

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2801

DEADLINE FOR RECEIPT: March 10, 2023

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:

In item (2), only the first sentence is a definition. Lines 18 through 26 appear to be substantive rules. Consider moving the substance of lines 18 through 26 out of the definition to avoid clarity issues.

In item (3), why is the second sentence (lines 30 through 35) necessary? It appears that the first sentence would already apply to child care centers which operate in other states.

In item (6) (page 2, line 1), it looks like "as an operator" is a typo.

In item (10), G.S. 130A-4 appears to deal with enforcement by local health departments and not general agents of DHHS. Is this the correct reference?

In item (15), 15A NCAC 18A .2600 is a section that begins with repealed rules. Reference the specific rule containing the definition.

In item (19) (page 3, line 6), correct the statutory reference: "[G.S. 130A-290(7)] G.S. 130A-290(a)(7)".

In item (21), 15A NCAC 18A .2600 is a section that begins with repealed rules. Reference the specific rule containing the definition.

In item (23), 15A NCAC 18A .2600 is a section that begins with repealed rules. Reference the specific rule containing the definition.

In item (24), 15A NCAC 18A .2600 is a section that begins with repealed rules. Reference the specific rule containing the definition.

In item (27), 02 NCAC 09G .2001, is an adoption by reference and not a definition. The cross reference should point directly to a definition.

Seth Ascher
Commission Counsel
Date submitted to agency: March 2, 2023

In item (35), only the first sentence is a definition. Lines 17 through 23 appear to be substantive rules. Consider moving the substance of lines 17 through 23 out of the definition to avoid clarity issues.

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

Seth Ascher
Commission Counsel
Date submitted to agency: March 2, 2023

1 15A NCAC 18A .2801 is readopted with changes as published in 37:11 NCR 825-848 as follows:

2 3 CHAPTER 18 - ENVIRONMENTAL HEALTH

4 5 SUBCHAPTER 18A - SANITATION

6 7 SECTION .2800 - SANITATION OF CHILD CARE CENTERS

8 9 15A NCAC 18A .2801 DEFINITIONS

10 The following definitions shall apply ~~in regards to child care centers~~ throughout this Section:

- 11 (1) "Adequate" means ~~determined by the Department~~ to be of ~~sufficient~~ the size, volume, or technical
12 ~~specifications, specifications necessary~~ to effectively accommodate and support the planned,
13 current, or projected workloads for ~~a specified operational area.~~ the technology or constructed space.
- 14 (2) ~~"Approved" means determined by the Department to be in compliance with this Section.~~ "Approved
15 Disinfectant" means a chlorine solution containing 500 to 800 parts per million (ppm) of chlorine
16 or a disinfectant as defined at 40 C.F.R. 158.2203 that is registered with the United States
17 Environmental Protection Agency (EPA) in accordance with 40 C.F.R. [452.]152 with use indicated
18 in schools and child care settings. When an approved disinfectant is used in a child care center, the
19 manufacturer's Safety Data Sheets for the disinfectant product shall be kept on file at the child care
20 center and the instructions for use of the disinfectant product shall be followed. When a chlorine
21 solution is prepared by a child care center employee for use as an approved disinfectant, then the
22 solution shall be prepared for use within 24 hours and a testing method shall be used to ensure
23 compliance with the prescribed chlorine concentration. To achieve the maximum germ reduction
24 with a chlorine disinfecting solution, the surface being disinfected shall be made wet with the
25 chlorine disinfecting solution and allowed to air dry or be dried only after the surface has been in
26 contact with the chlorine disinfecting solution for a minimum of two minutes.
- 27 (3) "Chain or Franchise Child Care Center" means a child care center that operates under the same
28 business name and prototype design concept, with common ownership or management, as nine or
29 more other child care centers pursuant to a franchise agreement under the same franchisor as nine
30 or more other child care centers. If a child care center operates in another state or states and is
31 opening a location in North Carolina with the same business name and prototype design concept,
32 with common ownership or management, as nine or more other child care centers pursuant to a
33 franchise agreement under the same franchisor as nine or more other child care centers, the child
34 care center in North Carolina shall be considered a chain or franchise child care center for the
35 purpose of plan review as set forth at Rule .2802 of this Section.
- 36 (4) "Child Care Administrator" means as defined at G.S. 110-86(2a).
- 37 (5) "Child Care Center" means as defined at 10A NCAC 09 .0102(6).

- (6) "Child Care Operator" or "Operator" means as an operator as defined at G.S. 110-86(7).
- (7) "Clean" means that an object or surface has been made free of garbage, soil, dust, hair, dander, food, bodily fluids and secretions, and feces.
- ~~(3)~~(8) "Communicable Condition" means as defined at G.S. 130A-2(1b), the state of being infected with a communicable agent but without symptoms.
- ~~(4)~~(9) "Communicable Disease" means as defined at G.S. 130A-2(1c), any disease that can be transmitted from one person to another directly, by contact with excrement, other body fluids, or discharges from the body; or indirectly, via substances or inanimate objects, such as contaminated food, drinking glasses, toys or water; or via vectors, such as flies, mosquitoes, ticks, or other insects.
- ~~(5)~~(10) "Department" or "DENR" "DHHS" means the North Carolina Department of Environment Health and Natural Resources. Human Services or The term also means the Department's authorized representative of the Department, agent pursuant to G.S. 130A-4.
- ~~(6)~~(11) "Designated Emergency Medication" means any a medication used or needed to immediately treat for the immediate recovery from a potentially life-threatening medical event. event that is administered in accordance with 10A NCAC 09 .0803(10) and G.S. 110-102.1A.
- (12) "Detergent Solution" means a solution comprised of water and soap.
- (13) "Disinfect" means a non-sporicidal process of using an approved disinfectant on inanimate surfaces to destroy or irreversibly inactivate fungi, viruses, and bacteria.
- (7) "Disinfecting Solution" means a solution containing 500 to 800 parts per million (ppm) of chlorine. A disinfecting solution can be made by mixing a solution of one quarter cup (2 fluid ounces) household liquid chlorine bleach with one gallon of tap water (or one tablespoon of liquid household bleach in one quart of water) and prepared fresh daily. In addition, products registered with the U.S. Environmental Protection Agency as hospital grade germicides or disinfectants or as disinfectants for safe use in schools, child care centers, institutions or restaurants are also approved disinfectants, provided the manufacturer's Material Safety Data Sheets are kept on file at the child care center and the instructions for use are followed.
- (8) "Division of Child Development" means the child care licensing agency in the N.C. Department of Health and Human Services.
- ~~(9)~~(14) "Food" means any 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.
- ~~(10)~~(15) "Food Contact Surface" means as defined at 15A NCAC 18A .2600.
- (16) "Food Preparation" means the handling of foods or utensils in the preparation of meals, including opening and closing of baby bottles, baby food jars jars, and cereal boxes, as well as the opening and closing of any other food items during intended for the assembly of ingredients. ingredients for human consumption.
- ~~(11)~~(17) "Food Service" means the distribution of prepared foods for consumption, including those food items prepared at the child care center; received by the center from approved food establishments;

- 1 milk placed in a pitcher or other serving ~~container;~~ container, ice that is transported, stored and
2 ~~dispensed;~~ dispensed, the distribution of children's bagged lunches and snacks sent from ~~home;~~
3 home, and the use of utensils to ~~minimize~~ prevent direct food contact.
- 4 ~~(12)~~(18) "Frying" means to cook over direct heat in hot oil or fat. This includes the oil or fat that is generated
5 by the food or added to the cooking utensil.
- 6 ~~(19)~~ "Garbage" means as defined at G.S. 130A-290(7).
- 7 ~~(20)~~ "Good Repair" means as defined at 15A NCAC 18A .2651(8). Items that are in good repair shall be
8 free of substrate damage, deterioration, peeling surfaces, and broken or missing parts and shall
9 operate in accordance with the manufacturer's or builder's instructions.
- 10 ~~(21)~~ "Hand Antiseptic" means as defined at 15A NCAC 18A .2600.
- 11 ~~(22)~~ "Handwash Lavatory" means a sink that is equipped with hot and cold water under pressure and is
12 used primarily for handwashing.
- 13 ~~(23)~~ "Hazard" means as defined at 15A NCAC 18A .2600, except that "consumer" shall be replaced with
14 "child."
- 15 ~~(13)~~(24) "Hermetically Sealed" Sealed Container" means as defined at 15A NCAC 18A .2600. a container
16 designed and intended to be secure against the entry of microorganisms and to maintain the
17 commercial sterility of its contents after processing.
- 18 ~~(14)~~ "Household bleach" means bleach sold in concentrations that are intended for household use, and
19 not industrial applications. Household bleach is sold in retail stores at strengths of 5.25 percent
20 hypochlorite (regular strength bleach) solution and 6.00 percent hypochlorite (ultra strength bleach)
21 solution.
- 22 ~~(15)~~ "Lavatory" means a sink that is equipped with hot and cold water under pressure for the primary
23 purpose of handwashing.
- 24 ~~(25)~~ "Licensing Agency" means the DHHS, Division of Child Development and Early Education.
- 25 ~~(26)~~ "Local Health Department" means as defined at G.S. 130A-2(5).
- 26 ~~(27)~~ "Milk Products" means as defined at 02 NCAC 09G .2001.
- 27 ~~(16)~~(28) "Multi-Service Articles" means tableware, including flatware and hollowware that are designed,
28 fabricated, and intended by the manufacturer to be washed, rinsed, sanitized, and re-used.
- 29 ~~(17)~~(29) "Multi-Use Articles" means bulk food containers and utensils designed, fabricated, and intended by
30 the manufacturer to be washed, rinsed, sanitized, and re-used. The term includes food storage
31 containers, beverage pitchers, serving spoons and bowls, tongs, and spatulas. The term does not
32 include multi-service articles as defined in this Rule.
- 33 ~~(30)~~ "Outdoor Learning Environment" means as set forth at 10A NCAC 09 .0605.
- 34 ~~(31)~~ "Pest" means as defined at G.S. 143-460(26a).
- 35 ~~(18)~~(32) "Potable Water" means water from ~~an approved source which is suitable for drinking.~~ a potable
36 water supply as defined at 15A NCAC 18C .0102(c)(18).

- 1 ~~(19)~~(33) "Potentially Hazardous Food" means any food or ingredient, natural or synthetic, in a form capable
2 of supporting the growth of infectious or toxigenic microorganisms, including Clostridium
3 botulinum. This term includes raw or heat-treated food of animal origin, raw seed sprouts, and heat-
4 treated foods of plant origin. The term does not include foods which have a pH level of 4.6 or below
5 or a water activity value of 0.85 or less.
- 6 (20) ~~"Putrescible Materials" means materials likely to rot or putrefy, such as fruit, vegetables, meats and~~
7 ~~dairy products.~~
- 8 (21) ~~"Sanitary Sewage System" means a complete system of sewage collection, treatment, and disposal~~
9 ~~and includes septic tank systems, connection to a public or community sewage system, sewage reuse~~
10 ~~or recycle systems, or mechanical or biological treatment systems.~~
- 11 (34) "Sanitize" means a process of using a sanitizing solution on inanimate surfaces to destroy or
12 irreversibly inactivate bacteria.
- 13 ~~(22)~~(35) "Sanitizing Solution" means a solution containing 50 to 200 parts per million (ppm) of chlorine or
14 a sanitizer as defined at 40 C.F.R. 158.2203 that is registered with the EPA in accordance with 40
15 C.F.R. 152 that is approved by the EPA for use on food contact surfaces, does not require a final
16 rinse step, and has a testing method that can be used by child care center employees to confirm that
17 the prescribed chemical concentrations are met. When a sanitizing solution is used in a child care
18 center, the manufacturer's Safety Data Sheet shall be kept on file at the child care center and the
19 instructions for use of the sanitizing solution shall be followed. When a chlorine solution is used in
20 a child care center it shall be prepared for use within 24 hours and a testing method or kit shall be
21 used to ensure compliance with the prescribed chlorine concentration. To achieve the maximum
22 germ reduction with a chlorine solution, the cleaned surfaces shall be left wet with the chlorine
23 solution and allowed to air dry or be dried only after a minimum contact time of at least two minutes.
24 ~~chlorine. A sanitizing solution can be made by mixing a tablespoon of liquid household chlorine~~
25 ~~bleach with one gallon of water and prepared fresh daily.~~
- 26 ~~(23)~~(36) "School Age" means a school-aged any child as defined at 10A NCAC 09 .0102(42), who is at least
27 five years old on or before October 16 of the current school year and who is attending, or has
28 attended, a public or private grade school or kindergarten; or any child who is not five years old and
29 will not be five years old on or before October 16 of that school year, but has been attending school
30 during that school year in another state in accordance with the laws or rules of that state before
31 moving to and becoming a resident of North Carolina; or any child who is at least five years old on
32 or before April 16 of the current school year, is determined by the principal of a school to be gifted
33 and mature enough to justify admission to the school and is enrolled no later than the end of the first
34 month of the school year.
- 35 (24)(37) "Single-Service Articles" means tableware, including flatware and hollowware, carry-out utensils
36 and other items such as bags, containers, stirrers, straws, toothpicks, and wrappers that are designed,
37 fabricated and intended by the manufacturer for one-time use.

1 ~~(25)~~(38) "Single-Use Articles" means bulk food containers and utensils intended by the manufacturer to be
2 used once and discarded. The term includes formed buckets, bread wrappers, pickle barrels, and No.
3 10 cans. The term does not include single-service articles as defined in this Rule.

4 ~~(26)~~(39) "Tempered Water" means water that is between 80°F ~~80~~ and 110°F. 110 degrees Fahrenheit.

5 ~~(27)~~(40) "~~Utensils~~" "Utensil" means any kitchenware, tableware, glassware, cutlery, containers or other
6 equipment that food or drink comes in contact with during storage, preparation or serving.

7 ~~(28)~~(41) "Work Surfaces" means ~~the following locations in the kitchen:~~ surfaces used for food service,
8 service areas; stove tops, top surfaces; food contact preparation surfaces; utensil and dishwashing
9 areas; sinks, surfaces used for air drying; drying, drain boards; boards, surfaces used for diaper
10 changing, and counter top surfaces. In child care rooms, work surfaces include food preparation
11 areas, diaper changing surfaces, counter top surfaces, and children children's work tables, desks
12 desks, and easels.

13
14 *History Note: Authority G.S. 110-91;*
15 *Eff. July 1, 1991;*
16 *Amended Eff. March 1, 1995;*
17 *Temporary Amendment Eff. April 15, 1998;*
18 *Amended Eff. July 1, 2006; January 1, 2006; April 1, 1999;*
19 *Readopted Eff. July 1, 2023.*

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2802

DEADLINE FOR RECEIPT: March 10, 2023

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:

Does the second sentence about changes to buildings (lines 7 to 9) apply to just non-chain centers or all centers? As written, it is ambiguous where plans for changes by a chain should be submitted.

Paragraph (b) references requirements of the rules of the entire section. It is unclear how construction and renovation plans could comply with many of these rules, such as food storage or handwashing. Rewrite to provide clarity about what is being reviewed under this rule.

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

Seth Ascher
Commission Counsel

Date submitted to agency: March 2, 2023

1 15A NCAC 18A .2802 is readopted with changes as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2802 APPROVAL OF CONSTRUCTION AND RENOVATION PLANS**

4 (a) ~~Construction Plans~~ Plans drawn to scale and specifications for a new child care ~~centers~~ center that is not a chain
5 or franchise child care center shall be submitted by the operator or the operator's designee to the local health
6 department that serves the county in which the child care center is located for review and approval prior to initiating
7 construction. Plans drawn to scale and specifications for changes to building dimensions, kitchen specifications, or
8 other modifications to existing child care centers shall also be submitted to the local health department for review and
9 approval prior to initiating construction. ~~Construction Plans~~ Plans drawn to scale and specifications for prototype
10 ~~"franchise" chain~~ chain or ~~franchise "chain"~~ franchise child care centers shall be submitted to ~~DENR,~~ DHHS, Division of
11 ~~Environmental Public Health, Environmental Health Services Section, Children's Environmental Health~~
12 ~~Branch,~~ by mail at 5605 Six Forks Road, 1632 Mail Service Center, Raleigh, North Carolina 27699-1632. When
13 requested by an operator of a child care center or by the Secretary of the Department, ~~Department of Health and~~
14 ~~Human Services,~~ the local health department shall visit or inspect an existing or proposed center, within 30 days of
15 the request, to determine compliance with this Section.

16 (b) ~~Review of the plans by the~~ The local health department or the DHHS, Division of Public Health, Environmental
17 ~~Health Services Section~~ Section, as applicable, shall approve plans described in Paragraph (a) of this Rule when the
18 plans meet ~~be based on~~ the requirements of the rules of this Section.

19 (c) Construction and modifications shall comply with the plans approved ~~plans,~~ pursuant to this Rule.

20
21 *History Note: Authority G.S. 110-91; 110-92;*
22 *Eff. July 1, 1991;*
23 *Temporary Amendment Eff. April 15, 1998;*
24 *Amended Eff. April 1, 1999;*
25 *Temporary Amendment Eff. December 1, 1999;*
26 *Amended Eff. January 1, 2006; April 1, ~~2001,~~ 2001;*
27 *Readopted Eff. July 1, 2023.*
28
29

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2803

DEADLINE FOR RECEIPT: March 10, 2023

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:

As written, (a)(3) requires handwashing between each bottle feeding if you are bottle feeding multiple children. By contrast (a)(4) would allow for hand washing once before serving multiple children. Is that the agency's intent?

The "This" on line 24 on paragraph (b) is vague. Consider something like "[~~This shall not apply~~] Hand antiseptic shall not be used in lieu of handwashing when the employee's".

