DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH

ROY COOPER
GOVERNOR

MANDY COHEN, MD, MPH
SECRETARY

DANIEL STALEY
DIRECTOR

May 22, 2017

Memorandum

TO: Amanda Reeder, Commission Counsel, Rules Review Commission
FROM: Chris Hoke, Director, Legal and Regulatory Affairs, Director Division of Public Health and Commission for Public Health
SUBJECT: Objection to Rules 15A 18A .1801 - .1815
15A 18A .1817 - .1818
15A 18A .1821 - .1834
15A 18A .2201 - .2221
15A 18A .3301 - .3016

Sent via email only

This memorandum is the reply to the Rules Review Commission's objection to the above rules. The objection is on grounds that the Commission for Public Health failed to comply with the Administrative Procedure Act in that the rules were not noticed in the NC Register for a period of at least 60 days.

The Commission for Public Health has addressed the objection by re-submitting the above rules for publication in the NC Register to be issued on June 1, 2017. We respectfully request that you return the above rules to us at your convenience.

Thank you.

Chris Hoke, JD, Director, Legal and Regulatory Affairs, NC Division of Public Health

cc: Larry Michaels, Chief, Environment Health Section, NC Division of Public Health
Cindy Callahan, Head, Food Protection Program, NC Division of Public Health
Bob Martin, Public Health Program Manager, NC Division of Public Health
File

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STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6700

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

May 18, 2017

Chris Hoke
Commission for Public Health
Sent via email only:

Re: Objection to Rules 15A NCAC 18A .1801 - .1815
15A NCAC 18A .1817 - .1818
15A NCAC 18A .1821 - .1834
15A NCAC 18A .2201 - .2221
15A NCAC 18A .3001 - .3016

Dear Mr. Hoke:

At its meeting today, the Rules Review Commission objected to the above-captioned rules in accordance with G.S. 150B-21.10.

The Commission objected the rules for failure to comply with the Administrative Procedure Act. Specifically, these rules were not noticed in the NC Register for a period of at least 60 days, as required by G.S. 150B-21.2(g).

Please respond to this letter in accordance with the provisions of G.S. 150B-21.12. If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

Amanda J. Reeder
Commission Counsel

cc: Bob Martin, Division of Public Health

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Commission for Public Health

RULE CITATION: All Rules submitted

RECOMMENDED ACTION:

Approve, but note staff's comment

X Object, based on:

Lack of statutory authority

Unclear or ambiguous

Unnecessary

X Failure to comply with the APA

Extend the period of review

COMMENT:

Staff recommends objection to this Rule for failure to comply with the APA.

The Board published these Rules in the November 15, 2016 Register. The noticed comment period was November 15, 2016 to January 1, 2017, a total of 47 days. (The Notice of Text is attached.) G.S. 150B-21.2(f) states that an agency must accept comments for a period of at least 60 days. Therefore, the agency failed to comply with the APA.

Staff recommends the Commission object to these Rules, as they were not adopted in compliance with the Administrative Procedure Act.

Amanda J. Reeder
Commission Counsel

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice *is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to adopt the rules cited as 15A NCAC 18A .1821 -.1834 and repeal the rules cited as 15A NCAC 18A .1801-.1815, .1817-.1818, .2201-.2221 and .3001-.3016.*

Link to agency website pursuant to G.S. 150B-19.1(c): http://cph.publichealth.nc.gov/

Proposed Effective Date: *April 1, 2017*

Public Hearing:
Date: *December 5, 2016*
Time: *10:00 a.m.*
Location: *Cardinal room, located at: 5605 Six Forks Road, Raleigh, NC*

Reason for Proposed Action: *These rules govern overall sanitation requirements for lodging establishments in North Carolina. Currently, these rules are contained in three separate sections within the environmental health rules.*

- *15A NCAC 18A .1800 – SANITATION OF LODGING PLACES (Adopt and Repeal)*
- *15A NCAC 18A .2000 – SANITATION OF BED AND BREAKFAST HOMES (Repeal)*
- *15A NCAC 18A .3000 – BED AND BREAKFAST INNS (Repeal)*

These separate rules share many requirements that are repeated separately within each section. The proposed rule-making action consolidates the separate sections into one set of rules.

Comments may be submitted to: *Chris Hoke, JD, 1931 Mail Service Center, Raleigh, NC 27699-1931, phone (919)707-5006, email chris.hoke@dhhs.nc.gov.*

Comment period ends: *January 1, 2017*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

☐ **State funds affected**
☐ **Environmental permitting of DOT affected**
Analysis submitted to Board of Transportation
☐ **Local funds affected**
☐ **Substantial economic impact (≥$1,000,000)**
☐ **Approved by OSBM**
☒ **No fiscal note required by G.S. 150B-21.4**

NOTE: Pursuant to G.S. 150B-21.17, the Codifier has determined that publication of the complete text of the rules proposed for repeal is impractical. The text of the repealed rules is accessible on the OAH Website: http://www.ncoah.com .

Amanda J. Reeder
Commission Counsel

SECTION .1800 - SANITATION OF LODGING PLACES

15A NCAC 18A .1801 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .1801 DEFINITIONS

History Note: *Authority G.S. 130A-248;*
Eff. February 1, 1976;
Readopted Eff. December 5, 1977;
Amended Eff. September 1, 2002; January 1, 1996; September 1, 1990;
Repealed Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .1802 - .1804

DEADLINE FOR RECEIPT: Friday, May 12, 2017

***NOTE:* This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In the History Note, as required by 26 NCAC 02C .0406(b), please combine the History Note of all three rules, including all of the amended effective dates, like so:

History Note: *Authority G.S. 130A-248;*
Eff. February 1, 1976;
Readopted Eff. December 5, 1977;
Amended Eff. January 1, 1996; April 1, 1992; September 1, 1990; March 1, 1988; July 1, 1986;
Repealed Eff. July 1, 2017.

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: April 28, 2017

15A NCAC 18A .1802 - .1804 are repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .1802 PERMITS

15A NCAC 18A .1803 PUBLIC DISPLAY OF GRADE CARD

15A NCAC 18A .1804 INSPECTIONS

History Note: *Authority G.S. 130A-248;*
Eff. February 1, 1976;
Readopted Eff. December 5, 1977;
Amended Eff. January 1, 1996;
Repealed Rff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .1805

DEADLINE FOR RECEIPT: Friday, May 12, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Please insert an introductory statement including the publication information.

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: April 28, 2017

15A NCAC 18A .1805 is repealed as follows:

15A NCAC 18A .1805 INSPECTION FORMS

History Note: *Authority G.S. 130A-248;*
Eff. February 1, 1976;
Readopted Eff. December 5, 1977;
Amended Eff. April 1, 1997; January 1, 1996; September 1, 1990; June 30, 1980;
Repealed Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .1806 - .1807

DEADLINE FOR RECEIPT: Friday, May 12, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Please submit a new form with the correct citation for these Rules.

When you submit the new form, please check "No" for Box 5, if this correct answer.

In the History Note, line 10, please complete "1990;"

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: April 28, 2017

15A NCAC 18A .1806 and .1807 are repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .1806 GRADING

15A NCAC 18A .1807 APPROVED LODGING ESTABLISHMENTS

History Note: *Authority G.S. 130A-248;*
Eff. February 1, 1976;
Readopted Eff. December 5, 1977;
Amended Eff. January 1, 1996; September 1, 199;
Repealed Eff. July 1, 2017..

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .1808

DEADLINE FOR RECEIPT: Friday, May 12, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In the History Note, line 8, please insert the last amended effective date of this Rule, August 1, 2000.

On line 9, please simply remove the period before "July"

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: April 28, 2017

15A NCAC 18A .1808 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .1808 LOBBY: HALLS: STAIRS: AND VENDING AREAS

History Note: *Authority G.S. 130A-248;*
Eff. February 1, 1976;
Readopted Eff. December 5, 1977;
Amended Eff. January 1, 1996; September 1, 1990;
Repealed Eff. .July 1, 2017.

15A NCAC 18A .1809 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .1809 LAVATORIES AND BATHS

History Note: *Authority G.S. 130A-248;*
Eff. February 1, 1976;
Amended Eff. July 1, 1977;
Readopted Eff. December 5, 1977;
Amended Eff. January 1, 1996; April 1, 1992; December 1, 1988;
Temporary Amendment Eff. January 31, 2000;
Amended Eff. November 1, 2006; April 1, 2001;
Repealed Eff. July 1, 2017.

15A NCAC 18A .1810 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .1810 WATER SUPPLY

History Note: *Authority G.S. 130A-248;*
Eff. February 1, 1976;
Readopted Eff. December 5, 1977;
Amended Eff. January 1, 1996; September 1, 1990; July 1, 1986;
Temporary Amendment Eff. June 22, 1998;
Temporary Amendment Expired March 12, 1999;
Temporary Amendment Eff. March 18, 1999;
Amended Eff. August 1, 2000;
Repealed Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .1811

DEADLINE FOR RECEIPT: Friday, May 12, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

You are missing a line from your History Note. It reads as follows:

History Note: *Authority G.S. 130A-248;*
Eff. February 1, 1976;
Readopted Eff. December 5, 1977;
Amended Eff. January 1, 1996; September 1, 1990;
Temporary Amendment Eff. January 31, 2000;
Amended Eff. April 1, 2001.

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: April 28, 2017

15A NCAC 18A .1811 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .1811 DRINKING WATER FACILITIES

History Note: *Authority G.S. 130A-248;*
Eff. February 1, 1976;
Readopted Eff. December 5, 1977;
Amended Eff. January 1, 1996; September 1, 1990;
Repealed Eff. July 1, 2017.

15A NCAC 18A .1812 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .1812 GUESTROOMS

History Note: *Authority G.S. 130A-248;*
Eff. February 1, 1976;
Readopted Eff. December 5, 1977;
Amended Eff. January 1, 1996; April 1, 1992; September 1, 1990; September 1, 1979;
Temporary Amendment Eff. January 31, 2000;
Amended Eff. August 1, 2001; August 1, 2000;
Repealed Eff. July 1, 2017.

15A NCAC 18A .1813 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .1813 STORAGE AND LAUNDRY FACILITIES

History Note: *Authority G.S. 130A-248;*
Eff. February 1, 1976;
Readopted Eff. December 5, 1977;
Amended Eff. January 1, 1996; September 1, 1990;
Repealed Eff. July 1, 2017.

15A NCAC 18A .1814 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .1814 DISPOSAL OF GARBAGE AND TRASH: PREMISES

History Note: *Authority G.S. 130A-248;*
Eff. February 1, 1976;
Readopted Eff. December 5, 1977;
Amended Eff. August 1, 1996; January 1, 1996; September 1, 1990;
Repealed Eff. July 1, 2017.

