

## Burgos, Alexander N

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**Subject:** FW: WRC Temp Rules - June 2022 RRC Request for Changes  
**Attachments:** 15A NCAC 10B .0503 tech.docx

**From:** Pekar, Ashley M <[ashley.pekrul@ncwildlife.org](mailto:ashley.pekrul@ncwildlife.org)>

**Sent:** Monday, June 13, 2022 3:48 PM

**To:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>; Ruhlman, Carrie A <[carrie.ruhlman@ncwildlife.org](mailto:carrie.ruhlman@ncwildlife.org)>

**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>

**Subject:** RE: WRC Temp Rules - June 2022 RRC Request for Changes

Hi Brian,

Please see our edited rules and response to questions. Please let us know if we need to do anything else.

Thank you,  
Ashley

Note: The Wildlife Resources Commission requests the addition of a new section to Subchapter 10B of Chapter 10 of Title 15A of the Administrative Code to be titled as follows: Section .0500 Chronic Wasting Disease Management.

15A NCAC 10B .0501 is adopted under temporary procedures as follows:

## **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)    “Index location” means the approximate location where a new CWD detection has been identified.
- (6)    “Primary Surveillance Area” or “PSA” means an area within an approximate five-mile radius around an index location as delineated by the Commission for CWD surveillance.
- (7)    “Sample” means ~~tissue from a cervid suitable for CWD testing.~~ the cervid head and at least three inches of the neck.
- (8)    “Secondary Surveillance Area” or “SSA” means an area within an approximate five- to 30-mile radius around an index location delineated by the Commission for CWD surveillance.
- (9)    “Surveillance Area” means the PSA and SSA collectively.

*History Note:    Authority G.S. 113-134; 113-306*

*Temporary Adoption Eff. July 1, 2022.*

15A NCAC 10B .0504 is adopted under temporary procedures as follows:

## **15A NCAC 10B .0504    PRIMARY SURVEILLANCE AREA**

(a) Any hunter who harvests a cervid in the PSA during the blackpowder or all lawful weapons season shall submit a sample to the Commission for CWD testing.

(b) No cervid carcass or carcass part originating from inside a PSA shall be transported outside the PSA unless double bagged and taken directly to a Cervid Health Cooperator in a county included in the PSA, or the carcass parts comply with Rule 10B .0503(b), or as ~~permitted~~ authorized by the Commission.

*History Note:    Authority G.S. 113-134; 113-306*

*Temporary Adoption Eff. July 1, 2022.*

15A NCAC 10B .0505 is adopted under temporary procedures as follows:

**15A NCAC 10B .0505 SECONDARY SURVEILLANCE AREA**

(a) Any hunter who harvests a cervid in the SSA during the blackpowder season and from opening day through the second Sunday of all lawful weapons season shall submit a sample to the Commission for CWD testing.

(b) Cervid carcass and carcass parts originating from inside an SSA may be transported to the PSA within the same Surveillance Area.

(c) Except as provided in 10B .0503(b), cervid carcasses or carcass parts shall not be transported outside of the SSA [without a permit from] unless authorized by the Commission.

History Note: Authority G.S. 113-134; 113-306

Temporary Adoption Eff. July 1, 2022.

## Burgos, Alexander N

---

**Subject:** FW: WRC Temp Rules - June 2022 RRC Request for Changes

---

**From:** Liebman, Brian R <brian.liebman@oah.nc.gov>  
**Sent:** Monday, June 13, 2022 4:02 PM  
**To:** Pekrul, Ashley M <ashley.pekrul@ncwildlife.org>; Ruhlman, Carrie A <carrie.ruhlman@ncwildlife.org>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: WRC Temp Rules - June 2022 RRC Request for Changes

Thank you! I'll review and get back to you ASAP.

Brian Liebman  
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Office of Administrative Hearings  
(984)236-1948  
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**From:** Pekrul, Ashley M <[ashley.pekrul@ncwildlife.org](mailto:ashley.pekrul@ncwildlife.org)>  
**Sent:** Monday, June 13, 2022 3:48 PM  
**To:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>; Ruhlman, Carrie A <[carrie.ruhlman@ncwildlife.org](mailto:carrie.ruhlman@ncwildlife.org)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: WRC Temp Rules - June 2022 RRC Request for Changes

Hi Brian,

Please see our edited rules and response to questions. Please let us know if we need to do anything else.

Thank you,  
Ashley

## **Request for Changes Pursuant to N.C. Gen. Stat. § 150B-21.10**

Staff reviewed these Rules to ensure that each Rule is within the agency's statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

If the request includes questions, please contact the reviewing attorney to discuss.

In order to properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

### **Note the following general instructions:**

1. You must submit the revised rule via email to [oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov). The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
  - Wrong: “~~a~~Association”
  - Right: “~~association~~ Association”
6. Treat punctuation as part of a word. For example:
  - Wrong: “day;, and”
  - Right: “~~day,~~ day, and”
7. Formatting instructions and examples may be found at:  
[www.ncoah.com/rules/examples.html](http://www.ncoah.com/rules/examples.html)

If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.

