

Burgos, Alexander N

Subject: FW: Temp Rule Filing

Attachments: Wildlife Resources - 11.2022 - 15A NCAC 10BD Temp Rules Change Requests.docx; 15A NCAC 10B .0503_11.22.docx; 15A NCAC 10D .0229.docx

From: Pekrul, Ashley M <ashley.pekrul@ncwildlife.org>

Sent: Thursday, November 10, 2022 10:35 AM

To: Duke, Lawrence <lawrence.duke@oah.nc.gov>; Ruhlman, Carrie A <carrie.ruhlman@ncwildlife.org>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Ascher, Seth M <seth.ascher@oah.nc.gov>

Subject: RE: Temp Rule Filing

Hi Lawrence,

Please see the attached changes.

Thank you,
Ashley

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Wildlife Resources Commission

RULE CITATION: 15A NCAC 10B .0503

DEADLINE FOR RECEIPT: Monday, November 14, 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:

*Should "inside a Surveillance Area." be added at the end of the first sentence in Paragraph (a) and at the end of the first sentence in Paragraph (e)? Otherwise, it seems to apply the restriction statewide. **done***

*In Paragraph (e), the first letter in both the (1) through (4) list and the (A) through (C) list should not be capitalized. Also, each should end with a semicolon; for the second-to-last, a semicolon and "and"; and the last should retain the period. **done***

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel

Date submitted to agency: November 9, 2022

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Wildlife Resources Commission

RULE CITATION: 15A NCAC 10D .0229

DEADLINE FOR RECEIPT: Monday, November 14, 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:

*Does this rule need the standard language for permit selection criteria and procedure? **Added reference to "permit only" definition in 10D .0103.***

Please retype the rule accordingly and resubmit it to our office electronically.

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Wildlife Resources Commission

RULE CITATION: 15A NCAC 10D .0232

DEADLINE FOR RECEIPT: Monday, November 14, 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:

No changes required.

Please retype the rule accordingly and resubmit it to our office electronically.

1 15A NCAC 10B .0503 is proposed for amendment under temporary procedures as follows:

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

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

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

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

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

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

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

- 25 (1) ~~Products~~ products containing synthetic analogs of cervid excretions and labeled as ~~such.~~ such;
- 26 (2) ~~Natural~~ natural substances collected from facilities within North Carolina that have a valid Farmed
27 Cervid License from the North Carolina Department of Agriculture and Consumer Services and are
28 labeled as ~~such.~~ such;
- 29 (3) ~~Natural~~ natural deer urine products containing excretions from facilities within North Carolina that
30 have a valid Farmed Cervid License from the North Carolina Department of Agriculture and
31 Consumer Services and are labeled as ~~such.~~ such; and
- 32 (4) ~~Natural~~ natural deer urine products containing excretions from facilities that meet all the following
33 requirements and are labeled as such:
 - 34 (A) ~~Determined~~ determined to be free of chronic wasting disease (CWD) based on testing by
35 an independent laboratory using a method that may help detect the presence of CWD
36 ~~prions.~~ prions;

- 37 (B) ~~[Complies]~~complies with a federally approved CWD herd certification program and any
38 federal CWD ~~[protocols,]~~ protocols; and
39 (C) ~~[Participates]~~participates in additional herd management requirements as specified by the
40 Wildlife Resources Commission.

41

42 *History Note: Authority G.S. 113-134; 113-306;*
43 *Temporary Adoption Eff. July 1, 2022.*
44 *Emergency Amendment Eff. September 1, 2022.*
45 *Temporary Amendment Eff. November 25, 2022.*

1 15A NCAC 10D .0229 is adopted under temporary procedures as follows:

2
3 **15A NCAC 10D .0229 GOOSE CREEK GAME LAND IN BEAUFORT AND PAMLICO COUNTIES**

4 Goose Creek game land is a Seven Days per Week Area, in which the following applies:

- 5 (1) Deer of either sex may be taken on all the open days of the applicable Deer With Visible Antlers Season.
- 6 (2) Except as provided in 15A NCAC 10D .0103 (d)(2), waterfowl in posted waterfowl impoundments shall be
7 taken only on the following days:
- 8 (a) the opening and closing days of the applicable waterfowl seasons;
- 9 (b) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and
- 10 (c) Tuesdays and Saturdays of the applicable waterfowl seasons.
- 11 (3) Beginning on the first open waterfowl season day in October through the end of all waterfowl seasons,
12 waterfowl hunting is by permit only as defined in 15A NCAC 10D .0103 on the following waterfowl
13 impoundments: Pamlico Point, Campbell Creek, Hunting Creek, Spring Creek, Smith Creek, and
14 Hobucken.
- 15 (4) On Spring Lake, Pamlico Point, and Campbell Creek Waterfowl Impoundments, all activities, except
16 waterfowl hunting on designated waterfowl hunting days and trapping during the trapping season, are
17 restricted to the posted Scouting-only Zone during the period November 1 through March 15.
- 18 (5) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in
19 areas both designated and posted as camping areas.
- 20 (6) Hunting and vehicular access on the Parker Farm Tract is restricted from September 1 through January 1
21 and April 1 through May 15 to individuals that possess a valid hunting opportunity permit.
- 22 (7) Pursuing or chasing deer or bear with dogs for the purposes of training or hunting is prohibited on the
23 Beaufort County portion north of NC 33 except for that portion east of Smith Creek and south of Campbell
24 Creek.
- 25 (8) Bear shall not be harvested on Sunday.

26
27 *History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305;*

28 *Temporary Adoption Eff. December 1, 2022.*

29

Burgos, Alexander N

Subject: FW: Temp Rule Filing
Attachments: Wildlife Resources - 11.2022 - 15A NCAC 10B&D Temp Rules Change Requests.docx

From: Duke, Lawrence <lawrence.duke@oah.nc.gov>
Sent: Wednesday, November 9, 2022 5:43 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>; Ascher, Seth M <seth.ascher@oah.nc.gov>
Subject: RE: Temp Rule Filing

Thank you, Ashley,

Please see the attached change requests for these rules. Because of the shortened timeframe, and the minimal changes required, please get these changes made and submit the corrected rules by Monday, November 14, at the absolute latest.

Thank you,
Lawrence Duke
Counsel, NC Rules Review Commission
Office of Administrative Hearings
(984) 236-1938

Burgos, Alexander N

From: Pekrul, Ashley M
Sent: Wednesday, November 9, 2022 12:27 PM
To: Duke, Lawrence; Ruhlman, Carrie A
Cc: Burgos, Alexander N; Ascher, Seth M
Subject: RE: Temp Rule Filing
Attachments: PermForm10D.0229.doc; PermForm10D.0232.doc

Hi Lawrence,

We were asked to change the public hearing date after we filed. The public hearing was held on Sept. 30. Please see the attached adjusted forms. 10D .0232 was not objected to, so I only added the second statute reference to .0229.

Thank you,
Ashley

From: Duke, Lawrence <lawrence.duke@oah.nc.gov>
Sent: Wednesday, November 9, 2022 11:08 AM
To: Ruhlman, Carrie A <carrie.ruhlman@ncwildlife.org>; Pekrul, Ashley M <ashley.pekrul@ncwildlife.org>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Ascher, Seth M <seth.ascher@oah.nc.gov>
Subject: RE: Temp Rule Filing

Carrie & Ashley,

I'm reviewing this Temp Rules filing and have some initial questions regarding the forms.

Regarding the public hearing date, on the notice and proposal of temporary rules filed on September 13, the public hearing date is September 30, 2022, but on the Findings of Need forms for Goose Creek and Gull Rock the date is September 20. Which date is correct? If September 30 is correct, can you correct this on the forms?

Also, on those same forms, in Box 6 – Other:, the standard statutes are listed per usual. However, because these temporary rules are being filed to overrule the ten letters of objection, can you add 150B-21.3(b2) to that list?

I'll be in touch soon with any change requests.

Thank you,
Lawrence Duke
Counsel, NC Rules Review Commission
Office of Administrative Hearings
(984) 236-1938

From: Rules, Oah <oah.rules@oah.nc.gov>
Sent: Tuesday, November 8, 2022 11:58 AM
To: Snyder, Ashley B <ashley.snyder@oah.nc.gov>; Peaslee, William W <bill.peaslee@oah.nc.gov>; Liebman, Brian R <brian.liebman@oah.nc.gov>; Duke, Lawrence <lawrence.duke@oah.nc.gov>
Subject: FW: Temp Rule Filing

From: Pekrul, Ashley M <ashley.pekrul@ncwildlife.org>
Sent: Tuesday, November 8, 2022 11:55 AM
To: Rules, Oah <oah.rules@oah.nc.gov>
Cc: Ruhlman, Carrie A <carrie.ruhlman@ncwildlife.org>
Subject: Temp Rule Filing

Hello,

Please see the attached 0500 temporary findings of need form and text for 3 NCWRC rules. Please let us know if you have any questions.

