

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

AGENCY: N.C. Board of Agriculture

RULE CITATION: Generally, to all rules submitted

DEADLINE FOR RECEIPT: June 10, 2022

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

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

Does the agency have a Rule that limits the applicability of its rules? G.S. 19A-24 limits the authority of the agency to animals in certain categories. For example, Rule 205 (a) & (b), Page 1, Lines 4 and 9: It appears that the agency exceeds its authority by making this rule applicable to all dogs and cats. Consider limiting it to dogs and cats "as items of commerce" pursuant to G.S. 19A-21 or subject to the Animal Welfare Act. Rule 201(a) is another example.

It appears that the term "regulation" as used in the proposed rules refers to a "Rule" within the North Carolina Administrative Code. A "regulation" is a federal level rule. Please review the proposed rules to determine whether the agency means a rule under the NCAC, or a federal regulation.

The agency uses the term "and/or" in many of the proposed rules. This term is frowned upon. In most cases the word "or" is proper to convey the thought of "one, or the other, or any of them." If emphasis is needed, use such terms as "any of the following," "all of the following," "either of the following," and "or both."

The agency should review all of its rules and consider the inclusion of more Oxford Commas also known as the serial comma. Ex. "Cider, real ales, meat and vegetable pies, and sandwiches" is different than "Cider, real ales, meat pies, vegetable pies, and sandwiches".

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

William W. Peaslee
Commission Counsel
Date submitted to agency: June 8, 2022

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

AGENCY: N.C. Board of Agriculture

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

DEADLINE FOR RECEIPT: June 10, 2022

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

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

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

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

Page 1, Line 8: "May should be "shall".

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

William W. Peaslee
Commission Counsel

Date submitted to agency: June 8, 2022

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

SECTION .0500 – EUTHANASIA BY INJECTION

02 NCAC 52J .0501 INTRACARDIAC INJECTION

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

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

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

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

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

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

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

Eff. March 23, 2009;

Readopted Eff. July 1, 2022.

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

AGENCY: N.C. Board of Agriculture

RULE CITATION: 02 NCAC 52J .0701 Methods of Euthanasia Permitted Under Extraordinary Circumstances.

DEADLINE FOR RECEIPT: June 10, 2022

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

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

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

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

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

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

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

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

William W. Peaslee
Commission Counsel

Date submitted to agency: June 8, 2022

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

SECTION .0700 - EXTRAORDINARY CIRCUMSTANCES

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

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

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

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

AGENCY: N.C. Board of Agriculture

RULE CITATION: 02 NCAC 52J .0702 Gunshot or Other Methods

DEADLINE FOR RECEIPT: June 10, 2022

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

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

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

Page 1, Line 5: If “which is offsite from the shelter” is in Rule .0701, is “which occur offsite from a shelter” necessary?

Page 1, Line 5: What kind of training is necessary?

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

William W. Peaslee
Commission Counsel

Date submitted to agency: June 8, 2022

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

02 NCAC 52J .0702 GUNSHOT OR OTHER METHODS

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

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

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

02 NCAC 52J .0703 METHODS AND STANDARDS

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

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

Eff. March 23, 2009;

Readopted Eff. July 1, 2022.

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

AGENCY: N.C. Board of Agriculture

RULE CITATION: 02 NCAC 52J .0704 Technician Not Required

DEADLINE FOR RECEIPT: June 10, 2022

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

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

Page 1, Line 6: What kind of training does the agency intend? What criteria for determining whether an employee has been trained will the agency employ? Can an employee who has not been trained in any methods of euthanasia but has been trained in firearms shoot the animal in an extraordinary circumstance?

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

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

02 NCAC 52J .0704 TECHNICIAN NOT REQUIRED

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

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

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

AGENCY: N.C. Board of Agriculture

RULE CITATION: 02 NCAC 52J .0705 Reports

DEADLINE FOR RECEIPT: June 10, 2022

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

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

Page 1, Line 6: Consider striking "final".

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

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

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

02 NCAC 52J .0705 REPORTS

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

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

Eff. March 23, 2009;

Readopted Eff. July 1, 2022.

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

SECTION .0800 – POLICY AND PROCEDURE MANUAL

02 NCAC 52J .0801 MANUAL REQUIRED

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

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

Eff. March 23, 2009;

Readopted Eff. July 1, 2022.

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

AGENCY: N.C. Board of Agriculture

RULE CITATION: 02 NCAC 52J .0802 Contents

DEADLINE FOR RECEIPT: June 10, 2022

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

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

Page 1, Line 5: What does the agency intend by the term "documentation requirements"? Is the documentation require by a Rule?

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

William W. Peaslee
Commission Counsel

Date submitted to agency: June 8, 2022

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

02 NCAC 52J .0802 CONTENTS

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

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

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

AGENCY: N.C. Board of Agriculture

RULE CITATION: 02 NCAC 52J .0803 Additional Contents

DEADLINE FOR RECEIPT: June 10, 2022

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

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

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

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

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

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

William W. Peaslee
Commission Counsel

Date submitted to agency: June 8, 2022

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

02 NCAC 52J .0803 ADDITIONAL CONTENTS

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

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

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

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

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

AGENCY: N.C. Board of Agriculture

RULE CITATION: 02 NCAC 52J .0901 Eligible Expenses

DEADLINE FOR RECEIPT: June 10, 2022

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

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

Page 1, Line 5: Consider "The following are expenses are eligible for reimbursement from the Animal Shelter Support Fund."

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

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

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

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

SECTION .0900 – ANIMAL SHELTER SUPPORT FUND

02 NCAC 52J .0901 ELIGIBLE EXPENSES

Eligible expenses include:

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

History Note: Authority G.S. 19A-67; 19A-68;
Temporary Adoption Eff. November 29, 2016;
Temporary Adoption Expired Eff. September 11, 2017;
Eff. November 1, 2017;
Readopted Eff. July 1, 2022.

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

AGENCY: N.C. Board of Agriculture

RULE CITATION: 02 NCAC 52J .0902 Application Guidelines

DEADLINE FOR RECEIPT: June 10, 2022

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

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

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

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

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

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

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

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

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

William W. Peaslee
Commission Counsel
Date submitted to agency: June 8, 2022

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

02 NCAC 52J .0902 APPLICATION GUIDELINES

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

(b) The request shall:

- (1) be received by AWS by mail, email, or fax within 60 days of the date the eligible expense was incurred;
- (2) include a completed "Animal Shelter Support Fund Reimbursement Application" with the county name, tier of county, facility name, facility license number, and contact information. This application can be found on the AWS website (<http://www.ncagr.gov/vet/AWS/>);
- (3) include an itemized listing of eligible expenses for which reimbursement is sought;
- (4) include proof that matching funds have been provided; and
- (5) include proof of payment of the eligible expense. If the payment of expense occurs after the application was submitted, proof of payment shall be submitted to AWS within 30 days of payment of the expense.

History Note: Authority G.S. 19A-67; 19A-68;
Temporary Adoption Eff. November 29, 2016;
Temporary Adoption Expired Eff. September 11, 2017;
Eff. November 1, 2017;
Readopted Eff. July 1, 2022.