



AGENDA

N.C. WILDLIFE RESOURCES COMMISSION ELECTRONIC MEETING

**Tuesday, December 9, 2014 10:00 A.M.
1751 Varsity Drive
NCWRC Conference Room, 5th Floor
Raleigh, North Carolina**

CALL TO ORDER - *Chairman Jim Cogdell*

ROLL CALL OF COMMISSIONERS PRESENT BY TELEPHONE CONFERENCE –
Betsy Haywood, Executive Officer

ANNOUNCEMENT OF VISITORS AND STAFF PRESENT – *Betsy Haywood*

ELECTRONIC MEETINGS – North Carolina General Statute 143-318.13 mandates that if a public body holds an official meeting by use of conference telephone or other electronic means, it shall provide a location and means whereby members of the public may listen to the meeting and the notice of the meeting required by this Article shall specify that location. A public body may not vote by secret or written ballot. The members of a public body shall not deliberate, vote, or otherwise take action upon any matter by reference to a letter, number or other designation, or other secret device or method, with the intention of making it impossible for persons attending a meeting of the public body to understand what is being deliberated, voted, or acted upon. *Betsy Haywood*

MANDATORY ETHICS INQUIRY – North Carolina General Statute 138A-15(e) mandates that the Commission Chair shall remind all Commissioners of their duty to avoid conflicts of interest and appearances of conflict under this Chapter, and that the chair also inquire as to whether there is any known conflict of interest or appearance of conflict with respect to any matters coming before the Commission at this time. It is the duty of each Commissioner who is aware of such personal conflict of interest or of an appearance of a conflict, to notify the Chair of the same. *Chairman Cogdell*

TEMPORARY RULEMAKING

Proposal for Temporary Rulemaking Notice of Text and Public Hearing – Consider approval for Notice of Text and public hearings for temporary rulemaking for management of captive cervids to implement the directives to the Commission in Section 14.26 of S.L. 2014-100 – *Dr. David Cobb, Wildlife Management Division Chief (EXHIBIT A)*

Proposal for Temporary Rulemaking Notice of Text and Public Hearing – Consider approval for Notice of Text and one public hearing for temporary rulemaking for coyote hunting and taking depredating coyotes in Dare, Tyrrell, Hyde, Beaufort and Washington counties; and for designating the red wolf as a state-listed threatened species – *David Cobb (EXHIBIT B)*

PERMANENT RULEMAKING

Proposal for Permanent Rulemaking Notice of Text and Public Hearings – Consider approval for Notice of Text and two public hearings for permanent rulemaking for coyote hunting and taking depredating coyotes in Dare, Tyrrell, Hyde, Beaufort and Washington counties; and for designating the red wolf as a state-listed threatened species – *David Cobb (EXHIBIT C)*

Adoption of Fiscal Note – Adopt fiscal note associated with rulemaking for coyotes in five counties and for designation of red wolf as a state-listed threatened species – *David Cobb (EXHIBIT D)*

AMENDMENT TO MEMORANDUM OF AGREEMENT – Consider adoption of an amendment to the Memorandum of Agreement between the NC Wildlife Resources Commission and Cleveland County pertaining to the construction, maintenance and operation of a public shooting range – *Erik Christofferson, Engineering and Lands Management Division Chief (EXHIBIT E)*

OTHER BUSINESS

COMMENTS BY THE CHAIRMAN – *Chairman Jim Cogdell*

COMMENTS BY THE EXECUTIVE DIRECTOR – *Executive Director Gordon Myers*

ADJOURN

EXHIBIT A

December 9, 2014

Temporary Rule-making for Captive Cervid Facilities

As amended, the rules regulating the holding of cervids in captivity, 15A NCAC 10H .0301; captive cervid herd certification, 15A NCAC 10H .0304; and minimum standards for facilities, 15A NCAC 10H .0302, would align state requirements with the federal standards set forth in the USDA Program Standards for Herd Certification.

As amended, the rule regulating sale of wildlife, 15A NCAC 10B .0118, would allow for the sale of antlers, antler velvet and hides from cervids held under captivity licenses.

These temporary rules will fulfill the legislative directive in Section 14.26 of S.L. 2014-100

Staff recommends the Commission notice the following temporary amendments to 15A NCAC 10H .0301, 15A NCAC 10H .0302, 15A NCAC 10H .0304 and 15A NCAC 10B .0118 for public comment and presentation at a minimum of one public hearing:

15A NCAC 10B .0118 SALE OF WILDLIFE

(a) The carcasses or pelts of bobcats, opossums, and raccoon that have been lawfully taken by any hunting method, upon compliance with applicable fur tagging requirements set forth in 15A NCAC 10B .0400, may be sold to licensed fur dealers. The sale of carcasses or pelts of bobcats, opossums, and raccoon killed accidentally or taken by hunting for control of depredations is permitted under the conditions set forth in 15A NCAC 10B.0106(e)(4) and 15A NCAC 10B .0127.

(b) Except as otherwise provided in Paragraphs (a), (d), (e) and (f) ~~(a), (d), and (e)~~ of this Rule, the sale of game birds and game animals or parts thereof is prohibited, except that processed products other than those made from edible portions may be sold provided that no label or advertisement identifies the product as a game bird, game animal, or part thereof and provided further that the game bird or game animal was lawfully acquired. and the product is not readily identifiable as a game bird or game animal, or part thereof.

(c) The sale of edible portions or products of game birds and game animals is prohibited, except as may be otherwise provided by statute.

(d) The pelt or feathers of deer, elk, fox, pheasant, quail, rabbit, or squirrel (fox and gray) may be bought or sold for the purpose of making fishing flies provided that the source of these animals can be documented as being legally obtained from out of state sources or from lawfully operated commercial breeding facilities. The buying and selling of migratory game birds shall be in accordance with 50 C.F.R 20.91 which is hereby incorporated by reference, including subsequent amendments and editions.

(e) The Executive Director or his designee may issue Trophy Wildlife Sale permits as authorized in G.S. 113-274 for the sale of lawfully taken and possessed individual dead wildlife specimens or their parts that are mounted, stuffed, or otherwise permanently preserved that may be sold under G.S. 113-291.3. A copy of the permit must be retained with the specimen.

(f) Antlers, antler velvet and hides from cervids held under a captivity license as authorized in 15A NCAC 10H .0301 may be sold.

History Note: Authority G.S. 113-134; 113-273; 113-274; 113-276.2; 113-291.3; 113-337; 50 C.F.R. 20.91; Eff. November 9, 1980; Amended Eff. May 1, 2014; August 1, 2002; April 1, 1991; February 1, 1990.

15A NCAC 10H .0301 GENERAL REQUIREMENTS

(a) Captivity Permit or License Required

- (1) Requirement. The possession of any species of wild animal that is or once was native to this State or any species of wild bird, native or migratory, that naturally occurs or historically occurred in this State or any member of the family Cervidae is unlawful unless the institution or individual in possession obtains from the North Carolina Wildlife Resources Commission (Commission) a captivity permit or a captivity license as provided by this Rule.
- (2) Injured, Crippled or Orphaned Wildlife. When an individual has taken possession of an injured, crippled, or orphaned wild animal or wild bird, that individual shall contact the Commission within 24 hours of taking possession in order to apply for a captivity permit, provided, however, that under no circumstances shall an individual take possession of an injured, crippled, or orphaned wild turkey, black bear, deer, elk, or any other member of the family Cervidae except as described in Subparagraph (3) of this Paragraph.
- (3) Rehabilitation of white-tailed deer fawns. An individual may apply to the Commission to become a permitted white-tailed deer fawn rehabilitator for the State of North Carolina. Individuals deemed to be qualified according to this Section to rehabilitate injured or orphaned fawns may receive a captivity permit to possess fawns only for such a period of time as may be required for the rehabilitation and release of the fawns to the wild. These captivity permits apply only to wild white-tailed deer fawns and are available only to individuals recognized by the Commission as white-tailed deer fawn rehabilitators.

(b) Captivity Permit. A captivity permit shall be requested by mail, phone, facsimile, or electronic transmission or in person. A captivity permit authorizes possession of the animal or bird only for such period of time as may be required for the rehabilitation and release of the animal or bird to the wild; or to obtain a captivity license as provided by Paragraph (c) of this Rule, if such a license is authorized; or to make a proper disposition of the animal or bird if the application for such license is denied, or when an existing captivity license is not renewed or is terminated. Captivity permits shall not be issued for wild turkey or black bear.

(c) Captivity License.