15A NCAC 18A .1815 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .1815 SEVERABILITY

History Note: *Authority G.S. 130A-248;*
Eff. February 1, 1976;
Readopted Eff. December 5, 1977;
Repealed Eff. July 1, 2017.

15A NCAC 18A .1817 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .1817 APPEALS PROCEDURE

History Note: *Authority G.S. 130A-248;*
Eff. February 1, 1987;
Amended Eff. September 1, 1990:
Repealed Eff. July 1, 2017.

15A NCAC 18A .1818 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .1818 PLAN REVIEW

History Note: *Authority G.S. 130A-248;*
Eff. August 1, 1990;
Amended Eff. January 1, 1996;
Repealed Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .1821 - .1834

DEADLINE FOR RECEIPT: Friday, May 12, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On the Submission for Permanent Rule form for every Rule:

- *In Box 5, please check "No," if is correct*
- *In Box 6:*
  - *Please correct the year you published the Rule.*
  - *This is not the hearing date you published. The Register stated the hearing was held on December 5, 2016. If the hearing date was April 1, 2017, then these Rules were not adopted in compliance with the APA.*
- *In Box 8, please confirm the fiscal impact is correct, as this is not what was published in the November 15, 2016 Register.*

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: April 28, 2017

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .1821

DEADLINE FOR RECEIPT: Friday, May 12, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In Item (1), why are there two definitions and one exclusion for this term?

Item (1)(a), line 11, who are the "accrediting agencies" and what are "national standards"? Does your regulated public know?

In (1)(b), line 14, who is the independent evaluator?

Line 16, I recommend inserting a comma after "discipline"

In Item (2), line 19, unless you have properly incorporated this Act elsewhere, you will need to do so here pursuant to G.S 150B-21.6. Please give the proper citation to the law, and tell where it can be accessed and at what cost. If it can be accessed for free online, give the url and state it may be accessed free of charge.

In Item (3), line 20, I recommend replacing "on" with "upon"

Line 23, what are "generally recognized standards"? Where are they located or found?

Why do you need Item (6)? Specifically, why do you need the second sentence?

In Item (8) and elsewhere where the term is used in Rules, should the term "person in charge" be hyphenated?

In Item (11)(b)(i), Page 2, line 3:

- *Should it be "food" or "food product"?*
- *Please replace the comma with a semicolon.*

In Item (13), line 8, please underline "accessories." since you made that change after publication.

In Item (14), and elsewhere where it is referenced, I take it you mean the Food Code 2009 as incorporated by reference in Rule 15A NCAC 18A .2650?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: April 28, 2017

On line 11, please state either "Rule .2654 of this Subchapter" or "Rule 15A NCAC 18A .2654." I note that in Item (22), you use "Rule 15A NCAC 18A" and you may wish to do that here for consistency.

Is there a reason that Item (16) isn't just one Item, rather than Sub-Items?

Assuming you need to keep it as written, lines 15-16, what do you mean by "especially placed"?

And in (16)(b), line 17, I recommend replacing "Handwashing sink" with "This" or "The term" before "includes"

In Item (17), who will determine what "may" cause this and define "unacceptable consumer risk"

In Item (20), line 25, "Section" should be capitalized, assuming you mean this Section of the Rules. If you mean it to only apply to the definition, replace "section" with "Item"

On line 25, I recommend putting "lodging establishment" in quotation marks.

In Item (21), line 27, please insert an opening quotation mark before "mg/L"

In Item (22), line 28, to what specific part of Rule .2651 are you referring, as I don't see that term used in that Rule.

In Item (27), Page 3, line 3, please insert an opening quotation mark before "Physical"

On line 3, I recommend inserting a comma after "establishment"

On line 4, I recommend inserting a comma after "attachments"

In Sub-Item (28)(b), so that I'm clear – are sanitizers usually considered pesticides? Is this why you need to exclude them here when they are specifically addressed in Sub-Item (28)(a)?

In Sub-Item (28)(c), who determines what "may be deleterious to health"? Where are the guidelines for this?

In Sub-Item (28)(d), line 15, why is "PREMISES" in all caps?

Line 15, please properly insert a period after "paints"

In Item (29), is the cross-reference to Item (2) in 15A NCAC 18A .2651?

In Item (32), line 22, what is an "authorized agent"

In Items (32), line 22, and (33), line 23, capitalize "Department"

In Item (33), who is this authorized agent? Isn't the Department the actual regulatory authority here in that it grants the permits based upon Commission rules? Why are you using this term rather than "Department" throughout the rules?

In Item (34), line 25, who is evaluating, what does "efficacy" mean here and how is "sufficient" determined?

Line 26, define "public health importance"

Item (35), line 28, this is not the correct cross-reference. There is no Subchapter 18E in Title 15A.

In Item (36), line 34, please insert a comma after "bottles"

In Item (37), line 35, please insert a comma after "drinking"

In Item (39), Page 4, line 5, define "immediate threat to the public health." Is this intended to address G.S. 130A-248(b)?

> (b) No establishment shall commence or continue operation without a permit or transitional permit issued by the Department. The permit or transitional permit shall be issued to the owner or operator of the establishment and shall not be transferable. If the establishment is leased, the permit or transitional permit shall be issued to the lessee and shall not be transferable. If the location of an establishment changes, a new permit shall be obtained for the establishment. A permit shall be issued only when the establishment satisfies all of the requirements of the rules. The Commission shall adopt rules establishing the requirements that must be met before a transitional permit may be issued, and the period for which a transitional permit may be issued. The Department may also impose conditions on the issuance of a permit or transitional permit in accordance with rules adopted by the Commission. A permit or transitional permit shall be immediately revoked in accordance with G.S. 130A-23(d) for failure of the establishment to maintain a minimum grade of C. A permit or transitional permit may otherwise be suspended or revoked in accordance with G.S. 130A-23.

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: April 28, 2017

SUBCHAPTER 18A - SANITATION

SECTION .1800 - SANITATION OF LODGING PLACES

15A NCAC 18A .1821 is adopted with changes as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .1821 DEFINITIONS

The following definitions shall apply throughout this Section:

(1) "Accredited Program"

(a) "Accredited program" means a food protection manager certification program that has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certify individuals.

(b) "Accredited program" refers to the certification process and is a designation based upon an independent evaluation of factors such as the sponsor's mission; organizational structure; staff resources; revenue sources; policies; public information regarding program scope, eligibility requirements, re-certification, discipline and grievance procedures; and test development and administration.

(c) "Accredited program" does not refer to training functions or educational programs.

(2) "Adulterated" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, 402.

(3) "Approved" means acceptable to the regulatory authority based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

(4) "Bed and Breakfast Home" means bed and breakfast home as defined in G.S. 130A-247(5a).

(5) "Bed and Breakfast Inn" means bed and breakfast inn as defined in G.S. 130A-247(6).

(6) "CFR" means Code of Federal Regulations. Citations in this Code to the CFR refer sequentially to the Title, Part, and Section numbers, such as 40 CFR 180.194 refers to Title 40, Part 180, Section 194.

(7) "Department" means the North Carolina Department of Health and Human Services.

(8) "Employee" means the permit holder, person in charge, food employee, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a lodging establishment.

(9) "Equipment" means an article that is used in the operation of a lodging establishment such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, vending machine, or warewashing machine.

(10) "Food" means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

(11) "Food-contact surface" means:

(a) A surface of equipment or a utensil with which food normally comes into contact; or

(b) A surface of equipment or a utensil from which food may drain, drip, or splash:

(i) Into a food, or

(ii) Onto a surface normally in contact with food.

(12) "Food employee" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

(13) "Furnishings" means furniture, fittings, window coverings, and other accessories, including decorative accessories. ~~accessories, provided in the guest rooms.~~

(14) "Good Repair" means equipment and utensils shall be maintained in a state of repair and condition that meets the requirements specified under Parts 4-1 and 4-2 of the Food Code as amended by Rule .2654.

(15) "Guest Rooms" means the accommodations or designated areas for persons who pay for the services of the lodging establishment, such as bedrooms, suite areas, and bathrooms.

(16) "Handwashing sink" means:

(a) A lavatory, basin, or vessel for washing, a wash basin, or a plumbing fixture especially placed for use in personal hygiene and designed for the washing of the hands.

(b) "Handwashing sink" includes an automatic handwashing facility.

(17) "Hazard" means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

(18) "Kitchenware" means food preparation and storage utensils.

(19) "Linen" means fabric items such as bedding, towels, cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments including cloth gloves.

(20) "Lodging establishment" means all hotels, motels, inns, tourist homes, and other places providing lodging accommodations for pay. Facilities described in G.S. 130A-250 (1) through (5) shall not be regulated as lodging establishments. For the purposes of this section, the term lodging establishment also includes bed and breakfast homes and bed and breakfast inns, unless otherwise described.

(21) mg/L" means milligrams per liter, which is the metric equivalent of parts per million (ppm).

(22) "Packaged" means: packaged as defined in 15A NCAC 18A .2651.

(23) "Permit" means the document issued by the regulatory authority that authorizes a person to operate a lodging establishment.

(24) "Permit Holder" means:

(a) The person in charge who resides in and owns or rents the bed and breakfast home or bed and breakfast inn.

(b) The legal entity responsible for the operation of the lodging establishment such as the owner, the owner's agent, or other person.

(25) "Person" means person as defined in G.S. 130A-2(7).

(26) "Person in charge" means the individual present at a lodging establishment who is responsible for the operation at the time of inspection.

(27) Physical facilities" means the structure and interior surfaces of a lodging establishment including furnishings and accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.

(28) "Poisonous or toxic materials" means substances that are not intended for ingestion and are included in four categories:

(a) Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;

(b) Pesticides, except sanitizers, which include substances such as insecticides and rodenticides;

(c) Substances that are necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and

(d) Substances that are not necessary for the operation and maintenance of the establishment and are on the PREMISES for retail sale, such as petroleum products and paints

(29) "Potentially Hazardous Food" means potentially hazardous food (time/temperature control for safety food) as defined in 15A NCAC 18A .2651.

(30) "Premises" means the physical facility, its contents, and the contiguous land or property under the control of the permit holder.

(31) "Refuse" means solid waste not carried by water through the sewage system.

(32) "Registered Environmental Health Specialist" means a Registered Environmental Health Specialist as defined in G.S. 90A-51(2b) and G.S. 90A-51(4) and authorized agent of the department.

(33) "Regulatory Authority" means the department or authorized agent of the department.

(34) "Sanitization" means the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance.

