or shall be removed by conveyors or chutes. ~~[Offal, debris, or refuse from any source whatever shall not be allowed to accumulate in or about the plant.]~~

*History Note: Authority G.S. 106-139; ~~106-267; 106-267.2;~~  
Eff. January 1, ~~1985.~~ 1985;  
Readopted Eff. March 1, 2017.*

1 02 NCAC 09C .0505 is readopted with changes as published in 31:05 NCR 356 as follows:

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3 **02 NCAC 09C .0505 SANITARY OPERATIONS**

4 (a) Before beginning the day's operation, all utensils and product-contact surfaces of equipment to be used for the day's  
5 operation shall be rinsed and sanitized.

6 (b) Containers used to convey or store fish shall not be nested while they contain fish or otherwise handled during processing  
7 or storage in a manner conducive to direct or indirect contamination of their contents.

8 (c) Cleaning and sanitizing of utensils and portable equipment [should] shall be conducted in an area set aside for these  
9 purposes and shall be carried out in such a manner as to prevent contamination of [the] fish or fish products.

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11 *History Note:* Authority G.S. 106-139; ~~106-267; 106-267.2;~~

12 *Eff. January 1, 1985; 1985;*

13 *Readopted Eff. March 1, 2017.*

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1 02 NCAC 09C .0506 is readopted with changes as published in 31:05 NCR 356 as follows:

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**02 NCAC 09C .0506 EQUIPMENT AND PROCEDURES**

- (a) All food-contact surfaces such as (tanks, tanks, belts, tables, utensils, and utensils and other equipment) shall be so designed and of such material and workmanship as to be cleanable. made of readily cleanable materials.
- (b) Metal seams shall be smoothly soldered, welded, or bonded.
- (c) Each freezer and cold storage compartment used for the product fish or fish products shall be fitted with at least the following:
  - (1) An an automatic control for regulating temperature;
  - (2) An an indicating thermometer so installed as to show accurately the temperature within the compartment;  
and
  - (3) A a temperature recording device thermometer so installed as to indicate accurately at all times the temperature within the compartment.
- (d) Thermometers or other temperature-measuring devices shall have an accuracy of +2 ±2 degrees fahrenheit. Fahrenheit.

*History Note: Authority G.S. 106-139; 106-267; 106-267.2;  
Eff. January 1, ~~1985~~. 1985;  
Readopted Eff. March 1, 2017.*

1 02 NCAC 09C .0601 is readopted with changes as published in 31:05 NCR 356 as follows:

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**SECTION .0600 - PROCESSING OF EGGS**

**02 NCAC 09C .0601 COMMINGLING OF SHELL AND EGG PROHIBITED**

~~No person shall process any eggs~~ Eggs for human food shall be processed in ~~any~~ a manner which:

- (1) ~~does not allow~~ allows examination of the content of individual eggs being processed; and
- (2) ~~does not allow~~ allows egg content to commingle with the egg shell or shell membrane during processing.

*History Note: Authority G.S. 106-131; 106-139;  
Eff. April 1, ~~1987~~. 1987;  
Readopted Eff. March 1, 2017.*

1 02 NCAC 09C .0701 is readopted with changes as published in 31:05 NCR 356 as follows:

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**SECTION .0700 - BOTTLED WATER**

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5 **02 NCAC 09C .0701 SCOPE**

6 The source approval requirements of this Section apply to bottled water sources located within ~~the~~ this state.

7 State. Bottled water from sources located outside ~~the~~ this state State must comply with the source approval

8 requirements of Title 21, Code of Federal Regulations, Part 129, which is adopted by reference in ~~02 NCAC~~

9 ~~09B .0116(p)(16)~~. 02 NCAC 09B .0116(o)(57).

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11 *History Note: Authority G.S. 106-139;*

12 *Eff. April 1, 1992;*

13 *Temporary Amendment Eff. May 13, 1996;*

14 *Amended Eff. April 1, 2003; April 1, ~~1997~~ 1997;*

15 *Readopted Eff. March 1, 2017.*

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1 02 NCAC 09C .0702 is readopted with changes as published in 31:05 NCR 356 as follows:

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**02 NCAC 09C .0702 DEFINITIONS**

For the purposes of this Section:

- (1) "Approved source" when used in reference to a plant's product or operations water, means a source of water and the water therefrom, whether it be from a spring, well, municipal water supply, or any other source that has been approved by the Department of ~~Agriculture's~~ Agriculture and Consumer Services' designated representative, the Department of ~~Environment, Health, and Natural Resources,~~ Environmental Quality, ~~Environmental Health Division, Public Water Supply Section~~ Division of Water Resources in accordance with this Section;
- (2) "Spring" means a natural orifice in the earth's surface ~~through~~ from which water freely flows without the aid of mechanical means;
- (3) "Well" means a hole that is cored, bored, drilled, jetted, ~~dug~~ dug, or otherwise constructed so as to tap an aquifer ~~through~~ from which water is ~~derived~~ withdrawn by mechanical means.

*History Note: Authority G.S. 106-139;  
Eff. April 1, 1992;  
Temporary Amendment Eff. May 13, 1996;  
Amended Eff. April 1, ~~1997~~ 1997;  
Readopted Eff. March 1, 2017.*

1 02 NCAC 09E .0102 is readopted with changes as published in 31:05 NCR 358 as follows:

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3 **02 NCAC 09E .0102 TERMS USED IN REFERENCE TO COMMERCIAL FEEDS**

4 The terms used in reference to commercial feeds shall be the Official Feed Terms adopted by the Association of American  
5 Feed Control Officials, except as the Board of Agriculture designates otherwise in specific cases. A list of the Official Feed  
6 Terms can be found in the AFFCO Official Publication. The publication can be purchased for a fee of seventy dollars  
7 (\$70.00) for members, or one-hundred twenty-five dollars (\$125) for non-members at [www.aafco.org/publications](http://www.aafco.org/publications). You may  
8 also contact the North Carolina Department of Agriculture and Consumer Services Food and Drug Protection Division at 919-  
9 733-7366.