- (1) The purpose of captivity license is to provide humane treatment for wild animals or wild birds that are unfit for release, or for possession of cervids, or for educational exhibition. For purposes of this Rule, wild animals are considered "unfit" if they are incapacitated by injury or otherwise; if they are a non-native species that poses a risk to the habitat or to other species in that habitat; or if they have been rendered tame by proximity to humans to the extent that they cannot feed or care for themselves without human assistance. Persons interested in obtaining a captivity license shall contact the Commission for an application.
- (2) Denial of captivity license. Circumstances or purposes for which a captivity license shall not be issued include the following:
 - (A) For the purpose of holding a wild animal or wild bird that was acquired unlawfully.
 - (B) For the purpose of holding the wild animal or wild bird as a pet. For purposes of this Rule, the term "pet" means an animal kept for amusement or companionship. The term shall not be construed to include cervids held in captivity for breeding for sale to another licensed operator.
 - (C) For the purpose of holding wild animals or wild birds for hunting in North Carolina.
 - (D) For the purpose of holding wild turkey or black bear.
 - (E) For the purpose of holding white-tailed deer (*Odocoileus virginianus*) or elk (*Cervus elaphus* or *Cervus canadensis*) except licenses issued before December 1, 2014 which may be renewed as specified in Subparagraph (6) of this Paragraph.
- (3) Required Facilities. No captivity license shall be issued until the applicant has constructed or acquired a facility for keeping the animal or bird in captivity that complies with the standards set forth in Rule .0302 of this Section and the adequacy of such facility has been verified on inspection by a representative of the Commission.
- (4) Term of License
 - (A) Dependent Wildlife. If the wild animal or wild bird has been permanently rendered incapable of subsisting in the wild, the license authorizing its retention in captivity shall be an annual license terminating on December 31 of the year for which issued.

- (B) Rehabilitable Wildlife. When the wild animal or wild bird is temporarily incapacitated, and may be rehabilitated for release to the wild, any captivity license that is issued shall be for a period less than one year as rehabilitation may require.
 - (C) Concurrent Federal Permit. No State captivity license for an endangered or threatened species or a migratory bird, regardless of the term specified, shall operate to authorize retention thereof for a longer period than is allowed by any concurrent federal permit that may be required for retention of the bird or animal.
- (5) Holders of Captivity License for cervids.
- (A) Records. Each licensee shall maintain herd records as described in 9 CFR 55.23(b)(4) available at http://www.ecfr.gov/cgi-bin/text-idx?SID=aa28ca62e1db4d095c8431c3e76fb587&tpl=/ecfrbrowse/Title09/9cfr55_main_02.tpl.
 - ~~(A)~~(B) Inspection of records. The licensee shall make all records pertaining to tags, licenses, or permits issued by the Commission available for inspection by the Commission at any time during normal business hours, or at any time an outbreak of Chronic Wasting Disease (CWD) is suspected or confirmed within five miles of the facility or within the facility itself.
 - ~~(B)~~(C) Inspection. The licensee shall make all enclosures at each licensed facility and the herd records ~~record book(s) documenting required monitoring of the outer fence of the enclosure(s)~~ available for inspection by the Commission at any time during normal business hours, or at any time an outbreak of CWD is suspected or confirmed within five miles of the facility or within the facility itself.
 - ~~(C)~~(D) Fence Monitoring Requirement. The fence surrounding the enclosure shall be structurally sound and maintained in good repair. Any damage to the fence which creates an opportunity for cervid ingress or egress shall be repaired upon discovery. ~~inspected by the licensee or licensee's agent once a week during normal weather conditions to verify its stability and to detect the existence of any conditions or activities that threaten its stability. In the event of severe weather or any other condition that presents potential for damage to the fence, inspection shall occur every three hours until cessation of the threatening condition, except that no inspection is required under circumstances that threaten the safety of the person conducting the inspection.~~
 - ~~(D)~~ — A record book shall be maintained to record the time and date of the inspection, the name of the person who performed the inspection, and the condition of the fence at time of inspection. The person who performs the inspection shall enter the date and time of detection and the location of any damage threatening the stability of the fence. If damage has caused the fence to be breachable, the licensee shall enter a description of measures taken to prevent ingress or egress by cervids. Each record book entry shall bear the signature or initials of the licensee attesting to the veracity of the entry. The record book shall be made available to inspection by a representative of the Commission upon request during normal business operating hours.
 - ~~(E)~~ — Maintenance. Any opening or passage through the enclosure fence that results from damage shall, within one hour of detection, be sealed or otherwise secured to prevent a cervid from escape. Any damage to the enclosure fence that threatens its stability shall be repaired within one week of detection.
 - ~~(F)~~(E) Escape. When a licensee discovers the escape of any cervid from the facility, the licensee or designee shall report within 24 hours the escape to the Commission, by calling 1-800-662-7137. If possible, the escaped cervid shall be recaptured alive. If live recapture is not possible, the licensee shall request a wildlife take permit under G.S. 113-274(b) by contacting the Wildlife Management Division of the Commission at (919) 707-0050 and take the escaped cervid pursuant to the terms of the permit. A recaptured live cervid shall be submitted to the Commission for Chronic Wasting Disease (CWD) testing using a test recognized by the Southeastern Cooperative Wildlife Disease Study unless the executive director determines that the risk of CWD transmission as a result of this escape is negligible based upon:
 - (i) amount of time the escaped cervid remained out of the facility;
 - (ii) proximity of the escaped cervid to wild populations;

- (iii) known susceptibility of the escaped cervid species to CWD; and
 - (iv) nature of the terrain in to which the cervid escaped.
- ~~(G)(F)~~ Chronic Wasting Disease (CWD).
- (i) ~~Detection.~~ Each licensee shall notify the Commission immediately, but within 24 hours if any cervid within the facility exhibits clinical symptoms of CWD, and may include symptoms as provided in 9 CFR 81.1 available at http://www.ecfr.gov/cgi-bin/text-idx?SID=aa28ca62e1db4d095c8431c3e76fb587&tpl=/ecfrbrowse/Title09/9cfr81_main_02.tpl. Cervids that exhibit clinical symptoms of CWD shall not be transported. Regardless of age, cervids that exhibit clinical symptoms of CWD shall be made available for testing upon death. ~~CWD or if a quarantine is placed on the facility by the State Veterinarian. All captive cervids that exhibit symptoms of CWD shall be tested for CWD.~~
 - (ii) ~~Cervid death.~~ Licensees shall inform the Commission at (919) 707-0050 during normal business hours and 1-800-662-7137 outside business hours of the death of any cervids 12 months or older within 12 hours of the death. The carcass of any captive cervid that was 12 ~~six~~ months or older at time of death shall be made available for testing. ~~transported and submitted by the licensee or his designee to a North Carolina Department of Agriculture diagnostic lab for CWD evaluation within 48 hours of the cervid's death, or by the end of the next business day, whichever is later.~~ Ear tags distributed by the Commission and subsequently affixed to the cervids as required by this Rule, may not be removed from the cervid's head prior to submitting the head for CWD evaluation.
 - (iii) ~~The Commission shall require testing or forfeiture of cervids from a facility holding cervids in this State should the following circumstances or conditions occur:~~
 - (I) ~~The facility has transferred a cervid that is received by a facility in which CWD is confirmed within five years of the cervid's transport date and that transferred cervid has tested positive for CWD or the test for CWD was inconclusive or the transferred cervid was no longer available for testing.~~
 - (II) ~~The facility has received a cervid that originated from a facility in which CWD has been confirmed within five years of the cervid's transport date and that received cervid has tested positive for CWD or the test for CWD was inconclusive or the received cervid was no longer available for testing.~~
- ~~(G)~~ Herd Status. The Commission and the N.C. Department of Agriculture and Consumer Sciences shall designate herds as CWD-suspect, CWD-exposed, or CWD-positive as defined in 9 CFR 55.1 as needed. No cervids shall move out from or into herds designated as CWD-suspect, CWD-exposed, or CWD-positive pending an epidemiological investigation. If the investigation determines a herd to be CWD-exposed or CWD-positive, movement shall resume only upon completion of a herd plan. The Commission shall follow herd planning guidelines set forth in the May 2014 edition or subsequent updates of the U.S. Department of Agriculture's Chronic Wasting Disease Program Standards Part B. Movement of cervids out from or into herds designated as CWD-suspect shall only resume after all suspected animals have been tested and no signs of CWD were detected in the submitted samples.
- ~~(H)~~ Tagging Required. All cervids within a herd must be tagged with two separate tags as provided by the Commission. Cervids born within a facility must be tagged before 12 months of age. All cervids regardless of age must be tagged before being transported. Effective upon receipt of tags from the Commission, each licensee shall implement the tagging requirement using only the tags provided by the Commission as follows:
- (i) ~~All cervids born within a facility shall be tagged by March 1 following the birthing season each year.~~