(35) "Sewage" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution, and as defined in 15A NCAC 18E .1900.

(36) "Single-use articles" means tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use after which they are intended for discard. It also includes utensils and bulk food containers designed and constructed to be used once and discarded, such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles and number 10 cans.

(37) "Tableware" means eating, drinking and serving utensils for table use such as flatware including forks, knives, and spoons; hollowware including bowls, cups, serving dishes, and tumblers; and plates.

(38) "Temperature measuring device" means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

(39) "Transitional Permit" means a permit issued by the regulatory authority upon the transfer of ownership or lease of an existing lodging establishment to allow the correction of construction and equipment problems that do not represent an immediate threat to public health.

(40) "Utensil" means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single-service, or single-use; gloves used in contact with food; temperature sensing probes of food temperature measuring devices; and probe-type price or identification tags used in contact with food.

(41) "Warewashing" means the cleaning and sanitizing of utensils and food-contact surfaces of equipment.

History Note: *Authority G.S. 130A-248;*
Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .1822

DEADLINE FOR RECEIPT: Friday, May 12, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On line 5, "Rule" should be singular.

Why are you using the language in the quotation marks? Wouldn't a reference to "15A NCAC 18A .2652" be sufficient?

In Item (3), what do you mean by "section"? Do you mean "Rule"?

And are you seeking a delayed effective date for the requirements, but to have the Rule in the Code now?

On line 10, replace "are" with "shall be"

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: April 28, 2017

15A NCAC 18A .1822 is adopted as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .1822 MANAGEMENT AND PERSONNEL

Bed and breakfast homes or bed and breakfast inns shall comply with Parts 2-1 through 2-4 of the Food Code as amended by Rules .2652 of the "Rules Governing the Food Protection and Sanitation of Food Establishments," with the following exceptions:

(1) Food preparation shall not be prohibited in a bed and breakfast home or bed and breakfast inn.

(2) Nothing shall prohibit family style dining or return to self-service areas such as buffets in a bed and breakfast home or bed and breakfast inn.

(3) The requirements of this section are effective on July 1, 2018.

History Note: *Authority G.S. 130A-248;*
Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .1823

DEADLINE FOR RECEIPT: Friday, May 12, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On line 1, please use the Introductory Statement you used for other rules, stating the rule is adopted and the publication information.

In (b), line 7, replace "Section .2653 of ... Establishments." with "Rule 15A NCAC 18A .2563."

On line 8, what do you mean by "These rules"? The rules in this Section? If so, state that.

On line 9, I recommend replacing "is" with "shall be" before "required"

I take it Paragraph (b) is to implement G.S. 130A-248(a2)?

> (a2) For the protection of the public health, the Commission shall adopt rules governing the sanitation of bed and breakfast homes, as defined in G.S. 130A-247, and rules governing the sanitation of bed and breakfast inns, as defined in G.S. 130A-247. In carrying out this function, the Commission shall adopt requirements that are the least restrictive so as to protect the public health and not unreasonably interfere with the operation of bed and breakfast homes and bed and breakfast inns.

In (c), line 10, insert a comma after "establishments"

On line 10, approved by whom and using what guidelines?

In the History Note, delete the repetitive line 15.

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: April 28, 2017

15A NCAC 18A .1823 is proposed for adoption as follows:

15A NCAC 18A .1823 FOOD

(a) Except as required by G.S. 130A-247 through 130A-250, food services at lodging establishments shall not be required to obtain food establishment permits.

(b) Food prepared in a bed and breakfast home or a bed and breakfast inn shall comply with Chapter 3 of the Food Code as amended by Section .2653 of the "Rules Governing the Food Protection and Sanitation of Food Establishments." These rules shall not prohibit family style service in bed and breakfast homes and bed and breakfast inns, and no additional protection or labeling of food is required during display and service in these establishments.

(c) In lodging establishments ice used for room service shall be manufactured from an approved water supply and shall be stored and handled in a sanitary manner. All ice machines for use by guests shall dispense ice without exposing stored ice to guests.

History Note: *Authority G.S. 130A-248;*

History Note: *Authority G.S. 130A-248;*

Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .1824

DEADLINE FOR RECEIPT: Friday, May 12, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), lines 4-5, and (b), lines 10-11, and (f), lines 17-18, replace "Section .2654 of ... Establishments." with "Rule 15A NCAC 18A .2564."

In (b), line 7, define "clean" and "in good repair"

In (c), line 8, consider replacing "exclusive of" with "excluding"

Line 11, define "properly"

In (d), line 13, generally the term "at least" is discouraged in rules, as rules set minimum standards. However, I take it you need to retain this term here?

In (e), is "nonfood" one word or two? When looking up the term, I find it as "non food"

Also, who determines what these intervals are? The lodging establishment in its sole discretion?

In (f), line 16, replace "must" with "shall"

Lines 16-17, define "proper concentrations"

In (g), line 19, by "section" do you mean "Rule"?

Also on line 19, the proper citation is G.S. 130A-248(a3)(3).

In (h), line 20, the second use of "Single-use" is not hyphenated, but it is elsewhere (including in Rule .1821) Please hyphenate it here.

Line 20, define "properly"

In (i), line 22, define "suitable" and "readily"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: April 28, 2017

And who needs to access it? Employees?

In (j), line 24, define "accurately"

On line 24, you state "MG/L" but you defined the term as "mg/L" Please be consistent.

On line 25, provided to whom

In (k), line 26, state "sanitization required by Paragraph (c) of this Rule."

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: April 28, 2017

15A NCAC 18A .1824 is adopted as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .1824 EQUIPMENT AND UTENSILS

(a) Food-contact surfaces shall comply with Parts 4-1 and 4-2 of the Food Code as amended by Section .2654 of the "Rules Governing the Food Protection and Sanitation of Food Establishments." This shall not prohibit the use of domestic equipment.

(b) Equipment and utensils shall be kept clean and in good repair.

(c) All kitchenware and food-contact surfaces of equipment, exclusive of cooking surfaces of equipment, used in the preparation or serving of food or drink, and all food storage utensils, in a bed and breakfast home or bed and breakfast inn shall be cleaned and sanitized, as required in Parts 4-6 and 4-7 of the Food Code as amended by Section .2654 of the "Rules Governing the Food Protection and Sanitation of Food Establishments," after each use, properly air dried, and stored in a manner to prevent contamination.

(d) Cooking surfaces of equipment in a bed and breakfast home or bed and breakfast inn shall be cleaned at least once each day.

(e) Nonfood-contact surfaces of equipment shall be cleaned at such intervals as to keep them clean.

(f) Sanitizers used for sanitization of kitchenware and food-contact surfaces must be maintained at proper concentrations as required in Part 4-5 of the Food Code as amended by Section .2654 of the "Rules Governing the Food Protection and Sanitation of Food Establishments,"

(g) Nothing in this section shall require sanitization as exempted in guest rooms per G.S. 130A-248 (A3) (3).

(h) Single-use articles may be used if discarded after each use. Single use articles must be properly stored and handled to prevent contamination.

(i) A food temperature measuring device with a suitable small diameter probe shall be provided and readily accessible for use in ensuring attainment and maintenance of food temperatures.

(j) A test kit or other device that accurately measures the concentration in MG/L of sanitizing solutions shall be provided.

(k) Equipment for preparing coffee and tea shall be kept clean, but is exempt from sanitization as stated in (c).

History Note: *Authority G.S. 130A-248;*
Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .1825

DEADLINE FOR RECEIPT: Friday, May 12, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On line 1, please use the Introductory Statement you used for other rules, stating the rule is adopted and the publication information.

In (a), line 4, insert a comma after "plumbing"

On line 4, what is "waste"? I don't see it defined – is it known to your regulated public?

On lines 4-5 and 6 -7, replace "...Rules .2655... Establishments." With "Rule 15A NCAC 18A .2655."

So that I'm clear, what is the intent of lines 7 and 9? If it's to create a delayed effective date, is there a reason the language is different from Rule .1822? And do you mean "Rule" rather than "rules"? If you do mean "rules," then to what other rules are you referring?

In (b), line 8, define "convenient"

Please rename Paragraphs (e), (f), and (g) as (c), (d), and (e).

In current Paragraph (e), line 10, define "in such a manner as to not create a nuisance."

On line 10, "Refuse" should be capitalized, as it starts a sentence.

In (f), is this cleaning requirement stated elsewhere in Rule or in the Food Code?

In (g), line 14, what is a "returnable"? Does your regulated public know?

On lines 14-15, what is "minimize development of objectionable odors and other conditions that attract or harbor insects and rodents."?

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: April 28, 2017

15A NCAC 18A .1825 is proposed for adoption as follows:

15A NCAC 18A .1825 WATER, PLUMBING, AND WASTE

(a) Water, plumbing and waste shall comply with Chapter 5 of the Food Code as amended by Rules .2655 of the "Rules Governing the Food Protection and Sanitation of Food Establishments." The requirements of sections 5-202.12, 5-203.11, 5-204.11, and 5-205.11 of the Food Code as amended by Rule .2655 of the "Rules Governing the Food Protection and Sanitation of Food Establishments" shall be effective one year after the effective date of these rules.

(b) A handwashing sink, located to allow for convenient use by employees handling clean and soiled linen, shall be provided. This requirement shall be effective one year after the effective date of these rules.

(e) All refuse shall be collected and stored in covered receptacles in such a manner as not to create a nuisance. refuse receptacles shall be kept clean and in good repair.

(f) Where dumpsters are used, a contract for off-site cleaning shall constitute compliance with the provision for cleaning.

(g) Refuse, recyclables, and returnables shall be removed from the premises at a frequency that will minimize development of objectionable odors and other conditions that attract or harbor insects and rodents.

History Note: *Authority G.S. 130A-248;*
Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .1826

DEADLINE FOR RECEIPT: Friday, May 12, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), line 4, please either state "Rule 15A NCAC 18A .1825" or "Rule .1825 of this Section"

On line 5, how is this approved and by whom?

In (b), what part of Rule .1825 requires this?

In (c), lines 8 and 10, the use of brackets is not necessary.

On line 10 I take it you need to use "at least" here?

On line 11, I take it the term "foot candles" is known to your regulated public?

In (d), lines 14 and 15, as well as (e) and (g), what is "clean and in good repair"?

On line 14, please capitalize "Windows"

In (f), line 19, define "effectively"

In (g), line 21, since you are now capitalizing "Furnishings" please show it.

Also on line 21, I recommend inserting a comma after "carpets"

In (h), lines 24 and 25, define "routinely"

On line 26, I take it "harborage conditions" is known to your regulated public?

