

**RULES GOVERNING  
THE FOOD PROTECTION AND  
SANITATION OF  
FOOD ESTABLISHMENTS**

**15A NCAC 18A .2600**

**NORTH CAROLINA**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**DIVISION OF PUBLIC HEALTH**

**ENVIRONMENTAL HEALTH SECTION**

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Statutory authority and related references regarding 15A NCAC 18A .2650 through .2676 includes the North Carolina General Statutes, Chapter 130A-248 through 250 and Session Law 2011-394, Section 15(a).

**SECTION .2600 — THE FOOD PROTECTION AND SANITATION OF FOOD ESTABLISHMENTS****15A NCAC 18A .2650 GENERAL—ADOPTION BY REFERENCE**

The 2009 Food Code, not including subsequent amendments and editions, established by the U.S. Department of Health and Human Services, Food and Drug Administration (hereinafter referred to as the "Food Code") is incorporated by reference. The Food Code may be accessed from the internet at [www.fda.gov/Food/FoodSafety/RetailFoodProtection/FoodCode/default.htm](http://www.fda.gov/Food/FoodSafety/RetailFoodProtection/FoodCode/default.htm), or a copy can be obtained by contacting the U.S. Department of Commerce, National Technical Information Service, at (703) 605-6040, and is also available for inspection at the Division of Public Health, N.C. Department of Health and Human Services.

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

**15A NCAC 18A .2651 DEFINITIONS**

The provisions of this Rule make amendments, additions, and deletions to the Food Code incorporated by reference in Rule .2650 of this Section. In Chapter 1, the following apply:

- (1) In Paragraph 1-201.10(B), add: "'Commissary' means a food establishment that services a mobile food unit or a pushcart."
- (2) In Paragraph 1-201.10(B), add: "'Congregate nutrition sites' means food establishments where food preparation is limited to same day service, reheating of potentially hazardous food (time/temperature control for safety food), and operated under the rules of the Division of Aging and Adult Services, N.C. Department of Health and Human Services."
- (3) In Paragraph 1-201.10(B), add: "'Department' means the N.C. Department of Health and Human Services."
- (4) In Paragraph 1-201.10(B), amend "Food establishment (2)(b)" to read: "An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location and where consumption is on or off the premises."
- (5) In Paragraph 1-201.10(B), amend "Food establishment (3)" to read: "'Food establishment' does not include entities exempted as described in G.S. 130A-250 or establishments that only serve such items as dip ice cream, popcorn, candied apples, or cotton candy."
- (6) In Paragraph 1-201.10(B), add: "'Food stand' means a food establishment that prepares or serves food and that does not provide seating facilities for customers to use while eating or drinking."
- (7) In Paragraph 1-201.10(B), add: "'Good repair' means equipment and utensils shall be maintained in a state of repair and condition that meets the requirements specified under Parts 4-1 and 4-2 of the Food Code as amended by Rule .2654."
- (8) In Paragraph 1-201.10(B), amend "Imminent health hazard" to: "'Imminent hazard' means an imminent hazard as defined in G.S. 130A-2(3)."
- (9) In Paragraph 1-201.10(B), add: "'Limited food establishment' means a food establishment as defined in G.S. 130A-247(7)."
- (10) In Paragraph 1-201.10(B), add: "'Local health director' means a local health director as defined in G.S. 130A-2(6)."
- (11) In Paragraph 1-201.10(B), amend "Meat" to read: "'Meat' means the flesh of animals used as food including the dressed flesh of cattle, swine, sheep, or goat, other edible animals, and as defined in G.S. 106-549.15(14), except fish, poultry, and wild game animals as specified under Subparagraphs 3-201.17(A)(3) and (4)."
- (12) In Paragraph 1-201.10(B), add: "'Mobile food unit' means a food establishment or pushcart designed to be readily moved and vend food."
- (13) In Paragraph 1-201.10(B), amend "Person" to: "'Person' means person as defined in G.S. 130A-2(7)."
- (14) In Paragraph 1-201.10(B), amend "Poultry (1)" to read: "Any domesticated bird (chickens, turkeys, ducks, geese, guineas, ratites, or squabs), whether live or dead, as defined in 9 CFR 381.1 Poultry Products Inspection Regulations Definitions, Poultry, and G.S. 106-549.51(26); and"
- (15) In Paragraph 1-201.10(B), add: "'Pushcart' means a mobile piece of equipment or vehicle used to vend food."

- (16) In Paragraph 1-201.10(B), add: "'Registered Environmental Health Specialist' means a Registered Environmental Health Specialist as defined in G.S. 90A-51(2b) and 90A-51(4) and authorized agent of the Department."
- (17) In Paragraph 1-201.10(B), add: "'Regulatory Authority' means the Department or authorized agent of the Department."
- (18) In Paragraph 1-201.10(B), add: "'Restaurant' means a food establishment that prepares or serves food and provides seating."
- (19) In Paragraph 1-201.10(B), add: "'Supplemental cooking room' means a separate attached or detached structure in that food is cooked on grills, pits, or fireplaces and no other processing occurs."
- (20) In Paragraph 1-201.10(B), amend "Temporary food establishment" to: "'Temporary food establishment' means a food establishment that operates for a period of time not to exceed 21 days in one location, affiliated with and endorsed by a transitory fair, carnival, circus, festival, or public exhibition. Food establishments that operate in the same event location for more than 21 days per calendar year are not eligible for a temporary food establishment permit. Domestic yard sales and businesses such as auctions, flea markets, or farmers' markets are not eligible for a temporary food establishment permit."
- (21) In Paragraph 1-201.10(B), add: "'Temporary food establishment commissary' means a food establishment affiliated with a temporary food establishment that prepares food in advance or off-site. The temporary food establishment commissary permit shall be valid for no more than 21 consecutive days and shall be permitted no more than 7 days prior to commencement of the event. Food establishments that operate in the same location for more than 21 days per calendar year are not eligible for a temporary food establishment commissary permit. Food shall not be sold from the temporary food establishment commissary. The temporary food establishment commissary shall comply with all temporary food establishment requirements."
- (22) In Paragraph 1-201.10(B), add: "'Transitional Permit' means a permit issued by the regulatory authority upon the transfer of ownership or lease of an existing food establishment to allow the correction of construction and equipment problems that do not represent an immediate threat to public health. The transitional permit shall expire 180 days after the date of issuance."
- (23) In Paragraph 1-201.10(B), delete "Vending machine."
- (24) In Paragraph 1-201.10(B), delete "Vending machine location."