TEMPORARY RULE  
REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Wildlife Resources Commission

RULE CITATION: 15A NCAC 10B .0501

**DEADLINE FOR RECEIPT: Monday, June 13, 2022.**

***PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*In (b)(7), line 21, what does "suitable for CWD testing" mean? **A part of the animal that can be tested for CWD.** Will your regulated public know? **Yes.***

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

TEMPORARY RULE  
REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Wildlife Resources Commission

RULE CITATION: 15A NCAC 10B .0503

**DEADLINE FOR RECEIPT: Monday, June 13, 2022.**

***PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*In (a), line 4, is the comma in “mineral, or salt licks” necessary? **Yes** Do you mean mineral licks or salt licks? **No**.*

*In (a), line 6, what other activities are permitted? Is this described elsewhere in your rules? **Feral hog eradication (feral swine trapping permit) and research (collection license or endangered species permit). Both covered elsewhere.***

*In (b), line 9, when you say “unlawful” is this a criminal act, or merely a violation of the rule? **It’s a Class 3 misdemeanor per 113-294(d).***

*In (b), line 9, add the oxford comma between “carcass” and “or”. **Done***

*In (c), line 17, change “a” to “the” prior to “Surveillance Area” for consistency. **Keeping “a” so that when more areas are added we do not need to change this.***

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

TEMPORARY RULE  
REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Wildlife Resources Commission

RULE CITATION: 15A NCAC 10B .0504

**DEADLINE FOR RECEIPT: Monday, June 13, 2022.**

**PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*In (a), how is the hunter to submit the sample? Does the regulated public know? **Our regulated public knows. We have done and will continue to do a significant amount of outreach in surveillance areas.***

*In (b), line 8, what does "or as permitted by the Commission" mean in this context? **That there are waste management exemptions. These exemptions are not for individuals. Are you requiring a permit? If so, what are the requirements for a permit? It is likely that we will need to issue permits to waste management companies/facilities, NC DOT, and Cervid Health Cooperators that will allow them to transport out of the PSA for disposal to specific sites.***

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



TEMPORARY RULE  
REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Wildlife Resources Commission

RULE CITATION: 15A NCAC 10B .0505

**DEADLINE FOR RECEIPT: Monday, June 13, 2022.**

***PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*In (c), line 9, what are the requirements for a permit? See response to second question for 10B .0504.*

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: June 10, 2022

Note: The Wildlife Resources Commission requests the addition of a new section to Subchapter 10B of Chapter 10 of Title 15A of the Administrative Code to be titled as follows: Section .0500 Chronic Wasting Disease Management.

15A NCAC 10B .0501 is adopted under temporary procedures as follows:

**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) “Index location” means the approximate location where a new CWD detection has been identified.
- (6) “Primary Surveillance Area” or “PSA” means an area within an approximate five-mile radius around an index location as delineated by the Commission for CWD surveillance.
- (7) “Sample” means tissue from a cervid suitable for CWD testing.
- (8) “Secondary Surveillance Area” or “SSA” means an area within an approximate five- to 30-mile radius around an index location delineated by the Commission for CWD surveillance.
- (9) “Surveillance Area” means the PSA and SSA collectively.

History Note: Authority G.S. 113-134; 113-306

Temporary Adoption Eff. July 1, 2022.

1 15A NCAC 10B .0502 is adopted under temporary procedures as follows:

2  
3 **15A NCAC 10B .0502 CWD SURVEILLANCE AREAS DEFINED**

4  
5 The following Surveillance Area is established around the Yadkin County index location:

6 (1) Surry County East of US 601, South of NC 268 and West of Quaker Church Road and the  
7 Ararat River; and Yadkin County East of US 601, North of NC 67, West of Shoals Road  
8 to the intersection with Shady Grove Church Road and West of Fairground Road are  
9 delineated as the PSA.

10 (2) Surry County, Yadkin County, Davie County, Forsyth County, Stokes County, all portions  
11 of Alleghany County East of US 21 from the Virginia state line to the junction of [and] NC  
12 [48;] 18 and thereafter all portions South and East of NC 18 to the Wilkes County line, all  
13 portions of Wilkes County East of NC 18 from the Alleghany County line to the junction of NC  
14 115 and thereafter all portions East of NC [415;] 115 to the Iredell County line, and Iredell  
15 County [East of NC 115 and] North of I 40 are delineated as the SSA.

16  
17 History Note: Authority G.S. 113-134; 113-306

18 Temporary Adoption Eff. July 1, 2022.

19

1 15A NCAC 10B .0503 is adopted under temporary procedures as follows:

2  
3 **15A NCAC 10B .0503 SURVEILLANCE AREA**

4 (a) Placement of bait, food, food product, [mineral, minerals, or salt licks to purposefully congregate wildlife shall  
5 be prohibited from January 2 through August 31 each year inside [the] a Surveillance Area, except that bird feeders  
6 and other activities specifically permitted by the Commission shall be allowed. Placement of bait, food, or food  
7 products for the purpose of hunting during the urban archery season shall be allowed within the established season  
8 in participating municipalities.

