

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 09G .2010

DEADLINE FOR RECEIPT: Wednesday, October 11, 2017

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Why do you need Paragraph (a)? It appears to recite G.S. 106-266.35:

§ 106-266.35. Sale or dispensing of milk.

Only milk that is Grade "A" pasteurized milk may be sold or dispensed directly to consumers for human consumption. Raw milk and raw milk products shall be sold or dispensed only to a permitted milk hauler or to a processing facility at which the processing of milk is permitted, graded, or regulated by a local, State, or federal agency. The Board of Agriculture may adopt rules to provide exceptions for dispensing raw milk and raw milk products for nonhuman consumption. Any raw milk or raw milk product dispensed as animal feed shall include on its label the statement "NOT FOR HUMAN CONSUMPTION" in letters at least one-half inch in height. Any raw milk or raw milk product dispensed as animal feed shall also include on its label the statement "IT IS NOT LEGAL TO SELL RAW MILK FOR HUMAN CONSUMPTION IN NORTH CAROLINA." "Sale" or "sold" shall mean any transaction that involves the transfer or dispensing of milk and milk products or the right to acquire milk and milk products through barter or contractual arrangement or in exchange for any other form of compensation including, but not limited to, the sale of shares or interest in a cow, goat, or other lactating animal or herd. (1983, c. 891, s. 2; 2004-195, s. 6.2; 2008-88, s. 2; 2011-145, s. 13.3(l), (r).)

Assuming you need to retain it, shouldn't the "for" before "which" on line 5 be "at"

Also, on line 5, don't you need to include "local" agency? And please capitalize "State"

In (b), line 6, delete "nevertheless." If you want to state "Notwithstanding Paragraph (a) of this Rule, the farmer or owner..." state that.

And is "owner" known to your regulated public in this context?

On line 7, what are these "applicable" state and federal regulations? Shouldn't the individual follow the language in G.S. 106-266.35 in labeling the milk when using it for nonhuman consumption?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 27, 2017

In the History Note, shouldn't you be citing to 106-266.35?

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: September 27, 2017

1 02 NCAC 09G .2010 is readopted as published in 31:23 NCR 2266 as follows:

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3 **02 NCAC 09G .2010 RESTRICTIONS ON DISPENSING RAW MILK**

4 (a) Dairy farms shall dispense raw milk or raw milk products only to a permitted milk hauler or to a processing facility
5 for which the processing of milk is permitted, graded or regulated by a state or federal agency.

6 (b) The farmer or the owner of the raw milk or raw milk products may, nevertheless, destroy the milk or dispense it for
7 animal feed in accordance with any applicable state and federal regulations.

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

10 *Temporary Adoption Eff. April 2, 2001;*

11 *Temporary Adoption Expired January 11, 2002;*

12 *Temporary Adoption Eff. June 1, 2003;*

13 *Eff. February 1, 2004;*

14 *Transferred from 15A NCAC 18A .1210 Eff. May 1, ~~2012~~ 2012;*

15 *Readopted Eff. November 1, 2017*

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 37 .0203

DEADLINE FOR RECEIPT: Wednesday, October 11, 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 our office to inquire concerning the staff recommendation.

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

In light of the language in G.S. 106-22, please confirm that the Commissioner of Agriculture was involved in this rulemaking, as these are joint duties.

I take it that nematode testing is different from soil testing, which is also addressed in the statute?

- (17) Agronomic Testing. – Provide agronomic testing services and charge reasonable fees for plant analysis, nematode testing, in-State soil testing during peak season, out-of-state soil testing, and expedited soil testing. The Board shall charge at least four dollars (\$4.00) for plant analysis, at least two dollars (\$2.00) for nematode testing, at least four dollars (\$4.00) for in-State soil testing during peak season, at least five dollars (\$5.00) for out-of-state soil testing, and at least two hundred dollars (\$200.00) for expedited soil testing. As used in this subdivision, "peak season" includes at a minimum the four-month period beginning no later than December 1 of any year and extending until at least March 31 of the following year. The Board may modify the meaning of peak season by starting a peak season earlier in any year or ending it later the following year or both.