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: April 28, 2017

15A NCAC 18A .1826 is adopted with changes as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .1826 PHYSICAL FACILITIES

(a) Handwashing sinks as required in Rule .1825 in this Subchapter shall be supplied with hand soap, and either individual, disposable towels or an approved hand drying device.

(b) Toilets or urinals shall be provided as in Rule .1825 in this Subchapter and shall have a supply of toilet tissues available at each toilet.

(c) The light intensity shall be ~~be: [At least 108 lux (10 foot candles) at a distance of 75 cm (30 inches) above the floor, in walk-in refrigeration units and dry food storage areas and in other areas and rooms during periods of cleaning; at least 215 lux (20 foot candles) inside equipment such as reach-in and under-counter refrigerators;]~~ at least 215 lux (20 foot candles) at a distance of 75 cm (30 inches) above the floor in areas used for handwashing, warewashing, and equipment and utensil storage, and in toilet rooms. ~~[rooms; and at least 540 lux (50 foot candles) at a surface where a food employee is working with food.]~~

(d) Where natural ventilation only is provided, outside openings shall be screened and in good repair. windows and doors shall be kept clean and in good repair.

~~[(e) Window coverings in a guest room shall be kept clean and in good repair.]~~

(e)~~(f)~~ Physical facilities shall be kept clean and in good repair.

~~[(g) Floors, walls, and ceilings, including inside guest rooms, shall be maintained clean and in good repair.]~~

(f)~~(h)~~ Perimeter walls and roofs shall effectively protect the lodging establishment from the weather and the entry of insects, rodents, and other pests.

(g)~~(i)~~ ~~Furniture,~~Furnishings, bathroom fixtures, carpets and other accessories in guest rooms, shall be kept clean and in good repair.

(h)~~(j)~~ The premises and guest rooms shall be maintained free of insects, rodents, and other pests. The presence of insects, rodents, and other pests shall be controlled to eliminate their presence on the premises by: routinely inspecting incoming shipments of food and supplies; routinely inspecting the premises for evidence of pests; and eliminating harborage conditions.

(i)~~(k)~~ Live animals shall be prohibited from entering areas of food preparation, storage, sales, display, or dining.

History Note: *Authority G.S. 130A-248;*
Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .1827

DEADLINE FOR RECEIPT: Friday, May 12, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), line 4, I take it your regulated public knows what "rodent harborages" and "undrained areas" are?

On line 5, define "neat and clean"

Also on line 5, I suggest inserting a comma after "litter"

On line 5, what other items are you referring to? Just keeping the establishment free of accumulated clutter?

In (b), line 7, define "clean"

In (c), do individuals know what these pesticides are?

On line 9, approved by whom?

On line 10, I suggest making this two sentences. "... hazards. These shall not be accessible..."

If you don't want to do this, insert a "shall" before "not accessible"

In (d), line 11, so that I'm clear – you mean "polishers" and not "polishes"?

In (e), so that I'm clear – sanitizers are considered poisons?

In (f), line 16, if you need to retain the name of the CFR, insert a comma after "180.940" and consider putting the name in quotation marks. Also, if you have not already incorporated this by reference pursuant to G.S. 150B-21.6 in another Rule, please do so here.

In (g), line 18, there is no need to bracket the deletion.

On line 19, simply remove "~~separate~~" here if the agency does not want it in the Rule, as it was not published.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: April 28, 2017

Also on line 19, what is "in a manner to avoid contamination"? Is this known to your regulated public?

Delete the blank line space on line 21.

In (h), line 22, please show the deletion of the period after "supplies"

On lines 22-23, what is "in a manner to avoid contamination"? Is this known to your regulated public?

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: April 28, 2017

15A NCAC 18A .1827 is adopted with changes as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .1827 PREMISES, STORAGE, POISONOUS OR TOXIC MATERIALS

(a) There shall be no fly or mosquito breeding places, rodent harborages, or undrained areas on the premises. The premises shall be kept neat and clean. Rubbish, litter and other items not used in the operation of the establishment shall not be permitted to accumulate on the premises.

(b) Storage rooms or spaces shall be kept clean.

(c) Only pesticides that have been registered with the EPA and with the N.C. Department of Agriculture and Consumer Services shall be used and only for the specific use for which they have been approved. Such pesticides shall be used as directed on the label and shall be handled and stored to avoid health hazards and not be accessible to guests.

(d) Household cleaning agents such as bleaches, detergents, and polishers shall be used and stored according to manufacturer's recommendations.

(e) Sanitizing solutions shall not be stored in or dispensed from containers previously containing other poisonous or toxic materials.

(f) Chemical sanitizers and other chemical antimicrobials applied to food-contact surfaces shall meet the requirements specified in 40 CFR 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (food-contact surface sanitizing solutions).

(g) ~~[Medications shall be securely stored.]~~Medications under the control of the permit holder shall be stored in a ~~separate~~ cabinet, closet, or box not accessible to children and in a manner to avoid contamination of food and food contact surfaces.

(h) A ~~separate~~ storage area shall be provided for building and ground maintenance tools and supplies and stored in a manner to avoid contamination of food and food contact surfaces.

History Note: *Authority G.S. 130A-248;*
Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .1828

DEADLINE FOR RECEIPT: Friday, May 12, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), line 4, what is "good repair"?

On line 5, what is "as often as necessary"? Who will determine this?

In (b), line 7, please show that you are deleting the period after "cover"

Also on line 7, replace "and/or" with "or"

On line 8, do you mean "at least" rather than "a least"? And I take it you need "at least" here?

Since it does not appear that you changed Paragraphs (c) through (e) after publication, and you did publish these Paragraphs in the Register, please remove the underline from them. [See Rule 26 NCAC 02C .0404(b)(1)]

In (c), line 10, what do you mean by "facilitate cleaning and kept clean"?

In (d), line 12, define "clean" and "clean area"

In (e), line 14, what do you mean by "otherwise designated"?

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: April 28, 2017

15A NCAC 18A .1828 is adopted with changes as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .1828 LAUNDRY AND LINENS

(a) Clean bed and bath linen in good repair shall be provided for each guest who is provided accommodations and shall be changed between successive guests and as often as necessary.

(b) Two sheets shall be provided for each bed. The lower sheet shall be folded under both ends of the mattress. The upper sheet shall be folded under the mattress at the lower end and folded over the ~~cover~~ bedding and/or blankets for a least six inches at the top end.

(c) Clean linen and supplies shall be stored in cabinets, or on shelves in linen and supply storage rooms. Cabinets, shelves, and storage rooms shall be constructed to facilitate cleaning and kept clean.

(d) Items on housekeeping carts shall be arranged in a manner to prevent cross-contamination between soiled and cleaned items. Housekeeping carts shall be kept clean and stored in a clean area.

(e) Soiled laundry shall be handled and stored separately from clean laundry using separate cleanable carts or bags. Carts used for soiled laundry shall be labeled or otherwise designated for soiled laundry use only.

History Note: *Authority G.S. 130A-248;*
Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .1829

DEADLINE FOR RECEIPT: Friday, May 12, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), line 4, please note my earlier question regarding the use of "regulatory authority" since G.S. 130A-248(b) states:

> (b) No establishment shall commence or continue operation without a permit or transitional permit issued by the Department.

What does the new language on lines 5 through 7 mean? And to exactly what part of Rule .1822 are you referring to?

In (b), line 9, how will the Department know to complete the evaluation? Is there a process by which someone requests it?

On line 12, define "immediate threat to public health." Or are you relying upon the term as used in G.S. 130A-248(c)?

> (c) If ownership of an establishment is transferred or the establishment is leased, the new owner or lessee shall apply for a new permit. The new owner or lessee may also apply for a transitional permit. A transitional permit may be issued upon the transfer of ownership or lease of an establishment to allow the correction of construction and equipment problems that do not represent an immediate threat to the public health. ... For purposes of this subsection, "transitional permit" shall mean a permit issued upon the transfer of ownership or lease of an existing food establishment to allow the correction of construction and equipment problems that do not represent an immediate threat to the public health.

On line 14, again, how does one receive the permit? Through an application process?

In (c), so that I'm clear, these will be issued as part of the permit?

Consider making (c)(1) through (8) a list, ending the (c)(1) through (7) with semicolons and adding and "or" at the end (c)(7).

In (c)(4), line 22, insert a comma after "fixtures"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: April 28, 2017

What does (c)(6) mean? Does your regulated public know?

In (c)(7), submission to whom?

In (c)(8), what are these conditions? Are they given on a case-by-case basis? And who determines necessity – the Department?

In (e), line 27, how will this evaluation be triggered, such that it occurs? Is this what is addressed by lines 30-31?
Line 30, what "applicable rules" are you referring to?

Please insert a History Note for this Rule.

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: April 28, 2017

15A NCAC 18A .1829 is adopted with changes as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .1829 PERMITS

(a) No permit for a lodging establishment shall be issued to a person until an evaluation by the regulatory authority shows that the establishment complies with this Section. However, for bed and breakfast homes and inns, the regulatory authority shall allow a period of 210 days after the date of issuance to comply with the certified food protection manager requirements in Rule .1822 of this Section.

(b) Upon transfer of ownership of an existing lodging establishment, the regulatory authority shall complete an evaluation. If the lodging establishment satisfies all the requirements of the rules, a permit shall be issued. If the lodging establishment does not satisfy all the requirements of the rules, a permit shall not be issued. A transitional permit shall be issued if the regulatory authority determines that the noncompliant items are construction or equipment problems that do not represent an immediate threat to public health. The transitional permit shall expire 180 days after the date of issuance, unless suspended or revoked before that date, and shall not be renewed. Upon expiration of a transitional permit, the permit holder shall have corrected the noncompliant items and obtained a permit, or the lodging establishment shall not continue to operate.

(c) The regulatory authority shall impose conditions on the issuance of a permit or a transitional permit if necessary to ensure that a lodging establishment remains in compliance with this Section. Conditions may be specified for one or more of the following areas:

(1) The number of bedrooms or persons housed.

(2) The amount of laundry or kitchen and warewashing equipment on the premises.

(3) Time schedules in completing minor construction items.

(4) Modification or maintenance of water supplies, water use fixtures and sanitary sewage systems.

(5) Use of facilities for more than one purpose.

(6) Continuation of contractual arrangements upon which basis the permit was issued.

(7) Submission and approval of plans for renovation.

(8) Any other conditions necessary for a lodging place to remain in compliance with this Section.

(e) If a permit or transitional permit has been suspended, the suspension shall be lifted if the regulatory authority has evaluated the lodging establishment and found that the violations causing the suspension have been corrected. If a permit or transitional permit has been revoked, a new permit shall be issued only after the regulatory authority has evaluated the lodging establishment and found it to comply with all applicable rules. The evaluations shall be conducted within 15 days after the request is made by the permit holder.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .1830

DEADLINE FOR RECEIPT: Friday, May 12, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

I take it that this Rule is relying upon G.S. 130A-249?

