

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Wildlife Resources Commission

RULE CITATION: 15A NCAC 10B .0202

**DEADLINE FOR RECEIPT: Wednesday, May 11, 2016**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Lines 8 and 13, delete the phrase "all of"*

*Line 23, consider placing "Wake" and "Warren" county in alphabetical order*

*Page 2, line 2, remove the underlining for "[1]"*

*Page 2, between lines 18 and 19, add back in the italicized language that was published for the temporary rule and update line 1 on page 1 to reflect that the italicized language was approved by the Rules Review Commission on March 19, 2016 for amendment, but with a delayed effective date of August 1, 2016.*

*Page 3, line 14, please correct the effective date to May 31, 2016. G.S. 150B-21.3(a) specifies the effective date of a temporary rule, with no option to delay, as allowed for permanent rules. If there is another specific statute indicating a delayed effective date, please provide a copy of the statute to justified the delayed effective date. On the "Temporary Rule-Making Findings of Need" form, please delete the "August 1, 2016" in Box 5g to reflect this change.*

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

Abigail M. Hammond  
Commission Counsel  
Date submitted to agency: Tuesday, May 3, 2016



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

**ORIGINAL**  
5-2-'16

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: N.C. Wildlife Resources Commission

2. Rule citation & name: 15A NCAC 10B .0202 Bear

3. Action: ☐ Adoption ☒ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: March 4, 2016
- b. Proposed Temporary Rule published on the OAH website: March 10, 2016
- c. Public Hearing date: March 21 & 22; April 5, 6 & 8, 2016
- d. Comment Period: March 4 to April 12, 2016
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): March 4, 2016
- f. Adoption by agency on: April 21, 2016
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: August 1, 2016
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☐ The effective date of a recent act of the General Assembly or of the U.S. Congress.  
Cite:  
Effective date:
- ☐ A recent change in federal or state budgetary policy.  
Effective date of change:
- ☐ A recent federal regulation.  
Cite:  
Effective date:
- ☐ A recent court order.  
Cite order:
- ☐ State Medical Facilities Plan.
- ☒ Other: G.S. 150B-21.1(a)(7)(b.)

**Explain:** The Commission has identified a need to make alterations to a bear season and a manner of take before the opening of the fall 2016 bear season and to have these changes presented to the public in the annual *Inland Fishing, Hunting and Trapping Regulations Digest* which is distributed to the public on August 1. The adopted rule reduces the amount of time baiting for bear will be allowed in the western part of North Carolina from the noticed text due to feedback the agency received during the public comment period.

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

The Commission has identified a need to make alterations to a bear season and a manner of take before the opening of the fall 2016 bear season and to have these changes presented to the public in the annual *Inland Fishing, Hunting and Trapping Regulations Digest* which is distributed to the public on August 1. The adopted rule reduces the amount of time baiting for bear will be allowed in the western part of North Carolina from the noticed text due to feedback the agency received during the public comment period. These changes are necessary to effectively manage the black bear population.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator: Erica Garner**

Phone: 919-707-0014

E-Mail: erica.garner@ncwildlife.org

Agency contact, if any: Kate Pipkin

Phone: 919-707-0065

E-Mail: kathryn.pipkin@ncwildlife.org

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: John Litton Clark

Title: Chairman, NC Wildlife Resources Commission

E-Mail:

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

1 15A NCAC 10B .0202 Bear is amended under temporary procedures as follows:

3 **15A NCAC 10B .0202 BEAR**

5 (a) Open Seasons for hunting bear shall be from the:

- 6 (1) Monday on or nearest October 15 to the Saturday before Thanksgiving and the third Monday after  
7 Thanksgiving to January 1 in and west of Surry, Wilkes, Caldwell, Burke, and Cleveland counties.
- 8 (2) Second Monday in November to January 1 in all of Bladen, Brunswick, Carteret, Columbus,  
9 Cumberland, Duplin, New Hanover, Onslow, Pamlico, Pender, and Sampson counties.
- 10 (3) First Monday in December to the third Saturday thereafter in ~~Brunswick, Columbus, and Robeson~~  
11 County ~~counties~~.
- 12 (4) Second Monday in November to the following Saturday and the third Monday after Thanksgiving  
13 to the fifth Saturday after Thanksgiving in all of Beaufort, Camden, Chowan, Craven, Dare,  
14 Edgecombe, Greene, Halifax, Hyde, Jones, Lenoir, Martin, Nash, Northampton, Pasquotank, Pitt,  
15 Tyrrell, Washington, Wayne, and Wilson counties.
- 16 (5) Saturday preceding the second Monday in November to the following Saturday and the third  
17 Monday after Thanksgiving to the fifth Saturday after Thanksgiving in Bertie, Currituck, Gates,  
18 Hertford, and Perquimans counties.
- 19 (6) Concurrent with the open season for all lawful weapons for hunting deer as specified in 15A  
20 NCAC 10B .0203(a)(1) in Alamance, Alexander, Anson, Cabarrus, Caswell, Catawba, Chatham,  
21 Davie, Davidson, Durham, Franklin, Forsyth, Gaston, Granville, Guilford, Harnett, Hoke, Iredell,  
22 Johnston, Lee, Lincoln, Mecklenburg, Montgomery, Moore, Orange, Person, Randolph,  
23 Richmond, Rockingham, Rowan, Scotland, Stanly, Stokes, Union, Vance, Warren, Wake, and  
24 Yadkin counties.