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11 *History Note: Authority G.S. 106-284.41;*  
12 *Eff. February 1, 1976. 1976;*  
13 *Readopted Eff. March 1, 2017.*

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1 02 NCAC 09E .0103 is readopted with changes as published in 31:05 NCR 358 as follows:

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**02 NCAC 09E .0103 COMMODITIES DECLARED EXEMPT**

The following commodities are hereby declared exempt from the definition of commercial feed, under the provisions of Section 106-284.33(4) of the North Carolina Commercial Feed Law of 1973; G.S. 106-284.33(4);

- ~~(1)~~ raw meat,
- ~~(2)~~(1) hay,
- ~~(3)~~(2) straw,
- ~~(4)~~(3) stover,
- ~~(5)~~(4) silages,
- ~~(6)~~(5) cobs,
- ~~(7)~~(6) husks,
- ~~(8)~~(7) hulls when unground and when not mixed or intermixed with other materials;

provided that these commodities are not adulterated within the meaning of Section 106-284.38(1) of the North Carolina Commercial Feed Law of 1973; G.S. 106-284.38(1).

*History Note: Authority G.S. 106-284.33(4); 106-284.41;  
Eff. February 1, 1976;  
Amended Eff. October 1, ~~1987~~. 1987;  
Readopted Eff. March 1, 2017.*

1 02 NCAC 09G .0101 is readopted with changes as published in 31:05 NCR 358 as follows:

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3 **SUBCHAPTER 09G - MILK AND MILK PRODUCTS**

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5 **SECTION .0100 - PASTEURIZED MILK ORDINANCE**

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7 **02 NCAC 09G .0101 ADOPTION BY REFERENCE**

8 The following are adopted by reference, including subsequent ~~amendments:~~ **amendments and editions:**

- 9 (1) "Milk for Manufacturing Purposes and Its Production and Processing, Recommended Requirements,"  
10 U.S. Department of Agriculture, Agricultural Marketing ~~Service.~~ Service, Dairy Programs. A copy of  
11 this document is available at no cost from the USDA, Agricultural Marketing Service, at  
12 www.ams.usda.gov. A farmstead shall be exempt from all mandatory milk testing except the mastitic  
13 milk test and the appearance and odor test. For the purposes of this Section, "farmstead" means a milk  
14 or milk product production facility that uses only milk from its own animals in its product production  
15 and has no other source of milk.
- 16 ~~(2) "General Instructions for Performing Farm Inspections According to the USDA Recommended~~  
17 ~~Requirements for Milk for Manufacturing Purposes and its Production and Processing, for Adoption~~  
18 ~~by State Regulatory Agencies," U.S. Department of Agriculture, Agricultural Marketing Service.~~
- 19 ~~(3)~~(2) "Grading and Inspection - General Specifications for Approved Dairy Plants and Standards for Grades  
20 of Dairy Products," 7 C.F.R. 58. A copy of this document is available at no cost from the Government  
21 Publishing Office at www.gpo.gov.
- 22 ~~(4) 15A NCAC 18A .1210, "Restrictions on Dispensing Raw Milk."~~

23 ~~Copies of these materials are available at no cost from the Food and Drug Protection Division.~~

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26 *History Note: Authority G.S. 106-139; 106-267; 106-267.2;*

27 *Eff. February 1, 1976;*

28 *Amended Eff. August 1, 2002; December 1, 1987; January 1, 1987; January 1, 1985; August 1, 1982.*  
29 *1982;*

30 *Readopted Eff. March 1, 2017.*

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1 02 NCAC 09G .2001 is readopted with changes as published in 31:05 NCR 358 as follows:

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3 **SECTION .2000 - GRADE A MILK SANITATION**

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5 **02 NCAC 09G .2001 GENERAL - ADOPTION BY REFERENCE**

6 ~~The 1978 Pasteurized Milk Ordinance, including all appendices and administrative procedures, recommended by the U.S. Public Health Service/Food and Drug Administration (hereinafter referred to as the "Milk Ordinance") is adopted by reference in accordance with G.S. 150B-14(e). Copies of the Milk Ordinance may be obtained from the Division of Environmental Health.~~

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10 The North Carolina Board of Agriculture incorporates by reference, including subsequent amendments and editions, the  
11 Pasteurized Milk [Ordinance (PMO); Ordinance, including all appendices, supplements, memoranda, procedures, FDA's  
12 Milk Guidance [methods] methods, and administrative procedures recommended by the U.S. Public Health Service/Food  
13 and Drug [Administration] Administration, [(hereinafter referred to as the "Pasteurized Milk Ordinance")] published by  
14 the U.S. Department of Health and Human Services, Public Health Service and the Food and Drug Administration. A  
15 certified copy may be [secured] obtained from the Department of Health and Human Services, Public Health Service,  
16 Food and Drug Administration, Division of Plant and Dairy Food Safety (HFS-316), 5100 Paint Branch Parkway,  
17 College Park, MD 20740-3835.

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20 *History Note: Authority G.S. 106-266.31;*  
21 *Eff. January 1, 1985;*  
22 *Amended Eff. December 1, 1990; June 1, 1988; July 1, 1986;*  
23 *Transferred from 15A NCAC 18A .1201 Eff. May 1, ~~2012~~ 2012;*  
24 *Readopted Eff. March 1, 2017.*  
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1 02 NCAC 09G .2003 is readopted with changes as published in 31:05 NCR 360 as follows:

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3 **02 NCAC 09G .2003 DEFINITIONS**

4 (a) The following definitions shall apply throughout this Section:

5 (1) "Division" means the Division of Environmental Health or its delegated representative.

6 (2) "Independent Milk Distributor" means any person who is not under the control or ownership of a milk  
7 plant and sells or offers for sale to another any Grade "A" pasteurized milk or milk products.

8 (b) All definitions contained in the Milk Ordinance shall apply throughout this Section.

9 The following definitions shall apply to this Section:

10 (1) All definitions contained in the Pasteurized Milk Ordinance shall apply.