In (e)(2) (page 2, line 2) it appears that the change from "15" to "20" was made post publication. This is "an effect that could not reasonably have been expected based on the proposed text of the rule" under G.S. 150B-21.2(g)(2). As a result, you will need to either use the published text or go back through publication, notice, and comment.

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

Seth Ascher
Commission Counsel

Date submitted to agency: March 2, 2023

1 15A NCAC 18A .2803 is readopted with changes as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2803 HANDWASHING**

4 (a) ~~Child Care operators shall instruct employees that handwashing is the single most important line of defense in~~
5 ~~preventing the transmission of disease causing organisms. Employees~~ care center employees shall wash their hands
6 upon reporting for work as follows when at work in a child care center:

- 7 (1) ~~upon reporting for work;~~ work at the child care center;
8 (2) before and after handling or preparing food;
9 (3) before bottle feeding ~~or serving to other children;~~ a child;
10 (4) before providing food service;
11 (5) before handling clean utensils; ~~or equipment;~~
12 (6) after toileting or handling of body fluids, ~~fluids (e.g., including but not limited to saliva, nasal~~
13 ~~secretions, vomitus, feces, urine, blood, secretions from sores, and pustulant discharge);~~ discharge;
14 (7) after diaper changing;
15 (8) after handling soiled items ~~such as garbage, mops, cloths and clothing;~~ that are not clean;
16 (9) after being outdoors;
17 (10) after handling animals or animal cages; and
18 (11) after removing disposable gloves.

19 (b) The use of a hand ~~sanitizing products~~ antiseptic does not replace the ~~requirement~~ requirements for ~~handwashing.~~
20 ~~handwashing in Paragraph (a). However, except for diapering, food preparation, and food service, hand sanitizing~~
21 ~~products may be used~~ that an employee who is supervising a child or children outdoors may use a hand antiseptic
22 while outdoors in lieu of handwashing. ~~handwashing while an employee is supervising children outdoors if provided~~
23 ~~that the employee's hands are washed in accordance with Paragraph (e) of this Rule upon returning when the employee~~
24 ~~returns indoors. This shall not apply when the employee's action that necessitates handwashing is diapering, food~~
25 ~~preparation, or food service.~~

26 (b)(c) ~~Children~~ Child care center employees shall ensure that children shall wash their hands as follows:

- 27 (1) upon arrival at the child care center;
28 (2) after each diaper change or visit to the toilet;
29 (3) before eating meals or snacks;
30 (4) before and after water play;
31 (5) after ~~outdoor activity~~ being outdoors; and
32 (6) after handling animals or animal cages.

33 (d) ~~Except for diapering and before eating meals or snacks, when the action that necessitates handwashing is diapering~~
34 ~~and before eating meals or snacks,~~ hand sanitizing products antiseptics may be used in lieu of handwashing while
35 ~~children are outdoors~~ a child is outdoors, if provided that the child's hands are washed upon returning when the child
36 returns indoors.

37 (e)(c) Handwashing procedures shall ~~include:~~ include the following steps:

- (1) using liquid soap and tempered water;
- (2) rubbing hands vigorously with soap and tempered water for ~~15~~ 20 seconds;
- (3) washing all surfaces of the hands, to include the backs of hands, palms, wrists, under ~~fingernails~~
fingernails, and between fingers;
- (4) rinsing the hands well under tempered water for ~~ten~~ 10 seconds;
- (5) drying the hands with a paper towel or other hand-drying device; and
- (6) turning off faucet with a paper towel or other method without recontaminating hands.

~~Note: Refer to Rule .2828 of this Section for history.~~

History Note: Authority G.S. 110-91;

Eff. July 1, 1991;

Amended Eff. February 1, 1995;

Temporary Amendment Eff. April 15, 1998;

Amended Eff. July 1, 2006; January 1, 2006; April 1, ~~1999~~ 1999;

Readopted Eff. July 1, 2023.

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2804

DEADLINE FOR RECEIPT: March 10, 2023

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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:

In paragraph (2), 02 NCAC 09G .2001, is an adoption by reference and does not set forth a grading system. The rule should point directly to the standard being referenced.

On p. 2, line 33, "~~but not including~~ other than".

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

1 15A NCAC 18A .2804 is readopted with changes as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2804 FOOD SUPPLIES**

4 (a) In child care centers, food shall be kept free from spoilage, filth, or other contamination and shall be safe for
5 human consumption. Potentially hazardous foods, including foods packaged in hermetically sealed containers, shall
6 be obtained only from sources that are permitted or inspected by a local health department, the North Carolina
7 Department of Agriculture and Consumer ~~Services~~ Services, or other government ~~regulatory~~ agency. The use of food
8 packaged in hermetically sealed containers that was not prepared in a commercial food processing establishment is
9 prohibited. Food prepared at home and sent ~~from home to a child care center~~ to be shared with other children shall be
10 limited to ~~non-potentially hazardous baked goods~~ goods that are not potentially hazardous foods.

11 (b) Milk products that are used shall be Grade "A" pasteurized fluid milk and fluid milk products or evaporated ~~milk~~.
12 milk as set forth at 02 NCAC 09G .2001. The term "milk products" means those products as defined in 15A NCAC
13 18A .1200. Copies of 15A NCAC 18A .1200 may be obtained from the Environmental Health Services Section,
14 Division of Environmental Health. Unless prescribed by a ~~physician~~ health care provider, dry milk and dry milk
15 products shall be used only for cooking purposes, including cooked pudding desserts and flavored hot beverages.

16 (c) Steamed and uncooked shellfish, raw eggs, and products containing raw eggs including raw cookie dough, cake
17 batter, brownie mix, ~~milkshakes~~ milkshakes, and ice cream shall not be consumed by children. A This requirement
18 shall not apply when a pasteurized egg product is ~~may be~~ used as a substitute for raw eggs.

19 (d) ~~Breast~~ All human ~~[Human]~~ milk, formula, and other bottled beverages, including beverages in sippy cups, that
20 are sent from home shall be fully prepared, prepared dated, and labeled with the date received at the child care center
21 and the name of identified for the appropriate child to whom the milk, formula, or beverage belongs before being
22 brought to the child care center. at the child's home. All ~~breast~~ human milk, formula, and other bottled beverages shall
23 ~~be returned to the child's sent home with the child whose name is on the label~~ or discarded at the end of each day.
24 ~~Frozen breast milk shall be stored frozen for up to seven days. Frozen breast milk shall be labeled with the date~~
25 ~~received and date thawed for use. Previously frozen breast milk shall be refrigerated and may be stored for no more~~
26 ~~than 24 hours. Microwaves shall not be used to thaw or warm breast milk, baby food, formula or other bottled~~
27 ~~beverages. Bottle warming equipment shall be inaccessible to children when in use and shall be emptied, cleaned and~~
28 ~~sanitized daily. Previously frozen breast milk shall not be refrozen for storage. Formula provided by the child care~~
29 ~~center shall be commercially pre packaged, ready to feed, fully prepared, and packaged in single use containers.~~
30 ~~However, breast milk or formula that does not meet these requirements may be provided by the child care center as~~
31 ~~prescribed by the child's physician or instructed by parent or guardian in writing. Bottles and other drinking utensils~~
32 ~~provided by the child care center shall be sanitized in accordance with this Section. Formula and other beverages~~
33 ~~which that require refrigeration, baby food after opening, that has been opened, and breast human milk shall be~~
34 ~~identified for the appropriate labeled with the name of the child to whom the beverage, baby food, or milk belongs~~
35 ~~and shall be refrigerated at 45°F (7°C) 45 degrees Fahrenheit or below. Upon opening, jars of baby food shall be~~
36 ~~covered, dated, refrigerated, and used within two days. Baby food may be served directly from the jar to one child if~~
37 ~~unused portions of the food are discarded after each feeding; otherwise, commercially prepared baby foods shall be~~

1 served from a serving dish rather than the food jar. After the completion of each feeding, leftover formula, breast milk,
2 and other bottled beverages shall be discarded or returned to the child's home at the end of each day.

3 (e) Frozen human milk may be stored frozen for three months. Any frozen human milk stored beyond seven days
4 shall be stored in the freezer compartment of a full-size refrigerator that has a separate door to the freezer, in a chest
5 freezer, or in an upright deep freezer. Frozen human milk shall be thawed in accordance with Paragraph (i)(1) or (i)(2)
6 of Rule .2807 of this Section and prepared in the child care center's kitchen or food preparation area. In addition to the
7 labeling required by Paragraph (d) of this Rule, frozen ~~Frozen~~ human milk shall be labeled with ~~the date received~~
8 ~~at the child care center and~~ the date that it is thawed for use. Human milk that was previously frozen and has been
9 thawed shall be refrigerated and stored for no more than 24 hours from when it was thawed. Human milk that was
10 previously frozen and has been thawed shall not be refrozen for storage at the child care center.

11 (f) Formula provided by the child care center shall be commercial ready-to-feed formula that is pre-packaged in
12 single-use containers. Formula that does not meet these requirements and human milk may be provided to a child by
13 child care center employees as prescribed by the child's health care provider or as instructed, in writing, by the child's
14 parent or guardian. Bottles and other drinking utensils provided by the child care center shall be sanitized in accordance
15 with this Section.

16 (g) After opening, jars of baby food shall be covered, labeled with the date on which they were opened, refrigerated
17 and used within two days of opening, provided that the baby food is not served directly from the jar. Baby food may
18 be served directly from the jar to one child if unused portions of the food are discarded after each feeding; otherwise,
19 commercially prepared baby foods shall be served from a serving dish rather than the food jar.

20 (h) After the completion of each feeding, any leftover formula, human milk, or other bottled beverages used during
21 the feeding shall be discarded or sent home with the child whose name is on the label for the formula, human milk, or
22 bottled beverage at the end of each day. Feeding is complete when the child care center employee has stopped feeding
23 the child and the child has been removed from the feeding area in the child care center and returned to other activities.
24 Bottles previously used for feeding shall not be returned to communal mechanical refrigeration. Nothing in these
25 Rules shall prohibit human milk from being sent home at the end of the day with the child whose name is on the label
26 for the human milk instead of being discarded when the child's parent or guardian has given the child care center
27 written permission to send the human milk home.

28 (i) A water bottle that a child brings to the child care center from home and that is used only for water consumption
29 by that child shall be exempt from the requirements of Paragraph (h) of this Rule. Instead, the water bottle shall be
30 labeled with the name of the child to whom the water bottle belongs, individually stored in the child's cubby, and sent
31 home with the child at the end of the day.

32 ~~(e)(j)~~ Child care centers ~~receiving that receive and provide children with~~ prepared meals or snacks from ~~outside~~
33 sources ~~outside the child care centers, but not including meals or snacks sent from home,~~ shall use meals and snacks
34 obtained from food ~~handling~~ establishments ~~that are~~ permitted by a local health department, organizations that only
35 serve prepared meals to child care centers, or another child care center inspected by a local health department. Child
36 care centers may also receive ~~and provide children with~~ prepared meals from organizations not licensed as child care
37 centers only when these organizations are providing prepared meals to licensed child care ~~centers and are centers.~~

1 ~~These organizations shall be inspected as child care centers by the local health department~~ in the county where the
2 meal is ~~prepared~~ prepared in accordance with G.S. 110-91(1). The inspection of these organizations shall be made by
3 the local health department at the same time the inspection of the licensed child care center receiving these prepared
4 meals is done. The inspection report of the organization providing these meals shall be a part of the inspection of the
5 licensed child care center receiving the prepared meals, unless the organization is a permitted food handling
6 establishment. ~~During transportation, Food food~~ shall be transported to the child care center that is receiving the
7 prepared meals in a manner that meet meets the requirements of the Rules of this Section relating to hazards, food
8 protection protection, and storage.

9 ~~(f)(k) Lunches~~ Lunches, snacks, and other meals that a child brings brought from home to the child care center shall
10 be labeled with the date on which the food is brought to the child care center and the name of the ~~dated and identified~~
11 ~~for the appropriate child to whom the food belongs~~ at the child's home and shall be returned to the child's home or
12 discarded at the end of each day. ~~Meals~~ Lunches, snacks, and other meals containing potentially hazardous foods shall
13 be refrigerated at ~~45°F (7°C)~~ 45 degrees Fahrenheit or below. below and stored in the child care center kitchen or
14 approved food preparation area. Hot foods that a child brings from home to the child care center in double-walled,
15 insulated thermos containers may be stored outside of refrigeration at the child care center with the written permission
16 of the child's parent or guardian.

17 ~~(g)(l)~~ Nothing in the Rules of this Section shall prohibit the use of fresh ~~garden~~ fruits and vegetables, including those
18 grown at the child care center, so long as ~~they~~ the fruits and vegetables meet the requirements of the rules of this
19 Section and are washed before being served.

20
21 *History Note: Authority G.S. 110-91;*

22 *Eff. July 1, 1991;*

23 *Amended Eff. February 1, 1995; January 1, 1992;*

24 *Temporary Amendment Eff. April 15, 1998;*

25 *Amended Eff. July 1, 2006; January 1, 2006; April 1, 1999. 1999;*

26 *Readopted Eff. July 1, 2023.*
27
28

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 17A .2806

DEADLINE FOR RECEIPT: March 10, 2023

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:

In paragraph (l) (page 3), as written the center is not required to act on the food safety information provided by the local health department. Is that intentional? Or does the agency mean to require the center to follow the recommendations of the health department?

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

1 15A NCAC 18A .2806 is readopted with changes as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2806 FOOD STORAGE AND PROTECTION**

4 (a) ~~In child care centers, Once pre-packaged food has been opened, the food shall be stored in approved, clean, tightly~~
5 ~~covered, storage resealable bags or containers made of plastic or glass that are tightly covered and manufactured for~~
6 ~~the purpose of food storage. once the original package is opened. Approved containers include resealable bags and~~
7 ~~other containers made of plastic or glass. Reusable containers that come in direct contact with food must be easy to~~
8 ~~clean, in good repair and intended for food storage.~~

9 (b) Food ~~items, that are~~ is stored in child care center classrooms or other rooms intended for child care use, shall be
10 limited to ~~those food items which~~ foods that are individually packaged unless the classroom is equipped with a food
11 preparation area. ~~Provisions shall be made to store and protect these food items from all potential sources of~~
12 ~~contamination and other nonfood items stored in the classroom.~~

13 (c) Notwithstanding Paragraph (b) of this Rule, bulk dry goods or food stored in freezers may be stored in rooms in
14 [a] child care centers that are not equipped with a food preparation area when all food preparation involving the bulk
15 dry goods or frozen food is done in the kitchen or an approved food preparation area.

16 (d) Bulk food stored in a refrigerator shall be stored at 45 degrees Fahrenheit or below and stored in the child care
17 center's kitchen or in an approved food preparation area equipped with a full-size refrigerator. Specialty bulk milk that
18 is sent from home for consumption by a child while at the child care center may be stored as set forth in this Paragraph
19 when the child's parent or guardian provides written permission and the specialty bulk milk is sent to the child care
20 center at the beginning of each week unopened, labeled with the date received by the child care center, and labeled
21 with the name of the child to whom the bulk specialty milk belongs. [When bulk specialty milk packaging is opened,
22 any] Any remaining bulk specialty milk shall be sent home at the end of the week with the child to whom the bulk
23 specialty milk belongs.

24 ~~(e)(c)~~ Dry ~~foods~~ goods that are not readily identifiable and are stored in containers shall be labeled.

25 ~~(d) Food shall be stored above the floor in a manner that protects the food from splash and other contamination and~~
26 ~~that permits easy cleaning of the storage area.~~

27 ~~(e)(f)~~ Food and containers of food shall not be stored under exposed sewer lines. Food shall not be stored in toilet or
28 laundry ~~rooms. Child~~ rooms, except that child care centers licensed for fewer than 13 children and located in a
29 residence may store food in laundry rooms if the food is stored and protected as required in Paragraph ~~(f)(g)~~ of this
30 Rule.

31 ~~(f)(g)~~ ~~All food~~ Food shall be stored above the floor and in a manner to protect it from dust, ~~rodents, insects, pests,~~
32 ~~drip, splash splash,~~ and other contamination.

33 (h) Raw meats, poultry, fish, shellfish and eggs shall be stored in a refrigerator or freezer on shelving beneath and
34 separate from other foods. The temperature of potentially hazardous food provided by the child care center for
35 consumption by children shall be 45°F (7°C) 45 degrees Fahrenheit or below, or 140°F (60°C) at 135 degrees
36 Fahrenheit or above at all times, including field trips, catering events, and outdoor service, except during ~~necessary~~

periods of preparation and service immediately prior to consumption, ~~service, and as otherwise provided in the Rules of this Section.~~

(g)(i) ~~Packaged~~ Scaled, commercially pre-packaged food such as milk or other fluid containers may be stored in undrained ice as long as ~~the food is any individual units~~ are not fully submerged in ice or water. Wrapped sandwiches and other foods shall not be stored in direct contact with ice.

~~(h)(j)~~ Refrigerated storage: (a) The following shall apply to refrigerated storage of food:

(1) Refrigeration equipment shall be provided in such number and of such capacity to ~~assure~~ ensure the maintenance of potentially hazardous food at the required temperatures during storage. Each refrigerator shall be provided with a numerically scaled indicating ~~thermometer~~, thermometer that is accurate to $\pm 3^{\circ}\text{F}$ ($\pm 1.5^{\circ}\text{C}$) ± 3 degrees Fahrenheit and located to measure the air temperature in the warmest part of the ~~refrigerator~~, ~~refrigerator and located to be easily readable~~. Recording ~~thermometers~~, thermometers that are accurate to $\pm 3^{\circ}\text{F}$ ($\pm 1.5^{\circ}\text{C}$), ± 3 degrees Fahrenheit may be used in lieu of indicating thermometers.