- ~~(ii) All cervids transferred to a facility shall be tagged within five days of the cervid's arrival at the licensee's facility. However, no cervids shall be transported from one facility to another unless both sending and receiving herds are certified according to 15A NCAC 10H .0304, or the sending herd is a Certified herd and the receiving herd is a licensed facility. However, no cervids shall be transported from one facility to another unless both sending and receiving herds are certified according to 15A NCAC 10H .0304.~~
- (I) Application for Tags.
- (i) Application for tags for calves and fawns. Application for tags for cervids born within a facility shall be made by the licensee by December 1 following the birthing season of each year. The licensee shall provide the following information, along with a statement and licensee's signature verifying that the information is accurate:
- (I) applicant name, mailing address, and telephone number;
 - (II) facility name and site address;
 - (III) captivity license number;
 - (IV) species of each cervid; and
 - (V) birth year of each cervid.
- (ii) Application for tags for cervids that were not born at the facility site shall be made by written request for the appropriate number of tags along with the licensee's application for transportation of the cervid, along with a statement and licensee's signature verifying that the information is accurate. These tag applications shall not be processed unless accompanied by a completed application for transportation. However, no transportation permits shall be issued nor shall cervids be transported from one facility to another unless both sending and receiving herds are certified according to 15A NCAC 10H .0304 , or the sending herd is a Certified Herd and the receiving herd is a licensed facility.
- (J) Placement of Tags.
- (i) A single button ear tag provided by the Commission shall be permanently affixed by the licensee onto either the right or left ear of each cervid, provided that the ear chosen to bear the button tag shall not also bear a bangle tag, so that each ear of the cervid bears only one tag.
- (ii) A single bangle ear tag provided by the Commission shall be permanently affixed by the licensee onto the right or left ear of each cervid except Muntjac deer, provided that the ear bearing the bangle tag does not also bear the button tag, so that each ear of the cervid bears only one tag. Muntjac deer shall not be tagged with the bangle tag.
- (iii) Once a tag is affixed in the manner required by this Rule, it shall not be removed.
- ~~(K) Reporting Tags Requirement. For all cervids, except calves and fawns, the licensee shall submit a Cervidae Tagging Report within 30 days of receipt of the tags. Cervidae Tagging Reports for calves and fawns shall be submitted by March 1 following the birthing season each year. A Cervidae Tagging Report shall provide the following information and be accompanied by a statement and licensee's signature verifying that the information is accurate:~~
- ~~(i) licensee name, mailing address, and telephone number;~~
 - ~~(ii) facility name and site address, including the County in which the site is located;~~
 - ~~(iii) captivity license number;~~
 - ~~(iv) species and sex of each cervid;~~
 - ~~(v) tag number(s) for each cervid; and~~
 - ~~(vi) birth year of each cervid.~~
- ~~(L)~~(K) Replacement of Tags. The Commission shall replace tags that are lost or unusable and shall extend the time within which a licensee shall tag cervids consistent with time required to issue a replacement.

- (i) **Lost Tags.** The loss of a tag shall be reported to the Commission by the licensee and application shall be made for a replacement upon discovery of the loss. Application for a replacement shall include the information required by Part (c)(5)(F) Part (e)(5)(F) of this Rule along with a statement and applicant's signature verifying that the information is accurate. Lost tags shall be replaced on the animal by the licensee within 30 days of receipt of the replacement tag.
 - (ii) **Unusable Tags.** Tags that cannot be properly affixed to the ear of a cervid or that cannot be read because of malformation or damage to the tags or obscurement of the tag numbers shall be returned to the Commission along with an application for a replacement tag with a statement and applicant's signature verifying that the information in the application is accurate.
- (6) **Renewal of captivity license for cervids.** Existing captivity licenses for the possession of cervids at existing facilities shall be renewed as long as the applicant for renewal continues to meet the requirements of this Section for the license. Only licensees with Certified Herds, as defined in 15A NCAC 10H .0304, may request in their renewal applications to expand pen size or the number of pens on the licensed facility to increase the holding capacity of that facility. A licensee whose license has lapsed shall not be eligible to renew his or her license, but may apply for a new license.
- (7) **Provision for licensing the possession of cervids in an existing facility.** A captivity license shall only be issued to an individual who is 18 years of age or older. If the licensee of an existing facility voluntarily surrenders his or her captivity license, becomes incapacitated or mentally incompetent, or dies, a person who has obtained lawful possession of the facility from the previous licensee or that licensee's estate, may request that the existing captivity license be transferred to him or her to operate the existing facility. Any license transferred under this provision shall be subject to the same terms and conditions imposed on the original licensee at the time of his or her surrender or death and shall be valid only for the purpose of holding the cervids of the existing facility within that existing facility. In addition, any actions pending from complaint, investigation, or other cause shall be continued notwithstanding the termination of the original license.
- (d) **Nontransferable.** No license or permit or tag issued pursuant to this Rule is transferable, either as to the holder or the site of a holding facility, except as provided in Subparagraph (c)(7) of this Rule.
- (e) **Sale, Transfer or Release of Captive Wildlife.**
 - (1) It is unlawful for any person to transfer or receive any wild animal or wild bird that is being held under a captivity permit issued under Paragraph (b) of this Rule, except that any such animal or bird may be surrendered to an agent of the Commission. This Subparagraph does not apply to persons holding cervids under a captivity permit.
 - (2) It is unlawful for any person holding a captivity license issued under Paragraph (c) of this Rule to sell or transfer the animal or bird held under such license, except that such animal or bird may be surrendered to an agent of the Commission, and any such licensee may sell or transfer the animal or bird (except members of the family Cervidae) to another person who has obtained a license to hold it in captivity. For animals in the family Cervidae, sale or transfer of animals is allowed only between Certified Herds, as defined in 15A NCAC 10H .0304, or from a Certified Herd to a licensed facility, except facilities licensed or permitted on or after Dec. 1, 2014 shall not take possession of white-tailed deer (*Odocoileus virginianus*) or elk (*Cervus elaphus* or *Cervus canadensis*). Upon such a sale or transfer, the seller or transferor shall obtain a receipt for the animal or bird showing the name, address, and license number of the buyer or transferee, a copy of which shall be provided to the Commission.
 - (3) It is unlawful for any person to release into the wild for any purpose or allow to range free:
 - (A) any species of deer, elk or other members of the family Cervidae, or
 - (B) any wolf, coyote, or other non-indigenous member of the family Canidae, or
 - (C) any member of the family Suidae.
- (f) **Transportation Permit.**
 - (1) Except as otherwise provided herein, no transportation permit is required to move any lawfully held wild animal or wild bird within the State.
 - (2) No person shall transport black bear or Cervidae for any purpose without first obtaining a transportation permit from the Commission.

- (3) Except as provided in Subparagraph (f)(4) of this Rule, no transportation permits shall be issued for deer, elk, or other species in the family Cervidae except:
- (A) into and between Certified Herds as defined in 15A NCAC 10H .0304; or
 - (B) from a Certified Herd to a licensed facility, except no transportation permits shall be issued for white-tailed deer (*Odocoileus virginianus*) or elk (*Cervus elaphus* or *Cervus canadensis*) if the receiving facility was licensed or permitted on or after December 1, 2014.
- (4) Cervid Transportation. A permit to transport deer, elk, or other species in the family Cervidae may be issued by the Commission to an applicant for the purpose of transporting the animal or animals for export out of state, to a slaughterhouse for slaughter, from a Certified Herd to another Certified Herd as defined in 15A NCAC 10H .0304, from a Certified Herd to a licensed facility, or to a veterinary medical facility for treatment provided that the animal for which the permit is not under movement restrictions as described in Part (c)(5)(H) of this Rule, is issued does not exhibit clinical symptoms of Chronic Wasting Disease, except no transportation permits shall be issued for white-tailed deer (*Odocoileus virginianus*) or elk (*Cervus elaphus* or *Cervus canadensis*) if the receiving facility was licensed or permitted on or after December 1, 2014. No person shall transport a cervid to slaughter or export out of state without bearing a copy of the transportation permit issued by the Commission authorizing that transportation. No person shall transport a cervid for veterinary treatment without having obtained approval from the Commission as provided by Part (f)(4)(D) of this Rule. Any person transporting a cervid shall present the transportation permit to any law enforcement officer or any representative of the Commission upon request, except that a person transporting a cervid by verbal authorization for veterinary treatment shall provide the name of the person who issued the approval to any law enforcement officer or any representative of the Commission upon request. Transportation permits shall be valid for 30 days.
- (A) Slaughter. Application for a transportation permit for purpose of slaughter shall be submitted in writing to the Commission and shall include the following information along with a statement and applicant's signature verifying that the information is accurate:
 - (i) applicant name, mailing address, and telephone number;
 - (ii) facility site address;
 - (iii) captivity license number;
 - (iv) name, address, county and phone number of the slaughter house to which the cervid will be transported;
 - (v) vehicle or trailer license plate number and state of issuance of the vehicle or trailer used to transport the cervid;
 - (vi) name and location of the North Carolina Department of Agriculture Diagnostic lab where the head of the cervid is to be submitted for CWD testing;
 - (vii) date of transportation;
 - (viii) species and sex of each cervid; and
 - (ix) tag number(s) for each cervid.
 - (B) Exportation. Only licensees with Certified herds may export cervids as defined in 9 CFR 55.1 out of state. Nothing in this rule shall be construed to prohibit the lawful exportation of a member of the family Cervidae for sale out of state. Application for a transportation permit for purpose of exportation out of state shall be submitted in writing to the Commission and shall include the following information along with a statement and applicant's signature verifying that the information is accurate:
 - (i) applicant's name, mailing address and telephone number;
 - (ii) facility site address;
 - (iii) captivity license number;
 - (iv) vehicle or trailer license plate number and state of issuance of the vehicle or trailer used to transport the cervid;
 - (v) name, site address, county, state and phone number of the destination facility to which the cervid is exported;
 - (vi) a copy of the importation permit from the state of the destination facility that names the destination facility to which the animal is to be exported;
 - (vii) date of departure;

(viii) species and sex of each cervid; and

(ix) tag number(s) for each cervid.