> **§ 130A-249. Inspections; report and grade card.**
>
> The Secretary may enter any establishment that is subject to the provisions of G.S. 130A-248 for the purpose of making inspections. The Secretary shall inspect each food service establishment at a frequency established by the Commission. In establishing a schedule for inspections, the Commission shall consider the risks to the population served by the establishment and the type of food or drink served by the establishment. The person responsible for the management or control of an establishment shall permit the Secretary to inspect every part of the establishment and shall render all aid and assistance necessary for the inspection. The Secretary shall leave a copy of the inspection form and a card or cards showing the grade of the establishment with the responsible person. The Secretary shall post the grade card in a conspicuous place as determined by the Secretary where it may be readily observed by the public upon entering the establishment or upon picking up food prepared inside but received and paid for outside the establishment through delivery windows or other delivery devices. If a single establishment has one or more outside delivery service stations and an internal delivery system, that establishment shall have a grade card posted where it may be readily visible upon entering the establishment and one posted where it may be readily visible in each delivery window or delivery device upon picking up the food outside the establishment. The grade card or cards shall not be removed by anyone, except by or upon the instruction of the Secretary.

If so, please add it to the History Note.

And if you are relying upon it, I take it you are also relying upon the law for "conspicuous" and "readily observed"?

Also, again, why are you using "regulatory authority" here when the statute makes it clear the Department is acting?

In (a), on line 5, what is "inconspicuous"?

On line 8, replace "which" with "that"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: April 28, 2017

Also on line 8, once suggested, what happens next? Should there be language like there is on lines 13 and 14?

In (b), on line 12, please capitalize "The"

On line 13, replace "which" with "that"

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: April 28, 2017

15A NCAC 18A .1830 is adopted as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .1830 PUBLIC DISPLAY OF GRADE CARD

(a) Upon initial inspection of a lodging establishment or if a renovation or other change in the establishment makes the grade card inconspicuous, the regulatory authority shall designate the location for posting the grade card. The grade card shall be located in a conspicuous place where it may be readily observed by the public upon entering the lodging establishment. If the person in charge of the lodging establishment objects to the location designated by the regulatory authority, then the person in charge may suggest an alternative location which meets the criteria of this Rule.

(b) When an inspection of a lodging establishment is made, the regulatory authority shall remove the existing grade card, issue a new grade card, and post the new grade card in the same location where the grade card was previously posted as long as that location remains conspicuous. the person in charge of the lodging establishment shall keep the grade card posted at the designated location at all times. The grade card may be posted in another location which meets the criteria of this Rule if agreed upon by the person in charge and the regulatory authority.

History Note: *Authority G.S. 130A-248;*
Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .1831

DEADLINE FOR RECEIPT: Friday, May 12, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

What is the purpose of (a)? To ensure that your regulated public knows what to expect when the agency comes to inspect?

If so, then what do you mean by "purpose" on line 4?

On line 7, you state that if a person in charge is not present, an employee will be invited to accompany on the inspection. But G.S. 130A-249 states:

> The person responsible for the management or control of an establishment shall permit the Secretary to inspect every part of the establishment and shall render all aid and assistance necessary for the inspection.

How does having an employee around accompany the inspector work within this statute?

In (b), is this going to be the card in G.S. 130A-249?

In (b), is this form on line 10 the same as set forth in Paragraph (d)?

In (b)(4), you aren't including Rule .1827 on purpose?

In (d), please explain this to me. Does the establishment begin with a 100-point score and then points are deducted based upon violations set forth in (d)(1) through (38)?

Also, you changed some of the point allocations after publication. Did you do this as a result of public comment?

Also, I have a curiosity question – why are the violations not in the order of the Rules that are cited?

Are the requirements in (d)(1) through (6) in the Food Code?

In (d)(4), line 29, define "proper"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: April 28, 2017

In (d)(6), line 33, define "properly"

Are the requirements in (d)(7), (8) and (10) through (13) in the Food Code?

In (d)(8), Page 2, line 1, should it read "separated <u>and</u> protected"?

In (d)(9), line 4, define "proper" And is this a reference to .1823(c)?

In (d)(14), line 12 and (d)(18), line 20, please note my earlier question regarding whether "nonfood" is one word or two.

Also, is (d)(14) in the Food Code?

In (d)(20), line 24, is this the correct cross-reference? Is the violation not addressed by .1824(i)?

Is (d)(22) in the Food Code? Where did this additional language come from?

Is (d)(23) in the Food Code?

In (d)(26), this is the only violation of Rule .1826(g) that will result in a deduction?

In (d)(27), Page 3, line 1, please make "Rules" singular.

In (e), line 26, replace "which" with "that" in both places.

On line 26, what do you mean by "alphabetical grade"? Is this the grade mentioned in G.S. 130A-248(a3)?

> The rules shall contain a system for grading establishments, such as Grade A, Grade B, and Grade C. The rules shall be written in a manner that promotes consistency in both the interpretation and application of the grading system.

Or is this what is contemplated in Rule .1832? If so, do you wish to insert a cross-reference here?

In the History Note, isn't G.S. 130A-249 also applicable, such that it should be added?

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: April 28, 2017

15A NCAC 18A .1831 is adopted with changes as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .1831 INSPECTIONS AND REINSPECTIONS

(a) Upon entry into a lodging establishment, the regulatory authority shall provide identification and the purpose in visiting that establishment. The regulatory authority shall inquire as to the identity of the person in charge and invite the person in charge to accompany the regulatory authority during the inspection. If no employee is identified as the person in charge, the regulatory authority shall invite an employee to accompany them on the inspection. Following the inspection, the regulatory authority shall offer to review the results of the inspection with the person in charge or employee, as applicable.

(b) The grading of lodging establishments shall be conducted using an inspection form furnished by the regulatory authority. The form shall provide the following information:

(1) The name and mailing address of the lodging establishment;

(2) The name of the permit holder;

(3) The permit status and score given;

(4) Standards of construction and operation as listed in Rules .1824 through .1826 of this Section.

(5) An explanation for all points deducted;

(6) The signature of the regulatory authority; and

(7) The date.

(c) The grading of lodging establishments shall be based on the standards of operation and construction as set forth in Rules .1821 through .1834 of this Section.

(d) The Inspection of Lodging Establishment form shall be used to document points assessed for violation of the rules of this Section as follows:

(1) Violation of Rule .1822 of this Section related to person in charge present, certification by accredited program or performs duties shall equal no more than 2 points.

(2) Violation of Rule .1822 of this Section related to management awareness, policy present, and allergy awareness shall equal no more than ~~3~~ 2 points.

(3) Violation of Rule .1822 of this Section related to proper use of reporting, restriction, and exclusion shall equal no more than ~~3~~ 2 points.

(4) Violation of Rule .1822 of this Section related to proper eating, tasting, drinking, or tobacco use shall equal no more than ~~2~~ 1 points.

(5) Violation of Rule .1822 of this Section related to personal cleanliness and hair restraints shall equal no more than 1 point.

(6) Violation of Rule .1822 of this Section related to hands clean and properly washed shall equal no more than 4 points.

(7) Violation of Rule .1823 of this Section related to food obtained from approved source, good condition, safe, and unadulterated shall equal no more than 3 points.

(8) Violation of Rule .1823 of this Section related to food separated, protected from contamination shall equal no more than 3 points.

(9) Violation of Rule .1823 of this Section related to food protected from environmental or other sources of contamination, including proper dispensing of ice, shall equal no more than 3 points.

(10) Violation of Rule .1823 of this Section related to cooking/reheating temperatures shall equal no more than 3 points.

(11) Violation of Rule .1823 of this Section related to proper cooling and approved methods shall equal no more than 3 points.

(12) Violation of Rule .1823 of this Section related to cold/hot holding temperatures shall equal no more than 3 points.

(13) Violation of Rule .1823 of this Section related to date marking shall equal no more than 3 points.

(14) Violation of Rules .1824 of this Section related to equipment, food and nonfood-contact surfaces approved, cleanable, properly designed, constructed and used shall equal no more than 1 point.

(15) Violation of Rules .1824 of this Section related to utensils, equipment properly stored, dried and handled shall equal no more than 1 point.

(16) Violation of Rules .1824 of this Section related to warewashing facilities installed, maintained and used shall equal no more than 2 points.

(17) Violation of Rules 1824 of this Section related to food-contact surfaces cleaned and sanitized where required shall equal no more than 3 points.

(18) Violation of Rules .1824 of this Section related to nonfood-contact surfaces clean shall equal no more than 1 points.

(19) Violation of Rule .1824 of this Section related to single-use articles properly stored and used shall equal no more than 1 point.

(20) Violation of Rule .1823 of this Section related to temperature measuring devices provided shall equal no more than 2 points.

(21) Violation of Rules .1825 and .1826 of this Section related to handwashing sinks supplied and accessible shall equal no more than 2 points.

(22) Violation of Rule .1825 of this Section related to water from approved ~~source~~ source, backflow prevention, plumbing in good repair shall equal no more than 4 points.

(23) Violation of Rule .1825 related to service sink or other approved method and mop storage shall equal no more than 2 points.

(24) Violation of Rule .1825 of this Section related to sewage and waste water properly disposed shall equal no more than 4 points.

(25) Violation of Rules .1826 of this Section related to ventilation and lighting requirements shall equal no more than 2 points.

(26) Violation of Rules .1826 of this Section related to ~~window coverings~~ furnishings clean and in good repair shall equal no more than ~~2~~ 4 p points.

(27) Violation of Rules .1826 of this Section related to physical facilities installed, maintained and clean shall equal no more than ~~3~~ 4 points.

(28) Violation of Rule .1826 of this Section related to insects and rodents not present shall equal no more than 4 points.

(29) Violation of Rule .1828 of this Section related to linens changed as required shall equal no more than 3 points.

(30) Violation of Rule .1828 of this Section related to linen clean and in good repair shall equal no more than ~~3~~ 4 points.

(31) Violation of Rule .1828 of this Section related to linen properly handled and stored shall equal no more than 3 points.

(32) Violation of Rule .1828 of this Section related to housekeeping carts shall equal no more than ~~3~~ 4 points.

(33) Violation of Rule .1825 of this Section related to garbage and refuse properly disposed shall equal no more than 2 points.

(34) Violation of Rule .1827 of this Section related to premises maintained to prevent breeding and harborages shall equal no more than ~~2~~ 3 points.