11 ~~[(2) All locations where the Pasteurized Milk Ordinance is referenced, it is defined as the current Pasteurized  
12 Milk Ordinance.]~~

13 ~~[(3)](2) Whenever "the .... of ...." appears in the Pasteurized Milk Ordinance, the word "State" is shall be  
14 inserted in the first blank, and the words "North Carolina" are shall be inserted in the second blank and  
15 are to be substituted as the proper legal jurisdiction; blank.~~

16 ~~[(4)](3) In all instances within in the Pasteurized Milk Ordinance where the term "Regulatory Agency"  
17 appears, the "Regulatory Agency" is to be defined as shall be deemed to be the North Carolina  
18 Department of Agriculture & Consumer Services, Food and Drug Protection Division.~~

19 ~~[(5)](4) In all instances within in the Pasteurized Milk Ordinance where the term "Government Water Control  
20 Authority" appears, the "Government Water Control Authority" is to be defined as shall be deemed to be  
21 the North Carolina Department of Environmental Quality, Division of Water Resources.~~

22 ~~[(6)](5) "Independent Milk Distributor" is shall be defined as any person who is not under the control or  
23 ownership of a milk plant and who sells or offers for sale any Grade "A" pasteurized milk or milk products.~~

24 ~~[(7) In the Pasteurized Milk Ordinance, Introduction, Section 2, it states that:~~

25 ~~"Any person who shall violate any of the provisions of this Ordinance shall be guilty of a  
26 misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$.....  
27 and/or such persons may be enjoined from continuing such violations. Each day upon which such  
28 a violation occurs shall constitute a separate violation."~~

29 ~~The amount allowable (\$.....) is defined in GS § 106-124.1. Civil penalties.~~

30 ~~The Commissioner may assess a civil penalty of not more than two thousand dollars (\$2,000) against  
31 any person who violates a provision of this Article or any rule adopted pursuant to this Article. In  
32 determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm  
33 caused by the violation.]~~

34 ~~(6) Any violation of the Pasteurized Milk Ordinance shall be a violation of Article 12 of G.S. 106, as provided by  
35 G.S. 106-124.1.~~

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37 *History Note: Authority G.S. 106-266.31;*

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*Eff. January 1, 1985;*  
*Amended Eff. December 1, 1990;*  
*Transferred from 15A NCAC 18A .1203 Eff. May 1, ~~2012~~ 2012;*  
*Readopted Eff. March 1, 2017.*

1 02 NCAC 09G .2004 is readopted with changes as published in 31:05 NCR 360 as follows:

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3 **02 NCAC 09G .2004 PERMITS REQUIRED**

4 (a) ~~No person shall produce, process, transport, or distribute Grade "A" milk without first obtaining a permit from the~~  
5 ~~Division. A person who complies with the requirements of this Section shall be issued a permit. Permits shall not be~~  
6 ~~transferable with respect to persons or locations.~~

7 (b) ~~The following shall be exempt from the permit requirements of Paragraph (a) of this Rule:~~

8 (1) ~~grocery stores;~~

9 (2) ~~restaurants;~~

10 (3) ~~soda fountains; and~~

11 (4) ~~other establishments where milk or milk products are only served or sold at retail.~~

12 (c) ~~The following shall not be required to obtain a hauler's permit:~~

13 (1) ~~milk producers who transport milk or milk products only from their own dairy farm;~~

14 (2) ~~employees of a milk distributor or milk plant operator that has a valid permit; and~~

15 (3) ~~employees of a milk transportation company that has a valid permit and transports milk from a milk~~  
16 ~~plant, receiving station, or transfer station.~~

17 (a) It shall be unlawful for any person who does not possess a permit from the North Carolina Department of Agriculture  
18 and Consumer Services, Food and Drug Protection [Division] Division, to manufacture, bring into, send [into] into, or  
19 receive into [the State of North Carolina] this State or its jurisdiction, for sale, to sell, or to offer for sale therein or to  
20 have in storage any milk [and/or] or milk products, as defined in the [current version of the Pasteurized Milk  
21 Ordinance.] Pasteurized Milk Ordinance.

22 (b) [Permits shall not be transferable with respect to persons or locations.] Any person holding a permit shall not assign,  
23 sell, or otherwise transfer a permit to a third party. A permit issued pursuant to this Section governing operations at a  
24 particular location shall not apply to any other location.

25 (c) No exemptions [are] shall be allowed except those defined [within the current version of] in the Pasteurized Milk  
26 Ordinance.

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29 *History Note: Authority G.S. 106-266.31;*

*Eff. January 1, 1985;*

*Amended Eff. December 1, 1990;*

*Transferred from 15A NCAC 18A .1204 Eff. May 1, 2012- 2012;*

*Readopted Eff. March 1, 2017.*



1 02 NCAC 09G .2006 is repealed through ~~readopted~~ readoption as published in 31:05 NCR 361 as follows:

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3 **02 NCAC 09G .2006 PERMIT SUSPENSION AND REVOCATION**

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5 *History Note: Authority G.S. 106-266.31;*

6 *Eff. January 1, 1985;*

7 *Amended Eff. September 1, 1991; December 1, 1990; October 1, 1985;*

8 *Transferred from 15A NCAC 18A .1206 Eff. May 1, ~~2012~~ 2012;*

9 *Repealed Eff. March 1, 2017.*

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1 02 NCAC 09G .2007 is repealed through **readopted readoption** as published in 31:05 NCR 361-362 as follows:

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3 **02 NCAC 09G .2007 ENFORCEMENT AND PENALTIES**

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5 *History Note: Authority G.S. 106-266.31;*

6 *Eff. January 1, 1985;*

7 *Transferred from 15A NCAC 18A .1207 Eff. May 1, ~~2012~~, 2012;*

8 *Repealed Eff. March 1, 2017.*

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1 02 NCAC 09H .0109 is readopted with changes as published in 31:05 NCR 362 as follows:

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**02 NCAC 09H .0109 UNAVOIDABLE DEFECT LEVELS FOR CORNMEAL AND FLOUR SAMPLES**

Notwithstanding the limits set forth in FDA Compliance Policy Guide [Guideline Number 7404.01 of the FDA Administrative Guideline heretofore adopted,] incorporated by reference in 09B .0116(f), reaching or exceeding the following limits [constitutes] shall constitute product adulteration [under] pursuant to G.S. 106-129(1)c. requiring embargo and voluntary recall by manufacturer:

- (1) whole insects--one per 50 grams of product;
- (2) rodent pellet fragments--one per 50 grams of product;
- (3) rodent hairs--one per 50 grams of product;
- (4) insect fragments--100 per 50 grams of product;
- (5) webbing, larvae, etc.--No minimum (indicates product age).

