

The following rules will be published in the North Carolina Register on 9/1/2020.

The comment period ends 11/2/2020. Written comments may be submitted during the open comment period to Tina Hlabse, Secretary, NC Board of Agriculture, 1001 Mail Service Center, 27699-1001, or tina.hlabse@ncagr.gov.

Any person may request a public hearing on the proposed rules by submitting a request in writing no later than 9/16/2020 to Tina Hlabse, Secretary, NC Board of Agriculture, 1001 Mail Service Center, Raleigh, NC 27699-1001.

All rules were classified during the Periodic Review and Expiration of Existing Rules process as "necessary with substantive public interest" and are now going through the readoption process. Each rule is being published without substantive changes to how they are currently written in the Administrative Code.

CHAPTER 61 - SANITATION OF BEDDING

02 NCAC 61 .0101 DEFINITIONS

The following definitions shall apply throughout these Rules unless otherwise specified:

- (1) "Chief Financial Officer" means the officer or employee with primary bookkeeping responsibility for a business that manufactures or sanitizes bedding in this state or manufactures bedding to be sold in this state.
- (2) "Person" means an individual, corporation, company, partnership, or other legal entity.

*History Note: Authority G.S. 106-65.107;
Eff. April 1, 1984;
Amended Eff. January 1, 1988;
Transferred from 15A NCAC 18B .0201 Eff. May 1, 2012.*

02 NCAC 61 .0102 AUTHORIZED SANITIZING PROCESSES

(a) In the dry heat process, the bedding must be heated at a temperature of 230 degrees F. for a period of two hours. The chamber in which this process is performed must be insulated sufficiently to insure maintenance of a uniform temperature of 230 degrees F. Articles to be sanitized must be placed on racks, or other devices provided therein so that a minimum space of six inches is left around each item being sanitized, and between the item and the walls, floor, ceiling, and other items. Loose materials to be sanitized must be placed on tiers or slats, or in other arrangements that

permit an even distribution of heat throughout the material. A thermometer that has been checked for accuracy within one degree F. must be placed within the chamber at a point where it can be easily read at all times through a window for that purpose.

(b) In the washing process, the bedding is boiled for two hours and washed with an approved soap or detergent. After drying, the bedding shall be clean to touch, sight, and smell.

*History Note: Authority G.S. 106-65.107;
Eff. April 1, 1984;
Amended Eff. January 1, 1985;
Transferred from 15A NCAC 18B .0202 Eff. May 1, 2012.*

02 NCAC 61 .0103 OTHER METHODS OF SANITIZING

Notwithstanding the provisions of Rule .0102 of this Section, other methods of sanitizing may be used after receiving the approval of the Division. The applicant must demonstrate that the method destroys pathogenic microorganisms and arthropods, and removes dirt and filth.

*History Note: Authority G.S. 106-65.107;
Eff. April 1, 1984;
Amended Eff. September 1, 1990;
Transferred from 15A NCAC 18B .0203 Eff. May 1, 2012.*

02 NCAC 61 .0104 DISPOSAL OF UNCLEAN BEDDING

Secondhand bedding and previously-used materials that show evidence of contamination with feces, urine, pus, vomit, blood, mucus, or are not reasonably clean after using methods described in Rules .0102 or .0103 of this Section must be removed from use and destroyed.

*History Note: Authority G.S. 106-65.107;
Eff. April 1, 1984;
Transferred from 15A NCAC 18B .0204 Eff. May 1, 2012.*

02 NCAC 61 .0105 STORAGE OF SECONDHAND OR PREVIOUSLY-USED MATERIALS

When secondhand bedding or previously-used materials that have not been sanitized are stored in a bedding manufacturing establishment, a sanitizing business, a retail outlet, a distribution warehouse, or in the same room with new or sanitized bedding or bedding materials, the secondhand bedding or previously-used materials must be segregated from the new or sanitized bedding or bedding materials by partitions that are free of holes, cracks or other openings. The top of the partitions must be at least one foot higher than the level of the unsanitized materials.