In addition to the state transportation permit, each cervid as defined in 9 CFR 55.1 exported shall have a federal certificate as described in 9 CFR 81.4 and available at:

[http://www.ecfr.gov/cgi-bin/text-](http://www.ecfr.gov/cgi-bin/text-idx?SID=aa28ca62e1db4d095c8431c3e76fb587&tpl=/ecfrbrowse/Title09/9cfr81_main_02.tpl)

[idx?SID=aa28ca62e1db4d095c8431c3e76fb587&tpl=/ecfrbrowse/Title09/9cfr81_main_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?SID=aa28ca62e1db4d095c8431c3e76fb587&tpl=/ecfrbrowse/Title09/9cfr81_main_02.tpl).

(C) Between herds. Application for a transportation permit for purpose of moving a cervid from one Certified Herd to another Certified Herd, as defined in 15A NCAC 10H .0304, or from a Certified Herd to a licensed facility, shall be submitted in writing to the Commission and shall include the following information along with a statement and applicant's signature verifying that the information is accurate:

(i) Applicant's name, mailing address and telephone number;

(ii) Facility site address;

(iii) Captivity license number;

(iv) Vehicle or trailer license plate number and state of issuance of the vehicle or trailer used to transport the cervid;

(v) Name, site address, county, and phone number of the destination facility to which the cervid is moved;

(vi) Date of departure;

(vii) Species and sex of each cervid; and

(viii) Tag number(s) for each cervid.

(D) Veterinary treatment. No approval shall be issued for transportation of a cervid to a veterinary clinic out of the state of North Carolina, or for transportation from a facility out of the state of North Carolina to a veterinary clinic in North Carolina. An applicant from a North Carolina facility seeking to transport a cervid for veterinary treatment to a facility within North Carolina shall contact the Wildlife Telecommunications Center or the Wildlife Management Division of the Commission to obtain verbal authorization to transport the cervid to a specified veterinary clinic and to return the cervid to the facility. Verbal approval to transport a cervid to a veterinary clinic shall authorize transport only to the specified veterinary clinic and directly back to the facility, and shall not be construed to permit intervening destinations. To obtain verbal authorization to transport, the applicant shall provide staff of the Commission the applicant's name and phone number, applicant's facility name, site address and phone number, the cervid species, sex and tag numbers, and the name, address and phone number of the veterinary facility to which the cervid shall be transported. Within five days of transporting the cervid to the veterinary facility for treatment, the licensee shall provide the following information in writing to the Commission, along with a statement and applicant's signature verifying that the information is correct:

(i) applicant's name, mailing address and telephone number;

(ii) facility name and site address;

(iii) captivity license number;

(iv) vehicle or trailer license plate number and state of issuance of the vehicle or trailer used to transport the cervid;

(v) date of transportation;

(vi) species and sex of each cervid;

(vii) tag number(s) for each cervid;

(viii) name, address and phone number of the veterinarian and clinic that treated the cervid;

(ix) symptoms for which cervid received treatment; and

(x) diagnosis of veterinarian who treated the cervid.

(g) Slaughter at cervid facility. Application for a permit for purpose of slaughter at the cervid facility shall be submitted in writing to the Commission and shall include the following information along with a statement and applicant's signature verifying that the information is accurate:

(1) applicant name, mailing address, and telephone number;

(2) facility site address;

- (3) captivity license number;
- (4) name and location of the North Carolina Department of Agriculture Diagnostic lab where the head of the cervid is to be submitted for CWD testing;
- (5) date of slaughter;
- (6) species and sex of each cervid; and
- (7) tag number(s) for each cervid.

Permits or authorization may not be sold or traded by the licensee to any individual for the hunting or collection of captive cervids. Only the licensee may kill a cervid within the cervid enclosure.

(h) As used in this Rule, Certified Herd means a captive cervid herd certified in North Carolina according to the procedure set forth in rule 10H .0304 of this Section available to North Carolina licensees only.

History Note: Authority G.S. 106-549.97(b); 113-134; 113-272.5; 113-272.6; 113-274;
Eff. February 1, 1976;
Amended Eff. April 1, 1991; September 1, 1990; June 1, 1990; July 1, 1988;
Temporary Amendment Eff. October 8, 2002; May 17, 2002(this temporary rule replaced the
permanent rule approved by RRC on June 21, 2001 to become effective in July 2002); July 1,
2001;
Amended Eff. May 1, 2010; May 1, 2008; December 1, 2005; August 1, 2004.

15A NCAC 10H .0302 MINIMUM STANDARDS

(a) Exemptions. Publicly financed zoos, scientific and biological research facilities, and institutions of higher education that were granted an exemption by the Commission from the standards of this Rule prior to December 1, 2005 are exempt from the standards set forth in this Rule for all birds and animals except the black bear so long as the captivity license in effect on that date has not expired or been revoked.

(b) With the exception of those entities named in Paragraph (a) of this Rule who have received exemption from the Commission, all holders of captivity licenses shall comply with the following requirements:

- (1) Deer, Elk and other species of the family Cervidae
 - (A) Enclosure. The enclosure shall be on a well-drained site containing natural or manmade shelter for shade. The minimum size of the enclosure for all cervids except Muntjac deer shall be not less than one-half acre for up to the first three animals and an additional one-fourth acre for each additional animal held provided that no more than 25 percent shall be covered with water. At no time shall the number of cervids in the enclosure exceed the number allowed by the captivity license, except that fawns and calves shall not count towards the total number of cervids in a facility from the time they are born until March 1 of the following year. The enclosure shall be surrounded by a fence of sufficient strength and design to prevent ingress or egress of cervids ~~contain the animal~~ under any circumstances, at least eight feet high ~~high, and dog proof to a height of at least six feet~~. For enclosures exclusively holding Muntjac deer, the minimum pen size shall be 800 square feet for the first three animals and 200 square feet for each additional animal. No exposed barbed wire, nails, or other protrusions that may cause injury to the animal shall be permitted within the enclosure. Captive cervids shall not be contained within or allowed to enter a place of residence.
 - (B) Sanitation and Care. Licensees shall provide an ample supply of clear water and salt at all times. Food shall be placed in the enclosure as needed, but not less than three times weekly. An effective program for the control of insects, ectoparasites, disease, and odor shall be established and maintained. The animal(s) shall be protected against fright or harm from other animals.
- (2) Wild Boars
 - (A) Enclosure. The enclosure shall be on a site containing trees or brush for shade. The minimum size of the enclosure shall be not less than one-half acre for the first three animals and an additional one-fourth acre for each additional animal held. The enclosure shall be surrounded by a fence at least five feet high and of sufficient strength to contain the animals. No exposed barbed wire or protruding nails shall be permitted within the enclosure. A roofed building large enough to provide shelter in both a standing or a lying position for each boar must be provided. This building shall be closed on three sides. A pool of water for wallowing or a sprinkler system shall be provided on days when heat could cause stress to the animal(s).
 - (B) Sanitation and Care. Licensees shall provide an ample supply of clear water at all times. Food shall be placed in the enclosure as needed, but in any case, not less than three times weekly. An effective program for the control of insects, ectoparasites, disease, and odor shall be established and maintained.
- (3) Wild Birds
 - (A) Enclosure. The enclosure shall be large enough for the bird or birds to assume all natural postures. The enclosure shall be designed in such a way that the birds cannot injure themselves and are able to maintain a natural plumage. Protection from sun, weather, and predators shall also be provided.
 - (B) Sanitation and Care. The cage shall be kept clean, dry, and free from molded or damp feed. Ample food and clean water shall be available at all times.
- (4) Alligators
 - (A) Enclosure. The enclosure shall be surrounded by a fence of sufficient strength to contain the animals and that shall prevent contact between the observer and alligator. The enclosure shall contain a pool of water large enough for the animal to completely submerge itself. If more than one animal is kept, the pool must be large enough for all animals to be able to submerge themselves at the same time. A land area with both horizontal dimensions at least as long as the animal shall also be provided. In case of