*History Note: Authority G.S. 106-139; 106-267; 106-267.2;*  
*Eff. February 1, 1976;*  
*Amended Eff. January 1, ~~1985.~~ 1985;*  
*Readopted Eff. March 1, 2017.*

1 02 NCAC 09K .0102 is readopted with changes as published in 31:05 NCR 362 as follows:

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**02 NCAC 09K .0102 GENERAL SAMPLING PROCEDURES**

- ~~(a) The sampling of raw milk for producer payment shall be as outlined in 2 NCAC 9B .0016(d)(7) (Standard Methods for the Examination of Dairy Products).~~
- ~~(b) Multiple bulk tanks shall be sampled, measured and recorded separately.~~
- ~~(c) Farm Bulk Milk Hauler Samplers shall follow the procedures found in Sections VI through XIX of the "Farm Bulk Milk Haulers Manual" compiled by the United States Department of Agriculture, which is hereby adopted by reference in accordance with G.S. 150B-14(e). A copy of the manual is available for inspection in the Office of the Director of the Food and Drug Protection Division and may be obtained at a cost as determined by the publisher by contacting U.S.D.A. Agricultural Marketing Service, Dairy Division, Washington, DC 20250.~~
- ~~(d) For testing purposes, only samples obtained by the fresh sampling method will be accepted.~~
- (a) Raw milk for producer payment shall be sampled as outlined in 2 NCAC 9B .0116(j) (Standard Methods for the Examination of Dairy Products); set forth in the Standard Methods for the Examination of Dairy Products, incorporated by reference in 02 NCAC 09B .0116(j).
- (b) Milk sampling and hauling procedures [are defined in the Pasteurized Milk Ordinance under APPENDIX B, MILK SAMPLING, HAULING AND TRANSPORTATION.] shall be conducted as set forth in the Pasteurized Milk Ordinance Appendix B, Milk Sampling Hauling and Transportation, incorporated by reference in 02 NCAC 09G .2001.

*History Note: Authority G.S. 106-139; 106-267; 106-267.2;  
Eff. February 1, 1982;  
Amended Eff. June 1, 1988; January 1, 1985; January 1, 1984. 1984;  
Readopted Eff. March 1, 2017.*

1 02 NCAC 09K .0104 is readopted as published in 31:05 NCR 363 as follows:

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3 **02 NCAC 09K .0104 PLACE OF TESTING**

4 Unless written permission of the Commissioner is received a tester shall test a sample only at the plant or place where the  
5 sample is received.

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7 *History Note: Authority G.S. 106-267; 106-267.2;*

8 *Eff. February 1, ~~1982~~ 1982;*

9 *Readopted Eff. March 1, 2017*

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1 02 NCAC 09K .0112 is readopted with changes as published in 31:05 NCR 363 as follows:

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3 **02 NCAC 09K .0112 SAMPLING CREAM**

4 (a) Cream samples shall be obtained by following the same [general] procedure as in sampling milk.

5 (b) A sampler shall obtain at least a [two ounce] two-ounce sample of cream.

6

7 *History Note: Authority G.S. 106-267; 106-267.2;*

8 *Eff. February 1, 1982;*

9 *Amended Eff. December 31, ~~1983~~, 1983;*

10 *Readopted Eff. March 1, 2017.*

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1 02 NCAC 09K .0201 is readopted with changes as published in 31:05 NCR 364 as follows:

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**SECTION .0200 - FROZEN DESSERTS**

4

**02 NCAC 09K .0201 SPECIFIC REQUIREMENTS**

6 The requirements in the ~~following rules of 2 NCAC 9K .0200~~ Rules of this Section ~~[be]~~ shall apply in addition to ~~those the~~  
7 regulations set out in Title 21, Code of Federal Regulations, parts of 110 and 135 as ~~adopted.~~ adopted by reference in 02  
8 NCAC 09B .0116(o)(49) and (61).

9

10 *History Note: Authority G.S. 106-253; 106-267;*

11 *Eff. February 1, ~~1982.~~ 1982.*

12 *Readopted Eff. March 1, 2017.*

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02 NCAC 09K .0202 is readopted with changes as published in 31:05 NCR 364 as follows:

### 02 NCAC 09K .0202 DEFINITIONS

(a) "Wholesale Frozen Dessert Manufacturer" means any owner or operator of an establishment where frozen desserts are made or stored for disposal at wholesale to retail dealers for resale in this State.

(b) "Retail Frozen Dessert Manufacturer" means any owner, ~~operator~~ operator, or proprietor of a retail frozen dessert dispenser or a mobile frozen dessert manufacturing unit.

(c) "Retail Frozen Dessert Dispenser" means any device that dispenses a frozen dessert at retail.

~~[Note: This does]~~ Retail Frozen Dessert Dispenser shall not include the conventional spindle-type milkshake mixers, but ~~does~~ shall include other dispenser milkshake machines.

(d) "Mobile Frozen Dessert Manufacturing Unit" means a retail frozen dessert dispenser that is mounted on or connected to any vehicle from which frozen desserts are sold.

(e) "Wholesale Cheese Manufacturer" means any owner or operator of an establishment where cheese is produced for disposal at wholesale to retail dealers for resale in this State.

(f) "Retail Cheese Manufacturer" means any owner or operator of an establishment where cheese is produced for disposal at retail only in this State.

(g) "Wholesale Butter Processing Manufacturer" means any owner or operator of an establishment where butter is manufactured or processed for disposal at wholesale to retail dealers for resale in this State.

(h) "Frozen Dessert" means ~~[and includes]~~ ice cream, ice milk, ~~milkshake (milkshake base), (milkshake mix),~~ milkshake, milkshake base, milkshake mix, milk sherbet, sherbet, water ices, and other similar frozen or semi-frozen food products including ~~[by way of illustration and not by limitation: yogurt; ice milk; frozen custard.]~~ yogurt, ice milk, and frozen custard.

(i) "Frozen Dessert Mix" means any mixture or compound in liquid or dry form from which a frozen dessert is ~~made through rehydration or other means,~~ made.

(j) "Rerun" means frozen dessert mix which has been drawn through a retail frozen dessert dispenser.

(k) "Dispenser Milkshake Machine" means any fountain type or similar type machine dispensing a semi-frozen milkshake or imitation milkshake with a minimum temperature of 25 degrees F. in a retail establishment.

(l) "Imitation Frozen Dessert" means any substance, ~~mixture~~ mixture, or ~~compound,~~ compound which is made in imitation of, or does in fact imitate, any frozen dessert or frozen dessert mix for which a standard of identity has been established in 21 CFR 135 or these Rules, and which does not conform to said standard of identity.