(35) Violation of Rule .1827 of this Section related to storage areas maintained clean, provided for maintenance equipment shall equal no more than 3 points.

(36) Violation of Rule .1827 of this Section related to approved pesticide use shall equal no more than ~~2~~ 3 points.

(37) Violation of Rule .1827 of this Section related to household cleaning ~~agents~~ agents, ~~and sanitizers~~ sanitizers, and medicines properly stored and handled shall equal no more than 3 points.

(38) Violation of Rule .1827 of this Section related to premises kept neat and clean shall equal no more than 2 points.

(e) Upon request of the permit holder or his or her representative a reinspection shall be made. In the case of establishments which request an inspection for the purpose of raising the alphabetical grade, and which hold unrevoked permits, the regulatory authority shall make an unannounced inspection within 15 days from the date of the request.

History Note: *Authority G.S. 130A-248;*
Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .1832

DEADLINE FOR RECEIPT: Friday, May 12, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), line 4, I take it the system of scoring is what is in Rule .1831?

On line 5, delete "at:" and end the sentence "of:"

In (a)(1), should it be "90 percent or more"?

Why isn't Paragraph (b) in Rule .1830? It seems to belong there.

On line 12, how is this approved? Isn't it issued by the State, so is "approval" necessary?

If you do need to retain (b), please insert G.S. 130A-249 in the History Note.

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: April 28, 2017

15A NCAC 18A .1832 is adopted as published in 31:10 NCR 966-974 follows:

15A NCAC 18A .1832 GRADING

(a) The grading of lodging establishments shall be based on a system of scoring. A lodging establishment that earns a score of at:

(1) 90 percent shall receive a grade A;

(2) 80 percent and less than 90 percent shall receive a grade B;

(3) 70 percent and less than 80 percent shall receive a grade C.

Permits shall be immediately revoked in accordance with G.S. 130A-23(d) for lodging establishments receiving a score of less than 70 percent.

(b) The posted grade card shall be black on a white background. All graphics, letters, and numbers for the grade card shall be approved by the State. The alphabetical and numerical rating shall be 1.5 inches in height.

History Note: *Authority G.S. 130A-248;*
Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .1833

DEADLINE FOR RECEIPT: Friday, May 12, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), line 4, do you mean "Plans that are drawn to scale"? If so, why not just state that.

On line 4, delete the comma after "specifications"

So that I'm clear – Paragraph (a) requires review by the local health department. But G.S. 130A-248(e) speaks to Department review of some places. Is this Paragraph intended to exclude those?

> (e) In addition to the fees under subsection (d) of this section, the Department may charge a fee of two hundred fifty dollars ($250.00) for plan review of plans for prototype franchised or chain facilities for food establishments subject to this section. All of the fees collected under this subsection may be used to support the State food, lodging, and institution sanitation programs and activities under this Part.
>
> (e1) Plans for a franchised or chain food establishment that have been reviewed and approved by the Department shall not require further review and approval under this section by any local health department. The local health department may suggest revisions to a reviewed and approved plan to the Department. The local health department shall not impose any of the suggestion revisions on the owner or operator without written approval from the Department.

So that I'm clear – the application form mentioned in Paragraph (b) is the form with the contents spelled out in Paragraph (c)? If so, consider stating on line 10, "The application <u>form</u> shall include:"

In (b), line 8, please note my earlier questions regarding "regulatory authority" because here, you mean to the Department, right?

In (c)(3), line 15, define "directly"

In (c)(4)(A), lines 18-19, I recommend stating "Subparagraph (a)(2) of this Rule" but it's up to you.

On line 19, replace the comma with a semicolon.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: April 28, 2017

In (c)(4)(B), line 20, insert a comma after "agent"

Also on line 20, when will this be required? Is this in Rule or law somewhere?

In (c)(5)(A), line 23, (5)(B), line 25, and (5)(C), line 27, is "potentially hazardous" being defined as "time/temperature control for food safety"? If not, please define the term. If so, what does this term mean? Is it in the Food Code?

So that I'm clear – between (c)(5)(A) and (C), is there any other type? One that doesn't serve any food?

In (c)(5)(C), line 27, this is not new language – you published it in the Register. Please remove the underline.

In (c)(6), I believe this should read "Number and type of meals, and the menu"

But so that I'm clear – what does "menu" mean? The menu for every day? Or just a general overview of it? If it's every day, I am simply curious – how are daily specials handled?

In (c)(7), what information is this? Is it to ensure compliance with Rule .1825 of this Section?

End (c)(8) with an "and" assuming that you are requiring everything in Paragraph (c).

In (c)(9), what information could this be? While you do not need to spell out everything it could be, you do have to provide guidance in this Rule.

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: April 28, 2017

15A NCAC 18A .1833 is adopted with changes as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .1833 APPLICATION AND PLAN REVIEW

(a) Plans, drawn to scale, and specifications, for new lodging establishments shall be submitted for review and approval to the local health department prior to initiating construction, or prior to construction of additions or renovations, excluding cosmetic or nonstructural changes to existing lodging establishments.

(b) An applicant shall submit an application for a permit or transitional permit at least 30 days before the date planned for opening the lodging establishment. The applicant shall submit to the regulatory authority a written application for a permit on a form provided by the regulatory authority.

(c) The application shall include:

(1) The name, mailing address, telephone number, and signature of the person applying for the permit and the name, mailing address, and location of the lodging establishment;

(2) Information specifying whether the lodging establishment is owned by an association, corporation, individual, partnership, or other legal entity;

(3) The name, title, address, and telephone number of the person directly responsible for the lodging establishment;

(4) The names, titles, and addresses of:

(A) The person comprising the legal ownership as specified in Subparagraph (2) of this Paragraph including the owners and officers, and

(B) The local resident agent if one is required based on the type of lodging establishment;

(5) A statement specifying the number of guest rooms or units and whether the lodging establishment is an operation that includes one or more of the following:

(A) Prepares, or serves potentially hazardous food (time/temperature control for safety food) for guests;

(B) Prepares only food that is not potentially hazardous (time/temperature control for safety food) for guests;

(C) Does not prepare, but serves only prepackaged food that is not potentially hazardous (time/temperature control for safety food) for guests;

(6) Number, type of meals served and menu;

(7) Information regarding water supply and wastewater disposal;

(8) A statement signed by the applicant that attests to the accuracy of the information provided in the application;

(9) Other information required by the regulatory authority.

History Note: *Authority G.S. 130A-248;*
Eff. July 1, 2017.

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .1834

RECOMMENDED ACTION:

Approve, but note staff's comment

X Object, based on:

x Lack of statutory authority

X Unclear or ambiguous

Unnecessary

Failure to comply with the APA

Extend the period of review

COMMENT:

Staff recommends objection to this Rule for lack of statutory authority and ambiguity.

This Rule establishes an informal review process and right to a contested case. The Rule does not cite to, and staff is not aware of, any statutory authority for the agency to do this.

Subparagraph (a)(2) states that if a permit holder disagrees with a decision of the local health department, the permit holder may initiate a contested case pursuant to G.S. 150B.

However, G.S. 150B-2(2) defines a "contested case" as:

> (2) "Contested case" means an administrative proceeding pursuant to this Chapter to resolve a dispute between an agency and another person that involves the person's rights, duties, or privileges, including licensing or the levy of a monetary penalty. "Contested case" does not include rulemaking, declaratory rulings, or the award or denial of a scholarship, a grant, or a loan.

And G.S. 150B-2(1a) defines "agency" as:

> (1a) "Agency" means an agency or an officer in the executive branch of the government of this State and includes the Council of State, the Governor's

> Office, a board, a commission, a department, a division, a council, and any other unit of government in the executive branch. A local unit of government is not an agency.

Staff is not aware of, and the agency does not provide, any statutory authority for a local department of health to be considered an "agency" such that they would be subject to contested cases pursuant to G.S. 150B.

It may be that the intent of the Rule is to allow a contested case following an adverse decision by the Commission for Public Health or the Department for Public Health, both of whom are agencies pursuant to G.S. 150B-2, but that is not how the Rule is written.

Further, staff notes that the Rule states that a permit holder may file a contested case when he or she disagrees with "the interpretation, application, or enforcement of the rules." However, G.S. 15B-2(2) states that a contested case may be filed when it involves "rights, duties, or privileges." It is unclear if a disagreement of "interpretation and application" will involve rights, duties, or privileges and thus creating the jurisdiction for a contested case.

Further, the statutory authority cited to by the agency makes no mention of any appeals following decisions in (a) by local health departments, even the informal review addressed by Paragraphs (d) through (f) of the Rule. There may be authority for the agency to create these appeals, but the agency has not provided any statutory authority for this Rule.

Therefore, staff recommends objection to this Rule for lack of statutory authority and ambiguity.

§ 130A-248. Regulation of food and lodging establishments.

(a) For the protection of the public health, the Commission shall adopt rules governing the sanitation of establishments that prepare or serve drink or food for pay and establishments that prepare and sell meat food products or poultry products. However, any establishment that prepares or serves food or drink to the public, regardless of pay, shall be subject to the provisions of this Article if the establishment that prepares or serves food or drink holds an ABC permit, as defined in G.S. 18B-101, meets any of the definitions in G.S. 18B-1000, and does not meet the definition of a private club as provided in G.S. 130A-247(2).

(a1) For the protection of the public health, the Commission shall adopt rules governing the sanitation of hotels, motels, tourist homes, and other establishments that provide lodging for pay.

(a2) For the protection of the public health, the Commission shall adopt rules governing the sanitation of bed and breakfast homes, as defined in G.S. 130A-247, and rules governing the sanitation of bed and breakfast inns, as defined in G.S. 130A-247. In carrying out this function, the Commission shall adopt requirements that are the least restrictive so as to protect the public health and not unreasonably interfere with the operation of bed and breakfast homes and bed and breakfast inns.

(a3) The rules adopted by the Commission pursuant to subsections (a), (a1), and (a2) of this section shall address, but not be limited to, the following:

(1) Sanitation requirements for cleanliness of floors, walls, ceilings, storage spaces, utensils, ventilation equipment, and other areas and items;

(2) Requirements for:

a. Lighting and water supply;

b. Wastewater collection, treatment, and disposal facilities; and

c. Lavatory and toilet facilities, food protection, and waste disposal;

(3) The cleaning and bactericidal treatment of eating and drinking utensils and other food-contact surfaces. A requirement imposed under this subdivision to sanitize multiuse eating and drinking utensils and other food-contact surfaces does not apply to utensils and surfaces provided in the guest room of the lodging unit for guests to prepare food while staying in the guest room.