(2) Potentially hazardous food requiring refrigeration after preparation shall be cooled to an internal temperature of ~~45°F (7°C)~~, 45 degrees Fahrenheit or below. Cooling of potentially hazardous foods shall be initiated upon completion of the food preparation or hot storage. Methods such as pouring into pans, agitation, and chilling with ice or water circulation external to the food containers shall be used to cool potentially hazardous food. Potentially hazardous food ~~to that will~~ be transported cold shall be prechilled and held at a temperature of ~~45°F (7°C)~~, 45 degrees Fahrenheit or below.

(3) Ice used for cooling stored food and food containers shall not be used for human consumption.

~~(i)(k)~~ The following shall apply to the hot storage of food: ~~Hot storage:~~

(1) Hot food storage equipment shall be provided in sufficient number and capacity to ~~assure~~ ensure the maintenance of food at the required temperature during storage. Each hot food unit shall be provided with a numerically scaled indicating ~~thermometer~~, thermometer that is accurate to $\pm 3^{\circ}\text{F}$ ($\pm 1.5^{\circ}\text{C}$) ± 3 degrees Fahrenheit and located to measure the air temperature in the coolest part of the ~~unit~~, ~~unit and located to be easily readable~~. Recording ~~thermometer~~, thermometers that are accurate to $\pm 3^{\circ}\text{F}$ ($\pm 1.5^{\circ}\text{C}$) ± 3 degrees Fahrenheit may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment such as steam tables, steam kettles, heat lamps, cal-rod units, or insulated food transport carriers, a metal ~~stem-type~~ stem-type, thin probe, numerically scaled indicating product thermometer that is accurate to ± 3 degrees Fahrenheit shall be ~~available and~~ used to check internal food temperature.

(2) The internal temperature of potentially hazardous foods requiring hot storage shall be ~~140°F (60°C)~~ 135 degrees Fahrenheit or above except during ~~necessary~~ periods of preparation and service. Potentially hazardous food ~~to that will~~ be transported hot shall be held at a temperature of ~~140°F (60°C)~~ 135 degrees Fahrenheit or ~~above~~, above during transportation.

~~(j)(l)~~ In the event of a fire, flood, water supply interruption, power outage, or ~~similar other~~ event that ~~might result~~ results in the contamination of food, or that might prevent potentially hazardous food from being held at required

1 temperatures, the person in charge shall either discard the food in question or contact the local health department
2 ~~department.~~ for information on food safety.

3
4 *History Note: Authority G.S. 110-91;*
5 *Eff. July 1, 1991.*
6 *Amended Eff. February 1, 1995;*
7 *Temporary Amendment Eff. December 1, 1999;*
8 *Amended Eff. July 1, 2006; January 1, 2006; April 1, ~~2001~~, 2001;*
9 *Readopted Eff. July 1, 2023.*

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2807

DEADLINE FOR RECEIPT: March 10, 2023

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:

Is "hair restraint" (line 6) defined somewhere? Does this mean hair ties? Hair nets? Hats? Or something else?

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

1 15A NCAC 18A .2807 is readopted as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2807 FOOD PREPARATION**

4 (a) In child care centers, the preparation of food shall take place only in the ~~approved facilities~~ kitchen or space
5 equipped as required in Rule .2810 of this Section.

6 (b) Employees engaged in food preparation in the kitchen shall wear clean clothes and hair restraints and shall keep
7 their fingernails trimmed. Hair spray is not a hair restraint for the purpose of this Rule. Employees engaged in food
8 preparation who are wearing nail polish or artificial nails on their fingers shall wear intact gloves during food
9 preparation.

10 ~~(b)(c)~~ Food shall be prepared ~~with the least possible manual contact,~~ using with utensils, deli paper, or disposable
11 gloves to prevent exposed, ready-to-eat-food from coming into direct contact with an employee's bare hands or
12 exposed skin. Food shall be prepared and on food contact surfaces that have been cleaned, rinsed, and sanitized prior
13 to use. use in order to prevent cross contamination. Food contact surfaces and utensils that are exposed to bacterial,
14 viral, fungal, or hazard contaminants during use shall be made clean, free from hazards, and sanitized before continued
15 use.

16 ~~(c) Food contact surfaces and utensils shall be cleaned and sanitized after preparing raw foods, prior to preparing~~
17 ~~ready to eat foods and after any interruption of operations in which contamination may have occurred.~~

18 (d) Raw fruits and raw vegetables shall be washed with potable water before being cooked or served.

19 (e) Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at
20 least ~~140°F (60°C), 145 degrees Fahrenheit,~~ except that:

21 (1) poultry, poultry stuffings, stuffed meats and stuffings containing meat shall be cooked to heat all
22 parts of the food to at least ~~165°F (74°C)~~ 165 degrees Fahrenheit with no interruption of the cooking
23 process;

24 (2) ~~pork and any food containing pork shall be cooked to heat all parts of the food to at least 150°F~~
25 ~~(66°C) with no interruption in the cooking process;~~

26 ~~(3)(2)~~ ground beef, beef and foods containing other ground or comminuted meat or fish, and eggs pooled
27 and cooked for hot storage ~~beef~~ shall be cooked to an internal temperature of at least ~~155°F (68°C)~~
28 155 degrees Fahrenheit with no interruption in the cooking process; and

29 ~~(4)(3)~~ roast beef shall be cooked to an internal temperature of at least ~~130°F (54°C)~~ 130 degrees Fahrenheit
30 with no interruption in the cooking process.

31 (f) Potentially hazardous foods ~~that requiring~~ require cooking prior to consumption and cooked in a microwave oven
32 shall be ~~rotated during cooking to compensate for uneven heat distribution and shall be heated to~~ an internal
33 temperature of at least 165 degrees Fahrenheit, additional 25°F (13.9°C) to compensate for shorter cooking times.

34 (g) Potentially hazardous foods that have been cooked and then refrigerated, if served above ~~45°F (7°C), 45 degrees~~
35 Fahrenheit, shall be reheated to an internal temperature of ~~165°F (74°C)~~ 165 degrees Fahrenheit or higher before being
36 served or before being placed in a hot food storage unit except ~~that, that commercially packaged~~ food in intact packages
37 may initially be reheated to ~~140°F (60°C), 135 degrees Fahrenheit, Steam tables, warmers, and similar hot food~~

~~holding units are prohibited~~ Hot storage equipment shall not be used for reheating of potentially hazardous foods. Potentially hazardous foods reheated in a microwave oven shall be heated to an internal temperature of at least 165 degrees Fahrenheit, additional 25°F (13.9°C).

(h) Metal ~~stem-type~~ stem-type, thin probe, numerically scaled indicating product thermometers, accurate to ± 3 degrees Fahrenheit 2°F (1°C), shall be ~~provided and~~ used to ~~assure~~ ensure the ~~attainment and~~ maintenance of ~~proper~~ the internal cooking cooking, holding, or refrigeration temperatures of all potentially hazardous ~~foods.~~ foods required under this Rule.

(i) Potentially hazardous foods that are frozen shall be ~~thawed:~~ thawed using one of the following methods:

(1) in refrigerated units at a temperature not to exceed ~~45°F (7°C);~~ 45 degrees Fahrenheit;

(2) submerged under potable water of a temperature of ~~70°F (21°C)~~ 70 degrees Fahrenheit or below, with sufficient water velocity to agitate and float off loose food particles into the overflow;

(3) in a microwave oven only when the food will be immediately transferred to conventional cooking equipment as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or

(4) as part of the ~~conventional~~ uninterrupted cooking process.

History Note: Authority G.S. 110-91;

Eff. July 1, 1991;

Amended Eff. January 1, 2006; February 1, 1995; October 1, ~~1993.~~ 1993;

Readopted Eff. July 1, 2023.

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2808

DEADLINE FOR RECEIPT: March 10, 2023

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:

What is an "air gap" (line 15)? Is it defined somewhere?

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

Seth Ascher
Commission Counsel

Date submitted to agency: March 2, 2023

1 15A NCAC 18A .2808 is readopted as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2808 FOOD SERVICE**

4 (a) In child care centers, milk and milk products used for drinking purposes shall be stored in the original
5 commercially filled ~~container.~~ container until the milk or milk product is served for drinking. Unused milk and milk
6 products that are transferred from the original commercially filled container into a separate container, such as a pitcher,
7 for serving shall be discarded and shall not be put back into the original commercial filled container or stored in the
8 container that was used for serving. Serving containers may be used for food service provided the unused milk is
9 discarded.

10 (b) Ice shall be ~~made, handled, transported, stored and dispensed in such a manner as to be~~ protected against physical,
11 chemical, and biological ~~contamination.~~ contamination and shall be kept clean. Ice shall be dispensed with scoops,
12 tongs, or other ice-dispensing utensils or through automatic ice-dispensing equipment. Ice-dispensing utensils shall
13 be stored on a clean surface or in the ice with the dispensing utensil's handle extended out of the ice. Between uses,
14 ice transfer receptacles shall be ~~stored to protect them from dust, drip, splash and other contamination.~~ kept clean. Ice
15 storage bins shall be drained through an air gap.

16 (c) ~~Employees preparing or serving food shall wash their hands in accordance with the procedures in Rule .2803(e)~~
17 ~~of this Section. Employees shall either use antibacterial soap, dips, or hand sanitizers immediately prior to food~~
18 ~~preparation or service or use clean, disposable gloves during food preparation or service. Employees engaged in food~~
19 ~~preparation in the kitchen shall wear effective hair restraints, keep their fingernails trimmed, clean and shall not wear~~
20 ~~fingernail polish or artificial fingernails unless wearing intact gloves. Hair spray is not an effective hair restraint.~~

21 (d) ~~Once served, portions of Food that is~~ leftover after serving food shall not be served again unless the original
22 package is intact unopened and the food is not a potentially ~~hazardous.~~ hazardous food. ~~Foods, including milk, placed~~
23 Foods that have been placed on the table for family style or self-serve food service are considered served.

24 (e)(d) Between uses during service, ~~dispensing~~ utensils that are used to serve food shall be stored in the food with the
25 ~~dispensing~~ utensil handle extended out of the food, in a container of water if the water is maintained at a temperature
26 of at least 140°F (60°C), 135 degrees Fahrenheit, or stored clean and dry.

27 (f)(e) ~~Children attending child care centers~~ shall not be in the kitchen except when participating in a supervised
28 activity.

29 (g)(f) Nothing in this Section shall be construed as prohibiting family style or self-serve food service at child care
30 centers ~~so long as provided that supervision of the children are supervised by child care center employees for the~~
31 duration of the meal. is maintained throughout each meal except that Notwithstanding the foregoing sentence, family
32 style or self-serve food service shall be prohibited during the outbreak and investigation of a communicable diseases
33 disease or condition at the child care center.

34
35 *History Note: Authority G.S. 110-91;*

36 *Eff. July 1, 1991;*

37 *Amended Eff January 1, 2006; April 1, 1999; February 1, 1995. 1995;*

1 Readopted Eff. July 1, 2023.
2

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2809

DEADLINE FOR RECEIPT: March 10, 2023

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:

In item (2), you have “non-absorbent” on line 11 and “nonabsorbent” on line 14.

What is the last sentence (lines 14 and 15) doing? Is this an exception to the prior rule? Or an additional limitation? Please clarify.

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

1 15A NCAC 18A .2809 is readopted as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2809 FOOD SERVICE EQUIPMENT AND UTENSILS**

4 In child care centers, ~~material and construction~~ material, construction, and use of food service equipment and utensils
5 shall meet the following requirements:

- 6 (1) ~~Materials used in the construction of utensils and equipment~~ Utensils shall be ~~durable;~~
7 ~~corrosion resistant; made of nonabsorbent; non-toxic; nonabsorbent material that is free from~~
8 ~~hazards,~~ finished to have a smooth ~~smooth, easily cleanable surface; and resistant to pitting,~~
9 ~~chipping, cracking, scratching, distortion, and decomposition.~~ surface, and shall be kept clean and
10 in good repair.
- 11 (2) ~~Food contact~~ Food contact surfaces shall be ~~smooth; smooth, non-absorbent, free of breaks, open~~
12 ~~seams, cracks, chips, pits and other imperfections; free of sharp internal angles, corners and crevices;~~
13 ~~and accessible for cleaning and inspection without being disassembled or by easy disassembly.~~
14 corners, and kept clean and in good repair. Hard maple or a nonabsorbent wood may be used for
15 cutting boards, cutting blocks, or bakers' tables.
- 16 (3) ~~Nonfood contact~~ Other surfaces that do not come into contact with food shall be made of
17 nonabsorbent material with no obstructions to cleaning, and shall be kept clean and in good repair.
- 18 (4) ~~Solder shall be comprised of approved, non-toxic, corrosion resistant materials.~~
- 19 (5) ~~Wood and wicker shall not be used as food contact surfaces, except hard maple or an equivalent~~
20 ~~nonabsorbent wood may be used for cutting boards, cutting blocks or bakers' tables.~~
- 21 (6)(4) ~~Galvanized metal shall not be used for utensils, food contact utensils, or food contact equipment.~~
22 surfaces, or cooking equipment that comes into contact with food.
- 23 (7)(5) ~~Linens shall not be used as food contact~~ food contact surfaces, except that clean linen may be used
24 in contact with bread and rolls.
- 25 (8)(6) ~~Single-use and single-service articles shall be kept clean.~~
- 26 (9)(7) ~~Reuse of single-service articles is prohibited.~~
- 27 (10)(8) ~~Single-use articles such as formed buckets, bread wrappers, aluminum pie plates and cans shall be~~
28 ~~used only once once,~~ except that containers made of plastic, glass or other material intended for food
29 storage, with smooth sides ~~and constructed to be easily cleaned~~ may be reused.
- 30 (11) ~~Equipment and utensils that impart odors, color or taste, or contribute to the contamination of food~~
31 ~~shall not be used.~~
- 32 (12) ~~Product thermometers and thermometer probes shall be of metal stem type construction.~~
- 33 (13)(9) ~~Water filters or any other water conditioning devices shall be cleaned~~ kept clean and in good repair
34 and shall be maintained in accordance with the manufacturer's instructions.
- 35 (14)(10) ~~Filters and other grease extracting equipment shall be cleaned~~ kept clean and in good repair and
36 shall be maintained in accordance with the manufacturer's ~~specifications.~~ instructions.
- 37

1 *History Note:* *Authority G.S. 110-91;*
2 *Eff. July 1, 1991;*
3 *Amended Eff. January 1, 2006; February 1, 1995.*
4 *Readopted Eff. July 1, 2023.*

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2810

DEADLINE FOR RECEIPT: March 10, 2023

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:

Is the meaning of lines 10 through 16 that centers with two-compartment sinks cannot use multi-service articles other than highchair feeding trays?

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

Seth Ascher
Commission Counsel

Date submitted to agency: March 2, 2023

1 15A NCAC 18A .2810 is readopted with changes as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2810 SPECIFICATIONS FOR KITCHENS, FOOD PREPARATION AREAS AND**
4 **FOOD SERVICE AREAS**

5 (a) Each child care center shall have at least a two-compartment sink, drainboards or countertop space of adequate
6 size, adequate refrigeration equipment and, when needed, adequate cooking equipment, except that this requirement
7 shall not apply to ~~for~~ child care centers located in a school that receives ~~all~~ food supplies that are pre-prepared ~~prepared~~
8 and ready to serve from a food service establishment permitted by a local health department, which is located at the
9 same school campus and provides food during all hours of the child care center's operation. ~~Domestic or commercial~~
10 ~~kitchen equipment may be used.~~ Child care centers shall be permitted to use domestic kitchen equipment. When a
11 child care center is equipped solely with a two-compartment sink, only multi-use articles may be washed using the
12 two-compartment sink. Child care centers using multi-service articles other than highchair feeding trays shall be
13 equipped with either:

14 (1) ~~also provide a dishwasher. In lieu of a dishwasher and two-compartment sink, sink, or~~

15 (2) a three-compartment sink of sufficient size and depth to submerge, wash, rinse and sanitize utensils.
16 ~~utensils may be used.~~

17 (b) A separate lavatory for handwashing is required in food preparation ~~areas.~~ areas and kitchens. If the dishwashing
18 area is separate from the food preparation area, an additional handwashing lavatory shall ~~be required.~~ required in the
19 dishwashing area.

20 (c) A separate food preparation sink with drainboards or countertop space of adequate size shall be required when a
21 ~~plan~~ review of construction plans, modifications, or change in child care procedures indicates that separate facilities
22 are needed based on volume and preparation frequency.

23 (d) Except in child care centers licensed for fewer than 13 children and located in a residence, when ~~When~~ domestic
24 refrigeration equipment is used ~~used, except in child care centers licensed for fewer than 13 children and located in a~~
25 ~~residence,~~ the following ~~provisions~~ shall apply:

26 (1) except for thawing ~~under refrigerated conditions, in a refrigerator,~~ potentially hazardous foods shall
27 not be prepared prior to the day that such foods are to be served;

28 (2) potentially hazardous foods that have been heated shall not be reheated or placed in refrigeration to
29 be used in whole or in part on another day; and

30 (3) salads containing potentially hazardous food shall not be prepared on site. Prohibited salads include
31 chicken, egg, tuna, crab, and other salads containing meat.