(m) "Milk Products" ~~[means and includes:]~~ includes cream, dried cream, plastic cream (sometimes known as concentrated milk fat), butter, butter oil, milk, concentrated milk, evaporated milk, sweetened condensed milk, superheated condensed milk, dried milk, skim milk, concentrated skim milk, evaporated skim milk, condensed skim milk, sweetened condensed part-skim milk, nonfat dry milk, sweet cream buttermilk, condensed sweet cream buttermilk, dried sweet cream buttermilk, skim milk that has been concentrated and from which part of the lactose has been removed by crystallization, skim milk in concentrated or dried form which has been modified by treating the concentrated skim milk with calcium hydroxide and disodium phosphate, lactose (pure milk sugar), concentrated cheese ~~whey~~ whey, and dried cheese whey.



1 *History Note: Authority G.S. 106-253; 106-267;*  
2 *Eff. February 1, ~~1982~~-1982;*  
3 *Readopted Eff. March 1, 2017.*  
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1 02 NCAC 090 .0102 is readopted with changes as published in 31:05 NCR 365 as follows:

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3 **02 NCAC 090 .0102 LOOSE EGG DISPLAYS**

4 (a) [Loose] A loose egg [displays] display shall be deemed to meet the requirements of G.S. 106-245.18 when the  
5 display is labeled with the correct grade and size.

6 (b) The block letters of the label shall be at least three-eighths of an inch in height.

7 (c) The grade and size shall be written or printed [on,] on or otherwise attached to or [clearly] associated with the  
8 container or display of such eggs, and such designation shall be visible to the public when the eggs or containers of  
9 such eggs are visible to the public.

10 (d) Retailers may display eggs in bulk without the grade and size designated thereon when such eggs are purchased  
11 directly from persons eligible to sell ungraded eggs, and if the display is [conspicuously] labeled with the words,  
12 "Ungraded Eggs". This label shall be bold legible letters at least three-eighths inch high.

13

14 *History Note: Authority G.S. 106-245.15; 106-245.18; 106-245.21;*

15 *Eff. August 1, 1982;*

16 *Amended Eff. December 1, 2011;*

17 *Transferred from 02 NCAC 43H .0102 Eff. May 1, ~~2012~~-2012;*

18 *Readopted Eff. March 1, 2017.*

19

1 02 NCAC 090 .0103 is readopted with changes as published in 31:05 NCR 365-366 as follows:

2  
3 **02 NCAC 090 .0103 STANDARDS FOR SHELL EGGS**

4 ~~(a) The United States Standards, Grades, and Weight Classes for Shell Eggs, adopted by the Agricultural Marketing~~  
5 ~~Service of the United States Department of Agriculture as AMS-56, are incorporated by reference, including~~  
6 ~~subsequent amendments and editions, and shall apply to all shell eggs sold, offered for sale, or advertised for sale in~~  
7 ~~this State except the term "ungraded eggs" may be used to designate eggs exempt from grading pursuant to G.S.~~  
8 ~~106-245.15. Copies of this document may be obtained at no cost from the Division of Marketing, North Carolina~~  
9 ~~Department of Agriculture and Consumer Services. Copies can also be found on the USDA AMS website at~~  
10 ~~[http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateR&navID=EducationalMaterials](http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateR&navID=EducationalMaterials&rightNav1=EducationalMaterials&topNav=&leftNav=&page=PYEducationalandInformationalMaterials&resultType=&acct=pgeninfo)~~  
11 ~~&rightNav1=EducationalMaterials&topNav=&leftNav=&page=PYEducationalandInformationalMaterials&resultTy~~  
12 ~~pe=&acct=pgeninfo.~~

13 ~~(b) Title 9, Code of Federal Regulations, Part 590, Inspection of Eggs and Egg Products, is incorporated by~~  
14 ~~reference, including subsequent amendments and editions. Copies may be obtained at no cost from the United~~  
15 ~~States Government Printing Office website at <http://www.gpoaccess.gov/cfr/index.html>.~~

16 ~~(c) Cracked or checked eggs may be sold by producers or processors to a consumer for his or her personal use,~~  
17 ~~except an "institutional consumer," as defined in G.S. 106-245.14. Said sales shall be made only at the premises of~~  
18 ~~production or processing.~~

19 ~~(d) Cracked or checked eggs may also be sold to a processing plant by a producer or processor for further~~  
20 ~~processing.~~

21 ~~(e) It shall be unlawful for cracked or checked eggs to be displayed, sold, or offered for sale in a retail outlet except~~  
22 ~~as permitted by 02 NCAC 090 .0101(4) and Paragraph (a) of this Rule.~~

23 ~~(f) Except when sold directly by the producer to the consumer, it shall be unlawful to offer for sale any repackaged~~  
24 ~~eggs at any retail outlet.~~

25 (a) The United States Standards, Grades, and Weight Classes for Shell Eggs, adopted by the Agricultural Marketing  
26 Service of the United States Department of Agriculture as AMS-56, are incorporated by [reference,] reference  
27 including subsequent amendments and editions, and shall apply to all shell eggs sold, offered for sale, or advertised  
28 for sale in this [State] State, except the term "ungraded eggs" may be used to designate eggs exempt from grading  
29 pursuant to G.S. 106-245.15. Copies can [also] be found on the USDA AMS website at  
30 <https://www.ams.usda.gov/grades-standards/shell-egg-grades-and-standards>

31 (b) Title 9, Code of Federal Regulations, Part 590, Inspection of Eggs and Egg Products, is incorporated by  
32 [reference,] reference including subsequent amendments and editions.

33 (c) Cracked or checked eggs may be sold by producers or processors to a consumer for his or her personal use, but  
34 shall not be sold to [except] an "institutional [consumer,] consumer" as defined in G.S. 106-245.14. [Said] Such  
35 sales shall be made only at the premises [of production or processing.] where the cracked or checked eggs were  
36 produced or processed.

1 (d) Cracked or checked eggs may also be sold to a processing plant by a producer or processor for further  
2 processing.

3 (e) It shall be unlawful for cracked or checked eggs to be displayed, sold, or offered for sale in a retail outlet except  
4 as permitted by 02 NCAC 09O .0101(4) and Paragraph (a) of this Rule.

5 (f) Except when sold directly by the producer to the consumer, it shall be unlawful to offer for sale any repackaged  
6 eggs at any retail outlet.

