

TEMPORARY RULE

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Wildlife Resources Commission

RULE CITATION: 15A NCAC 10A .1601

RECOMMENDED ACTION:

- X Approve, but note staff's comment
- Decline to approve, based on:
 - Lack of statutory authority
 - Unclear or ambiguous
 - Unnecessary
 - Failure to comply with the APA
 - Extend the period of review

COMMENT:

Session Law 2019-204, "An Act to Make Various Changes to the Statutes Governing the Wildlife Resources Commission" became effective on August 27, 2019. This law amended multiple statutes relating to licenses and permits issued by the Wildlife Resources Commission, including changes to the amounts that could be charged for these.

Section 6.(a) of the Session Law amended G.S. 113-270.1B(e) as follows:

SECTION 6.(a) G.S. 113-270.1B reads as rewritten:

"§ 113-270.1B. License required to hunt, fish, or trap; fees set by Commission.

(e) The Wildlife Resources Commission shall adopt rules to establish fees for ~~the hunting, fishing, trapping, and activity licenses~~ all licenses, permits, stamps, and certifications issued and administered by the Wildlife Resources Commission. ~~Commission, except those specified in G.S. 113-173. No rule to increase fees above January 1, 2015, levels may increase a fee in excess of the total increase in the Consumer Price Index for All Urban Consumers~~ Commission, except those specified in G.S. 113-173. No rule to increase fees above January 1, 2015, levels may increase a fee in excess of the total increase in the Consumer Price Index for All Urban Consumers, rounded up to the next whole dollar, over the period of time since the last fee change.

Amanda J. Reeder
Commission Counsel
Issued November 7, 2019

The statutory fees for the hunting, fishing, trapping, and activity licenses issued and administered by the Wildlife Resources Commission shall expire when the rules adopted pursuant to this subsection become effective."

The effect of this Session Law is that the fees that were previously set by statute will be replaced by fees set by rule promulgated by the Wildlife Resources Commission. That Commission is allowed to set the fees at a higher amount than the fee established by statute, so long as the increase is not in excess of the Consumer Price Index for All Urban Consumers, rounded up to the nearest whole dollar.

As such, in this temporary rulemaking, the Wildlife Resources Commission is following the mandate and establishing fees in this Rule. Many of the fees contained in this Rule are higher than the fees contained in the authorizing statutes that cited within the Rule. However, that is allowed pursuant to the language in G.S. 113-270.1B(e). Therefore, staff is recommending approval of this temporary rule for inclusion in the Code.

1 15A NCAC 10A .1601 is proposed for adoption under temporary procedures as follows:

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3 **15A NCAC 10A .1601 LICENSE FEES.**

4 (a) License fees established by the Commission in this Rule shall be subject to the requirements of G.S. 113-270.1B(e).

5 (b) The following fees shall apply to combination hunting and inland fishing licenses issued by the Commission, as
6 set forth in G.S. 113-270.1C:

7 (1) Resident Annual Combination Hunting and Inland Fishing License - \$35.00.

8 (2) Resident Disabled Veteran Lifetime Combination Hunting and Inland Fishing License - \$11.00.

9 (3) Resident Totally Disabled Lifetime Combination Hunting and Inland Fishing License - \$11.00.

10 (c) The following fees shall apply to sportsman licenses issued by the Commission, as set forth in G.S. 113-270.1D:

11 (1) Annual Sportsman License - \$53.00.

12 (2) Infant Lifetime Sportsman License - \$212.00.

13 (3) Youth Lifetime Sportsman License - \$371.00.

14 (4) Adult Resident Lifetime Sportsman License - \$530.00.

15 (5) Nonresident Lifetime Sportsman License - \$1,272.00.

16 (6) Age 70 Resident Lifetime Sportsman License - \$16.00.

17 (7) Resident Disabled Veteran Lifetime Sportsman License - \$106.00.

18 (8) Resident Totally Disabled Lifetime Sportsman License - \$106.00.