32 (e) A commercial hood shall be installed in accordance with G.S. 110-91 when frying is used for food preparation
33 on-site at the child care center. ~~on-site. The hood shall be installed in accordance with the North Carolina Building~~
34 ~~Code and approved by the local building code enforcement agent.~~

35 (f) If food is prepared in a child care center classroom, then the classroom shall be equipped with a food preparation
36 area. ~~area shall be provided.~~ Water from a handwash lavatory shall not be used for bottle warming or to prepare
37 formula, mix dry cereals, or other foods. Toy cleaning and sanitizing may ~~also~~ be conducted in this the food preparation

1 area. This food preparation area shall contain ~~a an easily cleanable~~ countertop that is kept clean and in good repair,
2 ~~and a lavatory~~ handwash lavatory, ~~and and, when needed, adequate refrigeration.~~ refrigeration when items are stored
3 that require refrigeration in accordance with Rules .2804 and .2806 of this Section. The food preparation counters,
4 ~~bottle warming equipment if used, food food,~~ and food contact surfaces shall be out of reach of children and the
5 following shall ~~apply:~~ apply to food preparation counters, food, food contact surfaces, and equipment used in food
6 preparation:

- 7 (1) all equipment shall be ~~cleaned at least daily.~~ kept clean. Bottle warming ~~Warming~~ equipment shall
8 be cleaned and sanitized as required in Rule .2812 of this ~~Section;~~ Section and the manufacturer's
9 instructions;
- 10 (2) if bottles are warmed, bottles shall be warmed in the child care center's kitchen or food preparation
11 area. Bottle warming equipment shall be kept out of reach of children. Microwaves and slow cookers
12 shall not be used to thaw or warm human milk, baby food, formula, or other bottled beverages meant
13 for consumption by children. Bottles shall be warmed by placing bottles under running potable water
14 or in containers of potable water or by using bottle warming equipment that is used in accordance
15 with the manufacturer's instructions. Temperature restrictions listed in Rule .2815(e) do not apply
16 to equipment manufactured specifically for bottle warming. If other bottle warming methods are
17 used in food preparation areas, compliance with temperature restrictions listed in Rule .2815(e) is
18 required; and
- 19 (2)(3) after each use, ~~all~~ multi-service articles provided by the child care center shall be cleaned and
20 sanitized in the child care center ~~kitchen;~~ kitchen.
- 21 (3) ~~single service articles shall be handled as required in Rule .2814 of this Section; and~~
- 22 (4) ~~counter, shelf or cabinet space shall be provided for food storage. Food supplies shall be stored in~~
23 ~~accordance with Rule .2806 of this Section.~~

24
25 *History Note: Authority G.S. 110-91;*
26 *Eff. July 1, 1991;*
27 *Amended Eff. March 1, 1995;*
28 *Temporary Amendment Eff. April 15, 1998;*
29 *Amended Eff. April 1, 1999;*
30 *Temporary Amendment Eff. December 1, 1999;*
31 *Amended Eff. July 1, 2006; January 1, 2006; April 1, 2001.*
32 *Readopted Eff. July 1, 2023.*
33

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2812

DEADLINE FOR RECEIPT: March 10, 2023

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:

Should (b)(2) (line 21) come first in the list in subparagraph b? Flushing or soaking equipment, (b)(1), seems like it would use the sink.

In (b)(5)(E), by what standard is “equally as or more effective than” (page 2, line 4) to be measured? How would someone know if a product or procedure qualified?

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

1 15A NCAC 18A .2812 is readopted as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2812 CLEANING AND SANITIZING EQUIPMENT AND UTENSILS**

4 (a) Each child care center shall be equipped with adequate drainboards or countertop space for handling used utensils
5 and air drying clean and sanitized utensils. ~~In child care centers, drainboards or countertop space of adequate size shall~~
6 ~~be provided for handling of soiled utensils prior to washing and cleaned utensils following sanitizing.~~ For child care
7 centers originally licensed on or after April 15, 1998, drainboards or countertop space shall be no less than 8 square
8 feet. A domestic dishwasher may be used to provide the equivalent of 4 square feet of drainboard ~~space.~~ space and
9 ~~other designated areas not contiguous with the sink may be utilized to meet drainboard or countertop space~~
10 ~~requirements.~~ Drainboards or countertop space designated for clean equipment and utensils shall be on the opposite
11 end of the sink from drainboards or countertop space designated for ~~soiled~~ equipment and utensils ~~that are not clean,~~
12 unless these areas are otherwise separated and protected from ~~cross contamination.~~ cross-contamination. Child care
13 ~~centers originally licensed before April 15, 1998 shall comply with this Paragraph upon~~ Upon change of ownership,
14 ~~or the closing of the operation child care center and the issuance of a new license, or the remodeling of an existing~~
15 ~~kitchen in kitchen, a child care center. center shall also comply with this Paragraph.~~

16 (b) Except for fixed equipment and utensils too large to be cleaned in sink compartments, equipment and utensils that
17 are cleaned manually instead of in a dishwasher shall be washed, rinsed, and sanitized ~~manual washing, rinsing, and~~
18 ~~sanitizing shall be conducted in the following sequence:~~ as follows, in the order of the steps presented herein:

- 19 (1) ~~when necessary,~~ equipment and utensils shall be scraped, ~~flushed,~~ flushed with water, or soaked
20 with water to remove food particles;
- 21 (2) sinks shall be cleaned and sanitized prior to use;
- 22 (3) equipment and utensils shall be washed in the first compartment of the sink with a hot detergent
23 solution that is changed once visibly soiled;
- 24 (4) equipment and utensils shall be rinsed free of detergent solution ~~and abrasives~~ with clean water in
25 the second ~~compartment;~~ compartment of the sink; and
- 26 (5) the food-contact surfaces of equipment and utensils shall be sanitized in the third compartment of
27 the sink in the following manner:
 - 28 (A) immersion for at least one minute in clean, hot water at a temperature of at least ~~170°F~~
29 ~~(77°C)~~ 170 degrees Fahrenheit; ~~in dish baskets of such size and design to permit complete~~
30 ~~immersion of the tableware, kitchenware and equipment in the hot water;~~
 - 31 (B) immersion for at least two minutes in a ~~clean~~ solution containing 50 to 200 parts per million
32 (ppm) of chlorine at a temperature of at least ~~75°F (24°C);~~ 75 degrees Fahrenheit;
 - 33 (C) immersion for at least two minutes in a ~~clean~~ solution containing at least 12.5 ppm of iodine
34 and having a pH not higher than 5.0 and at a temperature of at least ~~75°F (24°C);~~ 75 degrees
35 Fahrenheit;
 - 36 (D) immersion for at least two minutes in a ~~clean~~ solution containing 200 to 400 ppm of
37 quaternary ammonium products and having a temperature of at least ~~75°F (24°C);~~ 75

degrees Fahrenheit, provided that the quaternary ammonium product is labeled to show label indicates that it is effective in water having that has a hardness value at least equal to that of the water being used; or

- (E) other sanitizing products, procedures, or equipment that are equally as or more effective than as those described above in Part (b)(5)(A)-(D) of this Rule may be used if these products are nontoxic to children, used according to the manufacturer's instructions, instructions and approved by the Department, are safe for use on food contact surfaces, do not require a final rinse step, and have a testing method.

(c) ~~When utensils and equipment are washed mechanically using a dishwasher, For mechanical cleaning and sanitizing,~~ food-contact surfaces of equipment and utensils shall be sanitized according to the dishwasher manufacturer's instructions. When a domestic dishwashing machine with a sanitizing cycle is used according to manufacturer's instructions, additional sanitizing is not required. When commercial dishwashing equipment is used, the dishwasher shall be equipped with a temperature indicating device, device that is accurate to 2 degrees Fahrenheit, 2°F (1°C), shall be provided.

(d) For fixed equipment and utensils and equipment which that are either too large or impractical to sanitize in a dishwashing machine or dishwashing sink, a spray-on or wipe-on sanitizer of sufficient chemical strength as indicated in Paragraph (b) Subparagraph (b)(5) of this Rule shall be used. ~~Spray-on or wipe-on sanitizers shall be prepared daily and kept on hand for bactericidal treatment.~~

(e) Multi-service articles, including highchair feeding trays, shall be washed, rinsed and sanitized in the child care center kitchen after each use.

(f) ~~Nonfood contact~~ Kitchen surfaces that are not food contact surfaces shall be kept clean, cleaned to keep equipment free of accumulation of dust, dirt, food particles and other debris.

(g) A testing method or equipment, equipment shall be used in accordance with the product manufacturer's instructions instructions, shall be made available, convenient, and regularly used to test the strengths of these chemical sanitizing solutions to ensure the prescribed concentrations are met.

(h) After sanitizing, all equipment and utensils shall be air dried.

History Note: Authority G.S. 110-91;

Eff. July 1, 1991;

Amended Eff. February 1, 1995; July 1, 1993;

Temporary Amendment Eff. December 1, 1999; April 15, 1998;

Amended Eff. July 1, 2006; January 1, 2006; April 1, 2001.

Readopted Eff. July 1, 2023.

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2814

DEADLINE FOR RECEIPT: March 10, 2023

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:

What does “protected from contamination” (lines 4 and 5) mean? How is it different from “kept clean” (line 10)?

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

Seth Ascher
Commission Counsel

Date submitted to agency: March 2, 2023

1 15A NCAC 18A .2814 is readopted as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2814 FOOD SERVICE EQUIPMENT AND UTENSIL STORAGE**

4 (a) In child care centers, food contact surfaces, equipment, utensils, and single service articles shall be protected from
5 contamination. cleaned and sanitized equipment and utensils, including single service articles, shall be handled in a
6 way that protects the food contact surfaces from contamination. Spoons, knives, and forks shall be handled with the
7 least amount of contact necessary. Cups, glasses, bowls, plates, and similar items shall be handled without contact
8 with inside surfaces or surfaces that contact the user's mouth.

9 (b) Cleaned and sanitized utensils and equipment shall be stored above the floor in a clean, dry location and shall be
10 kept clean while stored. in a way that protects them from dust, insects, drip, splash and other contamination and
11 facilitates floor cleaning. The ~~food contact~~ food contact surfaces of fixed equipment shall ~~also be protected from~~
12 ~~contamination.~~ kept clean while stored or otherwise not in use. Equipment and utensils shall not be ~~placed~~ stored under
13 exposed sewer lines.

14
15 *History Note: Authority G.S. 110-91;*

16 *Eff. July 1, 1991;*

17 *Amended Eff. January 1, 2006; February 1, 1995.*

18 *Readopted Eff. July 1, 2023.*

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2815

DEADLINE FOR RECEIPT: March 10, 2023

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:

As written, there is no fee for the Department collecting a water sample (lines 9 through 12). Is that correct?

Is there a difference between the sentence at lines 33 through 35 and the sentence at lines 36 and 37?

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

Seth Ascher
Commission Counsel

Date submitted to agency: March 2, 2023

1 15A NCAC 18A .2815 is readopted as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2815 WATER SUPPLY**

4 (a) ~~In A child care centers, the center's~~ water supply shall meet the requirements of 15A NCAC 18C or 15A NCAC
5 18A .1700, as applicable. .1700 Protection of Water Supplies. In addition, any ~~The operator of a child care center~~
6 ~~using a groundwater supply that serves 25 or more people shall provide~~ the local health department serving the county
7 in which the child care center is located with documentation from the Department of Environmental Quality, Division
8 of Water Resources, Public Water Supply Section that the well meets the requirements of 15A NCAC 18C. In child
9 care centers that use a non-community water supply, A a water sample shall be collected by the Department once a
10 year and submitted to the North Carolina State Laboratory of Public Health or other laboratory certified by the North
11 Carolina State Laboratory of Public Health under 10A NCAC 42C .0102 to perform a state-certified laboratory for
12 bacteriological examinations. analysis annually if the child care center is not served by a community water supply.

13 The Department may collect additional samples for Other tests of water quality, as indicated by possible additional
14 sources of contamination. contamination, may be collected by the Department.

15 (b) Water under pressure shall be provided to meet the child care center's needs of cooking, cleaning, drinking, toilets,
16 and outside uses. uses in accordance with the North Carolina Plumbing Code.

17 (c) A child care center's water supply plumbing shall not include cross-connections as set out in 15A NCAC 18C
18 .0102(c)(8). No cross-connections with an unapproved water supply shall exist. If the potential for back siphonage or
19 backflow conditions exist, an approved atmospheric vacuum breaker or backflow prevention device shall be installed.
20 installed in accordance with the North Carolina Plumbing Code.

21 (d) Water heating equipment shall be provided to meet the ~~maximum~~ hot water requirements set forth in this Rule. of
22 ~~the child care center.~~ The capacity and recovery rates of water heating equipment shall be based on number and size
23 of sinks, capacity of dishwashing machines, capacity of laundering machines, diaper changing facilities, and other
24 food service and cleaning needs for child care centers not located in a residence. Child care centers licensed for fewer
25 than 13 children and located in a residence ~~may~~ shall be allowed to use an existing water heater, or the equivalent
26 replacement, if ~~all required temperatures are maintained.~~ the water temperature requirements set forth in this Rule are
27 met. Hot and cold water under pressure shall be provided in all rooms where food is prepared, rooms in which utensils
28 or equipment are washed, and other areas where water is required for cleaning and sanitizing, including diaper
29 changing areas.

30 (e) Hot water used for cleaning and sanitizing ~~food~~ utensils and laundry shall be provided at a minimum temperature
31 of ~~120°F (49°C)~~ 120 degrees Fahrenheit at the point of use. Water in areas accessible to children shall be tempered
32 between ~~80°F (27°C) and 110°F (43°C).~~ 80 degrees Fahrenheit and 110 degrees Fahrenheit. Hot water that exceeds
33 120 degrees Fahrenheit is a burn hazard and shall not be provided in areas accessible to children. For handwash
34 lavatories used exclusively by school-age children, the ~~80°F (27°C)~~ 80 degrees Fahrenheit minimum temperature
35 requirement shall not apply. ~~Hot water in an area accessible to any child, which is in excess of 120°F (49°C), shall be~~
36 ~~considered a burn hazard.~~ Child care centers serving only school-age children ~~are~~ shall not be required to provide hot
37 water in areas accessible to children. In the event of the loss of hot ~~water,~~ water at the child care center, the ~~person in~~

1 ~~charge operator~~ shall immediately ~~contact~~ notify the local health ~~department.~~ department that serves the county in
2 which the child care center is located.

3 (f) Drinking fountains, if provided, shall ~~comply with the North Carolina Plumbing Code,~~ be separate from handwash
4 ~~lavatories,~~ lavatories and kept clean. The water pressure of a drinking fountain shall be regulated so that an individual's
5 mouth does not come in contact with the nozzle and so that water does not splash on the floor. Other ~~approved~~
6 ~~dispensing~~ devices ~~may be used and~~ to dispense drinking water shall be kept clean.

7 (g) Outdoor drinking fountains shall be constructed to protect the spout from contamination by hazards and shall be
8 kept clean.

9
10 *History Note: Authority G.S. 110-91;*

11 *Eff. July 1, 1991;*

12 *Amended Eff. February 1, 1995;*

13 *Temporary Amendment Eff. April 15, 1998;*

14 *Amended Eff. April 1, 1999;*

15 *Temporary Amendment Eff. December 1, 1999;*

16 *Amended Eff. July 1, 2006; January 1, 2006; April 1, 2001.*

17 *Readopted Eff. July 1, 2023.*

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2816

DEADLINE FOR RECEIPT: March 10, 2023

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:

As written, the sentence on lines 9 through 12 would require testing of all water outlets if a single faucet is replaced. Is this the intent?

Why is (b)(9) (lines 14 and 15) necessary in this rule? Your other rules rely on the separate compliance rule for enforcement.

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

1 15A NCAC 18A .2816 is readopted as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2816 LEAD POISONING HAZARDS IN CHILD CARE CENTERS**

4 (a) In child care centers, areas accessible to children shall be free of identified lead poisoning hazards as defined
5 under G.S. 130A-131.7(7).

6 (b) The following actions shall be taken to ensure that drinking water in child care centers is free of identified lead
7 poisoning hazards as defined under G.S. 130A-131.7(7)(g).

8 (1) Child care operators, as defined under G.S. 110-86(7), shall test, once every three years, all water
9 outlets used for drinking or food preparation. Samples shall also be collected and tested within 30
10 calendar days of completion of any renovations or repairs that may impact the facility's drinking
11 water infrastructure, such as repair or replacement of all or part of drinking water service lines or
12 faucets. The operator shall provide documentation of testing results for review by the Department
13 during each unannounced routine sanitation inspection under Rule .2834(b) of this Section.
14 ~~Notwithstanding Rule .2801(5) of this Section, "Department" means North Carolina Department of~~
15 ~~Health and Human Services for purposes of this Rule.~~

16 (2) For child care centers that submit an application for licensure in accordance with 10A NCAC 09
17 .0302 after the effective date of this Rule, initial samples shall be collected by the child care operator
18 and tested in accordance with Subparagraph (b)(4) of this Rule during the license application
19 process.

20 (3) For all other centers, initial samples shall be collected by the child care operator and tested in
21 accordance with Subparagraph (b)(4) of this Rule within one year of the effective date of this Rule.

22 (4) The child care operator shall collect samples and submit them for testing in accordance with
23 guidance specified by the United States Environmental Protection Agency in its publication, 3Ts
24 for Reducing Lead in Drinking Water in Schools and Child Care Facilities, which is incorporated
25 by reference with subsequent changes or amendments and available free of charge at
26 <https://www.epa.gov/ground-water-and-drinking-water/3ts-reducing-lead-drinking-water>.
27 ~~[https://www.epa.gov/dwreginfo/3ts-reducing-lead-drinking-water-schools-and-child-care-](https://www.epa.gov/dwreginfo/3ts-reducing-lead-drinking-water-schools-and-child-care-facilities)~~
28 ~~[facilities](https://www.epa.gov/dwreginfo/3ts-reducing-lead-drinking-water-schools-and-child-care-facilities)~~. Notwithstanding the guidance, samples may be collected with a stagnation period of up to
29 72 hours. Samples shall be analyzed by a laboratory certified by the North Carolina State Laboratory
30 of Public Health to analyze for lead in drinking water.

31 (5) When a water sample is analyzed for lead content by a laboratory under this Rule, the laboratory
32 shall notify the Department of the test results by electronic submission in accordance with G.S.
33 130A-131.8.

