

REQUEST FOR TECHNICAL CHANGE

AGENCY: Wildlife Resource Commission

RULE CITATION: 15A NCAC 10B .0106

DEADLINE FOR RECEIPT: Friday, November 4, 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.

Submission of Permanent Rule form, box 2 - please complete the rule citation as follows: "15A NCAC 10B .0106"

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

Jason Thomas
Commission Counsel
Date submitted to agency: October 21, 2016

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Page 1, line 6 and Page 4, lines 8 and 10 – these lines require the use of forms. G.S. 150B-2(8a)d. does not require a form to be adopted as a rule if its “contents or substantive requirements ... are prescribed by rule or statute.” Is there a rule or statute that prescribes the information required in these forms?

Page 1, lines 20-21 – regarding the sentence that begins “The permit shall name...,” which permit is being referred to – the State depredation permit or the USFWS depredation permit? If the State permit, please describe when the permit “may contain limitations,” set out the factors used in determining whether and what limitations to add to the permit, or refer to another rule that provides this information.

Page 2, line 9 – add a comma after “.0104”

Page 2, line 17 – delete the comma after “laws”

Page 2, line 23 – replace “are obligated to” with “shall comply with” if that is what is meant.

Page 2, line 34 – regarding the word “may,” when might a permit state whether and what type of bait may be used? Please set out the factors used in determining whether and what bait might be allowed or refer to another rule that provides this information.

Page 3, line 30 delete the comma after “provided further that”

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

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1 15A NCAC 10B .0106 Wildlife Taken for Depredations is proposed for amendment as follows:

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15A NCAC 10B .0106 WILDLIFE TAKEN FOR DEPREDACTIONS

(a) Depredation permits allow the taking of undesirable or excess wildlife resources as described in Subparagraphs (1) and (2) of this Paragraph. Only employees of the Wildlife Resources Commission and Wildlife Damage Control Agents may issue depredation permits. Each permit shall be written on a form supplied by the Commission. No permit is needed for the owner or lessee of a property to take wildlife while committing depredations on the property; however the manner of taking, disposition of dead wildlife, and reporting requirements as described in this Rule still apply. No permit shall be issued to take any endangered or threatened species of wildlife listed under 15A NCAC 10I, except alligators, by reason of depredations to property. Only the Executive Director may issue depredation permits for Special Concern species listed in 15A NCAC 10I .0105 and for alligators. An individual may take an endangered or threatened species in immediate defense of his own life or of the lives of others without a permit. Any endangered or threatened species that may constitute a demonstrable but non-immediate threat to human safety shall be reported to a federal or state wildlife enforcement officer, who, upon verification of the report, may take or remove the specimen as provided by 15A NCAC 10I .0102. Depredation permits for other species shall be issued under the following conditions:

- (1) for taking wildlife that is or has been damaging or destroying property provided there is evidence of property damage. No permit may be issued for the taking of any migratory birds and other federally-protected animals unless a corresponding valid U.S. Fish and Wildlife Service depredation permit, if required, has been issued. The permit shall name the species allowed to be taken and may contain limitations as to age, sex, or any other condition within the species so named. The permit shall be issued to a landholder or an authorized representative of a unit of local government for depredations on public property; and the permit shall be used only by individuals named on the permit.
- (2) for taking of wildlife resources in circumstances of overabundance or when the wildlife resources present a danger to human safety. Cities as defined in G.S. 160A-1(2) seeking such a depredation permit shall apply to the Executive Director using a form supplied by the Commission requesting the following information:
 - (A) the name and location of the city;
 - (B) the acreage of the affected property;
 - (C) a map of the affected property;
 - (D) the signature of an authorized city representative;
 - (E) the nature of the overabundance or the threat to public safety; and
 - (F) a description of previous actions taken by the city to ameliorate the problem.