19 (d) The following fees shall apply to hunting licenses issued by the Commission, as set forth in G.S. 113-270.2:

20 (1) Resident State Hunting License - \$25.00.

21 (2) Lifetime Resident Comprehensive Hunting License - \$265.00.

22 (3) Controlled Hunting Preserve Hunting License - \$22.00.

23 (4) Resident Annual Comprehensive Hunting License - \$39.00.

24 (5) Nonresident State Hunting Licenses:

25 (A) Season License - \$100.00.

26 (B) Ten-Day License - \$80.00.

27 (6) Falconry Hunting License - \$25.00.

28 (e) The following fees shall apply to special activity licenses issued by the Commission, as set forth in G.S. 113-270.3:

29 (1) Resident Big Game Hunting License - \$14.00.

30 (2) Nonresident Bear Hunting License - \$239.00.

31 (3) Bear Management Stamp - \$11.00.

32 (4) Nonresident Big Game Hunting License:

33 (A) Season License - \$100.00.

34 (B) Ten-Day License - \$80.00.

35 (5) Bonus Antlerless Deer License - \$11.00.

36 (6) Game Land License - \$16.00.

37 (7) Falconry License - \$11.00.

- (8) Migratory Waterfowl Hunting License - \$14.00.
- (9) Resident American Alligator License - \$250.00.
- (10) Nonresident American Alligator License - \$500.00.
- (11) Resident Elk License - \$500.00.
- (12) Nonresident Elk License - \$1,000.00.
- (f) The following fees shall apply to hunting and fishing guide licenses issued by the Commission, as set forth in G.S. 113-270.4:
- (1) Resident Hunting and Fishing Guide License - \$16.00.
- (2) Nonresident Hunting and Fishing Guide License - \$159.00.
- (g) The following fees shall apply to trapping licenses issued by the Commission, as set forth in G.S. 113-270.5:
- (1) Resident State Trapping License - \$32.00.
- (2) Resident Lifetime Trapping License - \$300.00.
- (3) Nonresident State Trapping License - \$133.00.
- (h) The following fees shall apply to hook-and-line licenses in inland and joint fishing waters issued by the Commission, as set forth in G.S. 113-271:
- (1) Resident State Inland Fishing License - \$25.00.
- (2) Lifetime Resident Comprehensive Inland Fishing License - \$265.00.
- (3) Nonresident State Inland Fishing License - \$45.00.
- (4) Short-Term Inland Fishing License:
- (A) Resident 10-day Inland Fishing License - \$9.00.
- (B) Nonresident 10-day Inland Fishing License - \$23.00.
- (5) Age 70 Resident Lifetime Inland Fishing License - \$16.00.
- (6) Resident Disabled Veteran Lifetime Inland Fishing License - \$11.00.
- (7) Resident Totally Disabled Lifetime Inland Fishing License - \$11.00.
- (8) Special Landholder and Guest Fishing License - \$106.00.
- (9) Mountain Heritage Trout Waters 3-Day Fishing License - \$8.00.
- (i) The following fees shall apply to special device licenses issued by the Commission, as set forth in G.S. 113-272.2:
- (1) Resident Special Device License - \$80.00.
- (2) Nonresident Special Device License - \$530.00.
- (j) The fee for a collection license issued by the Commission, as set forth in G.S. 113-272.4 shall be \$10.00.
- (k) The following fees shall apply to captivity licenses issued by the Commission, as set forth in G.S. 113-272.5:
- (1) Captivity License for Holding - \$50.00.
- (2) Captivity License for Rehabilitation - \$10.00.
- (l) The following fees shall apply to dealer licenses issued by the Commission as set forth in G.S. 113-273:
- (1) Resident Fur-dealer License - \$64.00.
- (2) Nonresident Fur-dealer License - \$318.00.
- (3) Fur-dealer Station License - \$128.00.