*History Note: Authority G.S. 106-65.107;
Eff. April 1, 1984;
Transferred from 15A NCAC 18B .0205 Eff. May 1, 2012.*

02 NCAC 61 .0106 NON-TRANSFERABLE REGISTRATION

North Carolina registration numbers shall be issued to all persons manufacturing or sanitizing bedding in this state or manufacturing bedding to be sold in this state unless the person has a registration number from another state. The North Carolina registration numbers shall not be transferable.

*History Note: Authority G.S. 106-65.107;
Eff. April 1, 1984;
Transferred from 15A NCAC 18B .0206 Eff. May 1, 2012.*

02 NCAC 61 .0107 TRANSFER OF MANUFACTURERS' AND SANITIZERS' LICENSES

(a) If any person to whom a manufacturer's license or sanitizer's license has been issued shall sell his manufacturing or sanitizing business he may transfer the license with the business in accordance with Paragraph (b) of this Rule.

(b) In order to make the transfer, the purchaser must submit the following and obtain approval from the Division:

- (1) the name and address of the seller;
- (2) the location of the establishment being purchased;
- (3) the name of the establishment being purchased;
- (4) the name and address of the purchaser;
- (5) the effective date of sale; and
- (6) whether the name of the establishment being purchased is to be changed, and if so, the name under which it is to be operated by the purchaser.

*History Note: Authority G.S. 106-65.107;
Eff. April 1, 1984;
Transferred from 15A NCAC 18B .0207 Eff. May 1, 2012.*

02 NCAC 61 .0108 LICENSE FEES AND APPLICATIONS

(a) Applications for a license shall be on a form provided by the Division and shall include the following information:

- (1) the name of the business;
- (2) the physical address for the plant or operation;
- (3) the name, title, mailing address and telephone number for the contact person for the license; and
- (4) the type of bedding items the business manufactures.

(b) The applicant shall submit a verification from the applicant's chief financial officer that he has examined the records of the applicant and that the information provided in accordance with G.S. 130A-269(h) correctly reflects the

information contained in the records of the applicant. However, if the Division has reason to believe that the information provided is incomplete, misleading or incorrect, the Division may require the applicant to obtain a certification of the required information by an independent Certified Public Accountant licensed to practice in North Carolina.

(c) License fees may be paid in full on March 1 of each year or in quarterly installments on March 1, June 1, September 1, and December 1 of each year. Applicants who have not operated for a full calendar year may owe additional fees or be due a refund for the first year's operation, depending on the business volume eligible for stamp exemption fee payment. Application forms for making the determination of fee payment owed or refunded shall be furnished by the Division. When the requirements of G.S. 130A-269(c) can be met, the option described by G.S. 130A-269(d) will no longer be available to the applicant.

(d) Applicants who have gone out of business in the initial year of their operation and who have paid the license fee in accordance with G.S. 130A-269(d) may apply for a refund for the remainder of the calendar year upon providing verified proof of the bedding units sold or manufactured in North Carolina during the operating portion of the calendar year.

(e) All forms may be obtained from the Public Health Pest Management Section.

*History Note: Authority G.S. 106-65.107;
Eff. April 1, 1984;
Amended Eff. September 1, 1990; January 1, 1988;
Transferred from 15A NCAC 18B .0208 Eff. May 1, 2012.*

02 NCAC 61 .0109 CANCELLATION OF LICENSES

A license shall be issued to persons manufacturing or sanitizing bedding in this state or manufacturing bedding to be sold in this state in accordance with G.S. 130A-269. When the person to whom the license was issued goes out of business, the license shall be canceled. Upon submission of proof that a refund is owed to the person going out of business, and a determination by the Division that a refund is owed, a refund shall be made by the Division.

*History Note: Authority G.S. 106-65.107;
Eff. April 1, 1984;
Amended Eff. September 1, 1990; January 1, 1988;
Transferred from 15A NCAC 18B .0209 Eff. May 1, 2012.*

02 NCAC 61 .0110 DURABLE MATERIALS FOR TAGS

Identifying tags shall be of linen, muslin, or other durable cloth material which will not flake when abraded. Paper or plastic face tags shall not be allowed. Tags shall be printed or stamped on one side only in fast black letters. Tags shall be so located that the information contained thereon is completely visible to the purchaser at all times and shall

be securely sewed to the pillows, mattresses, sleeping bags, comforters, and other articles of bedding. The labeling requirements of another governmental unit may appear on the tag.