25 (b) Restrictions

- 26 (1) For purposes of this Paragraph, "bait" means any natural, unprocessed food product that is a grain,  
27 fruit, nut, vegetable, or other material harvested from a plant crop that is not modified from its raw  
28 components.
- 29 (2) Bears shall not be taken with the use or aid of:
  - 30 (A) any processed food product as defined in G.S. 113-294(r), any animal, animal part or  
31 product, salt, salt lick, honey, sugar, sugar-based material, syrups, candy, pastry, gum,  
32 candy block, oils, spices, peanut butter, or grease;
  - 33 (B) any extracts of substances identified in Part (A) of this Subparagraph;
  - 34 (C) any substances modified by substances identified in Part (A) of this Subparagraph,  
35 including any extracts of those substances; or
  - 36 (D) any bear bait attractant, including sprays, aerosols, scent balls, and scent powders.

37 (3) Bears may be taken with the aid of bait from the Monday on or nearest October 15 to the Saturday  
38 before Thanksgiving in the counties in Subparagraph (a)(1) of this Rule.

~~(3)~~(4) Bears may be taken with the aid of bait during the entire open season in the counties identified in Subparagraphs (a)(4) (2) through (a)(6) of this Rule. ~~from the first open Monday through the following Saturday only in the counties in Subparagraphs (a)(1) through (a)(5) of this Rule. In counties with a season split into two or more segments, this Subparagraph applies only to the first segment.~~

~~(4)~~(5) Bears shall not be taken while in the act of consuming bait.

~~(5)~~ — Bears may be taken with the aid of bait during the entire open season in the counties identified in Subparagraph (a)(6) of this Rule.

~~(6)~~(5) Hunters shall not take bears using dogs in the following counties: Alamance south of Interstate 85, Anson west of N.C. Hwy 742, Cabarrus, Chatham, Davie, Davidson, Franklin, Forsyth, Gaston, Guilford, Lee, Lincoln, Mecklenburg, Montgomery, Orange south of Interstate 85, Randolph, Rockingham, Rowan, Stanly, Union, and Wake south of N.C. Hwy 98. In all other counties and parts of counties, hunters may take bears using dogs and may release dogs in the vicinity of bait.

(c) No Open Season. There is no open season in those parts of counties included in the following posted bear sanctuaries:

Avery, Burke, and Caldwell counties--Daniel Boone bear sanctuary except by permit only  
 Beaufort, Bertie, and Washington counties--Bachelor Bay bear sanctuary  
 Bladen County--Suggs Mill Pond bear sanctuary  
 Brunswick County--Green Swamp bear sanctuary  
 Buncombe, Haywood, Henderson, and Transylvania counties--Pisgah bear sanctuary  
 Carteret, Craven, and Jones counties--Croatan bear sanctuary  
 Clay County--Fires Creek bear sanctuary  
 Columbus County--Columbus County bear sanctuary  
 Currituck County--North River bear sanctuary  
 Dare County--Bombing Range bear sanctuary except by permit only  
 Haywood County--Harmon Den bear sanctuary  
 Haywood County--Sherwood bear sanctuary  
 Hyde County--Gull Rock bear sanctuary  
 Hyde County--Pungo River bear sanctuary  
 Jackson County--Panthertown-Bonas Defeat bear sanctuary  
 Macon County--Standing Indian bear sanctuary  
 Macon County--Wayah bear sanctuary  
 Madison County--Rich Mountain bear sanctuary  
 McDowell and Yancey counties--Mt. Mitchell bear sanctuary except by permit only  
 Mitchell and Yancey counties--Flat Top bear sanctuary  
 Wilkes County--Thurmond Chatham bear sanctuary

1 (d) The daily bag limit is one, the possession limit is one, and the season limit is one.

2 (e) Kill Reports. The carcass of each bear shall be reported as provided by 15A NCAC 10B .0113.

3 *History Note: Authority G.S. 113-134; 113-291.1; 113-291.2; 113-291.7; 113-305;*

4 *Eff. February 1, 1976;*

5 *Amended Eff. July 1, 1998; September 1, 1995; July 1, 1995; July 1, 1994; April 14, 1992;*

6 *Temporary Amendment Eff. July 1, 1999;*

7 *Amended Eff. July 1, 2000;*

8 *Temporary Amendment Eff. July 1, 2002;*

9 *Amendment Eff. August 1, 2002;*

10 *Temporary Amendment Eff. September 1, 2003;*

11 *Temporary Amendment Expired Eff. December 27, 2003;*

12 *Amended Eff. August 1, 2016; August 1, 2015; August 1, 2014; August 1, 2012; August 1, 2010;*

13 *May 1, 2009; May 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005.*

14 *Temporary Amendment Eff. August 1, 2016*