(b) Wildlife Damage Control Agents: Upon completion of a training course designed for the purpose of reviewing and updating information on wildlife laws and safe, humane wildlife handling techniques, and demonstration of a knowledge of wildlife laws and safe, humane wildlife handling techniques, an individual with no record of wildlife

1 law violations may apply to the Wildlife Resources Commission (Commission) to become a Wildlife Damage Control
2 Agent (WDCA). Those persons who demonstrate knowledge of wildlife laws and safe, humane wildlife handling
3 techniques by a passing score of 85 percent or better on a written examination provided by a representative of the
4 Wildlife Resources Commission, in cooperation with the training course provider, shall be approved. Those persons
5 failing to obtain a passing score shall be given one chance for re-testing without re-taking the course. Those persons
6 approved as agents by the Commission may then issue depredation permits for depredation as defined in Subparagraph
7 (a)(1) of this Rule to landholders and be listed as a second party to provide the control service. WDCAs may not issue
8 depredation permits for coyotes in the counties of Beaufort, Dare, Hyde, Tyrrell, Washington; big game animals; bats;
9 or species listed as endangered, threatened, or special concern under 15A NCAC 10I .0103, .0104 and .0105 of this
10 Chapter. WDCAs shall report to the Wildlife Resources Commission the number and disposition of animals taken,
11 by county, annually. Records shall be available for inspection by a Wildlife Enforcement officer at any time during
12 normal business hours. These business hours are the posted business hours of the Commission at ncwildlife.org.
13 WDCA status shall be revoked at any time by the Executive Director when there is evidence of violations of wildlife
14 laws, failure to report, or inhumane treatment of animals by the WDCA. A WDCA may not charge for the permit,
15 but may charge for his or her investigations and control services. In order to maintain a knowledge of current laws,
16 rules, and techniques, each WDCA shall renew his or her agent status every three years by showing proof of having
17 attended at least one training course provided for the purpose of reviewing and updating information on wildlife laws,
18 and safe, humane wildlife handling techniques within the previous 12 months or agency approved continuing
19 education credits.

20 (c) Each depredation permit shall have an expiration date or time after which the depredation permit is no longer
21 valid. The depredation permit authorizes possession of any wildlife resources taken under the permit and shall be
22 retained as long as the wildlife resource is in the permittee's possession. All individuals taking wildlife resources
23 under the authority of a depredation permit are obligated to the conditions written on the permit and the requirements
24 specified in this Rule.

25 (d) Manner of Taking:

26 (1) Taking Without a Permit. Wildlife taken without a permit while committing depredations to
27 property may, during the open season on the species, be taken by the landholder by any lawful
28 method. During the closed season, such depredating wildlife may be taken without a permit only
29 by the use of firearms or archery equipment as defined in 15A NCAC 10B .0116.

30 (2) Taking With a Permit. Wildlife taken under a depredation permit may be taken only by the method
31 or methods authorized by the permit. When trapping is authorized, in order to limit the taking to
32 the intended purpose, the permit may specify a reasonable distance from the property sought to be
33 protected, according to the particular circumstances, within which the traps shall be set. The
34 Executive Director or agent may also state in a permit authorizing trapping whether or not bait may
35 be used and the type of bait, if any, that is authorized. In addition to any trapping restrictions that
36 may be contained in the permit, the method of trapping shall be in accordance with the requirements
37 and restrictions imposed by G.S. 113-291.6 and other local laws passed by the General Assembly.

1 No depredation permit shall authorize the use of poisons or pesticides in taking wildlife except in
2 accordance with the provisions of the North Carolina Pesticide Law of 1971, G.S. 143, Article 52,
3 the Structural Pest Control Act of 1955, G.S. 106, Article 4C, and G.S. 113, Article 22A. No
4 depredation permit shall authorize the taking of wildlife by any method by any landholder upon the
5 lands of another except when the individual is listed as a second party on a depredation permit.

- 6 (3) Intentional Wounding. It is unlawful for any landholder, with or without a depredation permit,
7 intentionally to wound a wild animal in a manner so as not to cause its immediate death as suddenly
8 and humanely as the circumstances permit.

9 (e) Disposition of Wildlife Taken:

- 10 (1) Generally. Except as provided by Subparagraphs (e)(2) through (5) of this Paragraph, any wildlife
11 killed without a permit while committing depredations shall be buried or otherwise disposed of in a
12 safe and sanitary manner on the property. Wildlife killed under a depredation permit may be
13 transported to an alternate disposal site if desired. Anyone in possession of carcasses of animals
14 being transported under a depredation permit shall have the depredation permit in his or her
15 possession. Except as provided by Subparagraphs (e)(2) through (5) of this Rule, all wildlife killed
16 under a depredation permit shall be buried or otherwise disposed of as stated on the permit.