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

#### **15A NCAC 18A .2652 MANAGEMENT AND PERSONNEL**

The provisions of this Rule make amendments, additions, and deletions to the Food Code incorporated by reference in Rule .2650 of this Section. In Chapter 2, the following apply:

- (1) In Paragraph 2-101.11(B), amend to read: "In a food establishment with two or more separately permitted departments that are the legal responsibility of the same permit holder and that are located on the same premises, the permit holder may designate a single person in charge who is present on the premises during all hours of operation, and who is responsible for each separately permitted food establishment on the premises."
- (2) In Section 2-102.11, amend the last sentence in the first paragraph to: "The person in charge shall demonstrate this knowledge by being a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program. The person in charge is not required to be a certified food protection manager when the food establishment is not operating and food is not being prepared, packaged, or served for immediate consumption."
- (3) In Section 2-102.11, delete (A), (B), and (C).
- (4) In Subpart 2-102, add Section 2-102.12, Certified Food Protection Manager, to read:

##### **"2-102.12 Certified Food Protection Manager.**

(A) At least one employee who has supervisory and management responsibility and the authority to direct and control food preparation and service shall be a certified food protection manager who

has shown proficiency of required information through passing a test that is part of an American National Standards Institute (ANSI)-accredited program.

(B) This section does not apply to congregate nutrition sites and Risk Category I food establishments as defined in 10A NCAC 46 .0213."

(C) The requirements of this section are effective on January 1, 2014.

- (5) In Section 2-102.20, replace "Paragraph 2-102.11(B)" with "Section 2-102.11."

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

### 15A NCAC 18A .2653 FOOD

The provisions of this Rule make amendments, additions, and deletions to the Food Code incorporated by reference in Rule .2650 of this Section. In Chapter 3, the following apply:

- (1) In Paragraph 3-201.11(A), add at the end: "Food from food establishments in states adjacent to North Carolina may be sold within North Carolina if the food establishments are under jurisdiction of the local or state enforcement body in that state and approved by the regulatory authority in North Carolina. To determine the extent of compliance with this Code, the regulatory authority shall obtain reports regarding compliance and compliance history from responsible authorities in other jurisdictions where the food establishments are located."
- (2) In Paragraph 3-301.11(B), amend to read: "Except when washing fruits and vegetables as specified under Section 3-302.15 or as specified in Paragraphs (D) and (E) of this section, food employees may not contact exposed ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment."
- (3) In Paragraph 3-301.11(D), amend to read: "Paragraph (B) of this section does not apply to a food employee who contacts exposed, ready-to-eat food with bare hands at the time the ready-to-eat food is being added as an ingredient to a food that is to be cooked in the food establishment to heat all parts of the food to a temperature of at least 74°C (165°F)."
- (4) In Section 3-301.11, redesignate existing Paragraph (D) as new Paragraph (E).
- (5) In Subparagraph 3-301.11(D)(7), replace "(D)(1)-(6)" with "(E)(1)-(6)."
- (6) Delete Section 3-305.13.
- (7) In Section 3-306.12, delete (B).
- (8) In Paragraph 3-403.11(D), amend to read: "Reheating for hot holding as specified under Paragraphs (A) through (C) of this section shall be completed within 2 hours and the time the food is between 5°C (41°F) or 7°C (45°F) and the temperatures specified under Paragraphs (A) through (C) of this section may not exceed 2 hours."
- (9) In Paragraph 3-501.12(A), amend to read: "Under refrigeration that maintains the food temperature at 5°C (41°F) or less, or at 7°C (45°F) or less as specified under Subparagraph 3-501.16(A)(2)(b)."
- (10) In Paragraph 3-501.13(A), amend to read: "Under refrigeration that maintains the food temperature at 5°C (41°F) or less, or at 7°C (45°F) or less as specified under Subparagraph 3-501.16(A)(2)(b)."
- (11) In Paragraph 3-501.13(B), amend to read:

"Completely submerged under running water:

- (1) At a water temperature of 21°C (70°F) or below,
- (2) With sufficient water velocity to agitate and float off loose particles in an overflow,
- (3) Such that for ready-to-eat food, the temperature of thawed portions do not rise above 5°C (41°F), or 7°C (45°F) as specified under Subparagraph 3-501.16(A)(2)(b), and
- (4) Such that for raw animal food requiring cooking as specified under Paragraph 3-401.11(A) or (B), thawed portions are not above 5°C (41°F), or 7°C (45°F) as specified under Subparagraph 3-501.16(A)(2)(b), for more than 4 hours including:
  - (a) The time the food is exposed to the running water and the time needed for preparation for cooking, or
  - (b) The time it takes under refrigeration to lower the food temperature to 5°C (41°F), or 7°C (45°F) as specified under Subparagraph 3-501.16(A)(2)(b);"

- (12) In Subparagraph 3-501.14(A)(2), amend to read: "Within a total of 6 hours from 57°C (135°F) to 5°C (41°F) or less, or to 7°C (45°F) or less as specified under Subparagraph 3-501.16(A)(2)(b)."
- (13) In Paragraph 3-501.14(B), amend to read: "Potentially hazardous food (time/temperature control for safety food) shall be cooled within 4 hours to 5°C (41°F) or less, or to 7°C (45°F) or less as specified under Subparagraph 3-501.16(A)(2)(b) if prepared from ingredients at ambient temperature such as reconstituted foods and canned tuna."
- (14) In Subparagraph 3-501-16(A)(2), amend to read:
- "At a temperature specified in the following:
- (a) 5°C (41°F) or less; or
- (b) 7°C (45°F) or between 5°C (41°F) and 7°C (45°F) in existing refrigeration equipment that is not capable of maintaining the food at 5°C (41°F) or less if:
- (i) The equipment is in place and in use in the food establishment; and
- (ii) On or before January 1, 2019, the equipment is upgraded or replaced to maintain food at a temperature of 5°C (41°F) or less."
- (15) In Paragraph 3-501.17(A), amend to read:
- "(A) Except when packaging food using a reduced oxygen packaging method as specified under Section 3-502.12, and except as specified in Paragraphs (D) and (E) of this section, refrigerated, ready-to eat, potentially hazardous food (time/temperature control for safety food) prepared and held in a food establishment for more than 24 hours shall be marked to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded, based on the temperature and time combinations specified below. The day of preparation shall be counted as Day 1.
- (1) 5°C (41°F) or less for a maximum of 7 days; or
- (2) 7°C (45°F) or between 5°C (41°F) and 7°C (45°F) for a maximum of 4 days in existing refrigeration equipment that is not capable of maintaining the food at 5°C (41°F) or less if:
- (a) The equipment is in place and in use in the food establishment, and
- (b) On or before January 1, 2019, the equipment is upgraded or replaced to maintain food at a temperature of 5°C (41°F) or less."
- (16) In Paragraph 3-501.19(B), amend to read: "If time without temperature control is used as the public health control up to a maximum of 4 hours."
- (17) In Subparagraph 3-501.19(B)(1), amend to read: "The food shall have an initial temperature of 5°C (41°F) or less, or 7°C (45°F) or less when removed from cold holding temperature control, or 57°C (135°F) or greater when removed from hot holding temperature control;"
- (18) In Paragraph 3-801.11(D), amend to read: "Food employees may not contact ready-to-eat food as specified under Paragraphs 3-301.11(B) and (E)."