34 (6) When a child care center receives test results from a laboratory indicating that a water sample
35 collected by the child care operator contains a lead concentration at or above the lead poisoning
36 hazard level defined in G.S. 130A-131.7(7)(g), the child care operator shall:

- 1 (A) restrict access to any water outlet(s) used for drinking or food preparation that have lead
2 concentrations at or above the lead poisoning hazard level; and
- 3 (B) ensure that all children and staff have access to water free of cost that does not contain lead
4 concentrations at or above the lead poisoning hazard level for drinking and food
5 preparation.
- 6 (7) When notified of a water lead level at or above the lead poisoning hazard level, the Department shall
7 conduct sampling at the water outlet identified to have a water lead level at or above the lead
8 poisoning hazard level within 10 business days of notification.
- 9 (8) If a water sample collected by the Department reveals a water lead level at or above the lead
10 poisoning hazard level, the child care operator shall continue to follow Subparagraph (b)(6) of this
11 Rule until the Department determines the water outlet(s) are not producing water lead levels at or
12 above the lead poisoning hazard level and notifies the child care operator and the Division of Child
13 Development and Early Education in writing of this determination.
- 14 (9) Failure to comply with Paragraph (a) of this Rule or any Subparagraph of this Paragraph, shall be
15 deemed a violation of this Rule subject to demerits under Rule .2834(c)(20) of this Section.
- 16 (10) Within five business days of receiving the test results of the Department's water analysis that shows
17 a water lead level at or above the lead poisoning hazard level, the child care center operator shall
18 provide written notification of the test results to the parents or legal guardians of the children
19 attending the child care center and the staff of the child care center, in accordance with the United
20 States Environmental Protection Agency guidance specified in Subparagraph (b)(4) of this Rule.
- 21 (11) Within five business days of receiving the test results of the Department's water analysis that shows
22 a water lead level at or above the lead poisoning hazard level, the child care center operator shall
23 make the test results available to the public, free of charge. The child care center operator may post
24 test results to the child care center's website to satisfy the requirement to make the test results
25 available to the public.

26
27 *History Note: Authority G.S. 110-91; 130A-131.5; 130A-131.7(7); 130A-131.8;*
28 *Eff. July 1, 1991;*
29 *Amended Eff. October 1, 2019; January 1, 2006; February 1, 1995.*
30 *Readopted Eff. July 1, 2023.*

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2817

DEADLINE FOR RECEIPT: March 10, 2023

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:

No changes.

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

Seth Ascher
Commission Counsel
Date submitted to agency: March 2, 2023

1 15A NCAC 18A .2817 is readopted as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2817 TOILETS**

4 (a) In child care centers, toilet tissue paper shall be provided in each toilet room and stored in a clean, dry place. The
5 toilet room shall include or be adjacent to a handwash lavatory. Storage in toilet rooms shall be limited to toileting
6 and diapering supplies. All toilet fixtures shall be ~~easily cleanable~~, kept clean and in good repair. Toilet fixtures shall
7 be child-sized, ~~adapted adult~~ adult-sized toilets that are adapted to accommodate children, or potty chairs.

8 (b) Toilet fixtures shall be cleaned and disinfected at least daily and when visibly soiled. ~~A disinfecting solution as~~
9 ~~set out in 15A NCAC 18A .2801(7) shall be used for this purpose. A testing method shall be made available to ensure~~
10 ~~compliance with the prescribed bleach solution concentration. To achieve the maximum germ reduction with bleach,~~
11 ~~the cleaned surfaces shall be left glistening wet with the bleach solution and allowed to air dry or be dried only after~~
12 ~~a minimum contact time of at least two minutes. Products registered with the U.S. Environmental Protection Agency~~
13 ~~as hospital grade germicides or disinfectants or as disinfectants for safe use in schools, child care centers, institutions~~
14 ~~or restaurants are also approved disinfectants, provided the manufacturer's Material Safety Data Sheets are kept on~~
15 ~~file at the child care center and the instructions for use are followed.~~

16 (c) If potty chairs are used, they shall be located and stored in a toilet room equipped with a spray-rinse toilet or utility
17 sink. Potty chairs shall be emptied, rinsed, cleaned and disinfected after each use. ~~use with a disinfecting solution as~~
18 ~~described in Paragraph (b) of this Rule.~~

19 (d) When cloth diapers are used and emptied, the diaper changing area shall be located next to a toilet room.

20
21 *History Note: Authority G.S. 110-91;*

22 *Eff. July 1, 1991;*

23 *Amended Eff. July 1, 2006; January 1, 2006; April 1, 1999; February 1, 1995.*

24 *Readopted Eff. July 1, 2023.*

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2818

DEADLINE FOR RECEIPT: March 10, 2023

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:

On line 15, you are missing a comma: "~~cleaning~~ cleaning, or".

Per line 15, it appears that a classroom handwash lavatory would have to be cleaned after every diaper change it was used for. Is this the intent?

As written paragraph (e) would be satisfied by a sign which said: "Wash your hands in accordance with 15A NCAC 18A .2803." Is that the agency's intent? Or do you mean for the sign to summarize the steps in .2803(e)? If so, consider similar language to .2819(h).

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

Seth Ascher
Commission Counsel

Date submitted to agency: March 2, 2023

1 15A NCAC 18A .2818 is readopted with changes as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2818 LAVATORIES**

4 (a) In child care centers, lavatories shall be ~~easily cleanable, kept clean and~~ in good ~~repair, repair and kept free of~~
5 ~~shall not be used for~~ storage. Lavatories shall be mounted at an appropriate height to accommodate ~~the children,~~
6 ~~children~~ or otherwise made ~~accessible.~~ accessible to children. Water from a handwash lavatory shall not be used for
7 ~~consumption. Lavatories with~~ Any lavatory may be used for handwashing as specified in 15A NCAC 18A .2803,
8 ~~except for flush-rimmed sinks and those or with an attached operable drinking~~ fountain ~~fountain.~~ shall not be used for
9 handwashing.

10 (b) Lavatories shall be equipped with hot and cold water or tempered water provided through mixing faucets or
11 pre-mixing devices which provide water in the temperature range specified in Rule .2815(e) of this Section.

12 (c) Lavatories shall be cleaned and disinfected with each change of use, ~~as needed~~ when visibly soiled, and at least
13 daily. Change of use occurs when a handwash lavatory is used outside of its original intent. Change of use includes,
14 but is not limited to, a classroom handwash lavatory used for rinsing toothbrushes, a food preparation handwash
15 lavatory used for toy cleaning or a classroom handwash lavatory used for diaper changing handwashing. A disinfecting
16 solution as set out in 15A NCAC 18A .2801(7) shall be used for this purpose. A testing method shall be made available
17 to ensure compliance with the prescribed bleach solution concentration. To achieve the maximum germ reduction with
18 bleach, the cleaned surfaces shall be left glistening wet with the bleach solution and allowed to air dry or be dried only
19 after a minimum contact time of at least two minutes. Products registered with the U.S. Environmental Protection
20 Agency as hospital grade germicides or disinfectants or as disinfectants for safe use in schools, child care centers,
21 institutions and restaurants are also approved disinfectants, provided the manufacturer's Material Safety Data Sheets
22 are kept on file at the child care center and the instructions for use are followed.

23 (d) Liquid soap and disposable towels or other hand-drying devices shall be provided at every handwash lavatory
24 area.

25 (e) Handwash signs shall be posted at every handwash lavatory area. The signs shall instruct children and child care
26 center employees to wash their hands in accordance with Rule .2803 of this Section.

27
28 *History Note: Authority G.S. 110-91;*

29 *Eff. July 1, 1991;*

30 *Amended Eff. July 1, 2006; January 1, 2006; February 1, 1995.*

31 *Readopted Eff. July 1, 2023.*

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2819

DEADLINE FOR RECEIPT: March 10, 2023

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:

Paragraph (a) requires children to be changed at diaper changing stations, while the second sentence in paragraph (b) (lines 10 through 12) contemplates changing diapers on the floor of a toilet room. This appears to be contradictory.

Paragraph (d) does not seem to indicate when the diaper is removed. This seems like an oversight, given the level of detail in the instructions otherwise.

*On page 2, line 15, you are missing an article: "in ~~an exterior~~ **a** garbage area".*

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

Seth Ascher
Commission Counsel

Date submitted to agency: March 2, 2023

1 15A NCAC 18A .2819 is readopted with changes as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2819 DIAPERING AND DIAPER CHANGING FACILITIES**

4 (a) In child care centers, children in diapers shall be changed at stations designated for diapering or toileting. Each
5 diaper changing station shall include a handwash lavatory. For child care centers licensed for fewer than 13 children
6 and located in a ~~residence~~ residence, and for diaper changing areas designated for school age children, a handwash
7 lavatory shall be in or next to ~~a~~ the diaper changing area.

8 (b) Diapering surfaces shall be made of smooth, intact, ~~nonabsorbent~~, nonabsorbent material and shall be kept clean
9 and in good repair. ~~easily cleanable and shall be approved by the Department.~~ Nothing shall be placed on the diapering
10 surface except for those items required for ~~diapering~~. diapering and the child whose diaper will be changed. If
11 diapering is performed on the floor in a toilet room, then a smooth, intact, nonabsorbent barrier that is clean and in
12 good repair shall be placed on the floor to minimize cross-contamination.

13 (c) ~~A disinfecting solution as set out in 15A NCAC 18A .2801(7) shall be used to disinfect diapering surfaces.~~
14 Diapering surfaces shall be disinfected using an approved disinfectant. A testing method shall be made available to
15 ensure compliance with the prescribed bleach solution concentration. To achieve the maximum germ reduction with
16 bleach, the cleaned surfaces shall be left glistening wet with the bleach solution and allowed to air dry or be dried only
17 after a minimum contact time of at least two minutes. Products registered with the U.S. Environmental Protection
18 Agency as hospital grade germicides or disinfectants or as disinfectants for safe use in schools, child care centers,
19 institutions or restaurants are also approved disinfectants, provided the manufacturer's Material Safety Data Sheets are
20 kept on file at the child care center and the instructions for use are followed. Cleaning and disinfecting solutions
21 Approved disinfectants and detergent solution shall be kept in separate and labeled bottles at each diaper changing
22 station. Approved disinfectants that are Bleach chlorine disinfecting solutions shall be stored in hand pump spray
23 bottles. No cloths or sponges shall be used on diapering surfaces.

24 (d) ~~Diaper changing procedures shall include:~~ Child care center employees shall change a child's diaper as follows:

- 25 (1) gathering supplies before placing child on diapering surface;
26 (2) donning disposable gloves (if needed);
27 (3) using disposable towelette or moistened paper towel to clean child, wiping front to back;
28 (4) disposing of gloves if used, soiled towelettes and diaper in a plastic-lined, covered receptacle;
29 (5) wiping the child care center employee's hands and the child's hands each with a separate disposable
30 towelette or moistened paper towel;
31 (6) sliding a clean diaper under the child, applying diapering products ~~(if needed)~~ if needed, using facial
32 or toilet tissue, and discarding the tissue in a plastic-lined, covered receptacle;
33 (7) fastening the diaper and placing clothing on child;
34 (8) washing child's hands in accordance with Rule .2803 of this Section, or, if child is unable to support
35 ~~her or his~~ the child's head, cleaning the child's hands with a disposable towelette or moistened paper
36 towel, then drying the child's hands and returning the child to a supervised area;

- (9) spraying entire diapering surface with detergent solution and wipe clean, using disposable paper towels;
- (10) spraying entire diapering surface with an approved disinfectant ~~disinfecting solution~~ and allowing to remain on the surface for two minutes or as specified by the manufacturer, or air dry; and
- (11) washing hands in accordance with Rule .2803 of this Section even if disposable gloves are used by ~~the caregiver.~~ child care center employee.
- (e) Vinyl or latex disposable gloves shall be used by ~~caregivers~~ child care center employees during the diaper changing process if ~~she or he~~ the employee's hands have ~~has cuts or sores on her or his hands~~ cuts, sores, or has chapped skin. ~~hands.~~
- (f) ~~Caregivers~~ Child care center employees may dispose of feces ~~in from~~ diapers in the toilet, but shall not rinse soiled cloth diapers, ~~or training pants~~ pants, or clothes. Soiled cloth diapers, training ~~pants~~ pants, or clothes shall be sent to a diaper service or placed in a ~~tightly closed~~ sealed plastic bag or other ~~equivalent sealed container, container approved by the Department,~~ stored out of reach of children, and sent ~~daily to the child's home~~ with the child on the same day to be laundered.
- (g) Receptacles containing soiled disposable diapers shall be emptied in ~~an exterior~~ garbage area ~~at least~~ located outside the child care center building daily.
- (h) ~~Instructions~~ Signs that instruct ~~for caregivers~~ child care center employees on proper methods of diaper changing and handwashing as set forth in the rules of this Section shall be posted in each diaper changing area.

History Note: Authority G.S. 110-91;
Eff. July 1, 1991;
Amended Eff. February 1, 1995;
Temporary Amendment Eff. April 15, 1998;
Amended Eff. July 1, 2006; January 1, 2006; April 1, 1999.
Readopted Eff. July 1, 2023.

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2820

DEADLINE FOR RECEIPT: March 10, 2023

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:

In paragraph (e), can such a restriction (lines 33 through 35) be placed on a license? Is this something the child care commission does?

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

1 15A NCAC 18A .2820 is readopted with changes as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2820 STORAGE**

4 (a) In child care centers, adequate space shall be provided for the storage of equipment, furniture, toys, clothes, linens,
5 backpacks, book bags, diaper bags, beds, cots, mats, and ~~supplies~~ supplies. Storage areas ~~and~~ shall be kept clean.
6 ~~Shelving or other storage areas shall be provided and constructed in a manner to facilitate cleaning. Soiled laundry~~
7 Laundry that is not clean shall be handled and stored separately from clean laundry using separate cleanable containers.
8 containers that are made clean in between uses and kept in good repair.

9 (b) ~~All Toxic substances, which include~~ corrosive agents, pesticides, bleaches, detergents, cleansers, polishes, any
10 product which is under pressure in an aerosol dispenser, and any substance which may be hazardous to a child if
11 ingested, inhaled, or handled shall be kept in ~~its~~ the original container or in another labeled container, used according
12 to the manufacturer's ~~instructions~~ instructions, and stored in a locked storage room or cabinet when not in use. Locked
13 storage rooms and cabinets shall include those which are unlocked with a ~~combination~~, combination lock, electronic
14 or magnetic device, keypad, key, or equivalent locking device. ~~These~~ Keys and electronic or magnetic unlocking
15 devices shall be kept out of the reach of a child and shall not be stored in the lock. Toxic substances shall be stored
16 below or separate from medications and food. Any other product ~~not listed above, which that~~ is labeled "keep out of
17 reach of children" and does not have any ~~without any other warnings; warnings on the label~~ shall be kept inaccessible
18 to children when not in use, but is not required to be kept in locked storage. For the purpose of Paragraphs (b), (c),
19 and (d) of this Rule, a ~~The~~ product shall be considered inaccessible to children when stored on a shelf or in an unlocked
20 cabinet that is mounted a minimum vertical distance of five feet above the finished floor.

21 (c) Non-aerosol ~~sanitizing, disinfecting, sanitizing solutions, approved disinfectants, and~~ detergent solutions, hand
22 ~~sanitizers, antiseptics,~~ and hand lotions shall be kept ~~out of reach of~~ inaccessible to children when not in use, but are
23 not required to be in locked storage. These solutions shall be labeled as sanitizing, disinfecting, or detergent (~~soapy~~
24 ~~water~~) solutions. Hand soap other than that which is in bulk containers is not required to be kept ~~out of reach of~~
25 inaccessible to children or in locked storage. Bulk soaps shall be kept inaccessible to children.

26 (d) Medications including prescription and non-prescription items shall be stored in a locked cabinet or other locked
27 container and shall not be stored above food. Designated emergency medications shall be kept ~~stored out of reach of~~
28 inaccessible to children, but are not required to be in locked storage. Non-prescription diaper creams and sunscreen
29 shall be kept ~~out of reach of~~ inaccessible to children when not in use, but are not required to be in locked storage.

30 (e) A locked kitchen is not considered to be a locked storage room or cabinet for the purposes of this Rule; however,
31 for child care centers that are located within a school and that use the school cafeteria's kitchen to meet the kitchen
32 requirements of the rules of this Section, it shall not be a violation of this Rule to store products described in Paragraphs
33 (a)-(d) of this Rule unlocked in the cafeteria's kitchen, provided that the kitchen is kept locked and a restriction is
34 placed on the child care center's license by the licensing agency that prohibits children from being in the kitchen for
35 any purpose.

36 (f) Individual cubicles, lockers, or coat hooks shall be provided for storage of coats, hats, bags, or ~~similar items~~.
37 other items and accessories. Coat hooks not in individual cubicles or lockers, shall be spaced at least 12 horizontal

1 inches apart. A child's coats, hats, bags, and other items or accessories belonging to a child that are stored using
2 cubicles, lockers, or coat hooks shall not come into contact with stored items belonging to other children. Combs shall
3 be labeled with the name of the child to whom the comb belongs and stored separately from combs or other items that
4 belong to a different child. individually. Toothbrushes shall be individually identified, labeled with the name of the
5 child to whom the toothbrush belongs, allowed to air dry after use, and protected from contamination. contamination.
6 [kept clean.] and stored in a designated area. When a container of toothpaste is used for multiple children, the
7 toothpaste shall be dispensed onto an intermediate surface such as waxed ~~paper.~~ paper and shall not be dispensed
8 directly onto each child's toothbrush.

9 ~~(f)(g) Employee purses~~ Purses and other personal effects belonging to child care center employees shall be kept ~~out~~
10 ~~of reach of~~ inaccessible to children. children and shall be stored in accordance with this Rule, as applicable.