7

8 *History Note: Authority G.S. 106-245.16; 106-245.21;*  
9 *Eff. August 1, 1982;*  
10 *Amended Eff. July 1, 2005; April 1, 1988; December 1, 1987;*  
11 *Transferred from 02 NCAC 43H .0103 Eff. May 1, 2012;*  
12 *Amended Eff. January 1, ~~2015~~ 2015;*  
13 *Readopted Eff. March 1, 2017.*

14

1 02 NCAC 090 .0104 is readopted with changes as published in 31:05 NCR 366 as follows:

2

3 **02 NCAC 090 .0104 SANITATION AND MATERIALS**

4 (a) ~~The sanitation requirements of G.S. 106-245.22 shall be deemed to be met when facilities conform to the~~  
5 ~~requirements of 7 C.F.R. Section 56.76 (1987) which is hereby adopted by reference in accordance with G.S.~~  
6 ~~150B-14(e).~~ The sanitation requirements of G.S. 106-245.22 shall be deemed to be met when facilities conform to the  
7 requirements of 7 C.F.R. Section 56.76 which is incorporated by reference including subsequent amendments and  
8 editions.

9 (b) Eggs shall be deemed to be held in a proper environment, as specified in G.S. 106-245.22, when gathered promptly,  
10 and placed in a refrigerated cooling room with an ambient temperature of ~~60~~ 45 degrees F. or lower, lower until graded  
11 and packed. After grading and packing, eggs shall be held or transported at a refrigerated ambient temperature of 45  
12 degrees F. or less lower without freezing, freezing until sold to the consumer or used in food preparation.

13

14 *History Note: Authority G.S. 106-245.16; 106-245.21; 106-245.22;*

15 *Eff. August 1, 1982;*

16 *Amended Eff. December 1, 1991; December 1, 1987;*

17 *Transferred from 02 NCAC 43H .0104 Eff. May 1, ~~2012.~~ 2012;*

18 *Readopted Eff. March 1, 2017.*

19

1 02 NCAC 09O .0106 is readopted with changes as published in 31:05 NCR 366 as follows:

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3 **02 NCAC 09O .0106 DETERMINING GRADES**

4 [In all cases, the] The final determination as to eggs meeting grade requirements shall be made by candling.

5

6 *History Note: Authority G.S. 106-245.15; 106-245.16; 106-245.19; 106-245.21;*

7 *Eff. August 1, 1982;*

8 *Transferred from 02 NCAC 43H .0106 Eff. May 1, ~~2012~~, 2012;*

9 *Readopted Eff. March 1, 2017.*

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1 02 NCAC 38 .0201 is readopted with changes as published in 31:05 NCR 366 as follows:

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**SECTION .0200 - APPROVAL OF WEIGHING AND MEASURING DEVICES**

**02 NCAC 38 .0201 ADOPTION BY REFERENCE**

The board hereby adopts by ~~reference~~ reference, including subsequent amendments and editions, in accordance with G.S. 150B-14(e) the National Institute of Standards and Technology, NIST Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices" except as otherwise indicated in this Chapter.

Copies of the above are available for inspection in the Office of the Director of the Standards Division and may be obtained at a cost as determined by the publisher by contacting Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, ~~for free at~~ <http://www.nist.gov/pml/wmd/pubs/index.cfm>.

*History Note: Authority G.S. 81A-2; 150B-14; 150B-21.6  
Eff. May 1, 1983;  
Amended Eff. January 1, 1990; June 1, 1988; April 1, 1987; May 1, ~~1986~~ 1986;  
Readopted Eff. March 1, 2017.*

1 02 NCAC 38 .0202 is readopted with changes as published in 31:05 NCR 366 as follows:

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**02 NCAC 38 .0202 WEIGHING AND MEASURING DEVICES**

The requirements of NIST Handbook 44 shall apply as follows:

- (1) To commercial weighing and measuring equipment; that is, weights and measures and weighing and measuring devices commercially used or employed in establishing the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or [consumption], consumption purchased, offered, or submitted for sale, hire, or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure;
- (2) To any accessory attached to or used in connection with a commercial weighing or measuring device when such accessory is so designed that its operation affects the accuracy of the device; and
- (3) To weighing and measuring equipment in official use for the enforcement of law or for the collection of statistical information by government agencies.

*History Note: Authority G.S. 81A-2;  
Eff. May 1, 1983;  
Amended Eff. January 1, ~~1990~~ 1990;  
Readopted Eff. March 1, 2017.*



1 02 NCAC 38 .0301 is readopted with changes as published in 31:05 NCR 366 as follows:

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**SECTION .0300 - PACKAGE AND LABELING REQUIREMENTS**

**02 NCAC 38 .0301 ADOPTION BY REFERENCE**

The following are adopted by [reference] reference, including subsequent amendments and editions, [in accordance with G.S. 150B-14(e)] as standards for packaging and labeling and for determining compliance of packaged goods with net contents labeling requirements:

- (1) NIST Handbook 130, "Packaging and Labeling Regulation," with the exception of Sections 13, 14, and 15 of the "Packaging and Labeling Regulation" which are deleted; and
- (2) NIST Handbook 133, "Checking the Net Contents of Packaged Goods".

Copies of Handbook 130 and Handbook 133 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>.

*History Note: Authority G.S. 81A-4; ~~150B-14; 150B-21.6;~~  
Eff. May 1, 1983;  
Amended Eff. January 1, 1990; December 1, 1988; June 1, 1988; April 1, ~~1987;~~ 1987;  
Readopted Eff. March 1, 2017.*

1 02 NCAC 38 .0401 is readopted with changes as published in 31:05 NCR 366-367 as follows:

2  
3 **SECTION .0400 - METHOD OF SALE OF COMMODITIES**

4  
5 **02 NCAC 38 .0401 ADOPTION BY REFERENCE**

6 The Board hereby adopts by reference including subsequent amendments and editions the ~~National Institute of Standards and~~  
7 ~~Technology~~, NIST Handbook 130, "Method of Sale of Commodities Regulation" with the following additions and exceptions:

8 ~~(1)~~ Delete Section 1.2., "Bread", since this is addressed in G.S. 81A-41.

9 ~~(2)~~(1) The preferred method for measuring fireplace and stove wood is by the cord or fractional parts of a cord,  
10 however, nothing in Section ~~2.3~~, 2.4, "Fireplace and Stove Wood", shall be construed as preventing the  
11 purchaser and seller of fireplace or stove wood from agreeing on a quantity other than a cord or fractional  
12 parts of a cord.

13 ~~(3)~~(2) ~~Sections 2.20., 4., and 5. Re deleted.~~ Section 2.20, "Gasoline-Oxygenate Blends" is deleted.