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

### **15A NCAC 18A .2654 EQUIPMENT, UTENSILS, AND LINENS**

The provisions of this Rule make amendments, additions, and deletions to the Food Code incorporated by reference in Rule .2650 of this Section. In Chapter 4, the following apply:

- (1) Delete Sections 4-204.14, 4-204.19, 4-204.111, 4-204.121, and 4-204.123.
- (2) In Section 4-205.10, amend to read: "Except for toasters, mixers, microwave ovens, water heaters, and hoods, food equipment shall be used in accordance with the manufacturer's intended use and certified or classified for sanitation by an American National Standards Institute (ANSI)-accredited certification program. If the equipment is not certified or classified for sanitation, the equipment shall meet Parts 4-1 and 4-2 of the Food Code as amended by this Rule. Nonabsorbent wooden shelves that are in good repair may be used in dry storage areas."
- (3) In Section 4-301.14, amend to read: "Ventilation hood systems and devices shall prevent grease or condensation from collecting on equipment, walls, and ceilings."



*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

#### **15A NCAC 18A .2655 WATER, PLUMBING, AND WASTE**

The provisions of this Rule make amendments, additions, and deletions to the Food Code incorporated by reference in Rule .2650 of this Section. In Chapter 5, the following applies: Delete Paragraph 5-203.11(C) and Section 5-501.14.

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

#### **15A NCAC 18A .2656 PHYSICAL FACILITIES**

The provisions of this Rule make amendments, additions, and deletions to the Food Code incorporated by reference in Rule .2650 of this Section. In Chapter 6, the following apply:

- (1) Delete Section 6-202.17.
- (2) Delete Section 6-202.18.
- (3) In Paragraph 6-501.115(B), amend to read:  
"Live animals are allowed in the following situations if the owner or operator does not permit animals to physically contact food, serving dishes, utensils, tableware, linens, unwrapped single-service and single-use articles or other food service items that may result in contamination of food or food-contact surfaces and does not permit animals to physically contact employees engaged in the preparation or handling of food:
  - (1) Fish or crustacea in aquariums or display tanks;
  - (2) Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas; and sentry dogs in outside fenced areas;
  - (3) Service animals accompanying persons with disabilities in areas that are not used for food preparation;
  - (4) Dogs (*Canis lupus familiaris*) and cats (*Feliscatus*) in outdoor dining areas; provided that dogs and cats are physically restrained, and do not pass through any indoor areas of the food establishment. Except for service animals described in Subparagraph (3) of this Paragraph, nothing in this Rule prohibits a food establishment from prohibiting dogs and cats in outdoor dining areas; and
  - (5) In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly confined, such as in a variety store that sells pets or a tourist park that displays animals."

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

#### **15A NCAC 18A .2657 POISONOUS OR TOXIC MATERIALS**

The provisions of this Rule make amendments, additions, and deletions to the Food Code incorporated by reference in Rule .2650 of this Section. In Chapter 7, the following apply:

- (1) In Section 7-101.11, add at the end: "Only those pesticides that have been registered with the EPA and with the N.C. Department of Agriculture and Consumer Services shall be used. If the manufacturer's label is missing from a pesticide container, the container shall be identified with the manufacturer's product brand name, percentage of each active ingredient, and EPA registration number."
- (2) In Section 7-203.11, add at the end: "Sanitizing solutions shall not be stored in or dispensed from containers previously containing other poisonous or toxic materials."

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

**15A NCAC 18A .2658 COMPLIANCE AND ENFORCEMENT**

The provisions of this Rule make amendments, additions, and deletions to the Food Code incorporated by reference in Rule .2650 of this Section. In Chapter 8, the following apply:

- (1) In Section 8-103.10, add the following to the end: "Variance requests shall be submitted to a committee including a food scientist and representatives from industry and state and local public health agencies appointed by the Department."
- (2) In Section 8-201.11, add the following to the beginning: "Plans drawn to scale for franchised or chain food establishments shall be submitted for review and approval to the Environmental Health Services Branch, N.C. Division of Public Health. Plans drawn to scale for independent food establishments shall be submitted for review and approval to the local health department."
- (3) In Paragraph 8-201.12(A), amend to read: "Intended menu and plan review application;"
- (4) In Paragraph 8-302.14(G), amend to read: "A statement signed by the applicant that attests to the accuracy of the information provided in the application."
- (5) In Paragraph 8-302.14(G), delete (1) and (2).
- (6) In Section 8-303.20, delete "Permit Renewal" from the heading.
- (7) In Section 8-303.20, amend to read: "As applicable, the regulatory authority may issue a permit in accordance with 15A NCAC 18A .2659, to a new owner of an existing food establishment after an application is submitted, reviewed, and approved, and an inspection shows that the establishment is in compliance with this Code. If the establishment is not in compliance with the Code, a transitional permit may be issued in accordance with G.S. 130A-248 (b) and (c) and Rule .2659(b)."
- (8) Delete Section 8-304.10.
- (9) Delete Paragraph 8-304.11(A).
- (10) Delete Section 8-304.20.
- (11) In Section 8-401.10, delete (A) and replace with: "The regulatory authority shall inspect a food establishment in accordance with 10A NCAC 46 .0213."
- (12) In Section 8-401.10, delete (B) and (C).
- (13) Delete Section 8-401.20.
- (14) Delete Section 8-402.10.
- (15) In Subparagraph 8-402.20(A)(1), amend to read: "The permit holder shall allow access to the regulatory authority as specified under Section 8-402.11 of the Code and G.S. 130A-17 and 130A-249."
- (16) In Subparagraph 8-402.20(A)(3), amend to read: "If access is denied, an administrative warrant may be obtained according to G.S. 15-27.2."
- (17) In Section 8-402.40, amend heading to read: "Administrative Warrant to Gain Access."
- (18) In Section 8-402.40, amend to read: "If denied access to a food establishment for an authorized purpose and after complying with Section 8-402.20 of the Food Code as amended by Rule .2658, the regulatory authority may issue, or apply for the issuance of, an administrative warrant to gain access as provided by G.S. 15-27.2."
- (19) In Section 8-403.20, delete the reference to Section 8-406.11.
- (20) Delete Section 8-406.11.
- (21) Delete Subpart 8-501.

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

**15A NCAC 18A .2659 PERMITS**

(a) No permit for a food establishment shall be issued to a person until an evaluation by the regulatory authority shows that the establishment complies with this Section. However, the regulatory authority shall allow a period of 210 days after the date of issuance to comply with the certified food protection manager requirements in Sections 2-102.11 and 2-102.12 of the Food Code as amended by Rule .2652 of this Section.

(b) Upon transfer of ownership of an existing food establishment, the regulatory authority shall complete an evaluation. If the establishment satisfies all the requirements of the rules, a permit shall be issued. If the establishment does not satisfy all the requirements of the rules, a permit shall not be issued. A transitional permit

shall be issued if the regulatory authority determines that the noncompliant items are construction or equipment problems that do not represent a threat to public health or no certified food protection manager is on the premises. The transitional permit shall expire 180 days after the date of issuance unless suspended or revoked before that date and shall not be renewed. Upon expiration of the transitional permit, the permit holder shall have corrected the noncompliant items and obtained a permit or the food establishment shall not continue to operate.