In (a), I take it that your regulated public knows how to contact these individuals? And do they know how to send this to be analyzed?

On lines 5-6, what are "other local agricultural advisors"? Does your regulated public know?

On line 6, please insert a comma after "found"

On line 6, what is "best method of control"? Does your regulated public know?

In (b)(1), line 9, what is "routine"?

In (b)(2), line 10, what do you mean by "nonresident"? Someone who lives outside of the State?

In (b)(3), what do you mean by "research"?

In (b)(5), line 13, what is "rapid"?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 2760

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 27, 2017

1 02 NCAC 37 .0203 is readopted as published in 31:23 NCR 2267 as follows:

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02 NCAC 37 .0203 NEMATODE ADVISORY SERVICE

(a) Individuals desiring nematode analysis may obtain sample containers and instructions from the Agronomic Services Division, county extension office, farm supply dealers, Agronomic Division Regional Agronomists, or other local agricultural advisors. If plant-destructive nematodes are found ~~in the soil~~, the best method of control will be recommended. ~~A fee of two dollars (\$2.00) will be charged for each sample analyzed.~~

(b) Fees for those services, to be paid at the time of submission, are as follows:

- (1) Routine nematode assay - \$3.00.
- (2) Nonresident nematode assay - \$10.00.
- (3) Research nematode assay - \$10.00.
- (4) Pinewood nematode assay - \$10.00.
- (5) Rapid nematode identification (molecular diagnosis) - \$10.00.

History Note: Filed as a Temporary Amendment Eff. July 7, 1989 for a Period of 180 Days to Expire on January 2, 1990;
Authority G.S. 106-22(17);
Eff. July 17, 1981;
Amended Eff. June 1, 1990; January 2, ~~1990~~, 1990;
Readopted Eff. November 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 52J .0901

DEADLINE FOR RECEIPT: Wednesday, October 11, 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 our office to inquire concerning the staff recommendation.

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

In Item (1), line 9, I suggest inserting a comma after "treatment"

In the History Note, I suggest simply stating "G.S. 19A-67; 19A-68;"

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: September 27, 2017

1 02 NCAC 52J .0901 is adopted as published in 31:23 NCR 2267-2268 as follows:

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3 **SECTION .0900 – ANIMAL SHELTER SUPPORT FUND**

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5 **02 NCAC 52J .0901 ELIGIBLE EXPENSES**

6 Eligible expenses include:

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

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22 *History Note: Authority G.S. 19A-67(b); 19A-68(a);*
23 *Temporary Adoption Eff. November 29, ~~2016~~ 2016;*
24 *Eff. November 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Agriculture

RULE CITATION: 02 NCAC 52J .0902

DEADLINE FOR RECEIPT: Wednesday, October 11, 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 our office to inquire concerning the staff recommendation.

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

I recommend you make this a two Paragraph rule. (a) would be the first sentence, and (b) would be the rest of the Rule.

In Item (1), line 6, is this contact information set forth in another Rule somewhere? Does your regulated public know the Section's mail, email, or fax?

In Item (2), are the requirements of lines 7 and 8 what are required in the application? If not, please be aware that G.S. 150B-2(8a)d states that the contents of forms must be contained in Rule or law.

In Item (3), I take it that "eligible expenses" are those defined in Rule .0901?

In Item (4), these are the matching funds required under G.S. 19A-68(b)?

In Item (5), line 13, I suggest replacing "Should" with "If" but that is just a stylistic suggestion.

So that I'm clear, G.S. 19A-68 requires payment within 30 days of receipt of the request. The fund itself only reimburses expenses. So, if the payment doesn't occur until after the application was submitted, does that mean the application isn't complete without the payment?

In the History Note, I suggest simply stating "G.S. 19A-67; 19A-68;"

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: September 27, 2017

1 02 NCAC 52J .0902 is adopted as published in 31:23 NCR 2268 as follows:

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

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

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

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

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

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

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

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17 *History Note: Authority G.S. 19A-67(b); 19A-68(a);*

18 *Temporary Adoption Eff. November 29, ~~2016~~ 2016;*

19 *Eff. November 1, 2017.*

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