

Note from the Codifier: The OAH website includes notices and the text of proposed temporary rules as required by G.S. 150B-21.1(a1). Prior to the agency adopting the temporary rule, the agency must hold a public hearing no less than five days after the rule and notice have been published and must accept comments for at least 15 business days. For questions, you may contact the Office of Administrative Hearings at 984-236-1850 or email oah.postmaster@oah.nc.gov.

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.1(a3) that the Wildlife Resources Commission intends to adopt the rules cited as 15A NCAC 10B .0501-.0505.

Codifier of Rules received for publication the following notice and proposed temporary rule(s) on: March 30, 2023.

Public Hearing:

Date: April 18, 2023

Time: 2:30 p.m.

Location: Virtual hearing. Registration is required at:

https://ncwildlife-org.zoomgov.com/webinar/register/WN_BGZ_r4hCST6YvuL2ngwS9Q

Reason for Proposed Temporary Action: A serious and unforeseen threat to the public health, safety or welfare. G.S. 113-306(f). Based on recent detections of chronic wasting disease (CWD) outside of the currently designated primary surveillance area, the agency needs to adjust restrictions and requirements to assist with further detection, delineation, and isolation of CWD. Emergency powers are being used by the Executive Director to implement localized response actions and temporary rules are needed to replace emergency powers and specify requirements necessary to reduce movement and the likelihood of infecting new areas.

Comment Procedures: Comments from the public shall be directed to: Rulemaking Coordinator, 1701 Mail Service Center, Raleigh, NC 27699; email regulations@ncwildlife.org. The comment period begins March 31, 2023 and ends April 28, 2023.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0500 – CHRONIC WASTING DISEASE MANAGEMENT

15A NCAC 10B .0501 DEFINITIONS AND GENERAL REQUIREMENTS

(a) The rules in this Section apply to any area of the State where Chronic Wasting Disease (CWD) has been detected, as determined by the Commission.

(b) The following definitions shall apply to rules in this Section:

- (1) "Cervid" means all animals in the Family Cervidae not otherwise regulated by the NC Department of Agriculture and Consumer Services.
- (2) "Cervid Health Cooperator" means an individual authorized to collect CWD samples on behalf of the Commission.
- (3) "Chronic Wasting Disease" or "CWD" means the transmissible spongiform encephalopathy prion disease affecting species within the deer (Cervidae) Family.
- (4) "CWD Management Area" means the area delineated by the Commission where CWD has been determined to be endemic and the rules of this Section apply.
- (5) "Primary Surveillance Area" or "PSA" means a county delineated by the Commission for CWD surveillance where a confirmed CWD positive cervid has been found.
- (6) "Sample" means the cervid head and at least three inches of the neck.
- (7) "Secondary Surveillance Area" or "SSA" means a county adjacent to or near a PSA delineated by the Commission for CWD surveillance.
- (8) "Submit" means to deliver a sample to a cervid health cooperator or qualified Commission employee or deposit in a Commission CWD Testing Drop-off Station.
- (9) "Surveillance Area" means the PSA and SSA collectively.

Authority G.S. 113-134; 113-306.

15A NCAC 10B .0502 CWD SURVEILLANCE AREAS DEFINED

(a) The following Counties are Primary Surveillance Areas:

- (1) Cumberland County;
- (2) Stokes County;
- (3) Surry County;
- (4) Wilkes County; and
- (5) Yadkin County.

(b) The following Counties are Secondary Surveillance Areas:

- (1) Alexander County;

- (2) Alleghany County;
- (3) Ashe County;
- (4) Bladen County;
- (5) Davie County;
- (6) Forsyth County;
- (7) Guilford County;
- (8) Harnett County;
- (9) Hoke County;
- (10) Iredell County;
- (11) Robeson County;
- (12) Rockingham County; and
- (13) Sampson County.

Authority G.S. 113-134; 113-306.

Note: The italicized text indicates amendments to the current temporary rule.

15A NCAC 10B .0503 SURVEILLANCE AREA

(a) Inside a surveillance area, placement of minerals or salt licks to purposefully congregate wildlife shall be prohibited. Placement of bait, food, or food product to purposefully congregate wildlife shall be prohibited from January 2 through August 31 each year inside a Surveillance Area, except that bird feeders *specifically designed for nongame birds* and other activities specifically permitted by the Commission shall be allowed. Placement of bait, food, or food products for the purpose of hunting during the urban archery season shall be allowed within the established season in participating municipalities.