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

- (1) The number of seats or consumers served.
- (2) The categories of food served.
- (3) Time schedules in completing minor construction items.
- (4) Modification or maintenance of water supplies.
- (5) Use of facilities for more than one purpose.
- (6) Continuation of contractual arrangements upon which basis the permit was issued.
- (7) Submission and approval of plans for renovation.
- (8) Any other areas necessary for a food establishment to remain in compliance with this Section.

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

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

#### **15A NCAC 18A .2660 PUBLIC DISPLAY OF GRADE CARDS**

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

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

(c) On a mobile food unit and pushcart, the grade card shall be located where it is visible to the public when purchasing food. The grade card shall be maintained on the mobile food unit and pushcart and may be removed during transport to operating locations and the person in charge shall repost the grade card in the original location prior to commencing operation.

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

#### **15A NCAC 18A .2661 INSPECTIONS AND REINSPECTIONS**

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

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

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

- (2) The name of the permit holder;
- (3) The permit status and score given;
- (4) Standards of construction and operation as listed in .2651 through .2676 of this Section;
- (5) An explanation for all points deducted;
- (6) The signature of the regulatory authority; and
- (7) The date.

(c) The grading of food establishments shall be based on the standards of operation and construction as set forth in Rules .2650 through .2676 of this Section.

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

- (1) Violation of Chapter 2 of the Food Code as amended by Rule .2652 of this Section related to person in charge present, certification by accredited program or performs duties shall equal no more than 2 points.
- (2) Violation of Chapter 2 of the Food Code as amended by Rule .2652 of this Section related to management awareness, policy present, and allergy awareness shall equal no more than 3 points.
- (3) Violation of Chapter 2 of the Food Code as amended by Rule .2652 of this Section related to proper use of reporting, restriction, and exclusion shall equal no more than 3 points.
- (4) Violation of Chapters 2 and 3 of the Food Code as amended by Rules .2652 and .2653 of this Section related to proper eating, tasting, drinking, or tobacco use shall equal no more than 2 points.
- (5) Violation of Chapter 2 of the Food Code as amended by Rule .2652 of this Section related to no discharge from eyes, nose, and mouth shall equal no more than 1 point.
- (6) Violation of Chapter 2 of the Food Code as amended by Rule .2652 of this Section related to hands clean and properly washed shall equal no more than 4 points.
- (7) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to no bare hand contact with ready-to-eat food or approved alternate method properly followed shall equal no more than 3 points.
- (8) Violation of Chapters 5 and 6 of the Food Code as amended by Rules .2655 and .2656 of this Section related to handwashing facilities supplied and accessible shall equal no more than 2 points.
- (9) Violation of Chapters 3 and 5 of the Food Code as amended by Rules .2653 and .2655 of this Section related to food obtained from an approved source shall equal no more than 2 points.
- (10) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to food received at proper temperature shall equal no more than 2 points.
- (11) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to food in good condition, safe, and unadulterated shall equal no more than 2 points.
- (12) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to required records available, shellstock tags, and parasite destruction shall equal no more than 2 points.
- (13) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to food separated and protected shall equal no more than 3 points.
- (14) Violation of Chapter 4 of the Food Code as amended by Rule .2654 of this Section related to food-contact surfaces cleaned and sanitized shall equal no more than 3 points.
- (15) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to disposition of returned, previously served, reconditioned, and unsafe food shall equal no more than 2 points.
- (16) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to cooking time and temperatures shall equal no more than 3 points.
- (17) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to reheating for hot holding shall equal no more than 3 points.
- (18) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to cooling time and temperatures shall equal no more than 3 points.
- (19) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to hot holding temperatures shall equal no more than 3 points.
- (20) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to cold holding temperatures shall equal no more than 3 points.

- (21) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to date marking and disposition shall equal no more than 3 points.
- (22) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to time as a public health control procedures and records shall equal no more than 2 points.
- (23) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to consumer advisory provided for raw or undercooked foods shall equal no more than 1 point.
- (24) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to pasteurized foods used and prohibited foods not offered shall equal no more than 3 points.
- (25) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to food additives approved and properly used shall equal no more than 1 point.
- (26) Violation of Chapter 7 of the Food Code as amended by Rule .2657 of this Section related to toxic substances properly identified, stored, and used shall equal no more than 2 points.
- (27) Violation of Chapters 3, 4 and 8 of the Food Code as amended by Rules .2653, .2654, and .2658 of this Section related to compliance with variance, specialized process, and HACCP plan shall equal no more than 2 points.
- (28) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to pasteurized eggs used where required shall equal no more than 1 point.
- (29) Violation of Chapters 3 and 5 of the Food Code as amended by Rules .2653 and .2655 of this Section related to water from an approved source shall equal no more than 2 points.
- (30) Violation of Chapter 8 of the Food Code as amended by Rule .2658 of this Section related to variance obtained for specialized processing methods shall equal no more than 1 point.
- (31) Violation of Chapters 3 and 4 of the Food Code as amended by Rules .2653 and .2654 of this Section related to proper cooling methods used or adequate equipment for temperature control shall equal no more than 1 point.
- (32) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to plant food properly cooked for hot holding shall equal no more than 1 point.
- (33) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to approved thawing methods used shall equal no more than 1 point.
- (34) Violation of Chapter 4 of the Food Code as amended by Rule .2654 of this Section related to thermometers provided and accurate shall equal no more than 1 point.
- (35) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to food properly labeled or original container shall equal no more than 2 points.
- (36) Violation of Chapters 2 and 6 of the Food Code as amended by Rules .2652 and .2656 of this Section related to insects and rodents not present or no unauthorized animals or persons shall equal no more than 2 points.
- (37) Violation of Chapters 3 and 6 of the Food Code as amended by Rules .2653 and .2656 of this Section related to contamination prevented during food preparation, storage, and display shall equal no more than 2 points.
- (38) Violation of Chapter 2 of the Food Code as amended by Rule .2652 of this Section related to personal cleanliness shall equal no more than 1 point.
- (39) Violation of Chapters 3 and 4 of the Food Code as amended by Rules .2653 and .2654 of this Section related to wiping cloths properly used and stored shall equal no more than 1 point.
- (40) Violation of Chapters 3 and 7 of the Food Code as amended by Rules .2653 and .2657 of this Section related to washing fruits and vegetables shall equal no more than 1 point.
- (41) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to in-use utensils properly stored shall equal no more than 1 point.
- (42) Violation of Chapter 4 of the Food Code as amended by Rule .2654 of this Section related to utensils, equipment, and linens properly stored, dried and handled shall equal no more than 1 point.
- (43) Violation of Chapter 4 of the Food Code as amended by Rule .2654 of this Section related to single-use and single-service articles properly stored and used shall equal no more than 1 point.
- (44) Violation of Chapter 3 of the Food Code as amended by Rule .2653 of this Section related to gloves used properly shall equal no more than 1 point.
- (45) Violation of Chapters 3 and 4 of the Food Code as amended by Rules .2653 and .2654 of this Section related to equipment, food and non-food contact surfaces approved, cleanable, properly designed, constructed and used shall equal no more than 2 points.