- more than one animal, the land area shall have both horizontal dimensions at least as long as the longest animals to occupy the land area at the same time without overlap.
- (B) Sanitation and Care. The water area shall be kept clean and food adequate to maintain good health provided. Protection shall be provided at all times from extremes in temperature that could cause stress to the animal.
- (5) Black Bear
- (A) Educational Institutions and Zoos Operated or Established by Governmental Agencies
- (i) Enclosure. A permanent, stationary metal cage, at least eight feet wide by 12 feet long by six feet high and located in the shade or where shaded during the afternoon hours of summer, is required. The cage shall have a concrete floor in which a drainable pool one and one-half feet deep and not less than four by five feet has been constructed. The bars of the cage shall be of iron or steel at least one-fourth inch in diameter, or heavy gauge steel chain link fencing may be used. The gate shall be equipped with a lock or safety catch, and guard rails shall be placed outside the cage so as to prevent contact between the observer and the caged animal. The cage must contain a den at least five feet long by five feet wide by four feet high and so constructed as to be easily cleaned. A "scratch log" shall be placed inside the cage. The cage shall be equipped with a removable food trough. Running water shall be provided for flushing the floor and changing the pool.
- (ii) Sanitation and Care. Food adequate to maintain good health shall be provided daily; and clean, clear drinking water shall be available at all times. The floor of the cage and the food trough shall be flushed with water and the water in the pool changed daily. The den shall be flushed and cleaned at least once each week in hot weather. An effective program for the control of insects, ectoparasites, disease, and odor shall be established and maintained. Brush, canvas, or other material shall be placed over the cage to provide additional shade when necessary for the health of the animal. The use of collars, tethers or stakes to restrain the bear is prohibited, except as a temporary safety device.
- (B) Conditions Simulating Natural Habitat. Black bears held in captivity by other than educational institutions or governmental zoos shall be held without caging under conditions simulating a natural habitat. All of the following conditions must exist to simulate a natural habitat in a holding facility:
- (i) The method of confinement is by chain link fence, wall, moat, or a combination of such, without the use of chains or tethers.
- (ii) The area of confinement is at least one acre in extent for one or two bears and an additional one-eighth acre for each additional bear.
- (iii) Bears are free, under normal conditions, to move throughout such area.
- (iv) At least one-half of the area of confinement is wooded with living trees, shrubs and other perennial vegetation capable of providing shelter from sun and wind.
- (v) The area of confinement contains a pool not less than one and one-half feet deep and not less than four by five feet in size.
- (vi) Provision is made for a den for each bear to which the bear may retire for rest, shelter from the elements, or respite from public observation.
- (vii) The area of confinement presents an overall appearance of a natural habitat and affords the bears protection from harassment or annoyance.
- (viii) Provisions are made for food and water that are adequate to maintain good health and for maintenance of sanitation.
- (ix) The applicant shall document that the applicant owns or has a lease of the real property upon which the holding facility is located, provided that if the applicant is a lessee, the lease is for a duration of at least five years from the point of stocking the facility.
- (6) Cougar
- (A) Educational or scientific research institutions and zoos supported by public funds.
- (i) Enclosure. A permanent, stationary metal cage, at least nine feet wide by 18 feet long by nine feet high and located in the shade or where shaded during the

- afternoon hours of summer, is required. The cage shall have a concrete floor. The bars of the cage shall be of iron or steel at least one-fourth inch in diameter, or heavy gauge steel chain link fencing may be used. The gate shall be equipped with a lock or safety catch, and guard rails shall be placed outside the cage so as to prevent contact between the observer and the caged animal. The cage shall contain a den at least five feet long by five feet wide by four feet high and so constructed as to be easily cleaned. A "scratch log" shall be placed inside the cage. The cage shall be equipped with a removable food trough. Running water shall be provided for flushing the floor and changing the pool.
- (ii) Sanitation and Care. Food adequate to maintain good health shall be provided daily; and clean, clear drinking water shall be available at all times. The floor of the cage and the food trough shall be flushed with water and the water in the pool changed as necessary to maintain good health of the animal. The den shall be flushed and cleaned at least once each week. An effective program for the control of insects, ectoparasites, disease, and odor shall be established and maintained. Brush, canvas, or other material shall be readily available to be placed over the cage to provide additional shade when necessary. The use of collars, tethers or stakes to restrain the cougar is prohibited, except as a temporary safety device.
- (B) Cougars held in captivity by other than educational or scientific institutions or publicly supported zoos shall be held without caging under conditions simulating a natural habitat. Applicants for a captivity license to hold cougar shall apply to the Commission on forms provided by the Commission, and shall provide plans that describe how the applicant's facility will comply with the requirement to simulate a natural habitat. All of the following conditions must exist to simulate a natural habitat in a holding facility.
- (i) The method of confinement is by chain link fence, without the use of chains or tethers, provided that:
 - (I) Nine gauge chain link fencing shall be at least 12 feet in height with a four foot fence overhang at a 45 degree angle on the inside of the pen to prevent escape from climbing and jumping.
 - (II) Fence posts and at least six inches of the fence skirt shall be imbedded in a six inch wide by one foot deep concrete footer to prevent escape by digging.
 - (ii) The area of confinement shall be at least one acre for two cougars with an additional one-eighth acre for each additional cougar. If, following a site evaluation, the Commission determines that terrain and topographical features offer sufficient escape, cover and refuge, and meet all other specifications, and that the safety and health of the animal(s) will not be compromised, smaller areas shall be permitted.
 - (iii) Cougars shall be free under normal conditions to move throughout the area of confinement.
 - (iv) At least one-half of the area of confinement shall be wooded with living trees, shrubs and other perennial vegetation capable of providing shelter from sun and wind; and a 20 foot wide strip along the inside of the fence shall be maintained free of trees, shrubs and any other obstructions which could provide a base from which escape through leaping could occur.
 - (v) The area of confinement shall contain a pool not less than one and one-half feet deep and not less than four by five feet in size.
 - (vi) Each cougar shall be provided a den to which the cougar may retire for rest, shelter from the elements, or respite from public observation. Each den shall be four feet wide by four feet high by four feet deep. Each den shall be enclosed entirely within at least an eight feet wide by ten feet deep by 12 feet high security cage. The security cage shall be completely within the confines of the facility, cement-floored, shall have nine gauge fencing on all sides and the top, and shall have a four foot, 45 degree fence overhang around the outside top edge to prevent cougar access to the top of the security cage.

- (vii) The area of confinement shall protect the cougar from harassment or annoyance.
- (C) Provisions shall be made for maintenance of sanitation and for food and water adequate to maintain good health of the animal(s).
- (D) The applicant shall document that the applicant owns or has a lease of the real property upon which the holding facility is located, provided that if the applicant is a lessee, the lease is for a duration of at least five years from the point of stocking the facility.
- (7) Other Wild Animal Enclosures.
 - (A) General Enclosure Requirements.
 - (i) The enclosure shall provide protection from free ranging animals and from sun or weather that could cause stress to the animals.
 - (ii) A den area in which the animal can escape from view and large enough for the animal to turn around and lie down shall be provided for each animal within the enclosure.
 - (iii) No tethers or chains shall be used to restrain the animal.
 - (iv) Either a tree limb, exercise device, or shelf large enough to accommodate the animal shall be provided to allow for exercise and climbing.
 - (v) Sanitation and Care. Fresh food shall be provided daily, and clean water shall be available at all times.
 - (vi) An effective program for the control of insects, ectoparasites, disease, and odor shall be established and maintained.
 - (B) Single Animal Enclosures for certain animals. The single-animal enclosure for the animals listed in this Subparagraph shall be a cage with the following minimum dimensions and horizontal areas:

Dimensions in Feet				
Animal	Length	Width	Height	Per Animal
Bobcat, Otter	10	5	5	50
Raccoon, Fox, Woodchuck	8	4	4	32
Opossum, Skunk, Rabbit	6	3	3	18
Squirrel	4	2	2	8

- (C) Single Enclosure Requirements for animals not mentioned elsewhere in this Rule. For animals not listed above or mentioned elsewhere in this Rule, single animal enclosures shall be a cage with one horizontal dimension being at least four times the nose-rump length of the animal and the other horizontal dimension being at least twice the nose-rump length of the animal. The vertical dimensions shall be at least twice the nose-rump length of the animal. Under no circumstances shall a cage be less than four feet by two feet by two feet.
- (D) Multiple Animal Enclosures. The minimum area of horizontal space shall be determined by multiplying the required square footage for a single animal by a factor of 1.5 for one additional animal and the result by the same factor, successively, for each additional animal. The vertical dimension for multiple animal enclosures shall remain the same as for single animal enclosures.
- (E) Young animals. The young of any animal may be kept with the parent in a single-animal enclosure only until weaning. After weaning, if the animals are kept together, the requirements for multiple-animal enclosures apply.