- 17 (2) Deer and feral swine. The edible portions of feral swine and deer may be retained by the landholder
18 for consumption but shall not be transported from the property where the depredations took place
19 without a valid depredation permit. The landholder may give a second party the edible portions of
20 the feral swine and deer taken under the depredation permit. The receiver of the edible portions shall
21 hold a copy of the depredation permit. The nonedible portions of any deer carcass, including head,
22 hide, feet, and antlers, shall be disposed of as specified in Subparagraph (1) of this Paragraph or
23 turned over to a wildlife enforcement officer for disposition.

- 24 (3) Fox. Any fox killed under a depredation permit may be disposed of as described in Subparagraph
25 (1) of this Paragraph or, upon compliance with the fur tagging requirements of 15A NCAC 10B
26 .0400, the carcass or pelt thereof may be sold to a licensed fur dealer.

- 27 (4) Furbearing Animals. The carcass or pelt of any furbearing animal killed during the open season for
28 taking such furbearing animal for control of depredations to property, whether with or without a
29 permit, may be sold to a licensed fur dealer provided that the person offering such carcass or pelt
30 for sale has a valid hunting or trapping license; provided further that, bobcats and otters may only
31 be sold upon compliance with any required fur tagging requirement set forth in 15A NCAC 10B
32 .0400.

- 33 (5) Animals Taken Alive. Wild animals in the order Carnivora, armadillos, groundhogs, nutria, and
34 beaver shall be humanely euthanized either at the site of capture or at a facility designed to humanely
35 handle the euthanasia or released on the property where captured. Feral swine shall be euthanized
36 while still in the trap in accordance with G.S. 113-291.12. For all other animals taken alive, the
37 animal shall be euthanized or released on property with permission of the landowner. When the

1 relocation site is public property, written permission shall be obtained from an appropriate local,
2 state, or federal official before any animal may be released. Animals transported or held for
3 euthanasia shall be euthanized within 12 hours of capture. Anyone in possession of live animals
4 being transported for relocation or euthanasia under a depredation permit shall have the depredation
5 permit in his or her possession.

6 (f) Reporting Requirements. Any landholder who kills an alligator; a coyote in the counties of Beaufort, Dare, Hyde,
7 Tyrrell, or Washington; deer; Canada goose; bear; elk; or wild turkey under a valid depredation permit shall report
8 such kill on the form provided with the permit and mail the form upon the expiration date to the Wildlife Resources
9 Commission. Any landowner who kills a coyote in the counties of Beaufort, Dare, Hyde, Tyrrell, and Washington
10 shall report such kill as directed on the form provided with the depredation permit. The killing and method of
11 disposition of every ~~alligator; alligator and bear, or~~ coyote in the counties of Beaufort, Dare, Hyde, Tyrrell, and
12 ~~Washington~~ Washington; bear; or elk taken without a permit shall be reported to the Wildlife Resources Commission
13 within 24 hours following the time of such killing.

14
15 *History Note: Authority G.S. 113-134; 113-273; 113-274; 113-291.4; 113-291.6; 113-300.1; 113-300.2; 113-307;*
16 *113-331; 113-333; 113-334(a); 113-337;*

17 *Eff. February 1, 1976;*

18 *Amended Eff. August 1, 2013; January 1, 2012; August 1 2010; July 1, 2010; May 1, 2008; August*
19 *1, 2002; July 1, 1997; July 1, 1995; January 1, 1995; January 1, 1992; August 1, 1990.*

20 *Temporary Amendment Eff. August 1, 2014 and shall remain in effect until amendments expire as*
21 *specified in G.S. 150B-21.1(d) or the United States District Court for the Eastern District of North*
22 *Carolina's court order number 2:13-CV-60-BOs signed on May 13, 2014 is rescinded, whichever*
23 *date is earlier. The court order is available at www.ncwildlife.org;*

24 *Temporary Amendment Eff. February 27, 2015;*

25 *Amended Eff. December 1, 2016; July 1, 2016; May 1, 2016.*