- (46) Violation of Chapter 4 of the Food Code as amended by Rule .2654 of this Section related to warewashing facilities installed, maintained, used, and test strips shall equal no more than 1 point.
- (47) Violation of Chapter 4 of the Food Code as amended by Rule .2654 of this Section related to non-food contact surfaces clean shall equal no more than 1 point.
- (48) Violation of Chapter 5 of the Food Code as amended by Rule .2655 of this Section related to hot and cold water available and adequate pressure shall equal no more than 2 points.
- (49) Violation of Chapter 5 of the Food Code as amended by Rule .2655 of this Section related to plumbing installed and proper backflow devices shall equal no more than 2 points.
- (50) Violation of Chapter 5 of the Food Code as amended by Rule .2655 of this Section related to sewage and wastewater properly disposed shall equal no more than 2 points.
- (51) Violation of Chapters 5 and 6 of the Food Code as amended by Rules .2655 and .2656 of this Section related to toilet facilities properly constructed, supplied, and cleaned shall equal no more than 1 point.
- (52) Violation of Chapters 5 and 6 of the Food Code as amended by Rules .2655 and .2656 of this Section related to garbage and refuse properly disposed and facilities maintained shall equal no more than 1 point.
- (53) Violation of Chapters 4 and 6 of the Food Code as amended by Rules .2654 and .2656 of this Section related to physical facilities installed, maintained, and clean shall equal no more than 1 point.
- (54) Violation of Chapters 4 and 6 of the Food Code as amended by Rules .2654 and .2656 of this Section related to meets ventilation and lighting requirements and designated areas used shall equal no more than 1 point.

(e) In filling out the inspection form, points may be deducted only once for a single occurrence or condition existing within or outside of the food establishment. Deductions shall be based on actual violations of the rules of this Section observed during the inspection. The regulatory authority shall take zero, one-half, or a full deduction of points depending upon the severity or the recurring nature of the core item violations. Priority items or priority foundation items may be corrected during the inspection and no more than one-half of the total point value shall be deducted when the violation meets the following criteria:

- (1) The priority item or priority foundation item violation was not documented on the previous inspection; and
- (2) Correction of the item is documented on the inspection form.

(f) At the time of inspection, if a priority item or priority foundation item violation is observed and not corrected, the regulatory authority shall take one-half or a full deduction of points depending upon the severity or the recurring nature of the violation. The regulatory authority shall specify a time frame of no more than 10 calendar days to correct the priority items or priority foundation items.

(g) In determining whether items or areas of a food establishment are clean for purposes of enforcing the rules set forth in this Section and grading a food establishment, the regulatory authority shall consider, among other things:

- (1) The age of the accumulated material;
- (2) The relative percentage of items which are clean and not clean;
- (3) The cleaning practices of the food establishment; and
- (4) The health risk posed by the circumstances.

(h) Upon request of the permit holder or his or her representative a reinspection shall be made. In the case of a food establishment that requests an inspection for the purpose of raising the alphabetical grade, and that holds an unrevoked permit, the regulatory authority shall make an unannounced inspection within 15 days from the date of the request.

(i) In the case of food establishments that have been closed for failure to comply with the rules of this Section, a reinspection to consider the issuance or reissuance of a permit shall be made at the earliest convenience of the regulatory authority.

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

### **15A NCAC 18A .2662 GRADING**

(a) The grading of food establishments is based on a system of scoring. A food establishment that earns a score of at least:

- (1) 90 percent shall receive a grade A;
- (2) 80 percent and less than 90 percent shall receive a grade B;
- (3) 70 percent and less than 80 percent shall receive a grade C.

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

(b) The posted grade card shall be black on a white background. All graphics, letters, and numbers for the grade card shall be approved as meeting the standards in this Paragraph by the State. The alphabetical and numerical rating shall be 1.5 inches in height. No other public displays representing sanitation level of the establishment may be posted by the regulatory authority, except for sanitation awards issued by the local health department. Sanitation awards shall be in a different color and size from the grade card and must be labeled as an award.

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

### **15A NCAC 18A .2663 OUTDOOR DINING AND BEVERAGE FACILITIES**

(a) A food establishment may provide outdoor dining and beverage service.

(b) Beverages may be prepared outdoors if all equipment and utensils are provided with overhead protection.

(c) Portable cooking, food, and beverage serving facilities shall be allowed for food service provided to a club, organization, or private individual as a planned event and from which the public is excluded. All open food and utensils shall be provided with overhead protection or otherwise equipped with individual covers such as domes, chafing lids, or cookers with hinged lids.

(d) Food and beverage equipment and supplies shall be located in enclosed areas and protected from environmental contamination when not in operation.

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

### **15A NCAC 18A .2664 SUPPLEMENTAL COOKING ROOMS**

The following construction standards apply to food establishments cooking on grills, pits, or fireplaces in supplemental cooking rooms:

- (1) Grills, pits, and fireplaces shall be kept clean, maintained in good repair, and located in an enclosed room as specified in Sections 6-202.15 and 6-202.16 of the Food Code as amended by Rule .2656 of this Section and shall comply with Parts 4-1 and 4-2 of the Food Code as amended by Rule .2654 of this Section.
- (2) Walls and ceilings shall be kept clean and in good repair.
- (3) Floors shall be constructed of easily cleanable concrete or equal and graded to drain.
- (4) Water under pressure shall be provided for floor cleaning.
- (5) Ventilation systems and devices shall prevent grease or condensation from collecting on walls and ceilings.
- (6) A handwashing sink shall be provided as specified in Section 5-202.12 of the Food Code as amended by Rule .2655 of this Section.
- (7) Lighting shall comply with Sections 6-202.11 and 6-303.11 of the Food Code as amended by Rule .2656 of this Section.
- (8) All food shall be processed in an area meeting the requirements for operation and construction as set forth in Rules .2650 through .2657 of this Section.

