

TITLE 15A – DEPARTEMENT OF ENVIRONMENTAL QUALITY

Rule-making Agency: *Wildlife Resources Commission*

Rule Citation: *15A NCAC 10B .0503*

Effective Date: *August 30, 2022*

Findings Reviewed and Approved by the Codifier: *August 22, 2022*

Reason for Action: *An Emergency rule is needed to address the use of natural deer excretions from hunter-harvested deer before the 2022-2023 hunting season begins. Prohibiting possession and use of these substances will aid in the detection and reduce movement of CWD in the surveillance area.*

In 2020, prior to the detection of CWD in North Carolina, and in an attempt to prevent the spread of CWD to the State, the Wildlife Resources Commission adopted amendments to 15A NCAC 10B .0201 – PROHIBITED TAKING AND MANNER OF TAKE, prohibiting the use of any substance or material that contains or is labeled as containing any excretion of a cervid, excluding synthetic products and natural substances collected by a hunter from non-farmed cervids legally taken in North Carolina.

This rule was subjected to legislative review and Session Law 2021-176 was approved on November 10, 2021. The Session Law was approved before CWD was detected fails to provide adequate protection for isolation of disease, as hunters harvesting deer in the CWD surveillance areas (areas where additional deer with CWD exist) can lawfully use excretions from a harvested cervid as an attractant to take cervids throughout the state, thus moving the prions that cause CWD to potentially uninfected areas. Because of the nature of the disease, this is a potential pathway for irreversible spread of CWD throughout the state that could impact herds in uninfected areas. The first case of CWD in North Carolina was detected in March 2022 while the agency was preparing amendments to the rules required by the Session Law and the Periodic Review of Rules. In an attempt to address the issue with this rule as expeditiously as possible once CWD was detected, and ensure that necessary amendments were in place before the 2022-2023 hunting season, the agency worked with the General Assembly in the 2022 Short Session to amend the Session Law. However, language proposed in the House Committee substitute bill was removed by amendment prior to a vote, and there was not time in the session to make additional changes.

Since that time, the agency has been working with the NC Department of Agriculture and Consumer Services to ensure that proposed restrictions on possession and use of cervid excretions in the CWD surveillance areas provide necessary protections to the public and the wild cervid population now and in the future. While not known to spread to humans, the CDC does not recommend eating a deer that has tested positive for CWD.

The first confirmed case of chronic wasting disease (CWD) in North Carolina was detected on March 31, 2022. At this time, the Executive Director exercised emergency powers in accordance with G.S. 113-306(f) and issued a CWD Emergency Response Plan in accordance with 15A NCAC 10A .1201 on April 12, 2022. Because the agency was addressing amendments to 15A NCAC 10B .0201 through the Legislature at the time, the issue of use and possession of deer excretions was not addressed under emergency powers.

By the time the language addressing deer excretions was removed from the House Committee substitute bill (6/30/2022), emergency powers had already expired (6/29/2022), as they only extend for 90 days after the Commission determines that a disease outbreak has occurred unless a temporary rule is adopted in accordance with the APA to replace them. Because the Executive Director had not initiated emergency powers on deer excretions and 90 days had elapsed, the agency determined that this option no longer exists for the topic.

Additionally, a second case of CWD was confirmed on 8/18/2022. The prohibition on possession and use of excretions from hunter-harvested deer in the surveillance area is necessary before the hunting season begins to assist the agency with efforts to prohibit the implementing new measures in the surveillance area to control spread of CWD.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0500 – CHRONIC WASTING DISEASE MANAGEMENT

15A NCAC 10B .0503 SURVEILLANCE AREA

(a) Placement of bait, food, food product, minerals, or salt licks to purposefully congregate wildlife shall be prohibited from January 2 through August 31 each year inside a Surveillance Area, except that bird feeders 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) 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.

(c) 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. 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.
- (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.
 - (C) Participates in additional herd management requirements as specified by the Wildlife Resources Commission.

History Note: Authority G.S. 113-134; 113-306;
Temporary Adoption Eff. July 1, 2022;
Emergency Adoption Eff. August 30, 2022.