11
12 *History Note: Authority G.S. 110-91;*

13 *Eff. July 1, 1991;*

14 *Amended Eff. July 1, 2006; January 1, 2006; April 1, 1999; February 1, 1995.*

15 *Readopted Eff. July 1, 2023.*

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2821

DEADLINE FOR RECEIPT: March 10, 2023

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:

On line 5, what is meant by “stored to prevent contamination”? How is this different from “kept clean” on line 4?

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

Seth Ascher
Commission Counsel

Date submitted to agency: March 2, 2023

1 15A NCAC 18A .2821 is readopted with changes as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2821 BEDS, COTS, MATS, AND LINENS**

4 (a) In child care centers, ~~all~~ beds, cribs, cots, ~~and mats~~ mats, and play pens shall be kept clean and in good repair,

5 stored to prevent contamination, and cleaned and sanitized between users.

6 (b) Cribs and play pens used for sleeping shall be ~~easily cleanable,~~ kept clean and equipped with a firm, tight-fitting

7 mattress made of waterproof, washable material at least two inches thick.

8 (c) ~~All beds, Beds, cots or cots, and~~ mats shall be assigned and labeled for use by an ~~each~~ individual ~~child, child~~ and

9 equipped with individual linens.

10 (d) Mats shall be of a waterproof, washable material at least two inches thick and shall be stored so that the side of

11 the mats that makes contact with the floor side does not touch the sleeping side of a mat that any child sleeps on. ~~or~~

12 ~~by an equivalent method approved by the Department.~~ The sleeping surface of one child's mat shall not come in

13 contact with the sleeping surface of another child's mat during storage.

14 (e) When in use, cribs, cots, mats and ~~playpens~~ play pens shall be placed at least 18 inches apart or separated by

15 partitions ~~which that~~ prevent physical ~~contact.~~ contact between children.

16 (f) ~~Linens~~ Linens shall be kept clean, in good repair, and stored with the ~~individual~~ mat or cot that the linens are

17 assigned to or stored apart from the mattress or cot in a manner that keeps the linens used for each child separate from

18 the linens belonging to other children. ~~individually for each child in a designated area.~~ Linens Linens shall be laundered

19 between users, when soiled, and otherwise at least once per week. Linens Linens used in rooms where the children in

20 care are less than 12 months old shall be changed and laundered when soiled and otherwise at least daily. Linens shall

21 be large enough to cover the bed, cot, or mat's sleeping surface.

22 (g) Wash cloths, bibs, and burping cloths shall ~~not be used more than once until~~ laundered after each use. Each time

23 a wash cloth, bib, or burping cloth is used, it shall be used for only one child. ~~and shall be laundered when soiled and~~

24 ~~at least daily.~~

25
26 *History Note: Authority G.S. 110-91;*

27 *Eff. July 1, 1991;*

28 *Amended Eff. July 1, 2006; January 1, 2006; February 1, 1995.*

29 *Readopted Eff. July 1, 2023.*

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2822

DEADLINE FOR RECEIPT: March 10, 2023

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:

Is "water play centers" (line 24) defined somewhere? What does it mean?

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

Seth Ascher
Commission Counsel

Date submitted to agency: March 2, 2023

1 15A NCAC 18A .2822 is readopted as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2822 TOYS, EQUIPMENT AND FURNITURE**

4 (a) Toys, ~~equipment~~ equipment, and furniture provided by a child care center shall be kept clean and in good repair.
5 In rooms designated for children who are not toilet trained, toys and other mouth-contact surfaces that are used by
6 children shall be cleaned and then sanitized after each use at least daily when used and when more frequently if visibly
7 dirty. ~~dirty, Toys and other mouth-contact surfaces shall be cleaned and sanitized by the following methods:~~ as follows:

8 (1) the items shall be scrubbed in warm, soapy ~~water~~ water, using a brush to reach into any crevices;

9 (2) the items shall be rinsed in clean water;

10 (3) the items shall be submerged in a sanitizing solution ~~as set out in 15A NCAC 18A .2801(22)~~ for at
11 least two minutes or in accordance with the instructions on the label of the sanitizing solution;
12 ~~sanitized with another approved sanitizing solution;~~ and

13 (4) the items shall be air dried.

14 ~~A testing method or kit shall be available to ensure compliance with the prescribed concentration. To achieve the~~
15 ~~maximum germ reduction with bleach, the cleaned surfaces shall be left glistening wet with the bleach solution and~~
16 ~~allowed to air dry or be dried only after a minimum contact time of at least two minutes. Other sanitizing solutions~~
17 ~~that have been determined to be at least as effective as the chlorine bleach solution are acceptable as long as these~~
18 ~~products are nontoxic to children, used according to the manufacturer's instructions and approved by the Department.~~

19 (b) ~~Toys, items~~ Toys and other mouth-contact surfaces that are not designed to be submerged in liquid shall be washed
20 and rinsed in place, sprayed with a sanitizing ~~solution~~ solution, and allowed to air dry. Hard plastic toys may be washed
21 and rinsed in a dishwasher and cloth toys may be laundered and mechanically dried without requiring sanitizing.

22 (b)(c) Toys, furniture, cribs, or other items accessible to ~~children~~, children shall be free of peeling, flaking, or chalking
23 paint.

24 (e)(d) Water play centers shall be filled with potable water immediately just prior before children begin a to each
25 water play session. Water shall be emptied after each play session and at a minimum each morning and afternoon, or
26 more often if no longer clean, visibly soiled. The water play ~~centers~~ centers, including toys, shall be cleaned and
27 sanitized at least daily or more often if no longer clean, visibly soiled. Water play is prohibited during the outbreak
28 and investigation of a communicable diseases disease or condition at the child care center, site. Wading pools are not
29 considered water play centers and are regulated under the rules in Section .2500 of this Subchapter. ~~15A NCAC 18A~~
30 ~~.2500.~~

31
32 *History Note: Authority G.S. 110-91;*

33 *Eff. July 1, 1991;*

34 *Amended Eff. February 1, 1995; July 23, 1992;*

35 *Temporary Amendment Eff. April 15, 1998;*

36 *Amended Eff. July 1, 2006; January 1, 2006; April 1, 1999.*

37 *Readopted Eff. July 1, 2023.*

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2823

DEADLINE FOR RECEIPT: March 10, 2023

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:

No changes.

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

Seth Ascher
Commission Counsel

Date submitted to agency: March 2, 2023

1 15A NCAC 18A .2823 is readopted as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2823 PERSONNEL**

4 (a) In child care centers, employees ~~and their~~ shall wear clean, clean clothing while at work, ~~shall be clean~~. Employees
5 shall keep their fingernails clean.

6 (b) Tobacco use in any form is prohibited in any part of a child care center, ~~center except in a designated area either~~
7 ~~outdoors, separate from the outdoor learning environment, or indoors in a room with a separate ventilation system~~
8 ~~approved by the building inspector.~~

9 (c) Volunteer personnel shall adhere to the same requirements as child care center employees, as specified in the rules
10 of this Section.

11
12 *History Note: Authority G.S. 110-91;*
13 *Eff. July 1, 1991;*
14 *Amended Eff. February 1, 1995;*
15 *Temporary Amendment Eff. April 15, 1998;*
16 *Amended Eff. January 1, 2006; April 1, 1999.*
17 *Readopted Eff. July 1, 2023.*

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2824

DEADLINE FOR RECEIPT: March 10, 2023

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:

No changes.

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

Seth Ascher
Commission Counsel

Date submitted to agency: March 2, 2023

1 15A NCAC 18A .2824 is readopted with changes as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2824 FLOORS**

4 (a) In child care centers, floors and floor coverings ~~in of all~~ food preparation, food storage, utensil washing,
5 ~~utensil washing areas,~~ toilet rooms, and laundry areas shall be constructed of nonabsorbent material and shall be kept
6 clean and in good repair. ~~nonabsorbent, easily cleanable material.~~

7 (b) Floors and floor coverings ~~in of all~~ sleeping and play areas shall be ~~constructed of easily cleanable materials.~~ kept
8 clean and in good repair.

9 (c) Carpeting used as a floor covering shall be of closely woven ~~construction, properly installed, and easily cleanable.~~
10 construction and shall be kept clean and in good repair. Carpeted floors shall be vacuumed daily when children are
11 not present in the room, except to clean up spills. Instead of waiting for children to leave the room, a High Efficiency
12 Particulate Air (HEPA) filter vacuum cleaner may be used. If used for this purpose, a HEPA vacuum cleaner shall
13 include a HEPA filter individually tested and rated as 99.97% efficient at 0.3 micron dust particle size and sealed to
14 prevent leakage around connecting points. Vacuum bags shall be changed and vacuums shall be emptied when children
15 are not present in the room. The vacuum cleaner shall be in good repair. Wall to wall carpets shall be cleaned using
16 extraction methods at least once each six months. Cleaning materials including surfactants, ~~solvents~~ solvents, and
17 water used for extraction shall be removed from the carpet before the space is reoccupied. When ~~hot~~ water extraction
18 is used, the carpet shall be completely dry within 12 hours of cleaning.

19 (d) Floors in areas accessible to children, shall be kept free of peeling, ~~flaking~~ flaking, ~~chalking~~, or otherwise
20 deteriorating paint.

21 ~~(e) All floors and floor coverings shall be kept clean and maintained in good repair.~~

22
23 *History Note: Authority G.S. 110-91;*

24 *Eff. July 1, 1991;*

25 *Amended Eff. January 1, 2006; April 1, 1999; February 1, 1995; July 23, 1992.*

26 *Readopted Eff. July 1, 2023.*

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2825

DEADLINE FOR RECEIPT: March 10, 2023

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:

*On line 8, "other ceiling material" is vague. Consider "Acoustic and other **absorbent** ceiling material".*

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

Seth Ascher
Commission Counsel

Date submitted to agency: March 2, 2023

1 15A NCAC 18A .2825 is readopted as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2825 WALLS AND CEILINGS**

4 (a) In child care centers, the walls and ceilings, including doors and windows, of all rooms and areas shall be kept
5 clean, free of visible fungal growth, and in good repair. All walls and ceilings shall be ~~easily cleanable and~~ free of
6 peeling, flaking, chalking, or otherwise deteriorating paint.

7 (b) Walls and ceilings in rooms in which food is stored, ~~handled~~ handled, or prepared, utensil-washing rooms, and
8 toilet rooms shall be nonabsorbent. Acoustic and other ceiling material may be used where ventilation in the room
9 precludes the possibility of grease and moisture ~~absorption~~ absorption by the acoustic or other material. For child care
10 centers licensed for fewer than 13 children and located in a residence, ceilings of residential construction are
11 acceptable if kept clean and in good repair.

12
13 *History Note: Authority G.S. 110-91;*
14 *Eff. July 1, 1991;*
15 *Amended Eff. April 1, 1999; July 23, 1992;*
16 *Temporary Amendment Eff. December 1, 1999;*
17 *Amended Eff. January 1, 2006; April 1, 2001.*
18 *Readopted Eff. July 1, 2023.*

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2826

DEADLINE FOR RECEIPT: March 10, 2023

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:

No changes.

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

Seth Ascher
Commission Counsel

Date submitted to agency: March 2, 2023

1 15A NCAC 18A .2826 is readopted as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2826 LIGHTING AND THERMAL ENVIRONMENT**

4 (a) In child care centers, all rooms and enclosed areas shall be lighted by natural or artificial light. ~~means~~. Lighting
5 shall be capable of illumination to at least 50 foot-candles at work surfaces. ~~surfaces, in kitchens and diaper changing~~
6 ~~areas and at children's work tables, desks and easels~~. Lighting shall be capable of illumination to at least 10 foot-
7 candles of light, at 30 inches above the floor, in all other areas, including storage rooms. Light fixtures in all areas
8 shall be kept clean and in good repair. Shielded or shatterproof bulbs shall be used in food preparation, storage, and
9 serving areas and in all rooms used by children.

10 (b) All rooms used by children shall be heated, cooled, and ventilated to maintain ~~a~~ an ambient temperature between
11 ~~65°F (19°C) 65 degrees Fahrenheit and 85°F (30°C)~~. 85 degrees Fahrenheit. Ventilation may be in the form of ~~operable~~
12 openable windows ~~which are screened with screens~~ or by means of mechanical ventilation to the ~~outside~~. outside of
13 the building. Windows and window treatments shall be kept clean and in good repair. All ventilation equipment,
14 including air supply diffusers. ~~diffusers (heating and cooling vents) and~~ return grilles, and fans, ~~and all other~~
15 ~~ventilation equipment fans~~ shall be kept clean and in good repair.

16 (c) Nothing in the rules of this Section ~~requires~~ shall require that outdoor storage buildings be wired with electricity
17 or provided with heating and air conditioning.

18
19 *History Note: Authority G.S. 110-91;*

20 *Eff. July 1, 1991;*

21 *Amended Eff. January 1, 2006; February 1, 1995.*

22 *Readopted Eff. July 1, 2023.*

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2827

DEADLINE FOR RECEIPT: March 10, 2023

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:

As written, (d)(2) requires that a childcare center keep the list of items on site. But there does not appear to be a requirement that these items themselves be kept on site. Is that elsewhere in rule or statute?

On p.2, line 12, 10A NCAC 41A .0200 is a section and not a single rule. For clarity “the Rules ~~under~~ [et] in section 10A NCAC 41A .0200.”

Similarly, on p. 2, line 16, “the Rules [et] in section 10A NCAC 41A .0200.”

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

Seth Ascher
Commission Counsel

Date submitted to agency: March 2, 2023

1 15A NCAC 18A .2827 is readopted with changes as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2827 COMMUNICABLE DISEASES AND CONDITIONS**

4 (a) In child care centers, ~~children~~ a child who ~~become~~ becomes ill to the extent that ~~they~~ the child can no longer
5 participate in routine group activities shall be separated from the other children until the child leaves the ~~center~~. child
6 care center and in accordance with 10A NCAC 09 [-1718(a)(6)-] .0804.

7 (b) Each child care center shall include a designated area for a child who becomes ill to the extent that she or he can
8 no longer participate in the routine group activities. When in use, such area shall be equipped with a bed, ~~cot~~ cot, or
9 mat and a vomitus ~~receptacle~~. receptacle and shall be cleaned and disinfected after each use. Thermometers and all
10 materials used in the designated ~~area~~ area, including ~~mouthable toys~~ toys, shall be cleaned and sanitized after each
11 use. Linens ~~and disposables~~ shall be changed after each use.

12 (c) If the designated area required under Paragraph (b) of this Rule is not a separate room, then it shall be separated
13 from space used by other children by a ~~partition, screen~~ partition or screen. ~~other means~~. The designated area shall be
14 located so that health and sanitation measures can be carried out without interrupting activities of other children and
15 staff.

16 (d) The child care center shall have written procedures that employees shall follow when responding to vomiting or
17 diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the center. The procedures shall
18 address the specific actions employees must take to minimize the spread of contamination and the exposure of
19 employees, children, food, and surfaces to vomitus or fecal matter. The written procedures shall include the following
20 information:

- 21 (1) Child care center employees who are part of the designated clean up response team;
22 (2) A supply list for vomit and diarrhea cleanup kit items that shall be kept on-site at the child care
23 center, including:
24 (A) disposable personal protective equipment (gloves, apron, mask, shoe covers, and hair
25 restraint);
26 (B) two disposable plastic bags;
27 (C) paper towels;
28 (D) a scoop or scraper;
29 (E) a mop and bucket; and
30 (F) an approved disinfectant;
31 (3) The location of the supplies described in Subparagraph (d)(2) of this Rule;
32 (4) A procedure for preventing access to the contaminated area;
33 (5) The steps used to clean and disinfect the contaminated area, which shall include the following:
34 (A) for hard surfaces, remove the vomit or diarrhea, wash the contaminated surface, and use an
35 approved disinfectant.
36 (B) for carpet or upholstery, remove the vomit or diarrhea without use of vacuum, wash all
37 surfaces, and steam clean [using] or use an approved disinfectant.

- 1 (6) The steps for after clean up, which shall including the following:
2 (A) throw away all items that came into contact with the vomit or diarrhea;
3 (B) remove all personal protective equipment (PPE);
4 (C) discard all cleaning items and PPE in a secured trash area;
5 (D) disinfect non disposable cleaning items such as scoops, scrapers, mop heads, mop handles,
6 and buckets and discard of disposable cleaning items; and
7 (E) wash hands in accordance with the procedures in Rule .2803(e) of this Section.
8 (7) Identify steps for properly storing contaminated articles of clothing and cloth diapers that came into
9 contact with the vomit or diarrhea in accordance with the procedures in Rule .2819(f) of this Section.

10 ~~(d)(e)~~ Employees with a communicable disease or a communicable condition shall be excluded from work or subject
11 to restrictions to prevent from situations in which transmission can be expected to occur, in accordance with
12 ~~Communicable Disease Control Measures~~ the Rules under at 10A NCAC 41A .0200. Any employee with boils, sores,
13 burns, infected ~~wounds~~ wounds, or other ~~potentially~~ draining lesions on exposed skin shall bandage the affected area
14 to eliminate avoid exposure exposing others to drainage. If such bandaging obstructs handwashing as set out in Rule
15 .2803 of this Section, or if the exposure to drainage cannot be eliminated, prevented, or if otherwise required under
16 the Rules at 10A NCAC 41A .0200, then the employee shall be excluded from food preparation and ~~caregiving work~~
17 activities that involve contact with other employees or children while risk of transmission of the communicable disease
18 or the condition exists.

19
20 *History Note: Authority G.S. 110-91;*
21 *Eff. July 1, 1991;*
22 *Amended Eff. February 1, 1995;*
23 *Temporary Amendment Eff. April 15, 1998;*
24 *Amended Eff. January 1, 2006; April 1, 1999.*
25 *Readopted Eff. July 1, 2023.*

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2829

DEADLINE FOR RECEIPT: March 10, 2023

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:

No changes.