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

### **15A NCAC 18A .2665 TEMPORARY FOOD ESTABLISHMENT AND TEMPORARY FOOD ESTABLISHMENT COMMISSARY PERMIT REQUIREMENTS**

(a) A permit shall be issued by the regulatory authority to each temporary food establishment and temporary food establishment commissary that complies with Rules .2665 through .2669 of this Section. Temporary food

establishments and temporary food establishment commissaries are not eligible for transitional permits. A single permit shall be issued for a temporary food establishment that does not operate consecutive days as long as the total number of days does not exceed 21. The permit shall be posted in a conspicuous place designated by the regulatory authority. The permit shall include:

- (1) Name and location of the temporary food establishment and temporary food establishment commissary;
  - (2) Permit holder;
  - (3) Name and location of the event;
  - (4) Dates of operation; and
  - (5) Any other conditions necessary to remain in compliance with this Section.
- (b) No food preparation shall occur prior to a permit being issued by the regulatory authority.
- (c) When affiliated with a temporary food establishment for an event where the food will be served, a temporary food establishment commissary permit for prior food preparation may be issued for advance or off-site preparation. A temporary food establishment commissary may commence operation no more than 7 days prior to the event and operate for the length of the event up to a time period not to exceed 21 consecutive days.
- (d) Temporary food establishments and temporary food establishment commissaries shall make application to the regulatory authority no fewer than 15 calendar days prior to commencing operation. This 15-day requirement does not prohibit the submission of applications for substitute vendors provided that these applications are submitted no fewer than 3 business days prior to the event. Applications shall be submitted to the regulatory authority and shall include the following:
- (1) Name, mailing address, and telephone number of the permit holder of the temporary food establishment or temporary food establishment commissary;
  - (2) Name and location of the event at which the temporary food establishment operated immediately prior to the current event for which applying, if applicable;
  - (3) Name, mailing address, and telephone number of the event organizer;
  - (4) Event name, location, dates, and hours of operation;
  - (5) Proposed menu, food handling procedures, including anticipated food volume and sources;
  - (6) Food equipment list;
  - (7) Proposed water supply;
  - (8) Provisions for sewage and other waste disposal; and
  - (9) Any information necessary to ensure compliance.
- (e) The regulatory authority shall require documentation to verify any provision of Rules .2665 through .2669 of this Section.
- (f) The regulatory authority may condition the permit to ensure compliance with Rules .2665 through .2669 of this Section.

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

#### **15A NCAC 18A .2666 TEMPORARY FOOD ESTABLISHMENT FOOD HANDLING REQUIREMENTS**

- (a) All sources of food in temporary food establishments shall comply with Chapter 3 of the Food Code as amended by Rule .2653.
- (b) Raw meat, poultry, and fish in temporary food establishments shall be purchased in ready-to-cook portions, except that cutting and skewering shall be allowed where evaluation by the regulatory authority determines sufficient preparation areas and food equipment are provided.
- (c) Salads containing ingredients that are cooked and cooled shall not be prepared in the temporary food establishment or temporary food establishment commissary, but may be served.
- (d) Shellstock and shucked shellfish in temporary food establishments shall comply with Chapter 3 of the Food Code as amended by Rule .2653 of this Section.
- (e) All food in temporary food establishments shall be protected in accordance with Chapter 3 of the Food Code as amended by Rule .2653 of this Section and the following also apply:
- (1) The regulatory authority may approve food preparation and storage for a temporary food establishment at a permitted temporary food establishment commissary or other permitted food establishment;



- (2) Temporary food establishment or temporary food establishment commissary operations shall not be conducted in any room or area used for purposes not related to the temporary food establishment or other permitted food establishment;
  - (3) Food shall be secured in a manner to prevent tampering and contamination at all times;
  - (4) Ready-to-eat food shall not be stored in direct contact with ice; non-mechanical coolers must be provided with a drainage port;
  - (5) All food shall be stored above the ground or floor and arranged to prevent contamination of foods;
  - (6) Potentially hazardous food (time/temperature control for safety food) that has been heated at the temporary food establishment or temporary food establishment commissary shall not be sold or held for use on subsequent days. Approval shall be granted to allow cooling and reheating of potentially hazardous food (time/temperature control for safety food) if the food can be handled in accordance with the rules of this Section; and
  - (7) The regulatory authority shall further limit the food to be prepared or served, based on methods of preparation and the adequacy of facilities, equipment, utensils, and available utilities.
- (f) Food prepared at a previous event or potentially hazardous food (time/temperature control for safety food) removed from original packaging shall not be served at a subsequent event in a temporary food establishment.

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

#### **15A NCAC 18A .2667 TEMPORARY FOOD ESTABLISHMENT EMPLOYEE REQUIREMENTS**

- (a) Food employees in temporary food establishments shall wear effective hair restraints, clean outer clothing, and maintain good hygienic practices as specified in Part 2-4 of the Food Code as amended by Rule .2652 of this Section.
- (b) Employees in temporary food establishments shall wash their hands in a handwashing facility before starting work, after each visit to the toilet, and as often as necessary to remove soil and contamination.
- (c) Employees in temporary food establishments shall not use tobacco in any form or consume food in food preparation, storage or serving areas, utensil washing, or utensil storage areas.
- (d) Employees in temporary food establishments may consume beverages in the food establishment only if covered and consumed in a manner to prevent contamination of food and food-contact surfaces.
- (e) Employees in temporary food establishments shall comply with the requirements in Subpart 2-201 of the Food Code as amended by Rule .2652 of this Section.

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

#### **15A NCAC 18A .2668 TEMPORARY FOOD ESTABLISHMENT EQUIPMENT AND UTENSIL REQUIREMENTS**

- (a) Equipment and utensils in temporary food establishments shall be kept clean and maintained in good repair. Those surfaces that come into contact with food, drink, or utensils shall comply with Parts 4-1 and 4-2 of the Food Code as amended by Rule .2654 of this Section.
- (b) Equipment and utensils in temporary food establishments shall be cleaned, sanitized, stored, and handled in accordance with Parts 4-6 and 4-7 of the Food Code as amended by Rule .2654 of this Section.
- (c) When multi-use utensils other than eating and drinking utensils are used in temporary food establishments, three basins of sufficient size to submerge, wash, rinse, and sanitize utensils shall be provided. Other equivalent products and procedures may be used in accordance with Part 4-7 of the Food Code as amended by Rule .2654 of this Section. At least one drainboard, table, or counter space shall be provided for air-drying.
- (d) When multi-use eating and drinking utensils are used in temporary food establishments, a three-compartment sink of sufficient size to submerge, wash, rinse, and sanitize utensils must be provided. Drainboards shall be provided as specified in Section 4-301.13 of the Food Code as amended by Rule .2654 of this Section.
- (e) Wash, rinse, and sanitizing solutions shall be maintained in temporary food establishments as specified in Sections 4-501.18 and 4-501.19 of the Food Code as amended by Rule .2654 of this Section.
- (f) A food preparation sink must be provided for washing produce in temporary food establishments.

(g) Food shields or other effective barriers in temporary food establishments shall be installed in a manner to protect food and food contact surfaces from contamination.

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

#### **15A NCAC 18A .2669 TEMPORARY FOOD ESTABLISHMENT PHYSICAL REQUIREMENTS**

(a) A temporary food establishment shall be located in an area kept in a clean and sanitary condition. The arrangement of temporary food establishments shall restrict public access to all areas of the food establishment except dining areas.

(b) For outdoor cooking, overhead protection shall be provided such that all food, utensils, and equipment are protected. When bulk foods such as roasts, shoulders, and briskets are cooked, cooking equipment with attached lids, such as smokers, roasters, and other cooking devices, provide sufficient cover for the food being cooked. Food in individual servings such as hot dogs, hamburgers, and meat kabobs shall have additional overhead cover.