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

- 11 (1) meat that has been boned out such that no pieces or fragments of bone remain;  
12 (2) caped hides with no part of the skull or spinal column attached;  
13 (3) antlers, antlers attached to cleaned skull plates, or skulls free from meat or brain tissue;  
14 (4) cleaned lower jawbones with teeth or cleaned teeth;  
15 (5) finished taxidermy products and tanned hides; and  
16 (6) carcass or carcass parts permitted by the Commission for disposal outside of the Surveillance Area.

17 (c) White-tailed deer fawn rehabilitation is prohibited in a Surveillance Area.

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

20  
21 History Note: Authority G.S. 113-134; 113-306

22 Temporary Adoption Eff. July 1, 2022.

1 15A NCAC 10B .0504 is adopted under temporary procedures as follows:

2  
3 **15A NCAC 10B .0504 PRIMARY SURVEILLANCE AREA**

4 (a) Any hunter who harvests a cervid in the PSA during the blackpowder or all lawful weapons season shall submit a  
5 sample to the Commission for CWD testing.

6 (b) No cervid carcass or carcass part originating from inside a PSA shall be transported outside the PSA unless  
7 double bagged and taken directly to a Cervid Health Cooperator in a county included in the PSA, or the carcass parts  
8 comply with Rule 10B .0503(b), or as permitted by the Commission.

9  
10 *History Note: Authority G.S. 113-134; 113-306*

11 *Temporary Adoption Eff. July 1, 2022.*

1 15A NCAC 10B .0505 is adopted under temporary procedures as follows:

2  
3 **15A NCAC 10B .0505 SECONDARY SURVEILLANCE AREA**

4 (a) Any hunter who harvests a cervid in the SSA during the blackpowder season and from opening day through the  
5 second Sunday of all lawful weapons season shall submit a sample to the Commission for CWD testing.

6 (b) Cervid carcass and carcass parts originating from inside an SSA may be transported to the PSA within the same  
7 Surveillance Area.

8 (c) Except as provided in 10B .0503(b), cervid carcasses or carcass parts shall not be transported outside of the SSA  
9 [without a permit from] unless permitted by the Commission.

10  
11 *History Note: Authority G.S. 113-134; 113-306*

12 *Temporary Adoption Eff. July 1, 2022.*

## Burgos, Alexander N

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**From:** Liebman, Brian R  
**Sent:** Monday, June 13, 2022 4:57 PM  
**To:** Pekrul, Ashley M; Ruhlman, Carrie A  
**Cc:** Burgos, Alexander N  
**Subject:** RE: WRC Temp Rules - June 2022 RRC Request for Changes

Hi Ashley,

I have a few more questions. I will just copy and paste the requests and your responses below, and my follow ups are in blue.

### R .0501

*In (b)(7), line 21, what does “suitable for CWD testing” mean? A part of the animal that can be tested for CWD. OK, then what part? What I am getting at is what makes the tissue suitable? Is it a quantity? A particular organ or body part? Something else? Will your regulated public know? Yes.*

### R .0504/.0505

*In (b), line 8, what does “or as permitted by the Commission” mean in this context? That there are waste management exemptions. These exemptions are not for individuals. Are you requiring a permit? If so, what are the requirements for a permit? It is likely that we will need to issue permits to waste management companies/facilities, NC DOT, and Cervid Health Cooperators that will allow them to transport out of the PSA for disposal to specific sites.*

*In (c), line 9, what are the requirements for a permit? See response to second question for 10B .0504.*

*I'm concerned that you're establishing a permit requirement in these two rules without enumerating the requirements for the permit. Are they in a statute or another rule? What is your statutory authority for the permit?*

Thanks,  
Brian

Brian Liebman  
Counsel to the North Carolina Rules Review Commission  
Office of Administrative Hearings  
(984)236-1948  
brian.liebman@oah.nc.gov

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**From:** Pekrul, Ashley M <ashley.pekrul@ncwildlife.org>  
**Sent:** Monday, June 13, 2022 3:48 PM  
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**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: WRC Temp Rules - June 2022 RRC Request for Changes

Hi Brian,



Please see our edited rules and response to questions. Please let us know if we need to do anything else.

Thank you,  
Ashley

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**From:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>  
**Sent:** Friday, June 10, 2022 6:09 PM  
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**Cc:** Pekrul, Ashley M <[ashley.pekrul@ncwildlife.org](mailto:ashley.pekrul@ncwildlife.org)>; Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** WRC Temp Rules - June 2022 RRC Request for Changes

Good afternoon,

I'm the attorney who reviewed the temp Rules submitted by WRC for the June 2022 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, June 16, 2022, at 9:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get closer to the meeting. If there are any other representatives from your agency who will want to attend virtually, let me know prior to the meeting, and we will get evites out to them as well.

Please submit the revised Rules and forms to me via email, no later than 5 p.m. on Monday, June 13, 2022.

In the meantime, please do not hesitate to reach out via email with any questions or concerns.

Thanks,

Brian

Brian Liebman  
Counsel to the North Carolina Rules Review Commission  
Office of Administrative Hearings  
(984)236-1948  
[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)

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