- (4) Controlled Hunting Preserve Operator License - \$100.00.
- (5) Game Bird Propagation License - \$10.00.
- (6) Furbearer Propagation License - \$27.00.
- (7) Taxidermy License - \$50.00.
- (8) Taxidermy Cervid Certification - \$5.00.
- (9) Wildlife Control Agent License - \$50.00.
- (10) Alligator Control Agent Certification - \$25.00.
- (m) The following fees shall apply to permits issued by the Commission, as set forth in G.S. 113-274:
- (1) Possession Permit - \$10.00.
- (2) Exportation or Importation Permit - \$10.00.
- (3) Trophy Wildlife Sale Permit - \$10.00.
- (4) Endangered Species Permit - \$10.00.
- (5) Field Trial Permit - \$10.00.
- (n) Unified hunting and fishing licenses issued by the Commission, as set forth in G.S. 113-351:
- (1) Annual Resident Unified Sportsman/Coastal Recreational Fishing License - \$69.00.
- (2) Annual Resident Unified Inland/Coastal Recreational Fishing License - \$43.00.
- (3) Lifetime Unified Sportsman/Coastal Recreational Fishing Licenses:
- (A) Infant Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$292.00.
- (B) Youth Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$477.00.
- (C) Resident Adult Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$716.00.
- (D) Nonresident Adult Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$1,643.00.
- (E) Resident Age 70 Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$32.00.
- (F) Resident Disabled Veteran Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$117.00.
- (G) Resident Totally Disabled Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$117.00.
- (4) Resident Lifetime Unified Inland/Coastal Recreational Fishing License - \$477.00.
- (o) The following fees shall apply to Coastal Recreational Fishing Licenses issued by the Commission, as set forth in G.S. 113-174.2:
- (1) Annual Resident Coastal Recreational Fishing License - \$16.00.
- (2) Annual Nonresident Coastal Recreational Fishing License - \$32.00.
- (3) Ten-Day Resident Coastal Recreational Fishing License - \$6.00.
- (4) Ten-Day Nonresident Coastal Recreational Fishing License - \$11.00.
- (5) Infant Lifetime Coastal Recreational Fishing License - \$106.00.

- 1 (6) Youth Lifetime Coastal Recreational Fishing License - \$159.00.
- 2 (7) Resident Adult Lifetime Coastal Recreational Fishing License - \$265.00.
- 3 (8) Nonresident Adult Lifetime Coastal Recreational Fishing License - \$530.00.
- 4 (9) Resident Age 70 Lifetime Coastal Recreational Fishing License - \$16.00.
- 5 (10) Resident Disabled Veteran Coastal Recreational Fishing License - \$11.00.
- 6 (11) Resident Totally Disabled Coastal Recreational Fishing License - \$11.00.

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8 History Note: Authority G.S. 113-270.1B(e);

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AGENCY: Wildlife Resources Commission

RULE CITATION: 15A NCAC 10L .0101

RECOMMENDED ACTION:

- X Approve, but note staff's comment
- Decline to approve, based on:
 - Lack of statutory authority
 - Unclear or ambiguous
 - Unnecessary
 - Failure to comply with the APA
 - Extend the period of review

COMMENT:

Session Law 2018-95, "An Act to Expand the Types of Land That Can Qualify for Present-Use Value Taxation as Wildlife Conservation Land" created a new category of wildlife conservation land that affects the taxation of that land. The new category is for reserves for hunting, fishing, shooting, wildlife observation, or wildlife activities. The Session Law mandated that the Wildlife Resources Commission engage in rulemaking to administer inspection requirements and activities for this new category.

The Session Law was ratified on June 15, 2018. It was signed into law by the Governor on June 25, 2018. G.S. 150B-21.1(a2) states that when an agency engages in temporary rulemaking due to a recent act of the General Assembly, the act must have become effective no more than 210 days prior to submission of the temporary rule to the RRC for review. The agency is beyond that deadline. However, the Session Law states that it is effective for taxes imposed for taxable years beginning on or after July 1, 2019. Staff believes that this means the effective date of this law was delayed to July 1, 2019 and the agency has acted within the timeframe set by G.S. 150B-21.1(a2) to adopt this temporary rule. Therefore, staff is recommending approval of this temporary rule for inclusion in the Code.