(c) Effective measures such as fans, screens, walls, or a combination thereof, shall be provided to keep dust, insects, rodents, animals, and other sources of potential contamination out of the food establishment and shall comply with Paragraph 6-501.115(B) of the Food Code as amended by Rule .2656 of this Section regarding live animals.

(d) Indoor/outdoor carpeting, matting, tarps, or similar nonabsorbent material is required as ground covering in the absence of asphalt, concrete, grass, or other surfaces that control dust or mud.

(e) The temporary food establishment and temporary food establishment commissary shall be equipped with a handwashing facility used only for employee handwashing. This facility shall consist of at least a two gallon container with an unassisted free flowing faucet such as a stopcock or turn spout, soap, single-use towels, and a wastewater receptacle. Warm water shall be used for handwashing.

(f) Water under pressure shall be provided as follows:

- (1) The water supply used shall be in accordance with 15A NCAC 18A .1700, 15A NCAC 18C, or 02 NCAC 09C .0703;
- (2) All potable water holding tanks, containers, and hoses used to transport or store water at the temporary food establishment shall be drained, washed, rinsed, and sanitized;
- (3) Containers and hoses used to store, haul, or convey potable water shall be approved for potable water use, shall not be used for any other purpose, and shall be protected from contamination. Potable water hoses and containers shall be labeled; and
- (4) Warm water shall be available and used for cleaning.

(g) Wastewater shall be disposed in accordance with 15A NCAC 18A .1900 or 15A NCAC 02H .0200. Portable wastewater containers may be used when the volume of potable water can be determined by the dimensions of sinks, basins, and interim storage containers and the portable wastewater containers are sized to contain the wastewater volume generated. Wastewater containers and hoses shall be labeled and not used for any other purpose. Wastewater containers shall not be emptied into waterways, storm drains, or on the ground.

(h) Employees must have access to toilet facilities that are kept clean and in good repair.

(i) Garbage and refuse shall be collected and stored in garbage containers with properly fitted lids. Nothing in this Rule shall prohibit uncovered garbage containers in the food establishment during periods of operation. Garbage and refuse shall be removed as needed and disposed in a manner to prevent vermin breeding and harborage. The premises shall be kept clean.

(j) Lighting shall comply with Section 6-202.11 of the Food Code as amended by Rule .2656 of this Section. Lighting is required for nighttime operations.

(k) Temporary food establishments and temporary food establishment commissaries shall remain connected to necessary utilities at all times food is prepared, served, or stored in the food establishment.

(l) Toxic materials shall be labeled, used, and stored to prevent the contamination of food, equipment, utensils, linens, and single-service articles and meet the provisions of Sections 7-101.11 and 7-203.11 of the Food Code as amended by Rule .2657 of this Section.

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

**15A NCAC 18A .2670 GENERAL REQUIREMENTS FOR PUSHCARTS AND MOBILE FOOD UNITS**

- (a) A permit shall be issued by the regulatory authority that inspects the commissary from which a pushcart or mobile food unit is to operate, if the regulatory authority determines that the pushcart or mobile food unit complies with the rules of this Section. The permit shall be maintained on the pushcart or mobile food unit and made available to the regulatory authority upon request.
- (b) The regulatory authority that issues the permit shall be provided by the permit holder a list of counties and locations where each pushcart or mobile food unit will operate.
- (c) Prior to initiating food service operations in a particular county, the pushcart or mobile food unit permit holder shall provide the regulatory authority in each county in which food service operations are proposed a list of locations where they will operate. Such lists must be kept current.
- (d) Pushcarts or mobile food units shall operate in conjunction with a permitted commissary and shall report at least daily to the commissary for supplies, cleaning, and servicing. Facilities, in compliance with this Section, shall be provided at the commissary for storage of all supplies. The pushcart shall also be stored in an area that protects it from dirt, debris, vermin, and other contamination. Water faucets used to supply water for pushcarts or mobile food units shall be protected to prevent contact with chemicals, splash, and other sources of contamination. Solid waste storage and liquid waste disposal facilities must also be provided on the commissary premises.
- (e) All food shall be obtained from sources that comply with Chapter 3 of the Food Code as amended by Rule .2653 of this Section.
- (f) All potentially hazardous food (time/temperature control for safety food) shall be maintained at temperatures as required in Chapter 3 of the Food Code as amended by Rule .2653. A metal stem-type thermometer accurate to 1°C (2°F) shall be available to check food temperatures.
- (g) Single service articles shall be used for serving customers. Single-service articles shall be purchased in sanitary containers, shall be stored therein in a clean, dry place until used, and shall be handled in a manner to prevent contamination.
- (h) All garbage and other solid waste shall be stored and disposed in an approved manner.
- (i) Employees shall wear effective hair restraints, clean outer clothing, and maintain good hygienic practices as specified in Part 2-4 of the Food Code as amended by Rule .2652 of this Section.
- (j) Employees shall comply with the requirements in Subpart 2-201 of the Food Code as amended by Rule 2652 of this Section.
- (k) Equipment and utensils shall meet the requirements in Parts 4-1 and 4-2 of the Food Code as amended by Rule .2654 of this Section.
- (l) The pushcart or mobile food unit shall be kept clean and free of flies, roaches, rodents, and other vermin.

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

**15A NCAC 18A .2671 SPECIFIC REQUIREMENTS FOR PUSHCARTS**

- (a) Only hot dogs shall be prepared, handled, or served from a pushcart; however, food which has been prepared, pre-portioned, and individually pre-wrapped at a food establishment or commissary may be served from a pushcart.
- (b) Food and utensils on the pushcart exposed to the public or to dust or insects shall be protected by glass, or otherwise, on the front, top, and ends, and exposed only as much as may be necessary to permit the handling and serving of food.
- (c) Toilet facilities, handwashing sinks, and running water are not required. Single-service towels are required.
- (d) All pre-wrapped potentially hazardous food (time/temperature control for safety food) shall be maintained at temperatures as required in Chapter 3 of the Food Code as amended by Rule .2653 of this Section or as labeled on the food item. Each pre-wrapped food item shall contain the name of the food establishment at which it was prepared, the name of the food item, and the time and date of expiration. The wrapper shall enclose the food at all times but sealing is not required.
- (e) Pre-portioned, individually pre-wrapped food that remains after the specified time period has elapsed shall not be sold for human consumption.
- (f) Pushcarts shall not be provided with seating facilities.
- (g) Pushcarts shall not be used for consumer self-service.