History Note: Authority G.S. 19A-11; 106-549.97(b); 113-134; 113-272.5, 113-272.6; Eff. February 1, 1976; Amended Eff. December 1, 1990; June 1, 1990; July 1, 1988; November 9, 1980; Temporary Amendment Eff. October 8, 2002; Amended Eff. May 1, 2010; December 1, 2005; August 1, 2004.

15A NCAC 10H .0304 CAPTIVE CERVID HERD CERTIFICATION PROGRAM

(a) ~~The Wildlife Resources Commission has established this Captive Cervid Herd Certification Program in order to prevent the introduction of Chronic Wasting Disease (CWD) into North Carolina and reduce the potential for spread of CWD while allowing transportation of cervids from herds in which CWD has not been detected for at least five years, in accordance with the requirements in this Section. Only licensees with Certified Herds as defined in Paragraph (e) of this Rule may request to expand their pen size to accommodate additional cervids, eervids and export cervids outside of North Carolina, and transport cervids within North Carolina for purposes other than those specified in 15A NCAC10H .0301(f)(4). Licensees with Certified Herds may also import cervids from a herd in which CWD has not been detected for at least five years and has been managed using standards equivalent to, or more stringent than, the criteria specified in 15A NCAC 10H .0301 and 15A NCAC 10H .0302. The individual U.S. or Mexican state or territory, Canadian province or other country of origin must have CWD monitoring requirements that are at least as stringent as those described in this Section. The originating individual U.S. or Mexican state's or territory's, Canadian province's or other country's CWD monitoring program must be jointly reviewed by Wildlife Resources Commission and Department of Agriculture and Consumer Services personnel before approval of any importation of cervids into North Carolina. There shall be no importation from individual U.S. or Mexican states or territories, Canadian provinces or other countries in which CWD has been detected, either in a wild or captive herd.~~

~~(b) Enrollment qualifications. Only captive cervid herds held under a valid captivity license are eligible for enrollment in the Captive Cervid Herd Certification Program. Licensees shall comply with all captivity license requirements outlined in this Section and the rules and laws regulating possession, transportation and importation of cervids in order to remain in the Captive Cervid Herd Certification Program.~~

~~(c) Enrollment application. Each individual holding a current and valid Captivity License for cervids may apply to be enrolled in the Captive Cervid Herd Certification Program. All applications shall be in writing on a form supplied by the Commission. The Commission shall deny an application if:~~

- ~~(1) the licensee has not complied with all the requirements under the captivity license statutes and all rules pertaining to the holding of cervids in captivity and the transportation or importation of cervids resulting in a failed inspection report for the licensee's most recent inspection; or a pending citation;~~
- ~~(2) the licensee has provided false information; or~~
- ~~(3) CWD has been confirmed in a cervid at the licensee's facility.~~

~~(d)~~(b) Enrollment dates. The enrollment date is:

- (1) the first date upon official inspection, documented by Wildlife Resources Commission and Department of Agriculture and Consumer Services personnel, on which the licensee has complied with all captivity rules and statutes that pertain to cervids, including tagging, provided that the licensee has continued to comply with these regulations; or
- (2) the date on which a waiver was issued by the Wildlife Resources Commission Executive Director under the conditions set forth in 15A NCAC 10A .1101(a) that brought the licensee into compliance assuming that there were no other compliance actions pending, provided that the licensee has continued to comply with the captive cervid regulations.

This date may be retroactive but may extend back no earlier than the date Wildlife Resources Commission and Department of Agriculture and Consumer Services personnel documented that the licensee came into compliance with all captivity rules and statutes related to holding cervids in captivity, including tagging of all cervids.

(c) Herd status shall be as defined in 9 CFR 55.24(a). Loss or suspension of herd status shall be as defined in 9 CFR 55.24 (b) available at http://www.ecfr.gov/cgi-bin/text-idx?SID=aa28ca62e1db4d095c8431c3e76fb587&tpl=/ecfrbrowse/Title09/9cfr55_main_02.tpl.

(e) Certified herd. When a herd is enrolled in the Captive Cervid Herd Certification Program, it shall be placed in First Year status. If the herd continues to meet the requirements of the Captive Cervid Herd Certification Program, each year on the anniversary of the enrollment date the herd status shall be upgraded by one year. One year from the date a herd is placed in Fifth Year status, the herd status shall be changed to Certified, and the herd shall remain in Certified status as long as it is enrolled in the Captive Cervid Herd Certification Program, provided its status is not lost or suspended without reinstatement as described in Paragraph (f).

(f) Herd status

- (1) A Certified Herd or any herd enrolled in the program shall have its status suspended or reduced if:
 - (A) the licensee fails to comply with any of the ongoing requirements for captive cervid licenses as identified in 15A NCAC 10H .0301;
 - (B) the licensee violates any other North Carolina law or rule related to captive cervids;
 - (C) an animal in the herd exhibits clinical signs of CWD;

- (D) ~~an animal in the herd can be traced back to a herd with an animal exhibiting clinical signs of CWD; or~~
- (E) ~~the herd is quarantined by the State Veterinarian.~~
- (2) ~~A Certified Herd or any herd enrolled in the program shall lose its status if:~~
 - (A) ~~an animal in the herd can be traced back to a herd in which CWD has been detected;~~
 - (B) ~~CWD is detected in an animal in the herd; or~~
 - (C) ~~the licensee loses his or her license.~~

~~The Wildlife Resources Commission shall review cases of suspended status upon request. A Certified Herd with suspended status may regain its status if the licensee corrects within 30 days the deficiency under which the status was suspended or, in the case of suspected CWD, the disease was not detected in the suspect animal.~~

~~(g)~~(d) Inspection. If an inspection of the captive cervids is needed as a part of certification, including reinstating a suspended status, the licensee is responsible for assembling, handling and restraining the captive cervids and all costs incurred to present the animals for inspection.

History Note: Authority G.S. 106-549.97(b); 113-134; 113-272.5; 113-272.6; 113-274; 113-292; Eff. May 1, 2010.

EXHIBIT B

December 9, 2014

Temporary Rule-making for Coyote Hunting, Taking Depredating Coyotes, and Listing Red Wolves

As amended, the rule regulating coyote hunting, 15A NCAC 10B .0219, would prohibit all nighttime hunting coyotes in the counties of Dare, Tyrrell, Hyde, Beaufort and Washington counties. Daytime hunting would be allowed on private property with a coyote hunting permit. Daytime hunting would be allowed on State-owned game lands with a special hunt permit. Hunters would have to report all harvests. As amended, the rule regulating taking depredating wildlife, 15A NCAC 10B .0106, would restrict issuance of depredation permits to Commission employees only.

As amended, 15A NCAC 10I .0104, would designate the red wolf (*Canis rufus*) as state-listed threatened. As amended, 15A NCAC 10I .0102 would allow red wolves to be taken or harassed pursuant to the conditions provided in 50 C.F.R. 17.84(c).

These temporary rules will fulfill the requirements of a court order, 2:13-cv-00060-BO.

Staff recommends the Commission notice the following temporary amendments to 15A NCAC 10B .0219, 15A NCAC 10B .0106, 15A NCAC 10I .0102 and 15A NCAC 10I .0104 for public comment and presentation at one public hearing:

15A NCAC 10B .0219 COYOTE

(a) This Rule applies to hunting coyotes. In all counties of the State, except those counties specified in Paragraph

(b) of this Rule, the following apply:

- (1) There is no closed season for taking coyotes.
- (2) Coyotes may be taken on private lands anytime during the day or night.
- (3) Coyotes may be taken on public lands without a permit from the hours of one-half hour before sunrise until one-half hour after sunset, and from one-half hour after sunset to one-half hour before sunrise by permit only.

(b) In the counties of Dare, Hyde, Washington, Tyrrell and Beaufort, the following apply: coyote hunting is prohibited.

- (1) Coyote hunting on public lands is prohibited, except that coyotes may be taken on State-owned game lands by the holder of a permit for a specific special hunt opportunity for coyotes authorized by G.S 113-264(d). Any special hunt for coyotes pursuant to G.S. 113-264(d) shall only allow hunting from the hours of one-half hour before sunrise until one-half hour after sunset. Contests or competition coyote hunts on public lands are prohibited. If, within a calendar year, two or more red wolves are shot by one or more hunters with a valid special hunt permit for coyotes on State game lands within the five counties identified in this Paragraph, all special hunts for coyotes on State game lands within those five counties shall be suspended for one calendar year.
- (2) There is no closed season for taking coyotes on private lands. Coyotes may be taken on private lands from hours of one-half hour before sunrise until one-half hour after sunset only.
- (3) Coyotes may be taken on private lands by permit only, and any take shall be reported within 24 hours to the Commission.
- (4) Coyote hunting permits are in addition to hunting licenses. Individuals exempted from license requirements under the provisions specified in G.S. 113-276 must still acquire the coyote hunting permits to hunt coyotes in the counties specified in this Paragraph. Coyote hunting permits are

valid for one calendar year and subject to annual renewal. These permits are non-transferable. Permit holders must submit their harvest reports in order to be eligible for permit renewal.