(3a) The appropriate and reasonable use of gloves or utensils by employees who handle unwrapped food;

(4) The methods of food preparation, transportation, catering, storage, and serving;

(5) The health of employees;

(6) Animal and vermin control; and

(7) The prohibition against the offering of unwrapped food samples to the general public unless the offering and acceptance of the samples are continuously supervised by an agent of the entity preparing or offering the samples or by an agent of the entity on whose premises the samples are made available. As used in this subdivision, "food samples" means unwrapped food prepared and made available for sampling by and without charge to the general public for the purpose of promoting the food made available for sampling. This subdivision does not apply to unwrapped food prepared and offered in buffet, cafeteria, or other style in exchange for payment by the general public or by the person or entity arranging for the preparation and offering of such unwrapped food. This subdivision shall not apply to open air produce markets nor to farmer market facilities operated on land owned or leased by the State of North Carolina or any local government.

The rules shall contain a system for grading establishments, such as Grade A, Grade B, and Grade C. The rules shall be written in a manner that promotes consistency in both the interpretation and application of the grading system.

(a4) For the protection of the public health, the Commission shall adopt rules governing the sanitation of limited food service establishments. In adopting the rules, the Commission shall not limit the number of days that limited food service establishments may operate. Limited food service establishment permits shall be issued only to political subdivisions of the State, establishments operated by volunteers that prepare or serve food in conjunction with amateur athletic events, or for establishments operated by organizations that are exempt from federal income tax under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code.

(a5) The Department of Health and Human Services may grant a variance from rules adopted pursuant to this section in accordance with the United States Food and Drug Administration Food Code 2009 if the Department determines that the issuance of the variance will not result in a health hazard or nuisance condition.

(a6) Notwithstanding any provision of this Part or any rules adopted pursuant to G.S. 130A-335(e), a permitted food stand may elect to provide tables and not more than eight seats for customers to use while eating or drinking on the premises. Addition of seats under this subsection shall not require further evaluation of the adequacy of the approved sanitary sewage system.

(b) No establishment shall commence or continue operation without a permit or transitional permit issued by the Department. The permit or transitional permit shall be issued to the owner or operator of the establishment and shall not be transferable. If the establishment is leased, the permit or transitional permit shall be issued to the lessee and shall not be transferable. If the location of an establishment changes, a new permit shall be obtained for the establishment. A permit shall be issued only when the establishment satisfies all of the requirements of the rules. The Commission shall adopt rules establishing the requirements that must be met before a transitional permit may be issued, and the period for which a transitional permit may be issued. The Department may also impose conditions on the issuance of a permit or transitional permit in accordance with rules adopted by the Commission. A permit or transitional permit shall be immediately revoked in accordance with G.S. 130A-23(d) for failure of the establishment to maintain a minimum grade of C. A permit or transitional permit may otherwise be suspended or revoked in accordance with G.S. 130A-23.

(b1) A permit shall expire one year after an establishment closes unless the permit is the subject of a contested case pursuant to Article 3 of Chapter 150B of the General Statutes.

(c) If ownership of an establishment is transferred or the establishment is leased, the new owner or lessee shall apply for a new permit. The new owner or lessee may also apply for a transitional permit. A transitional permit may be issued upon the transfer of ownership or lease of an establishment to allow the correction of construction and equipment problems that do not represent an immediate threat to the public health. Upon issuance of a new permit or a transitional permit for the same establishment, any previously issued permit for an establishment in that location becomes void. This subsection does not prohibit issuing more than one owner or lessee a permit for the same location if (i) more than one establishment is operated in the same physical location and (ii) each establishment satisfies all of the rules and requirements of subsection (g) of this section. For purposes of this subsection, "transitional permit" shall mean a permit issued upon the transfer of ownership or lease of an existing food establishment to allow the correction of construction and equipment problems that do not represent an immediate threat to the public health.

(c1) The Commission shall adopt rules governing the sanitation of pushcarts and mobile food units. A permitted restaurant or commissary shall serve as a base of operations for a pushcart. A

mobile food unit shall meet all of the sanitation requirements of a permitted commissary or shall have a permitted restaurant or commissary that serves as its base of operation. Pushcarts or mobile food units that are based from a permitted commissary or restaurant that is located on the premises of a facility which contains at least 3,000 permanent seats shall be allowed to prepare and serve food on the premises. Raw meat, poultry, and fish shall be prepared in a permitted commissary or restaurant in a pre-portioned or ready-to-cook form. Pushcarts or mobile food units that handle raw ingredients shall be equipped with a handwashing sink. All open food and utensils shall be provided with overhead protection or otherwise equipped with individual covers, such as domes, chafing lids, or cookers with hinged lids. Food equipment and supplies shall be located in enclosed areas and protected from environmental contamination when not in operation.

(d) The Department shall charge each establishment subject to this section, except nutrition programs for the elderly administered by the Division of Aging and Adult Services of the Department of Health and Human Services, establishments that prepare and sell meat food products or poultry products, temporary food establishments, limited food services establishments, and public school cafeterias, a fee of one hundred twenty dollars ($120.00) for each permit issued. This fee shall be reassessed annually for permits that do not expire. The Commission shall adopt rules to implement this subsection. Fees collected under this subsection shall be used for State and local food, lodging, and institution sanitation programs and activities. No more than fifty dollars ($50.00) of each fee collected under this subsection may be used to support State health programs and activities.

(d1) The Department shall charge a twenty-five dollar ($25.00) late payment fee to any establishment subject to this section, except nutrition programs for the elderly administered by the Division of Aging of the Department of Health and Human Services, establishments that prepare and sell meat food products or poultry products, temporary food establishments, limited food services establishments, and public school cafeterias, that fails to pay the fee required by subsection (d) of this section within 45 days after billing by the Department. The Department may, in accordance with G.S. 130A-23, suspend the permit of an establishment that fails to pay the required fee within 60 days after billing by the Department. The Department shall charge a reinstatement fee of one hundred fifty dollars ($150.00) to any establishment that requests reinstatement of its permit after the permit has been suspended. The Commission shall adopt rules to implement this subsection.

The clear proceeds of civil penalties collected pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d2) A local health department shall charge each temporary food establishment and each limited food services establishment a fee of seventy-five dollars ($75.00) for each permit issued. A local health department shall use all fees collected under this subsection for local food, lodging, and institution sanitation programs and activities.

(e) In addition to the fees under subsection (d) of this section, the Department may charge a fee of two hundred fifty dollars ($250.00) for plan review of plans for prototype franchised or chain facilities for food establishments subject to this section. All of the fees collected under this subsection may be used to support the State food, lodging, and institution sanitation programs and activities under this Part.

(e1) Plans for a franchised or chain food establishment that have been reviewed and approved by the Department shall not require further review and approval under this section by any local health department. The local health department may suggest revisions to a reviewed and approved plan to the Department. The local health department shall not impose any of the suggestion revisions on the owner or operator without written approval from the Department.

(f) Any local health department may charge a fee not to exceed two hundred fifty dollars ($250.00) for plan review by that local health department of plans for food establishments subject to this section that are not subject to subsection (e) of this section. All of the fees collected under this subsection may be used for local food, lodging, and institution sanitation programs and activities. No food establishment that pays a fee under subsection (e) of this section is liable for a fee under this subsection.

(g) All hotels, motels, tourist homes, and other establishments that provide lodging for pay shall comply with the requirements of G.S. 143-138(b2)(2). Upon notification of a violation of G.S. 143-138(b2)(2) by the code official responsible for enforcing the NC State Building Code (Fire Prevention) in accordance with G.S. 143-138(b2)(4), the local health department is authorized to suspend a permit issued pursuant to this section in accordance with G.S. 130A-23. (1941, c. 309, s. 1; 1955, c. 1030, s. 1; 1957, c. 1214, s. 1; 1973, c. 476, s. 128; 1983, c. 891, s. 2; 1987, c. 438, s. 2; 1989, c. 551, ss. 1, 4; 1989 (Reg. Sess., 1990), c. 1064, s. 1; 1991, c. 226, s. 1; c. 656, ss. 1, 2; c. 733, s. 2; 1991 (Reg. Sess., 1992), c. 1039, s. 7; 1993, c. 262, s. 2; c. 346, s. 1; c. 513, s. 13; 1995, c. 123, s. 13(a)-(d); c. 507, s. 26.8(b), (g); 1997-367, s. 1; 1997-443, s. 11A.118(a); 1997-479, s. 1; 2002-126, ss. 29A.15(a), 29A.16; 2003-340, ss. 1.5, 3; 2005-276, s. 6.37(s); 2009-451, s. 13.2(a)-(c); 2009-484, s. 2(b); 2011-145, s. 31.11A(a); 2011-391, s. 61A; 2011-394, s. 15(b); 2012-142, s. 10.15; 2012-187, s. 16.2; 2013-360, s. 12E.1(b)-(d), (f); 2013-413, ss. 11(b), 19(b), (c); 2014-120, s. 22(a), (b), (d); 2015-104, ss. 1, 2; 2015-246, s. 10; 2015-286, s. 3.8.)

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .1834

DEADLINE FOR RECEIPT: Friday, May 12, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), line 4, what do you mean by "interpretation" and "application"? How are they different from "enforcement"?

On line 5, please capitalize "Section"

In (a)(1), so that I'm clear – the informal review must include both the local and State level review in (d) and (e), unless terminated in accordance with Paragraph (c)?

In (b), line 8, what is the "alternative dispute resolution" you are referring to? If it is the "informal review" set forth here, please state that. If it is some other type (perhaps the settlement contemplated in G.S.150B-22), please state what you are referring to.

In (d), lines 13 through 16, please clarify this language. Who is conducting the review here? If the intent is to say that if a Supervisor is conflicted out, the Regional Specialist will conduct the informal review, I think it can be clarified.

On line 17, I recommend "at least within" it with "no later than"

On lines 17 through 19, consider breaking this down into a list.

On line 19, please state who is mailing this.

In (d), line 20, and (e), line 32-33, what do you mean by "shall be binding for the purposes of future inspections"?

In (d), line 21, and (e), line 34, how and under what circumstances will the State Health Director modify these decisions? Guidance on this needs to be in Rule.

In (e), line 22, how can a "representative" of the Supervisor do this? You do not provide any authority for this delegation in (e). Are you saying that a Regional Specialist will be the representative?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: April 28, 2017

In (e), line 24, replace "to be" with "as"

On line 25, please capitalize "State"

Also on line 25, replace "such" with "the"

On line 27, I take it the permit holder will have the address of the Department?

On line 28, do you mean Paragraph (d) of this Rule, rather than (a)?

On lines 30-31, can you not replace "to the permit holder and Environmental Health Supervisor for the county or area where the issue arose" with "the parties"? Or is that too formal?