Thank you,
Ashley

Ashley Pekarul

Regulatory Analyst
Conservation Policy & Analysis

N.C. Wildlife Resources Commission

1751 Varsity Drive
Raleigh, North Carolina 27606
Work: 919-707-0014
ncwildlife.org

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TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina Wildlife Resources Commission
2. Rule citation & name: 15A NCAC 10D .0229 Goose Creek Game Land in Beaufort and Pamlico Counties
3. Action: <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal
4. Was this an Emergency Rule: <input type="checkbox"/> Yes Effective date: <input checked="" type="checkbox"/> No
5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: 9/13/22 b. Proposed Temporary Rule published on the OAH website: 9/16/22 c. Public Hearing date: 9/30/22 d. Comment Period: 9/14/22-10/7/22 e. Notice pursuant to G.S. 150B-21.1(a3)(2): 9/14/22 f. Adoption by agency on: 11/3/22 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]: 12/1/22 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. <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: Effective date: <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input checked="" type="checkbox"/> Other: G.S. 150B-21.1 (7)d, 150B-21.1(a)(7)b, 150B-21.3(b2)
Explain: The WRC adopted this rule in February of 2022. The rule was approved by the RRC in August of 2022 and received more than 10 letters of objection. A temporary rule is necessary to manage activities on this game land in the 2022-2023 seasons.

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

Permanent rulemaking is contrary to public interest, as changes need to be in place for the 2022-2023 hunting seasons. To effectively manage and maintain wildlife resources and to avoid confusion within the regulated public, the agency is adopting this rule under temporary procedures as authorized by G.S. 150B-21.1 (7)d, 150B-21.1(a)(7)b.

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: Carrie Ruhlman

Phone: 919-707-0011

E-Mail: carrie.ruhlman@ncwildlife.org

Agency contact, if any: Ashley Pekrul

Phone: 919-707-0014

E-Mail: Ashley.pekrul@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: Monty R. Crump

Title: Chairman

E-Mail: monty@gorockingham.com

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

Date returned to agency:



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina Wildlife Resources Commission
2. Rule citation & name: 15A NCAC 10D .0232 Gull Rock Game Land in Hyde County
3. Action: <input type="checkbox"/> Adoption <input checked="" type="checkbox"/> Amendment <input type="checkbox"/> Repeal
4. Was this an Emergency Rule: <input type="checkbox"/> Yes Effective date: <input checked="" type="checkbox"/> No
5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: 9/13/22 b. Proposed Temporary Rule published on the OAH website: 9/16/22 c. Public Hearing date: 9/30/22 d. Comment Period: 9/14/22-10/7/22 e. Notice pursuant to G.S. 150B-21.1(a3)(2): 9/14/22 f. Adoption by agency on: 11/3/22 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]: 12/1/22 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. <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: Effective date: <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input checked="" type="checkbox"/> Other: G.S. 150B-21.1 (7)d, 150B-21.1(a)(7)b. Explain: This rule was adopted as part of the 2022-2023 annual rulemaking cycle. During technical corrections, a typographical error was made removing "Tuesday" from the December Bear Season. Temporary rulemaking is required to accurately set open days of the December bear season on Gull Rock game land.

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

Permanent rulemaking is contrary to public interest, as changes need to be in place for the December 2022 bear season. To effectively manage this resources and to avoid confusion within the regulated public, the agency is adopting this rule under temporary procedures as authorized by G.S. 150B-21.1 (7)d, 150B-21.1(a)(7)b.

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: Carrie Ruhlman

Phone: 919-707-0011

E-Mail: carrie.ruhlman@ncwildlife.org

Agency contact, if any: Ashley Pekrul

Phone: 919-707-0014

E-Mail: Ashley.pekrul@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: Monty R. Crump

Title: Chairman

E-Mail: monty@gorockingham.com

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

Date returned to agency:

Burgos, Alexander N

From: Duke, Lawrence
Sent: Wednesday, November 9, 2022 11:08 AM
To: Ruhlman, Carrie A; Pekrul, Ashley M
Cc: Burgos, Alexander N; Ascher, Seth M
Subject: RE: Temp Rule Filing

Carrie & Ashley,

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Thank you,
Lawrence Duke
Counsel, NC Rules Review Commission
Office of Administrative Hearings
(984) 236-1938

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Sent: Tuesday, November 8, 2022 11:58 AM
To: Snyder, Ashley B <ashley.snyder@oah.nc.gov>; Peaslee, William W <bill.peaslee@oah.nc.gov>; Liebman, Brian R <brian.liebman@oah.nc.gov>; Duke, Lawrence <lawrence.duke@oah.nc.gov>
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Thank you,
Ashley

Ashley Pekrul

Regulatory Analyst
Conservation Policy & Analysis

N.C. Wildlife Resources Commission

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Raleigh, North Carolina 27606
Work: 919-707-0014
ncwildlife.org

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