(c) There are no bag limit restrictions on coyotes.

(d) Manner of Take. Hunters may use electronic calls and artificial lights.

*History Note: Authority G.S. 113-134; 113-264; 113-291.1; 113-291.2;
Eff. July 1, 1993;
Temporary Amendment Eff. October 1, 2011;
Amended Eff. January 1, 2012;
Temporary Amendment Eff. August 1, 2012.
Amended Eff. July 26, 2013;
Temporary Amendment Eff. August 1, 2014 and shall remain in effect until amendments expire as specified in G.S. 150B-21.1(d) or the United States District Court for the Eastern District of North Carolina's court order number 2:13-CV-60-BOs signed on May 13, 2014 is rescinded, whichever date is earlier. The court order is available at www.ncwildlife.org.*

15A NCAC 10B .0106 WILDLIFE TAKEN FOR DEPREDACTIONS

(a) Depredation permits allow the take of undesirable or excess wildlife resources as described in Subparagraphs (1) and (2) of this Paragraph. ~~The taking of depredating coyotes in the counties of Dare, Hyde, Washington, Tyrrell, and Beaufort, with or without a permit, is allowed only as described in Paragraph (g) of this Rule.~~ Only employees of the Wildlife Resources Commission and Wildlife Damage Control Agents may issue depredation permits. Each permit must 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 .0103 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 must be issued to a landholder or an authorized representative of a unit of local government for depredations on public property. 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 must 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 law violations may apply to the Wildlife Resources Commission (Commission) to become a Wildlife Damage Control Agent (WDCA). Those persons who demonstrate knowledge of wildlife laws and safe, humane wildlife handling techniques by a passing score of at least 85 percent on a written examination provided by a representative of the Wildlife Resources Commission in cooperation with the training course provider shall be approved. Those persons failing to obtain a passing score shall be given one chance for re-testing without re-taking the course. Those persons approved as agents by the Commission may then issue depredation permits for depredation as defined in Subparagraph (a)(1) of this Rule to landholders and be listed as a second party to provide the control service.

WDCAs may not issue depredation permits for coyotes in the counties of Dare, Hyde, Washington, Tyrrell, and Beaufort, big game animals, bats, or species listed as endangered, threatened or special concern under 15A NCAC 10I .0103, .0104 and .0105 of this Chapter. WDCAs must report to the Wildlife Resources Commission the number and disposition of animals taken, by county, annually. Records must be available for inspection by a Wildlife Enforcement officer at any time during normal business hours. Wildlife Damage Control Agent status shall be revoked at any time by the Executive Director when there is evidence of violations of wildlife laws, failure to report, or inhumane treatment of animals by the WDCA. A WDCA may not charge for the permit, but may charge for his or her investigations and control services. In order to maintain a knowledge of current laws, rules, and techniques, each WDCA must renew his or her agent status every three years by showing proof of having attended at least one training course provided for the purpose of reviewing and updating information on wildlife laws and safe, humane wildlife handling techniques within the previous 12 months.

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

(d) Manner of Taking:

- (1) Taking Without a Permit. Wildlife taken without a permit while committing depredations to property may, during the open season on the species, be taken by the landholder by any lawful method. During the closed season such depredating wildlife may be taken without a permit only by the use of firearms or archery equipment as defined in 15A NCAC 10B .0116.
- (2) Taking With a Permit. Wildlife taken under a depredation permit may be taken only by the method or methods authorized by the permit. When trapping is authorized, in order to limit the taking to the intended purpose, the permit may specify a reasonable distance from the property sought to be protected, according to the particular circumstances, within which the traps must be set. The Executive Director or agent may also state in a permit authorizing trapping whether or not bait may be used and the type of bait, if any, that is authorized. In addition to any trapping restrictions that may be contained in the permit the method of trapping must be in accordance with the requirements and restrictions imposed by G.S. 113-291.6 and other local laws passed by the General Assembly. No depredation permit shall authorize the use of poisons or pesticides in taking wildlife except in accordance with the provisions of the North Carolina Pesticide Law of 1971, the Structural Pest Control Act of 1955, and G.S. 113, Article 22A. No depredation permit shall authorize the taking of wildlife by any method by any landholder upon the lands of another except when the individual is listed as a second party on a depredation permit.
- (3) Intentional Wounding. It is unlawful for any landholder, with or without a depredation permit, intentionally to wound a wild animal in a manner so as not to cause its immediate death as suddenly and humanely as the circumstances permit.

(e) Disposition of Wildlife Taken:

- (1) Generally. Except as provided by the succeeding Subparagraphs of this Paragraph, any wildlife killed without a permit while committing depredations shall be buried or otherwise disposed of in a safe and sanitary manner on the property. Wildlife killed under a depredation permit may be transported to an alternate disposal site if desired. Anyone in possession of carcasses of animals being transported under a depredation permit must have the depredation permit in his or her possession. Except as provided by the succeeding Subparagraphs of (d)(2) through (5) of this Rule, all wildlife killed under a depredation permit must be buried or otherwise disposed of as stated on the permit.
- (2) Deer and feral swine. The edible portions of feral swine and deer may be retained by the landholder for consumption but must not be transported from the property where the depredations took place without a valid depredation permit. The landholder may give a second party the edible portions of the feral swine and deer taken under the depredation permit. The receiver of the edible portions must hold a copy of the depredation permit. The nonedible portions of any deer carcass, including head, hide, feet, and antlers, shall be disposed of as specified in Subparagraph (1) of this Paragraph or turned over to a wildlife enforcement officer for disposition.
- (3) Fox. Any fox killed under a depredation permit may be disposed of as described in Subparagraph (1) of this Paragraph or, upon compliance with the fur tagging requirements of 15A NCAC 10B .0400, the carcass or pelt thereof may be sold to a licensed fur dealer.
- (4) Furbearing Animals. The carcass or pelt of any furbearing animal killed during the open season for taking such furbearing animal for control of depredations to property, whether with or without a permit, may be sold to a licensed fur dealer provided that the person offering such carcass or pelt for sale has a valid hunting or trapping license, provided further that, bobcats and otters may only be sold upon compliance with any required fur tagging requirement set forth in 15A NCAC 10B .0400.
- (5) Animals Taken Alive. Wild animals in the order Carnivora, armadillos, groundhogs, nutria, and beaver shall be humanely euthanized either at the site of capture or at a facility designed to humanely handle the euthanasia or released on the property where captured. Feral swine must be euthanized while still in the trap in accordance with G.S. 113-291.12. For all other animals taken alive, the animal must be euthanized or else released on property with permission of the

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

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

~~(g) In the counties of Dare, Hyde, Washington, Tyrrell, and Beaufort depredating coyotes may be taken subject to the following restrictions:~~

- ~~(1) Taking coyotes without a permit. Depredating coyotes may be harassed by non-lethal means. Coyotes may be shot in defense of a person's safety or the safety of others, or if livestock or pets are threatened.~~
- ~~(2) Taking coyotes with a permit. Only employees of the Commission shall issue depredation permits for the taking of coyotes in these counties. Commission employees shall only authorize trapping or other non-lethal manners of take in the permit.~~
- ~~(3) Reporting and disposition. All coyotes taken under a depredation permit shall be reported to the Wildlife Resources Commission within 24 hours and disposed of as stated on the permit. All coyotes killed in accordance with Subparagraph (g)(1) of this Rule shall be reported to the Wildlife Resources Commission within 24 hours.~~

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; 113-331; 113-333; 113-334(a); 113-337;
Eff. February 1, 1976;
Amended Eff. August 1, 2013; January 1, 2012; August 1 2010; July 1, 2010; May 1, 2008;
August 1, 2002; July 1, 1997; July 1, 1995; January 1, 1995; January 1, 1992; August 1, 1990.
Temporary Amendment Eff. August 1, 2014 and shall remain in effect until amendments expire as specified in G.S. 150B-21.1(d) or the United States District Court for the Eastern District of North Carolina's court order number 2:13-CV-60-BOs signed on May 13, 2014 is rescinded, whichever date is earlier. The court order is available at www.ncwildlife.org.