In (f), line 35, capitalize "State"

What is the purpose of Paragraph (h) on Page 2?

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: April 28, 2017

15A NCAC 18A .1834 is adopted as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .1834 INFORMAL REVIEW PROCESS AND APPEALS PROCEDURE

(a) If a permit holder disagrees with a decision of the local health department on the interpretation, application, or enforcement of the rules of this section the permit holder may:

(1) Request an informal review pursuant to Paragraphs (d) and (e) of this Rule; or

(2) Initiate a contested case in accordance with G.S. 150B.

(b) The permit holder is not required to complete the alternative dispute resolution prior to initiating a contested case in accordance with G.S. 150B.

(c) When a petition for a contested case is filed, the informal review process shall terminate.

(d) If the permit holder requests an informal review, the request shall be in writing and shall be postmarked or hand delivered to the local health department within seven days of notice of the decision giving rise to the review. The request shall state the issues in dispute. If the inspection giving rise to the informal review was conducted by the Environmental Health Supervisor in the county or area where the lodging establishment is located, or when the county or area has only one Registered Environmental Health Specialist assigned to inspect lodging establishments, the Environmental Health Regional Specialist assigned to that county or area shall conduct the local informal review. As soon as possible, but at least within 30 days of receipt of the request, the person conducting the review shall contact the permit holder, provide that permit holder an opportunity to be heard on the issues in dispute and issue a written decision addressing the issues raised in the appeal. Copies of the decision shall be mailed to the permit holder and to the State Health Director. That decision shall be binding for the purposes of future inspections of the establishment in question unless modified pursuant to Paragraph (e) of this Rule or by the State Health Director.

(e) Following receipt of the written decision of the Environmental Health Supervisor or his or her representative issued pursuant to Paragraph (d) of this Rule, the permit holder who initiated the informal review may appeal the resulting decision to an Informal Review Officer designated by the Department to be responsible for final decisions on appeals from throughout the state. Notice of such appeal shall be in writing, shall include a copy of the Environmental Health Supervisor's or his or her representative's decision, and shall be postmarked or hand-delivered to the local health department and to the Department within seven days of receipt of the written decision issued pursuant to Paragraph (a) of this Rule. Within 35 days of receipt of this appeal, the designated Informal Review Officer shall hold a conference in Wake County. At least 10 days prior to the conference, the Informal Review Officer shall provide notice of the time and place of this conference to the permit holder and the Environmental Health Supervisor for the county or area where the issue arose. Within 10 days following the date of the conference, the Informal Review Officer shall issue a written decision addressing the issues raised in the appeal and that decision shall be binding for purposes of future inspections of the establishment in question unless modified pursuant to Paragraph (g) of this Rule or by the State Health Director.

(f) If the decision on appeal at the local or state level results in a change in the score resulting from an inspection of an establishment, the regulatory authority shall post a new grade card reflecting that new score.

(g) Appeals of the decision of the designated Informal Review Officer shall be in accordance with G.S. 150B.

(h) Nothing in this Rule shall impact the right of a permit holder to a reinspection pursuant to Rule .1831 of this Section.

History Note: *Authority G.S. 130A-248;*
Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2201

DEADLINE FOR RECEIPT: Friday, May 12, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In the History Note, line 10, please complete "1990;"

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: April 28, 2017

SECTION .2200 - SANITATION OF BED AND BREAKFAST HOMES

15A NCAC 18A .2201 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .2201 DEFINITIONS

History Note: *Authority G.S. 130A-250;*
Eff. April 1, 1984;
Amended Eff. November 1, 2006; November 1, 2002; September 1, 199;
Repealed Eff. July 1, 2017.

15A NCAC 18A .2202 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .2202 PERMITS

History Note: *Authority G.S. 130A-250;*
Eff. April 1, 1984;
Amended Eff. April 1, 1992; March 1, 1988;
Repealed Eff. July 1, 2017.

15A NCAC 18A .2203 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .2203 INSPECTIONS: VISITS: POSTING OF GRADE CARD

History Note: *Authority G.S. 130A-250;*
Eff. April 1, 1984;
Amended Eff. July 1, 1986;
Repealed Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2204 - .2206

DEADLINE FOR RECEIPT: Friday, May 12, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Please delete the duplicative History Note on lines 7-8.

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: April 28, 2017

15A NCAC 18A .2204 – 2206 are repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .2204 INSPECTION FORMS

15A NCAC 18A .2205 GRADING

History Note: *Authority G.S. 130A-250;*
Eff. April 1, 1984.

15A NCAC 18A .2206 FLOORS

History Note: *Authority G.S. 130A-250;*
Eff. April 1, 1984;
Repealed Eff. July 1, 2017.

15A NCAC 18A .2207 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .2207 WALLS AND CEILINGS

History Note: *Authority G.S. 130A-250;*
Eff. April 1, 1984;
Repealed Eff. July 1, 2017.

15A NCAC 18A .2208 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .2208 LIGHTING AND VENTILATION

History Note: *Authority G.S. 130A-250;*
Eff. April 1, 1984;
Amended Eff. September 1, 1990;
Repealed Eff. July 1, 2017.

15A NCAC 18A .2209 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .2209 TOILET: HANDWASHING: LAUNDRY: AND BATHING FACILITIES

History Note: *Authority G.S. 130A-250;*
Eff. April 1, 1984;
Repealed Eff. July 1, 2017.

15A NCAC 18A .2210 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .2210 WATER SUPPLY

History Note: *Authority G.S. 130A-250;*
Eff. April 1, 1984;
Amended Eff. August 1, 1991; July 1, 1986;
Repealed Eff. July 1, 2017.

15A NCAC 18A .2211 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .2211 DRINKING WATER FACILITIES: ICE HANDLING

History Note: *Authority G.S. 130A-250;*
Eff. April 1, 1984;
Repealed Eff. July 1, 2017.

15A NCAC 18A .2212 – 2216 are repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .2212 DISPOSAL OF WASTES

15A NCAC 18A .2213 VERMIN CONTROL: PREMISES

15A NCAC 18A .2214 STORAGE: MISCELLANEOUS

15A NCAC 18A .2215 BEDS: LINEN: FURNITURE

15A NCAC 18A .2216 FOOD SERVICE UTENSILS AND EQUIPMENT

History Note: *Authority G.S. 130A-250;*
Eff. April 1, 1984;
Repealed Eff. July 1, 2017.

15A NCAC 18A .2217 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .2217 FOOD SUPPLIES

History Note: *Authority G.S. 130A-250;*
Eff. April 1, 1984;
Amended Eff. September 1, 1990
Repealed Eff. July 1, 2017.

15A NCAC 18A .2218 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .2218 FOOD PROTECTION

History Note: *Authority G.S. 130A-250;*
Eff. April 1, 1984;
Amended Eff. October 1, 1993;
Repealed Eff. July 1, 2017.

15A NCAC 18A .2219 – 2220 are repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .2219 FOOD SERVICE PERSONS

15A NCAC 18A .2220 SEVERABILITY

History Note: *Authority G.S. 130A-250;*
Eff. April 1, 1984;
Repealed Eff. July 1, 2017.

15A NCAC 18A .2221 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .2221 APPEALS PROCEDURE

History Note: *Authority G.S. 130A-250;*
Eff. April 1, 1984;
Amended Eff. February 1, 1987;
Repealed Eff. July 1, 2017.

SECTION .3000 - BED AND BREAKFAST INNS

15A NCAC 18A .3001 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .3001 DEFINITIONS

History Note: *Authority G.S. 130A-248;*
Eff. July 1, 1992;
Amended Eff. November 1, 2002;
Repealed Eff. July 1, 2017.

15A NCAC 18A .3002 .3005 are repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .3002 PERMITS

15A NCAC 18A .3003 INSPECTIONS: VISITS: POSTING OF GRADE CARDS

15A NCAC 18A .3004 INSPECTION FORMS

15A NCAC 18A .3005 GRADING

History Note: *Authority G.S. 130A-248;*
Eff. July 1, 1992.
Repealed Eff. July 1, 2017.

15A NCAC 18A .3006 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .3006 FOOD SOURCES AND PROTECTION

History Note: *Authority G.S. 130A-248;*
Eff. July 1, 1992;
Amended Eff. October 1, 1993:
Repealed Eff. July 1, 2017.

15A NCAC 18A .3007 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .3007 FOOD SERVICE PERSONS

History Note: *Authority G.S. 130A-248;*
Eff. July 1, 1992;
Repealed Eff. July 1, 2017.

15A NCAC 18A .3008 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .3008 FOOD SERVICE UTENSILS AND EQUIPMENT AND THEIR CLEANING

History Note: *Authority G.S. 130A-248;*
Eff. July 1, 1992;
Amended Eff. July 1, 1993;
Repealed Eff. July 1, 2017.

15A NCAC 18A .3009 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .3009 LAVATORIES AND BATHROOMS

History Note: *Authority G.S. 130A-248;*
Eff. July 1, 1992;
Repealed Eff. July 1, 2017.

15A NCAC 18A .3010 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .3010 WATER SUPPLY

History Note: *Authority G.S. 130A-248;*
Eff. July 1, 1992;
Repealed Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .3011

DEADLINE FOR RECEIPT: Friday, May 12, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In the History Note, please move the "Repealed Eff." date to Line 7.

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: April 28, 2017

15A NCAC 18A .3011 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .3011 DRINKING WATER FACILITIES

History Note: *Authority G.S. 130A-248;*
Eff. July 1, 1992; Repealed Eff. July 1, 2017.

15A NCAC 18A .3012 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .3012 BEDS: LINEN

History Note: *Authority G.S. 130A-248;*
Eff. July 1, 1992
Repealed Eff. July 1, 2017.

15A NCAC 18A .3013 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .3013 VERMIN CONTROL: PREMISES

History Note: *Authority G.S. 130A-248;*
Eff. July 1, 1992
Repealed Eff. July 1, 2017.

15A NCAC 18A .3014 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .3014 STORAGE: MISCELLANEOUS

History Note: *Authority G.S. 130A-248;*
Eff. July 1, 1992;
Repealed Eff. July 1, 2017.

15A NCAC 18A .3015 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .3015 FLOORS: WALLS: CEILINGS: LIGHTING: VENTILATION

History Note: *Authority G.S. 130A-248;*
Eff. July 1, 1992;
Repealed Eff. July 1, 2017.

15A NCAC 18A .3016 is repealed as published in 31:10 NCR 966-974 as follows:

15A NCAC 18A .3016 DISPOSAL OF GARBAGE AND TRASH

History Note: *Authority G.S. 130A-248;*
Eff. July 1, 1992
Repealed Eff. July 1, 2017.