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

1 15A NCAC 18A .2829 is readopted as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2829 WASTEWATER**

4 In child care centers, all wastewater originating from the child care center shall be disposed of ~~in using a publicly-~~
5 ~~owned publicly-operated sewage wastewater~~ treatment system or ~~by an approved properly operating on site~~
6 ~~wastewater individual sewage disposal system that meets the requirements of under 15A NCAC 18A .1900. the rules~~
7 ~~at Section .1900 of this Subchapter.~~ Septic systems shall be ~~sized~~ of adequate size to accommodate the wastewater
8 needs of the anticipated number of children and staff for all shifts.

9
10 *History Note: Authority G.S. 110-91;*

11 *Eff. July 1, 1991;*

12 *Amended Eff. January 1, 2006; April 1, 1999; February 1, 1995.*

13 *Readopted Eff. July 1, 2023.*

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2830

DEADLINE FOR RECEIPT: March 10, 2023

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:

No changes.

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

1 15A NCAC 18A .2830 is readopted as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2830 SOLID WASTES**

4 (a) In child care centers, food scraps and other putrescible materials shall be placed in a plastic-lined, cleanable,
5 covered container and removed to an exterior garbage area ~~at least~~ daily. Scrap paper, cardboard ~~boxes~~ boxes, and
6 ~~similar other recyclable~~ items shall be stored in containers or designated recycling areas.

7 (b) ~~Garbage~~ Solid waste containers, ~~mops~~ mops, and other cleaning equipment shall be kept ~~clean~~, clean when not in
8 use. Facilities shall be provided at the child care center for the washing and storage of ~~garbage solid waste~~ containers
9 and ~~mops~~, ~~mops for child care centers~~, except that such facilities shall not be required for child care centers licensed
10 for fewer than 13 children and located in a residence. ~~Cleaning facilities~~ Washing facilities required under this
11 Paragraph shall include a faucet with a threaded nozzle ~~and that delivers~~ water of at least ~~80°F (27°C)~~ 80 degrees
12 Fahrenheit. The faucet shall be located in either a designated utility sink or above a curbed impervious pad that is
13 sloped to drain into a publicly owned wastewater treatment system that meets the requirements of Rule .2829 of this
14 Section, ~~or by an approved properly operating on-site wastewater system in accordance with 15A NCAC 18A .1900.~~
15 ~~Can cleaning~~ Washing facilities used for solid waste containers that were installed at the child care center approved
16 prior to July 1, 1991 shall be approved permitted to be used if the facilities are in good repair.

17 (c) Dumpsters and other containerized systems shall be kept clean and covered. ~~Facilities shall be provided for~~
18 ~~cleaning either on-site, or off-site through a contractual agreement.~~

19 (d) Solid wastes shall be disposed of to prevent ~~insect breeding~~ conditions that attract and harbor pests and other
20 public health nuisances.

21
22 *History Note: Authority G.S. 110-91;*

23 *Eff. July 1, 1991;*

24 *Amended Eff. February 1, 1995;*

25 *Temporary Amendment Eff. April 15, 1998;*

26 *Amended Eff. January 1, 2006; April 1, 1999.*

27 *Readopted Eff. July 1, 2023.*

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC .2831

DEADLINE FOR RECEIPT: March 10, 2023

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:

On line 10 and 11, many of these rules contemplate small childcare facilities which are operating out of the home for less than 13 children. Is it the agencies intent that the prohibition on reptile and amphibian pets apply in those circumstances as well?

For lines 19 and 20, what is sufficient protection against the entrance of flying pests? A door or screen? Is something more required here?

Paragraph (f) has a structural problem. As written, there is no requirement for (f)(1). I think the second clause of (f)(2) ("shall be sealed using...") is meant to apply to both. If so, this needs to be rewritten so that is part of the main paragraph. If not, please clarify what (f)(1) means.

As written, paragraph (j) seems to require children not use the outdoor pet areas for any purpose, including interacting with the pet. If that is not the agency's intent, provide more detail about the "outdoor area used by children."

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

1 15A NCAC 18A .2831 is readopted as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2831 ANIMAL AND VERMIN CONTROL**

4 (a) ~~Unrestrained animals,~~ Animals that are not contained in a cage or restrained on a leash, except those used in
5 supervised activities or pet therapy programs, shall not be allowed in a child care center, including the outdoor learning
6 environment. When animals are on the child care center premises, copies of each animal's vaccination records ~~required~~
7 ~~by North Carolina law and local ordinances~~ shall be available for ~~review.~~ review upon request during a sanitation
8 inspection of the child care center. Any animals kept at the child care center as pets shall be examined by a veterinarian
9 to determine that they are free from ~~pests vermin, such as mites, lice, fleas, and ticks,~~ and pathogens that could
10 adversely affect human health. Turtles, iguanas, frogs, salamanders, and other reptiles or amphibians ~~are shall~~ not
11 ~~allowed to~~ be kept as pets on the child care center premises. Animals shall not be allowed in or kept at the entrances
12 to food preparation areas. Animal cages shall be kept clean and animal waste materials shall be bagged, sealed, and
13 immediately disposed of in the child care center's exterior garbage area in a covered container. Animals belonging to
14 child care center owners, employees, volunteers, visitors, and children shall not be allowed in child care centers or on
15 the premises unless the ~~above~~ requirements set forth in this Paragraph are met.

16 (b) Pests shall be excluded from the child care center. ~~Effective measures shall be taken to keep uncontained insects,~~
17 ~~rodents, and other vermin out of the child care centers and to prevent their breeding or presence on the premises.~~ Traps
18 set for pests shall only be placed in areas that are inaccessible to children.

19 (c) All openings to the area outside of the child care center ~~outer air~~ shall be protected against the entrance of flying
20 pests, insects. In food preparation areas, only fly traps, pyrethrin-based ~~insecticides~~ insecticides, or a fly swatter shall
21 be used for extermination of flying pests, insects. Products shall be used only in accordance with directions and
22 cautions appearing on their labels. Insecticides shall not come in contact with raw or cooked food, utensils, or
23 equipment used in food preparation and serving, or with any other food-contact surface.

24 (d) Only those pesticides which have been registered in accordance with ~~the U.S. Environmental Protection Agency~~
25 40 C.F.R. 152 and ~~the North Carolina Department of Agriculture and Consumer Services~~ G.S. 143-442 shall be ~~used.~~
26 used to control pests at a child care center. Pesticides shall be used in accordance with the directions on the label and
27 shall be stored in a locked storage room or cabinet separate from foods and medications. Pesticides shall not be applied
28 or used when children are present in the area.

29 (e) Decks, fences, playground equipment, and other products constructed or installed after September 1, 2006 shall
30 not be made from chromated copper arsenate (CCA) pressure-treated wood unless the use of CCA-treated wood is for
31 an approved use listed on the CCA product label. ~~label and allowed under the US EPA Supplemental Guidance on~~
32 ~~Interpretation of Revised Chromated Copper Arsenate (CCA) Wood Preservative Label, as amended.~~

33 (f) In areas accessible to children, CCA-treated wood decks, playground and recreational equipment, and structures
34 installed or constructed:

- 35 (1) prior to January 1, 2005; or
36 (2) where EPA allows the use of CCA-treated wood, shall be sealed using an oil-based, semi-transparent
37 sealant; oil-based clear stain; or a water-based clear stain applied at least once every two years.

(g) At the time of the initial sealant or stain application and whenever more than two years has passed since the previous sealant application, soil under ~~such~~ CCA-treated wood shall be:

- (1) removed and replaced with similar material;
- (2) covered with at least four inches of soil, gravel, sand, sod, or other vegetation; or
- (3) otherwise made ~~inaccessible.~~ inaccessible to children.

(h) Any composting areas shall be covered and maintained to prevent attracting pests. ~~rodents or vermin.~~ Worm bins shall be kept covered.

(i) Grass, fruit and vegetable gardens, vines on fences, and other vegetation shall be maintained to prevent the harboring and breeding of pests. ~~in a manner which does not encourage the harborage of vermin.~~

(j) Pets kept outdoors at a child care center shall be in a designated area that is maintained and separate from the outdoor area used by the children.

History Note: Authority G.S. 110-91;

Eff. July 1, 1991;

Temporary Amendment Eff. April 15, 1998;

Amended Eff. August 2, 2007; January 1, 2006; April 1, 1999.

Readopted Eff. July 1, 2023.

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2832

DEADLINE FOR RECEIPT: March 10, 2023

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:

On line 4, consider “~~At child care centers,~~ Child care center premises, including”.

On line 7, “shall be ~~removed~~ removed from areas accessible to children.” Otherwise, the rule would appear to prevent storing garbage in garbage areas on premises, or repairing broken equipment on premises.

In paragraph (d), cross-reference the air quality website rather than incorporating it.

In paragraph (b), as written it is unclear whether portable wading pools filled with filtered potable water can be used. If the intent is to prohibit all portable wading pools, “other unfiltered” would clarify. If there is a different intent, rewrite.

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

Seth Ascher
Commission Counsel

Date submitted to agency: March 2, 2023

1 15A NCAC 18A .2832 is readopted as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2832 OUTDOOR LEARNING ENVIRONMENT AND PREMISES**

4 (a) At child care centers, the premises, including the outdoor learning environment, shall be kept clean, drained to
5 minimize standing water, free of litter and ~~hazardous materials,~~ hazards, and maintained in a manner which does not
6 ~~encourage the harborage of vermin.~~ create conditions that attract or harbor pests. ~~All debris,~~ Debris, glass, dilapidated
7 ~~structures~~ structures, and broken play equipment shall be removed. Wells, grease traps, ~~cisterns~~ cisterns, and utility
8 equipment shall be made inaccessible to children.

9 (b) Sand toys, water ~~tables~~ tables, and other items that can collect standing water in the outdoor learning environment
10 shall be emptied and stored to prevent the collection of standing water.

11 (c) For outdoor toys and play equipment, including all structures accessible to children, the following shall apply:

12 (1) Equipment and toys shall be kept clean, in good repair, and free of peeling, flaking, or chalking
13 paint, ~~paint and free of rust~~ rust, and corrosion; and

14 (2) ~~The~~ A sandbox used in outdoor play shall be constructed to allow for drainage of water and shall be
15 covered when not in use and kept clean.

16 (d) ~~Children's outdoor activities shall be restricted as set forth in this Paragraph based on~~ If a daily air quality forecast
17 is made by the North Carolina Department of Environmental Quality, Division of Air Quality ~~or the regional air~~
18 ~~quality agency~~ for the county where a center is located and published on the Division of Air Quality's Air Quality
19 Portal, which is hereby incorporated by reference, including any subsequent amendments or editions, and available
20 free of charge at: <https://airquality.climate.ncsu.edu/air-guide/aq-datasets/>. ~~located, outdoor activity for children shall~~
21 ~~be restricted as follows.~~ On days with a code orange (unhealthy for sensitive groups) forecast, children shall not be
22 outside participating in physical activity between noon and 8:00 p.m. for more than one hour. On days with a code red
23 (unhealthy) forecast, children shall not be outside participating in physical activity between noon and 8:00 p.m. for
24 more than 15 minutes. On days with a code purple (very unhealthy) forecast, children shall not be outside participating
25 in physical activity between noon and 8:00 p.m. Provisions shall be made to allow children with diagnosed asthma or
26 with coughing or wheezing symptoms to participate in physical activity indoors on days with a code orange, red or
27 purple air quality forecast.

28 (e) When food service is provided in the outdoor learning environment, food shall be protected, stored, ~~prepared~~
29 prepared, and served in accordance with ~~15A NCAC 18A Rules .2806, .2807 and .2808.~~ .2808 of this Section.
30 Employees and children shall wash their hands in accordance with ~~15A NCAC 18A Rule .2803 of this Section prior~~
31 to food service in the outdoor learning environment and food service tables shall be cleaned or covered prior to use.

32 (f) When diapering and toileting facilities are provided in the outdoor learning environment, they shall be maintained
33 in accordance with ~~Rules 15A NCAC 18A .2817 and .2819 of this Section~~ and employees and children shall wash
34 their hands in accordance with ~~15A NCAC 18A .2803.~~ Rule .2803 of this Section.

35 (g) Storage provided ~~in the outdoors~~ outdoor learning environment for children's toys shall be kept ~~clean.~~ clean and
36 in good repair. Storage areas that are accessible to children shall be kept free of ~~hazardous~~ equipment that is not
37 intended by the manufacturer to be used by children and shall meet the requirements of Rule .2820 of this Section.

1 ~~and substances in accordance with 15A NCAC 18A .2820.~~ Storage areas shall meet requirements for lighting in
2 accordance with ~~15A NCAC 18A Rule .2826 of this Section.~~ by means of opening doors, windows, sky lights, battery
3 operated light, flashlight or electric lighting. Spare batteries shall be ~~available~~ kept on-site at the child care center for
4 battery operated light fixtures ~~and flashlights.~~ used to light storage areas in accordance with this Paragraph.

5 (h) Outdoor water ~~activity~~ play centers shall be maintained in accordance with ~~15A NCAC 18A Rule .2822.~~ .2822 of
6 this Section. ~~Flow through water play systems shall be designed to minimize standing water. Employees and children~~
7 ~~shall wash hands in accordance with 15A NCAC 18A .2803 before and after water play.~~

8 (i) Central vacuums that exhaust to the outdoors and away from where children use the outdoor learning environment
9 may be used in lieu of HEPA vacuum cleaners to meet the daily vacuuming requirements in Rule ~~.2824(e).~~ .2824(c)
10 of this Section.

11
12 *History Note: Authority G.S. 110-91;*

13 *Eff. July 1, 1991;*

14 *Amended Eff. July 1, 2006; January 1, 2006; April 1, 1999; July 23, 1992.*

15 *Readopted Eff. July 1, 2023.*

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2834

DEADLINE FOR RECEIPT: March 10, 2023

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:

Regarding paragraph (a), as written a child care center operator could request inspection of a child care center they do not operate. Is this the agency's intent?

In paragraph (c), there is overlap between many of the subparagraphs. This creates ambiguity. For example: (c)(9) and (c)(12) providing for overlapping demerits regarding maintenance of food service equipment. Consider rewriting to reference subparagraphs when multiple demerits are possible under the same rule.

Paragraph(e)(1) seems to indicate that a newly licensed operator's inspection only goes to licensing if it is "superior". What happens if they get less than "superior"?

Are the contents or substance of the form in paragraph (g) contained in rule or statute?

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

1 15A NCAC 18A .2834 is readopted as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2834 COMPLIANCE, INSPECTIONS AND REPORTS**

4 (a) Upon receipt of a request from ~~When requested by~~ a child care center operator or the ~~Division of Child~~
5 ~~Development, licensing agency,~~ a sanitation inspection shall be conducted by the local health department that serves
6 the county in which the child care center is located within 30 calendar days of receipt of the request. ~~days.~~

7 (b) Unannounced inspections of a child care ~~centers~~ center shall be made by the Department at least once each six-
8 month period. ~~The evaluation shall be completed on the Sanitation Standards Evaluation Form for Child Care Centers~~
9 ~~provided by the Department. Other versions of the form, including electronic, are allowed but shall be duplicates of~~
10 ~~the Sanitation Standards Evaluation Form for Child Care Centers.~~ An original and two copies of the form used to
11 document the inspection shall be completed by the Department. The original shall be submitted by the Department to
12 the licensing agency ~~Division of Child Development.~~ ~~The~~ and the child care center operator and the Department shall
13 each retain a copy.