Note: The Wildlife Resources Commission requests adding a new Subchapter to Chapter 10 of Title 15A of the Administrative Code and that it be titled as follows: Subchapter 10L Wildlife Conservation Land Program.

15A NCAC 10L .0101 is proposed for adoption under temporary procedures as follows:

15A NCAC 10L .0101 WILDLIFE RESERVE

(a) A wildlife reserve is a type of wildlife conservation land that meets the size and ownership requirements in G.S. 105-277.15 and where the conditions in Paragraphs (b) and (c) of this Rule are met and maintained by the owner under a written Wildlife Habitat Conservation Agreement with the NC Wildlife Resources Commission that is submitted by the landowner to the county where an application for reduced property tax assessment is requested.

(b) Qualifying habitat shall be planned for or exist as, and be maintained as one or more of the following natural community types:

(1) aquatic and wetland communities

(A) coldwater systems less than 20°C;

(B) coolwater systems greater than 20°C, less than 25°C;

(C) warmwater systems greater than 25°C;

(D) headwaters and small creek communities less than 40 square mile drainage area;

(E) large creeks and small river communities 40 to 200 square mile drainage area;

(F) medium river communities 200 to 3,800 square mile drainage area;

(G) large river communities greater than 3,800 square mile drainage area;

(H) stream swamp systems;

(I) natural lakes;

(J) reservoirs and impoundments;

(K) groundwater, springs, and subterranean water;

(L) estuarine aquatic communities;

(M) bogs and fens;

(N) estuarine wetland communities;

(O) floodplains - blackwater, brownwater, or inland systems;

(P) freshwater tidal wetlands;

(Q) nonalluvial mineral wetlands;

(R) pocosins;

(S) upland pools and depressions;

(T) upland seepages and spray cliffs; or

(U) wet pine savannas.

(2) upland communities

(A) caves and mines;

(B) cove forests;

- (C) dry coniferous woodlands including loblolly and slash pine timberlands;
- (D) dry longleaf pine communities;
- (E) grass and heath balds;
- (F) high-elevation cliffs and rock outcrops;
- (G) low elevation flatrocks, cliffs, and rock outcrops;
- (H) mafic glades and barrens;
- (I) maritime forests;
- (J) maritime grasslands;
- (K) mesic forests;
- (L) oak and mixed hardwood and pine forests;
- (M) montane oak forests;
- (N) northern hardwood forests;
- (O) sand, shell, and wrack shorelines;
- (P) spruce - fir forests; or
- (Q) herbaceous, shrub, and woody successional communities.

(c) At least three of the following activities shall be maintained on the land as agreed upon in the written Wildlife Habitat Conservation Agreement:

- (1) "supplemental food" is annual or perennial noninvasive plantings that provide a direct or indirect source of food or nutrition for wildlife resources.
- (2) "supplemental water" includes natural and artificial water features or sources that are created or installed for the benefit of wildlife resources.
- (3) "supplemental shelter" is natural or artificial structures that are created or installed to provide shelter from the weather, nesting sites, or escape cover from predators. Supplemental shelter may include the addition of natural or artificial structures into aquatic habitats.
- (4) "habitat control" is managing upland, wetland, riparian, or aquatic vegetation or physical aquatic habitat using practices to establish, restore, enhance, or maintain the natural community type(s) listed in Paragraph (b) of this Rule.
- (5) "erosion control" is the implementation of practices to prevent, reduce, or minimize soil erosion. Practices may include streambank and in-stream channel stabilization. Practices established for erosion control shall not be known to harm wildlife or include invasive plant species.
- (6) "predator control" is a practice implemented to reduce the abundance of a species or suite of species that preys on any life stage of wildlife species for which the land is managed. Predator control includes removal of invasive animal species to manage or protect wildlife or wildlife habitats.
- (7) "census of animal population on the land" is conducting or participating in periodic surveys and inventories to determine the presence, number, composition, biological condition, or human use of wildlife.

History Note: Authority G.S. 105-277.15;