*History Note: Authority G.S. 106-65.107;
Eff. April 1, 1984;
Amended Eff. January 1, 1988;
Transferred from 15A NCAC 18B .0210 Eff. May 1, 2012.*

02 NCAC 61 .0111 EFFECTIVE DATE OF LICENSES

The licenses issued pursuant to these Rules shall be valid from the first day of March of any calendar year through the last day of February of the following calendar year, except for partial year licenses issued in accordance with G.S. 130A-269(d). However, if the license fee or an installment of the license fee has not been paid by the due date, the license shall be invalid and the Division may prohibit sale pursuant to G.S. 130A-271.

*History Note: Authority G.S. 106-65.107;
Eff. April 1, 1984;
Amended Eff. January 1, 1988;
Transferred from 15A NCAC 18B .0211 Eff. May 1, 2012.*

02 NCAC 61 .0112 SEVERABILITY

If any provision of these Rules or the application thereof to any person or circumstance is held invalid, the remainder of the rules, or the application of the provision to other persons or circumstances, shall not be affected thereby.

*History Note: Authority G.S. 106-65.107;
Eff. April 1, 1984;
Transferred from 15A NCAC 18B .0212 Eff. May 1, 2012.*

SECTION .0400 - WHITE PINE BLISTER RUST

02 NCAC 48A .0401 CURRANT AND GOOSEBERRY PLANTS

- (a) All wild and cultivated currant and gooseberry plants in North Carolina are hereby declared to be dangerous plants and are consequently subject to destruction by the Commissioner of Agriculture or authorized agents wherever found.
- (b) No person shall knowingly and willfully keep upon his premises any currant or gooseberry plant, or permit such plants to mature seed or otherwise multiply upon his land.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;

Eff. January 1, 1985.

02 NCAC 48A .0402 INFECTED PINES

(a) All five-leafed pines infected with white pine blister rust in North Carolina are hereby declared to be dangerous plants and are consequently subject to destruction by the Commissioner of Agriculture or authorized agents wherever found.

(b) No person shall knowingly and willfully keep upon his premises any five-leafed pines infected with white pine blister rust, or permit such plants to mature seed or otherwise multiply upon his land.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;

Eff. January 1, 1985.

02 NCAC 48A .0612 COTTON STALK DESTRUCTION

(a) Upon notification in writing by the Commissioner of Agriculture, any farm operator may be ordered to destroy standing cotton stalks in his fields when it is deemed that such cotton stalks constitute a potential for harboring overwintering population of boll weevils. Such cotton stalk destruction shall consist of shredding or discing as necessary to eliminate standing stalks. Such notification will designate which fields are subject to stalk destruction. Designation of fields subject to stalk destruction will be based on the capturing of at least two adult boll weevils between September 15 and December 15 of a calendar year. Any field which is adjacent to a designated field may also be subject to stalk destruction upon notification by the Commissioner.

(b) Any farm operator subject to the provisions of (a) shall destroy the cotton stalks before February 1 of the following calendar year. Any cotton stalks not destroyed before February 1 shall be treated as regulated articles for the purposes of G.S. 106-65.73. Any field containing such stalks on February 1 shall be quarantined until such stalks are destroyed. Any farm operator who fails to comply with this Rule, absent a waiver as provided in (c), shall be assessed a penalty fee of five dollars (\$5.00) per acre.

(c) Any farm operator subject to the provisions of (a) who cannot destroy cotton stalks before February 1 due to emergency or hardship may apply for a waiver. The application shall be made in writing before January 1 to the Plant Pest Administrator stating the conditions justifying the waiver. The Plant Pest Administrator shall notify the farm operator of his decision within two weeks after receipt of such application. Waivers shall be approved only if justified by emergency or hardship due to meteorological conditions, economic conditions, or other causes beyond the control of the farm operator.

History Note: Authority G.S. 106-65.73; 106-65.74; 106-65.77;

Eff. December 1, 1985;

Amended Eff. January 1, 1987.