14 (c) The Department shall inspect each child care program that has been designated as a child care center by the
15 ~~Division of Child Development, licensing agency.~~ Demerits taken during the sanitation inspection shall be assigned
16 for ~~each occurrence of violations within these requirements:~~ of the rules of this Section as follows:

- 17 (1) violation of Rules ~~.2803~~ .2803(a)-(d) or ~~.2836~~ .2836(15) of this Section related to handwashing
18 when required shall be assessed five demerits;
- 19 (2) violation of Rule ~~.2803~~ .2803(e) of this Section related to proper handwashing procedures shall be
20 assessed five demerits;
- 21 (3) violation of Rule .2804 of this Section related to food from approved sources, hazards, ~~no spoilage,~~
22 or adulteration shall be assessed six demerits;
- 23 (4) violation of Rules .2804, .2806, or .2807 of this Section related to potentially hazardous food
24 ~~meeting~~ storage and holding requirements ~~temperatures;~~ and requirements regarding the
25 refrigeration of bottles and lunches at ~~45° F~~ 45 degrees Fahrenheit or below shall be assessed six
26 demerits;
- 27 (5) violation of Rules ~~.2804,~~ .2806, .2807, .2808, or .2836 of this Section related to food being properly
28 stored, thawed, prepared, cooked, cooled, handled, served, transported, packaged, and identified,
29 and only permitting supervised children in the kitchen shall be assessed five demerits;
- 30 (6) violation of Rule ~~.2808~~ .2808(c) of this Section related to food not re-served shall be assessed three
31 demerits;
- 32 (7) violation of Rule .2806 or .2807 of this Section related to the use of food thermometers ~~provided~~
33 and food thermometer accuracy ~~accurate~~ shall be assessed two demerits;
- 34 (8) violation of Rules .2809 or .2810 of this Section related to food service equipment and utensils and
35 ~~meeting~~ specifications for refrigeration, sinks, ~~lavatories~~ lavatories, and dishwashing equipment
36 shall be assessed six demerits;

- (9) violation of Rules ~~.2806, .2809, .2809~~ or .2810 of this Section related to food service equipment and utensils ~~and meeting~~ specifications for other equipment and utensils, approved ~~material~~ material, and construction shall be assessed four demerits;
- (10) violation of Rules .2809 or .2812 of this Section related to food contact surfaces being properly washed, rinsed, ~~sanitized~~ sanitized, and air ~~dried~~ dried; and single-service articles not being re-used shall be assessed five demerits;
- (11) violation of Rule .2812 of this Section related to sanitizer being provided and a test kit being available shall be assessed two demerits;
- (12) violation of Rule ~~.2809, .2810, or~~ .2812 of this Section related to keeping equipment and non-food contact surfaces clean and in good repair shall be assessed four demerits;
- (13) violation of Rule .2814 of this Section related to proper storage and handling of clean equipment, utensils, and single-service articles shall be assessed three demerits;
- (14) violation of Rule .2815 of this Section related to water supply and drinking water facilities ~~meets~~ 15A NCAC 18A .1700 or 15A NCAC 18C, whichever is applicable, and documentation that water supplies and facilities satisfy the applicable regulatory requirements provided shall be assessed six demerits;
- (15) violation of Rule .2815 of this Section related to hot water supplied and maintained in the kitchen shall be assessed six demerits;
- (16) violation of Rule .2815 of this Section related to hot water supplied and tempered water maintained as required in all other areas shall be assessed four demerits;
- (17) violation of Rule ~~.2815~~ .2815(c) of this Section related to hot water in excess of ~~120° F~~ 120 degrees Fahrenheit not allowed in areas accessible to children shall be assessed six demerits;
- (18) violation of Rule ~~.2815~~ .2815(c) of this Section related to backflow prevention ~~provided, no~~ and cross connections shall be assessed three demerits;
- (19) violation of Rules ~~.2815~~ .2815(c) or .2836 of this Section related to drinking fountain construction and location, ~~fountains of approved type~~, water pressure regulation, ~~regulated~~, and drinking fountains being kept clean shall be assessed two demerits;
- (20) violation of Rule .2816 of this Section related to identified lead poisoning hazards ~~as defined under G.S. 130A-131.7(7)~~ shall be assessed six demerits;
- (21) violation of Rules .2817, ~~.2818~~ .2818, or .2836 of this Section related to toilet and lavatory facilities being properly sized, ~~located~~ located, and accessible, and in good ~~repair~~; repair, and sinks, ~~toilets~~ toilets, and potty chairs being cleaned and disinfected shall be assessed four demerits;
- (22) violation of Rules .2817 or .2818 of this Section related to the provision of soap, disposable towels, ~~approved~~ hand drying devices, and toilet tissue paper available shall be assessed three demerits;
- (23) violation of Rules .2817 or .2818 of this Section related to ~~approved~~ storage in toilet rooms, lavatories being kept free of ~~storage~~; storage, and handwash signs being posted shall be assessed two demerits;

- (24) violation of Rules .2817, ~~.2819~~ .2819, or .2836 of this Section related to ~~approved~~ diaper changing facilities shall be assessed six demerits;
- (25) violation of Rule .2819 of this Section related to diapering surfaces being cleaned and disinfected after each use shall be assessed six demerits;
- (26) violation of Rule .2819 of this Section related to cleaning and disinfecting solutions being provided and a test kit being available when required shall be assessed two demerits;
- (27) violation of Rules .2818, ~~.2819~~ .2819, or .2820 of this Section related to diaper changing facilities being kept free of storage and in good ~~repair~~; repair, ~~cleaning and disinfecting~~ detergent solutions and approved disinfectants being labeled, ~~labeled~~; ~~approved~~ required diapering methods being used, ~~used~~; and diaper changing and handwash signs being posted shall be assessed four demerits;
- (28) violation of Rule ~~.2820~~ .2820(d) and (g) of this Section related to medications being properly stored shall be assessed six demerits;
- (29) violation of Rule ~~.2820~~ .2820(b) and (c) of this Section related to hazardous products being properly stored and locked shall be assessed six demerits;
- (30) violation of Rule ~~.2820~~ .2820(c) of this Section related to non-hazardous products being properly stored shall be assessed three demerits;
- (31) violation of Rule .2820 of this Section related to facilities being provided for proper storage, storage being used in accordance with the Rule, and storage being kept clean shall be assessed two demerits;
- (32) violation of Rules .2821 or .2836 of this Section related to individual linen ~~provided~~; and adequate beds, cots, or mats being provided, kept in good repair, properly stored, labeled, and spaced during use shall be assessed three demerits;
- (33) violation of Rule .2821 of this Section related to linen, ~~bedding~~, wash cloths, ~~bibs~~ bibs, and burping cloths being laundered and kept in good repair shall be assessed three demerits;
- (34) violation of Rules .2822 or .2836 of this Section related to toys, ~~equipment~~ equipment, and furniture being kept clean and in good ~~repair~~; repair and the cleaning, sanitization, and maintenance of water play centers ~~cleaned, sanitized and maintained~~ shall be assessed four demerits;
- (35) violation of Rules .2822 or .2836 of this Section related to mouth-contact surfaces being cleaned and sanitized in rooms where children who are not toilet trained are cared for shall be assessed four demerits;
- (36) violation of Rules ~~.2807~~ .2808 or .2823 of this Section related to ~~personnel using approved hygienic practices~~, child care center employees wearing gloves, clean ~~clothes~~ clothes, and hair restraints where required, and ~~evidence of tobacco use in the outdoor learning environment or in any part of a child care center without a separate ventilation system~~ shall be assessed two demerits;
- (37) violation of Rules .2824, ~~.2825~~ .2825, or .2836 of this Section related to floors, walls and ceilings ~~easily cleanable~~, being kept clean and in good repair, ~~clean~~, repair and the vacuuming and extraction cleaning of carpets ~~vacuumed and extraction cleaned as required~~ shall be assessed four demerits;

- (38) violation of Rule .2826 of this Section related to the lighting and thermal environment and room temperature being kept between ~~65° F~~ 65 degrees Fahrenheit and ~~85° F~~ 85 degrees Fahrenheit shall be assessed three demerits;
- (39) violation of Rule .2826 of this Section related to equipment being kept clean and in good repair and being maintained as required shall be assessed two demerits;
- (40) violation of Rule ~~.2827~~ .2827(e) of this Section related to persons with a communicable disease or a condition ~~excluded in accordance with 15A NCAC 19A .0200~~ shall be assessed six demerits;
- (41) violation of Rules .2827 or .2836 of this Section related to persons caring for mildly sick children or ~~mildly~~ ill children being excluded from situations in which transmission of communicable disease can be expected to occur and proper cleanup procedures being followed for vomiting or diarrheal events shall be assessed four demerits;
- (42) violation of Rule .2827 of this Section related to the designated area for sick children maintained as required and written procedures for responding to vomiting or diarrheal events shall be assessed two demerits;
- (43) violation of Rule .2829 of this Section related to ~~wastewater sewage disposal disposed of by approved methods in accordance with 15A NCAC 18A .1900~~ shall be assessed six demerits;
- (44) violation of Rules .2830 or .2836 of this Section related to solid waste being properly ~~handled;~~ handled, solid waste containers and cleaning equipment kept clean, and the provision of adequate solid waste can washing cleaning facilities ~~adequate~~ shall be assessed two demerits;
- (45) violation of Rule .2831 of this Section related to ~~approved~~ pesticides being properly used and new ~~Chromated Copper Arsenate (CCA)~~ CCA pressure-treated wood shall be assessed six demerits;
- (46) violation of Rule .2831 of this Section related to ~~Chromated Copper Arsenate~~ CCA pressure-treated wood being sealed and soil being covered or made inaccessible as required shall be assessed two demerits;
- (47) violation of Rule .2831 of this Section related to animals in food preparation areas and restrictions on ~~no~~ unrestrained or prohibited animals ~~except as noted~~ shall be assessed three demerits;
- (48) violation of Rules .2831 or .2832 of this Section related to ~~effective pest control of rodents, insects and the child care center other vermin;~~ premises being free of conditions that harbor or attract pests ~~vermin harborage and breeding areas~~ shall be assessed three demerits;
- (49) violation of Rule .2832 of this Section related to premises being kept clean and drained, wells, grease traps, cisterns, and other utility equipment being kept inaccessible to children, equipment and toys being kept clean and in good repair, sandboxes being properly constructed and kept clean, and adherence to air quality forecast outdoor activity restrictions shall be assessed two demerits; and
- (50) violation of Rule .2833 of this Section related to swimming and wading pools being designed, constructed, ~~operated~~ operated, and maintained in accordance with the rules at Section 15A NCAC 18A .2500 of this Subchapter shall be assessed six demerits.

(d) The Department shall indicate on the ~~Child Care Sanitation Inspection Form~~ sanitation inspection form whether the child care center is ~~classified as superior, approved, provisional,~~ "superior," "approved," "provisional," or "disapproved." "disapproved" based on the sanitation inspection and the resulting score based on demerits taken in accordance with Paragraph (e) of this Rule. A ~~Sanitation Classification~~ sanitation classification placard that lists the child care center's score and classification shall be posted in the child care center in a location conspicuous place designated by the ~~Department.~~ Department and where the placard can be seen by the public upon entry to the child care center. ~~The classification of a child care center is based on the center's compliance with the Rules of this Section.~~ A summary classification of ~~disapproved~~ "disapproved" shall be issued by the Department and forwarded to the ~~Division of Child Development~~ licensing agency when the Department's right-of-entry to inspect the child care center is denied or when an inspection is discontinued at the request of the operator or child care center administrator, ~~administrator~~ unless the decision to discontinue the inspection is ~~mutual.~~ mutually made by the child care center operator or administrator and the Department. A summary classification of ~~disapproved~~ "disapproved" shall also be issued by the Department and forwarded to the ~~Division of Child Development~~ licensing agency when a water sample that is collected pursuant to Rule .2815 of this Section is confirmed positive for fecal coliform, total ~~coliform~~ coliform, or other chemical constituents in accordance with Rule .1725 of this Subchapter. ~~15A NCAC 18A .1725.~~

(e) ~~The~~ A child care center's level of compliance with the Rules of this Section is indicated by the number of demerits listed on the ~~Child Care Sanitation Inspection Form.~~ sanitation inspection form and the following shall apply for a child care center's classification:

(1) When an inspection is requested and conducted for the purpose of issuing a license to a new operator, a ~~Child Care Sanitation Inspection Form~~ completed sanitation inspection shall be forwarded by the Department to the ~~Division of Child Development~~ licensing agency only when the child care center ~~can be~~ is granted a ~~superior~~ "superior" classification.

(2) If the child care center is not yet open in operation and children are not in attendance when the initial sanitation inspection is conducted, a sanitation inspection form ~~Child Care Sanitation Inspection Form~~ shall be completed by the Department and forwarded to the ~~Division of Child Development,~~ licensing agency but the ~~Sanitation Classification~~ placard listing the child care center's sanitation classification shall not be ~~posted.~~ posted in the child care center. Another sanitation inspection shall be conducted by the Department when children are in attendance at the child care center and within 30 days of the child care center opening. The placard listing the sanitation classification earned by the child care center during the most recent inspection shall be posted following this second sanitation inspection and in accordance with Paragraph (d) of this Rule. ~~opening and the Sanitation Classification placard shall then be posted.~~ When a temporary license is issued by the licensing agency to a child care center as a result of a change of ownership in a child care center ~~that and the~~ child care center continues to operate, the operator shall request an inspection from the Department within ~~fourteen~~ 14 days of the issuance of the temporary license. ~~days.~~ After the sanitation inspection is completed, a placard listing the child care center's sanitation classification ~~placard~~ shall be posted. ~~posted after each inspection of a center operating under a temporary license.~~

- (2)(3) A child care center shall be classified as ~~superior~~ "superior" if the demerit score does not exceed 15 and no 6-point demerit item is violated.
- (3)(4) A child care center shall be classified as ~~approved~~ "approved" if the demerit score is more than 15 and does not exceed 30, and no 6-point demerit item is violated.
- (4)(5) A child care center shall be classified as ~~provisional~~ "provisional" if any 6-point demerit item is violated or if the total demerit score is more than 30 but does not exceed 45. The provisional classification period shall not exceed seven days unless construction or renovation is necessary to correct any violation, in which case the Department may specify a longer provisional classification period. At the end of the provisional classification period, a follow-up inspection shall be conducted by the Department and a new demerit score and classification shall be issued.
- (5)(6) A child care center shall be classified as ~~disapproved~~ "disapproved" if the demerit score is more than 45, or if conditions and violations which resulted in a ~~provisional~~ "provisional" classification have not been corrected in the time period specified by the ~~Department~~. Department in accordance with Subparagraph (e)(5) of this Rule.
- (6)(7) If the child care center receives a ~~disapproved~~ "disapproved" classification, the Department shall immediately notify the ~~Division of Child Development~~ licensing agency of the classification, ~~by faxing a copy of the inspection form.~~
- (7)(8) The ~~Sanitation Classification~~ placard listing the child care center's sanitation classification shall not be removed from the location designated by the Department under Paragraph (d) of this Rule except by or upon the instruction of the Department.
- ~~(f) If the Department determines that conditions found at the child care center at the time of any inspection or visit are dangerous to the health of the children, the Department shall immediately notify the Division of Child Development by verbal contact. The original inspection report or other documentation of the dangerous conditions shall be sent to the Division of Child Development within two working days following the inspection.~~
- ~~(g)(f)~~ The Department may conduct an additional inspection of any child care center that is issued a "provisional," "disapproved," or summary "disapproved" classification or upon receipt of a complaint about the sanitation of a child care facility that is made to the Department ~~as frequently as necessary in order~~ to ensure compliance with the Rules in this Section.
- ~~(h)(g)~~ The Department shall ~~use the Child Care Sanitation Inspection Form to~~ document demerits for violations of the ~~rules~~. rules of this Section on an inspection form and ~~A~~ a written explanation and corrective action for each violation shall be documented on a comment addendum to the form.
- ~~(i)(h)~~ ~~In filling out the inspection form, demerits~~ Demerits may be assessed only once for a single occurrence or condition existing within or outside the child care center. Demerits shall be assessed based on actual violations of the Rules of this Section observed during the inspection.

*History Note: Authority G.S. 110-88; 110-91;
Eff. July 1, 1991;*

1 *Amended Eff. February 1, 1995;*
2 *Temporary Amendment Eff. April 15, 1998;*
3 *Amended Eff. July 1, 2006; January 1, 2006; April 1, 1999.*
4 *Readopted Eff. July 1, 2023.*

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2835

DEADLINE FOR RECEIPT: March 10, 2023

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:

It appears that a child care operator who disagrees with an inspections only option is to file at OAH. Is this correct?

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

1 15A NCAC 18A .2835 is readopted as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2835 APPEALS PROCEDURE**

4 Appeals concerning the enforcement of the Child Care Sanitation Rules in this Section as adopted by the Commission
5 for Public Health shall be governed by ~~Section~~ G.S. 110-94 and G.S. 150B. ~~Chapter 150B of the North Carolina~~
6 ~~General Statutes.~~

7
8 *History Note: Authority G.S. 110-91;*
9 *Eff. July 1, 1991;*
10 *Amended Eff. January 1, 2006.*
11 *Readopted Eff. July 1, 2023.*

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

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18A .2836

DEADLINE FOR RECEIPT: March 10, 2023

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:

No changes.

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

1 15A NCAC 18A .2836 is readopted as published in 37:11 NCR 825-848 as follows:

2
3 **15A NCAC 18A .2836 MILDLY SICK ~~ILL~~ CHILDREN**

4 Child care centers that are licensed by the licensing agency to offer care to mildly sick children pursuant to 10A NCAC
5 09 ~~.2400, .2404~~ shall comply with all rules in this Section except as follows:

- 6 (1) Prior to ~~operating~~ starting a program for mildly sick ~~ill~~ children, the child care center operator shall
7 ~~undergo request an a sanitation inspection of the child care center by from the Department. local~~
8 ~~health department.~~
- 9 (2) Drinking fountains shall not be ~~used used.~~ by mildly sick children.
- 10 (3) Toilet fixtures, potty chairs, utility sinks, ~~tubs~~ tubs, and showers shall be cleaned and disinfected
11 after each use.
- 12 (4) Lavatories shall be of a hands-free design or equipped with single-lever faucets.
- 13 (5) Cloth diapers shall not be used.
- 14 (6) Individually labeled moist towelette containers shall be provided for each child in diapers.
- 15 (7) Caregivers shall wear clean disposable gloves when changing each diaper.
- 16 (8) Moist towelettes shall not be used in lieu of handwashing for children who cannot support their
17 heads.
- 18 (9) A 36-inch separation shall be maintained or partitions shall be placed between beds, cots and mats
19 to minimize contact among children.
- 20 (10) Furniture shall be nonabsorbent.
- 21 (11) Thermometers and mouthable toys shall be cleaned and sanitized between uses by different children.
22 Soft, cloth material toys may be brought from home if labeled with the name of the child to whom
23 the toy belongs and used only by that ~~for use by an individual~~ child. If soft toys are provided by the
24 child care center, they shall be sanitized between uses by different children.
- 25 (12) ~~Caregivers~~ Employees caring for mildly sick ~~ill~~ children shall not prepare food in a ~~the~~ kitchen used
26 to prepare food for one or more children who are not mildly sick or serve food to children who are
27 not mildly sick. ~~well children.~~
- 28 (13) Family style and other self-serve food service is prohibited.
- 29 (14) Carpeted floors are prohibited. Throw rugs may be used if laundered when contaminated and at least
30 weekly. Floors contaminated by body fluids shall be cleaned and disinfected immediately.
- 31 (15) Caregivers shall wash hands in accordance with the procedures in Rule .2803(c) before leaving the
32 area designated for mildly sick ~~ill~~ children.
- 33 (16) All waste shall be disposed of in a plastic-lined, covered receptacle.

34
35 *History Note: Authority G.S. 110-91;*
36 *Eff. January 1, 2006.*
37 *Readopted Eff. July 1, 2023.*