14 ~~(4)~~(3) Section 2.19. applies shall apply only to kerosene sold in a container or kerosene sold through a retail  
15 device. In addition, a container or a device shall clearly and conspicuously indicate for 1-K kerosene  
16 "SUITABLE FOR USE IN UNVENTED HEATERS" and for 2-K kerosene "MAY NOT BE SUITABLE  
17 FOR USE IN UNVENTED HEATERS".

18 ~~(5)~~(4) In Section 2.21., the temperature compensation requirements are not shall not be mandatory. However, if a  
19 company elects to sell liquefied petroleum gas on a temperature compensated basis, then all meters in the  
20 truck fleet must shall be equipped with an activated automatic temperature compensator which will shall  
21 remain in continuous operation for a period of not less than one year.

22 ~~(6)~~(5) The price for propane dispensed into containers of less than 240 pounds water capacity may be on a  
23 minimum price basis provided that the seller clearly and conspicuously displays the minimum price at the  
24 point of container fill and the point of sale. This Rule does shall not apply to propane container exchange  
25 sales where an empty or partially empty container is exchanged for a full one.

26 Copies of ~~National Institute of Standards and Technology~~, NIST Handbook 130, "Method of Sale of Commodities Regulation"  
27 are available for inspection in the Office of the Director of the Standards Division and may be obtained ~~at a cost of thirteen~~  
28 ~~dollars (\$13.00) from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.~~ for free  
29 at <http://www.nist.gov/pml/wmd/pubs/index.cfm>.

30  
31 *History Note:* Authority G.S. 81A-4; 150B-21.6;

32 *Eff. May 1, 1983;*

33 *Amended Eff. June 1, 1994; January 1, 1990; December 1, 1988; June 1, 1988. 1988;*

34 *Readopted Eff. March 1, 2017.*

1 02 NCAC 38 .0601 is readopted with changes as published in 31:05 NCR 367 as follows:

2  
3 **SECTION .0600 - SALE OF PETROLEUM PRODUCTS**  
4

5 **02 NCAC 38 .0601 RETAIL MOTOR FUEL DISPENSERS/HALF-PRICING**

6 (a) All retail motor fuel dispensing outlets shall sell motor fuel by the full price ~~per gallon method, except as provided in~~  
7 ~~(b) of this Rule, per unit as stated in NIST Handbook 130 method for that fuel type.~~

8 (b) ~~Until [Effective] January 1, 2011, retail Retail~~ motor fuel dispensing outlets which sell ~~600,000 gallons of motor fuel~~  
9 ~~or less per each 12 month period may [no longer] shall not~~ sell motor fuel by the half-price per gallon method, ~~(except as~~  
10 ~~provided in 2 NCAC 38 .0603): method.~~

11 ~~(c) All motor fuel dispensers using the half pricing method shall bear the following statements on each dial face:~~

12 (1) ~~—"CAUTION: DUE TO A SHORTAGE OF COMPUTER PARTS THIS DISPENSER INDICATES~~  
13 ~~ONLY 1/2 THE TOTAL SALE PRICE." This statement must be composed of one fourth inch letters~~  
14 ~~and must be located above or to the side of the sale price indicator;~~

15 (2) ~~—"1/2 TOTAL SALE." This statement must be composed of three fourths inch letters and must be~~  
16 ~~affixed to cover the total sale or total price identification statement of the dial face;~~

17 (3) ~~—"GALLONS." No change;~~

18 (4) ~~—"CENTS PER 1/2 GALLON INCLUDING TAX." This statement must be composed of three eights~~  
19 ~~inch letters and must be affixed to cover the cents or price per gallon statement on the dial face;~~

20 (5) ~~—"\$\_ PER GALLON." This statement must contain three eights inch letters and must be located~~  
21 ~~directly beneath the statement described in (4) of this Paragraph and must have the full price per gallon~~  
22 ~~written in the blank space.~~

23 ~~(d) The sale of motor fuel through those dispensers as described in (c) of this Rule shall be priced in even tenths of a~~  
24 ~~cent (example: \$1.002, \$1.004, etc.).~~

25 ~~(e) Advertised pricing shall be by the price per gallon.~~  
26

27 *History Note: Authority G.S. 81A-2;*  
28 *Eff. May 1, 1983;*  
29 *Amended Eff. February 1, 2009, 2009;*  
30 *Readopted Eff. March 1, 2017.*  
31

1 02 NCAC 38 .0604 is readopted with changes as published is 31:05 NCR 367 as follows:

2

3 **02 NCAC 38 .0604 PRICE POSTING/CASH DISCOUNTS FOR RETAIL MOTOR FUEL SALES**

4 (a) If any condition or qualification is required to purchase fuel at the posted price, that condition or qualification shall  
5 be posted ~~conspicuously~~ in conjunction with the advertised price.

6 (b) At those locations where separate dispensers or islands are established for credit card and cash sales, the dispensers  
7 or islands shall be ~~conspicuously~~ identified to avoid customer confusion.

8 (c) At those locations where the same dispenser is used for cash and credit card sales, the following apply:

9 (1) If the dispenser is capable of computing only one price, then the dispenser shall be set at the ~~cash~~  
10 highest unit price and the ~~credit surcharge~~ unit discount rate (either per gallon, percentage, or per  
11 gallon credit price) shall be ~~conspicuously displayed;~~ displayed. A receipt shall contain the total  
12 volume of the deliver, the unit price, the total computed price, an itemization of the discounts to the  
13 unit [price] price, and the final total price;

14 (2) If the dispenser is capable of computing both cash and credit sales, either the credit surcharge rate  
15 (either per gallon, percentage, or per gallon credit price) or the cash discount rate (either per gallon,  
16 percentage, or per gallon price) shall be ~~conspicuously displayed;~~ displayed; and

17 (3) The location must indicate ~~how they consider~~ whether “debit” ~~[transactions, either as cash or credit]~~  
18 transactions are treated as cash or credit transactions. Labels such as “cash/debit,” “debit=cash,” or  
19 “credit/debit” are acceptable.