(b) *White-tailed deer fawn rehabilitation is prohibited in a Surveillance Area.*

(c) *White-tailed deer fawns originating from within a Surveillance Area shall not be transported outside the Surveillance Area.*

(d) *No cervid carcass or carcass parts originating from inside a Primary Surveillance Area or Secondary Surveillance Area shall be transported outside of the county of origin, except:*

(b) ~~It is unlawful to export a live cervid, cervid carcass, or carcass parts originating from inside a Surveillance Area except:~~

- (1) meat that has been boned out such that no pieces or fragments of bone remain;
- (2) caped hides with no part of the skull or spinal column attached;
- (3) antlers, antlers attached to cleaned skull plates, or skulls free from meat or brain tissue;
- (4) cleaned lower jawbones with teeth or cleaned teeth;
- (5) finished taxidermy products and tanned hides; and
- (6) carcass or carcass parts permitted by the Commission for disposal outside of the Surveillance Area.
- (7) *carcass or carcass parts originating inside a PSA may be transported into contiguous PSA(s) or outside of the PSA as specified in Subparagraphs (d)(1) through (6) of this Rule; and*
- (8) *carcass or carcass parts originating inside a SSA may be transported into contiguous SSA(s) or PSA(s) or outside of the SSA as specified in Subparagraphs (d)(1) through (6) of this Rule.*

~~(e) White-tailed deer fawn rehabilitation is prohibited in a Surveillance Area.~~

~~(d) White-tailed deer fawns originating from within a Surveillance Area shall not be transported outside the Surveillance area.~~

(e) No person shall possess or use any substance or material that contains or is labeled as containing any excretion collected from a cervid, including feces, urine, blood, gland oil, or other bodily fluid for the purposes of taking or attempting to take, attracting, or scouting wildlife inside a surveillance area. This prohibition shall not apply to the following substances:

- (1) products containing synthetic analogs of cervid excretions and labeled as such;
- (2) natural substances collected from facilities within North Carolina that have a valid Farmed Cervid License from the North Carolina Department of Agriculture and Consumer Services and are labeled as such;
- (3) natural deer urine products containing excretions from facilities within North Carolina that have a valid Farmed Cervid License from the North Carolina Department of Agriculture and Consumer Services and are labeled as such; and
- (4) natural deer urine products containing excretions from facilities that meet all the following requirements and are labeled as such:
 - (A) determined to be free of chronic wasting disease (CWD) based on testing by an independent laboratory using a method that may help detect the presence of CWD prions;
 - (B) complies with a federally approved CWD herd certification program and any federal CWD protocols; and
 - (C) participates in additional herd management requirements as specified by the Wildlife Resources Commission.

Authority G.S. 113-134; 113-306.

15A NCAC 10B .0504 PRIMARY SURVEILLANCE AREA

(a) Any hunter who harvests a cervid from the Saturday prior to Thanksgiving through the third Sunday thereafter in PSA counties listed in Rule .0203(a)(1)(C) or (E) of this Subchapter shall submit a sample from that cervid no later than two weeks following the harvest for CWD testing.

(b) Any hunter who harvests a cervid from the Saturday 12 days prior to Thanksgiving Day through the 3rd Sunday thereafter in PSA counties listed in Rule .0203(a)(1)(A) or (B) of this Subchapter shall submit a sample from that cervid no later than 2 weeks following the harvest for CWD testing.

Authority G.S. 113-134; 113-306.

15A NCAC 10B .0505 SECONDARY SURVEILLANCE AREA

(a) Any hunter who harvests a cervid from the Saturday prior to Thanksgiving through the third Sunday thereafter in SSA counties listed in Rule .0203(a)(1)(C) or (E) of this Subchapter shall submit a sample from that cervid no later than two weeks following the harvest for CWD testing.

(b) Any hunter who harvests a cervid from the Saturday 12 days prior to Thanksgiving Day through the 3rd Sunday thereafter in SSA counties listed in Rule .0203(a)(1)(A) or (B) of this Subchapter shall submit a sample from that cervid no later than 2 weeks following the harvest for CWD testing.

Authority G.S. 113-134; 113-306.