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

**15A NCAC 18A .2672 SPECIFIC REQUIREMENTS FOR MOBILE FOOD UNITS**

- (a) A mobile food unit shall be constructed and arranged so that food, drink, utensils, and equipment will not be exposed to insects, dust, and other contamination. Protection against flies and other insects shall be provided by screening or by effective use of fans. Where food or griddles are exposed to the public or to dust or insects, they shall be protected by glass, or otherwise, on the front, top, and ends, and exposed only as much as may be necessary to permit the handling and serving of food.
- (b) A mobile food unit shall have a potable water system under pressure. The system shall furnish hot and cold water for all food preparation, utensil cleaning, and handwashing. The water inlet shall be located so that it will not be contaminated by waste discharge, road dust, oil, or grease and it shall be kept capped unless being filled.
- (c) Water heating facilities shall be provided.
- (d) A handwashing sink with hot and cold water, combination supply faucet, soap, and single-service towels shall be provided.
- (e) At least a one-compartment sink shall be provided. The sink shall be of sufficient size to submerge, wash, rinse, and sanitize utensils and shall have splashback protection. Drainboards shall be provided as specified in Section 4-301.13 of the Food Code as amended by Rule .2654 to accommodate the drying of washed utensils. However, in cases where no food is prepared on the mobile food unit and all utensils are effectively cleaned at the commissary, the equipment sink is not required.
- (f) Sewage disposal must be provided either by means of an approved sewage disposal system or approved sewage storage tanks. Sewage storage tanks must be maintained in a manner so as not to create a health hazard or nuisance and to prevent contamination of food or water supply. Toilets are not required on the unit. Liquid waste that results from the operation of a mobile food unit shall be disposed in an approved sewage disposal system or stored in a permanently installed sewage storage tank that is of at least 15 percent larger capacity than the water supply tank. Liquid waste shall not be discharged from the sewage storage tank when the mobile food unit is in motion. All connections on the vehicle for servicing mobile food unit waste disposal facilities shall be of a different size or type than those used for supplying potable water to the mobile food unit. The waste connection shall be located lower than the water inlet connection to preclude contamination of the potable water system.
- (g) A servicing area shall be established at a commissary for the mobile food unit. Potable water servicing equipment shall be installed, stored, and handled to protect the water and equipment from contamination. The mobile food unit's sewage storage tank shall be flushed and drained during servicing operation. All sewage shall be discharged to an approved sewage disposal system in accordance with 15A NCAC 18A .1900 or 15A NCAC 02H .0200.

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

**15A NCAC 18A .2673 CONGREGATE NUTRITION SITES**

Congregate nutrition sites shall comply with all requirements in Rules .2650 through .2662 of this Section with the following exceptions:

- (1) Food preparation in a congregate nutrition site shall be limited to reheating food prepared in a food establishment or in a food processing plant or preparation of food that does not require cooking.
- (2) Potentially hazardous food (time/temperature control for safety food) that has been heated or reheated at the congregate nutrition site and remains at the end of the day shall not be served or placed in refrigeration to be used another day.
- (3) Only single-service articles shall be used.
- (4) Equipment in the congregate nutrition site that is not certified or classified for sanitation by an ANSI-accredited certification program that is in good repair and operating properly may be used. At least a two-compartment sink shall be provided. The sink shall be of sufficient size to submerge, wash, rinse, and sanitize utensils. At least one drainboard, table, or counter space shall be provided for air-drying.
- (5) Garbage can liners are required for all garbage receptacles unless the site has receptacle cleaning facilities as specified in Section 5-501.18 of the Food Code as amended by Rule .2655 of this Section.
- (6) Water used for mop or receptacle cleaning shall not be disposed in the utensil sink. Wastewater from mopping, receptacle cleaning, and other cleaning operations shall be disposed in a service

sink or another approved manner in accordance with 15A NCAC 18A .1900 or 15A NCAC 02H .0200.

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

#### **15A NCAC 18A .2674 LIMITED FOOD ESTABLISHMENTS**

Limited food establishments shall comply with all the requirements in Rules .2650 through .2662 of this Section, except that the following provisions apply in lieu of Rules .2654(2) and .2659(a) and (b), Section 5-204.11(b) of the Food Code as amended by Rule .2655 of this Section, and Sections 8-201.11 and 8-201.12 of the Food Code as amended by Rule .2658 of this Section:

- (1) The permit for a limited food establishment shall be posted in a conspicuous place where it can be readily seen by the public at all times. Permits for limited food establishments shall expire on December 31 of each year. A new permit from the regulatory authority shall be obtained before the limited food establishment shall be allowed to operate each year. Transitional permits shall not be issued.
- (2) The permit application shall be submitted to the local health department at least 30 days prior to construction or commencing operation. The permit application shall include a proposal for review and approval that includes a menu, plans, and specifications for the proposed limited food establishment, and location and dates of operation.
- (3) Limited food establishments shall not prepare any potentially hazardous food (time/temperature control for safety food) prior to the day of sale.
- (4) Potentially hazardous food (time/temperature control for safety food) that has been heated at the limited food establishment and remains at the end of the day shall not be served or placed in refrigeration to be used another day.
- (5) All meats, poultry, and fish shall be purchased in a pre-portioned and ready-to-cook form.
- (6) Equipment in the limited food establishment that is not certified or classified for sanitation by an ANSI-accredited certificate program that is in good repair and operating properly may be used. At least a two-compartment sink shall be provided. The sink shall be of sufficient size to submerge, wash, rinse, and sanitize utensils and shall have splashback protection. At least one drainboard, table, or counter space shall be provided for air-drying.
- (7) Only single-service articles shall be used.
- (8) Limited food establishments may prepare food in accordance with Rule .2669(b) of this Section.
- (9) Floors, walls, and ceilings of limited food establishments shall meet the requirements of this Section, except those limited food establishments preparing food in accordance with Rule .2669(b) of this Section. Limited food establishments shall use dustless methods of floor cleaning and all, except emergency floor cleaning, shall be done during those periods when the least amount of food and drink is exposed, such as after closing, or between meals.
- (10) All areas in which food is handled, prepared, or in which utensils are washed, shall be provided with artificial lighting that complies with Section 6-202.11 of the Food Code as amended by Rule .2656 of this Section.
- (11) A handwashing sink shall be provided in food service areas for use by employees only.
- (12) Toilet facilities shall be provided for use by employees. Public toilet facilities provided on the grounds of the facility where the associated amateur athletic event is taking place are acceptable. Toilet facilities for the public are not required.

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

#### **15A NCAC 18A .2675 PROCEDURE WHEN INFECTION SUSPECTED**

When the regulatory authority has reason to suspect the possibility of exposure to, or transmission of, infection within a food establishment from any person or from any food or drink, the local health director shall act in accordance with the Communicable Disease Laws and Rules (G.S. 130A-134 through 148 and 10A NCAC 41A.)

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.

**15A NCAC 18A .2676 INFORMAL REVIEW PROCESS AND APPEALS PROCEDURE**

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

- (1) Request an informal review pursuant to Paragraphs (d) and (e) of this Rule; or
- (2) Initiate a contested case in accordance with G.S. 150B.

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

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

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

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

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

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

(h) Nothing in this Rule shall impact the right of a permit holder to a reinspection pursuant to Rule .2661 of this Section.

*History Note:* Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);  
Eff. September 1, 2012.





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