20

21 *History Note: Authority G.S. 81A-2; 81A-23;*

22 *Eff. May 1, 1983;*

23 *Amended Eff. October 1, 2011; December 1, 1987. 1987;*

24 *Readopted Eff. March 1, 2017.*

25

1 02 NCAC 38 .0701 is readopted as published in 31:05 NCR 367-369 as follows:

2  
3 **SECTION .0700 - STANDARDS FOR STORAGE, HANDLING AND INSTALLATION OF LP GAS**

4  
5 **02 NCAC 38 .0701 ADOPTION BY REFERENCE**

6 The following are incorporated by reference, including subsequent **amendments, amendments and editions,** as standards  
7 for storage, handling and installation of liquefied petroleum gas:

8 (1) National Fire Protection Association, document NFPA 58 "Liquefied Petroleum Gas Code," with the  
9 following additions and exceptions:

10 (a) ~~—~~ All cut off valves and regulating equipment exposed to rain, sleet, or snow shall be protected  
11 ~~against such elements either by design or by a hood;~~

12 ~~(b)(a)~~ "Firm Foundation" means that the foundation material has a level top surface, rests on solid  
13 ground, is constructed of a masonry material or wood treated to prevent decay by moisture  
14 ~~rot rot,~~ and will not settle, careen or deteriorate;

15 ~~(c)~~ "Concrete pads" as used in section 6.6.3.1(G) (2011 Edition) means a foundation of solid  
16 concrete blocks, placed concrete pad, or poured concrete foundation sufficient to support the  
17 container or container pump assembly mounted on a common base without breaking or  
18 settling that is detrimental to the integrity or safe operation of the installation.

19 ~~(d)(b)~~ No person shall use liquefied petroleum gas as a source of pressure in lieu of compressed air  
20 in spray guns or other pressure operated ~~equipment; equipment, except that liquefied~~  
21 ~~petroleum gas may be used as a source of pressure for operating [of] internal valves and~~  
22 ~~emergency shutoff valves;~~

23 ~~(e)(c)~~ Piping, ~~tubing tubing,~~ or regulators ~~are shall be~~ considered well supported when they are  
24 rigidly fastened in their intended position;

25 ~~(f)(d)~~ At bulk storage installations, the bulkhead and the plant piping on the hose side of the  
26 bulkhead shall be designed and constructed so that an application of force from the hose side  
27 will not result in damage to the plant piping on the tank side of the bulkhead. In addition, the  
28 bulkhead shall incorporate a means, for instance, mechanical or pneumatic, to automatically  
29 close emergency valves in the event of a pull away;

30 ~~(g)(e)~~ As an alternative to the requirement for a fire safety ~~analysis analysis,~~ the owner, or his  
31 designee, of an LP-gas facility which utilizes individual storage containers in excess of 4,000  
32 gallons water capacity, storage containers interconnected through the liquid withdrawal  
33 outlets of the containers with an aggregate water capacity in excess of 4,000 gallons, or  
34 storage containers interconnected through the vapor withdrawal outlets of the containers with  
35 an aggregate capacity in excess of 6,000 gallons, shall, for all installations of containers of  
36 such capacity or for additions to an existing LP-gas facility which result in containers **in**

1 ~~excess~~ of such capacity, meet with fire officials for the jurisdiction in which the facility is  
2 located in order to:

- 3 (i) review potential exposure to fire hazards to or from real property which is adjacent  
4 to such facility;
- 5 (ii) identify emergency access routes to such facility; and
- 6 (iii) review the equipment and emergency shut-down procedures for the facility.

7 The owner of such facility or his designee shall document in writing the time, date and place  
8 of such meeting(s), the participants in the meeting, and the discussions at the meeting in  
9 order to provide a written ~~record.~~ record of the meeting. This documentation shall be made  
10 available to the Department not later than 60 days after installation of the new or additional  
11 containers. Compliance with the availability requirement shall be met by having a copy of  
12 the documentation kept on site or at the owner's office and [~~immediately~~] available for  
13 review by NCDA&CS inspection ~~personnel.~~ personnel as soon as it is requested. This  
14 meeting, review, and documentation shall be repeated when NCDA&CS the North Carolina  
15 Department of Agriculture and Consumer Services determines that the plant design has  
16 changed or that potential exposures have significantly changed, so as to increase the  
17 likelihood of injury.

18 (h)(f) An LP-gas facility which utilizes storage containers that are interconnected through the vapor  
19 withdrawal outlets of the containers only with an aggregate water capacity in excess of 4,000  
20 gallons, but not in excess of 6,000 gallons, is exempt from the requirements of a fire safety  
21 analysis; and

22 (i)(g) A fire safety analysis as described in NFPA 58 may be prepared by the owner of an LP-Gas  
23 facility, facility or by an employee of such owner in the course of the employee's  
24 employment, and the Department shall not require that it be prepared, approved approved, or  
25 sealed by a professional engineer. Note: This is in keeping with a formal interpretation (F.I.  
26 No.: 58-01-2) by the technical committee for Liquefied Petroleum Gases issued by the  
27 National Fire Protection Association on November 7, 2001, with an effective date of  
28 November 27, 2001. However, the North Carolina Board of Examiners for Engineers and  
29 Surveyors regulates the practice of engineering, and has taken the position that the  
30 preparation of a fire safety analysis constitutes the practice of engineering.

31 (2) National Fire Protection Association, Association document NFPA 54, "National Fuel Gas Code," with  
32 the addition that underground service piping shall rise above ground immediately (within six inches of  
33 wall) before entering a building.

34 (3) National Fire Protection Association, document NFPA 30A, "Code for Motor Fuel Dispensing  
35 Facilities and Repair Garages," Chapter 12 (in 2008 Edition) as it applies to LP-Gas dispensers for  
36 motor vehicle fuel along with dispensers for other motor vehicle fuels.

1 Copies of NFPA 54, NFPA 58 and NFPA 30A are available for inspection in the Office of the Director of the Standards  
2 Division. They may be obtained at a cost of ~~forty-eight dollars and fifty cents (\$48.50)~~ fifty-four dollars and fifty cents  
3 (\$54.50) each for NFPA 54 and NFPA 58 and for ~~thirty-seven dollars and fifty cents (\$37.50)~~ forty-two dollars (\$42.00)  
4 for NFPA 30A (~~February 2014~~ March 2014 prices), plus shipping, by contacting National Fire Protection Association,  
5 Inc., 1 Batterymarch Park, Quincy, Massachusetts 02269, by calling them at 617-770-3000 or 800-344-3555, or by  
6 accessing them on the Internet at ~~www.nfpacatalog.org~~, www.nfpa.org/catalog.

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9 *History Note: Authority G.S. 119-55;*

10 *Eff. May 1, 1983;*

11 *Amended Eff. November 1, 2011; April 1, 2009; September 1, 2002; August 1, 2002; January 1, 1994;*

12 *June 1, 1993; December 1, 1988; December 1, ~~1987~~-1987;*

13 *Readopted March 1, 2017.*

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