15A NCAC 10I .0102 PROTECTION OF ENDANGERED/THREATENED/SPECIAL CONCERN

(a) No Open Season. There is no open season for taking any of the species listed as endangered in Rule .0103, or threatened in Rule .0104 of this Section, except for the American alligator (*Alligator mississippiensis*) as set forth in the rules of this Chapter. Unless otherwise provided in North Carolina General Statutes or the rules of this Chapter, there is no open season for taking any of the species listed as special concern in Rule .0105 of this Section. Except as provided in Paragraphs (b), (c) and (e) of this Rule, it is unlawful to take or possess any of such species at any time.

(b) Permits. The executive director may issue permits to take or possess an endangered, threatened, or special concern species:

- (1) To an individual or institution with experience and training in handling, and caring for the wildlife and in conducting a scientific study, for the purpose of scientific investigation relevant to perpetuation or restoration of said species or as a part of a scientifically valid study or restoration effort;
- (2) To a public or private educator or exhibitor who demonstrates that he or she has lawfully obtained the specimen or specimens in his or her possession, possesses the requisite equipment and expertise to care for such specimen or specimens and abides by the caging requirements for the species set forth in 15A NCAC 10H .0302;
- (3) To a person who lawfully possessed any such species for more than 90 days immediately prior to the date that such species was listed and who abides by the caging requirements for the species set forth in 15A NCAC 10H .0302, provided however, that no permit shall be issued more than ninety days after the effective date of the initial listing for that species; or
- (4) To a person with demonstrable depredation from a Special Concern Species, or the American alligator (*Alligator mississippiensis*).

(c) Taking Without a Permit:

- (1) An individual may take an endangered, threatened, or special concern species in defense of his own life or the lives of others.
- (2) A state or federal conservation officer or employee who is designated by his agency to do so may, when acting in the course of his official duties, take, possess, and transport endangered, threatened, or special concern species if the action is necessary to:
 - (A) aid a sick, injured, diseased or orphaned specimen;
 - (B) dispose of a dead specimen;
 - (C) salvage a dead specimen that may be useful for scientific study; or
 - (D) remove specimens that constitute a demonstrable but nonimmediate threat to human safety, provided the taking is done in a humane and noninjurious manner. The taking may involve injuring or killing endangered, threatened, or special concern species only if it is not reasonably possible to eliminate the threat by live-capturing and releasing the specimen unharmed, in a habitat that is suitable for the survival of that species.

(d) Reporting. Any taking or possession of an endangered, threatened, or special concern species under Paragraphs (b) and (c) of this Rule is subject to applicable reporting requirements of federal law and regulations and the reporting requirements of the permit issued by the Executive Director or of 15A NCAC 10B .0106(e).

(e) Exceptions.

- (1) Notwithstanding any other provisions of this Rule, processed meat and other parts of American alligators, that have been lawfully taken in a state in which there is an open season for harvesting alligators, may be possessed, bought and sold when such products are marketed in packages or containers that are labeled to indicate the state in which they were taken and the identity, address, and lawful authority of the processor or distributor.
- (2) Raptors listed as special concern species in Rule .0105 of this Section may be taken from the wild for falconry purposes and for falconry propagation, provided that a valid North Carolina endangered species permit has been obtained as required in Paragraph (b) of this Rule.
- (3) Captive-bred raptors listed as special concern species may be bought, sold, bartered or traded as provided in 50 C.F.R. 21.30 when marked as required under those regulations.
- (4) Red Wolves (*Canis rufus*) listed as threatened in Rule .0104 in this Section may be taken or harassed pursuant to the conditions provided in 50 C.F.R. 17.84(c).
- ~~(4)~~ (5) Importation, possession, sales, transportation and exportation of species listed as special concern species in Rule .0105 of this Section is allowed under permit by retail and wholesale establishments whose primary function is providing scientific supplies for research provided that:

- (A) the specimens were lawfully obtained from captive or wild populations outside of North Carolina;
- (B) they are possessed in indoor facilities;
- (C) all transportation of specimens provides safeguards adequate to prevent accidental escape; and
- (D) importation, possession and sale or transfer is permitted only as listed in Parts (e)(4)(A) and (B) of this Rule.

(f) A written application to the Commission is required for a permit to authorize importation, and possession for the purpose of retail or wholesale sale. The application shall identify the source of the specimens, and provide documentation of lawful acquisition. Applications for permits shall include plans for holding, transportation, advertisement, and sale in such detail as to allow a determination of the safeguards provided against accidental escape and sales to unauthorized individuals.

(g) Purchase, importation, and possession of special concern species within North Carolina is allowed under permit to state and federal governmental agencies, corporate research entities, and research institutions provided that:

- (1) sales are permitted to out of state consumers;
- (2) the specimens will be possessed in indoor facilities and safeguards adequate to prevent accidental escape are provided during all transportation of the specimens;
- (3) the agency's or institution's Animal Use and Care Committee has approved the research protocol for this species; and
- (4) no specimens may be stocked or released in the public or private waters or lands of North Carolina and specimens may not be transferred to any private individual.

History Note: Authority G.S. 113-134; 113-291.2; 113-291.3; 113-292; 113-333;
Eff. June 11, 1977;

Amended Eff. January 1, 2013; January 1, 2012; May 1, 2009; April 1, 2003; April 1, 2001; April 1, 1997; February 1, 1994; September 1, 1989; March 1, 1981; March 17, 1978.

15A NCAC 10I .0104 THREATENED SPECIES LISTED

(a) The following species of resident wildlife are designated as federally-listed threatened species:

- (1) Amphibians: None Listed At This Time.
- (2) Birds: Piping plover (*Charadrius melodus melodus*).
- (3) Crustacea: None Listed At This Time.
- (4) Fish:
 - (A) Spotfin chub (*Cyprinella monacha*);
 - (B) Waccamaw silverside (*Menidia extensa*).
- (5) Mammals: None Listed At This Time.
- (6) Mollusks: Noonday globe (*Patera clarki nantahala*).
- (7) Reptiles:
 - (A) Bog turtle (*Glyptemys muhlenbergii*);
 - (B) American alligator (*Alligator mississippiensis*);
 - (C) Green sea turtle (*Chelonia mydas*);
 - (D) Loggerhead sea turtle (*Caretta caretta*).

(b) The following species of resident wildlife are designated as state-listed threatened species:

- (1) Amphibians:
 - (A) Carolina gopher frog (*Rana capito capito*);
 - (B) Eastern tiger salamander (*Ambystoma tigrinum tigrinum*);
 - (C) Junaluska salamander (*Eurycea junaluska*);
 - (D) Wehrle's salamander (*Plethodon wehrlei*).
- (2) Birds:
 - (A) Bald eagle (*Haliaeetus leucocephalus*)
 - (B) Gull-billed tern (*Sterna nilotica aranea*);
 - (C) Northern saw-whet owl (*Aegolius acadicus*).
- (3) Crustacea: None Listed At This Time.
- (4) Fish:
 - (A) American brook lamprey (*Lampetra appendix*);
 - (B) Banded sculpin (*Cottus carolinae*);
 - (C) Bigeye jumprock (*Scartomyzon ariommus*);
 - (D) Blackbanded darter (*Percina nigrofasciata*);
 - (E) Carolina madtom (*Noturus furiosus*);
 - (F) Carolina pygmy sunfish (*Elassoma boehlkei*);
 - (G) Carolina redhorse (*Moxostoma* sp.) (Pee Dee River and its tributaries and Cape Fear River and its tributaries);
 - (H) Least brook lamprey (*Lampetra aepyptera*);
 - (I) Logperch (*Percina caprodes*);
 - (J) Rosyface chub (*Hybopsis rubrifrons*);
 - (K) Sharphead darter (*Etheostoma acuticeps*);
 - (L) Sicklefin redhorse (*Moxostoma* sp.) (Hiwassee River and its tributaries and Little Tennessee River and its tributaries);
 - (M) Turquoise darter (*Etheostoma inscriptum*);
 - (N) Waccamaw darter (*Etheostoma perlongum*).
- (5) Mammals:
 - (A) Eastern woodrat (*Neotoma floridana floridana*);
 - (B) Rafinesque's big-eared bat (*Corynorhinus rafinesquii rafinesquii*);
 - (C) Red wolf (*Canis rufus*).
- (6) Mollusks:
 - (A) Alewife floater (*Anodonta implicata*);
 - (B) Big-tooth covert (*Fumonelix jonesiana*);
 - (C) Cape Fear threetooth (*Triodopsis soelneri*);
 - (D) Carolina fatmucket (*Lampsilis radiata conspicua*);
 - (E) Clingman covert (*Fumonelix wheatleyi clingmanicus*);
 - (F) Eastern lampmussel (*Lampsilis radiata radiata*);
 - (G) Eastern pondmussel (*Ligumia nasuta*);
 - (H) Engraved covert (*Fumonelix orestes*);

- (I) Mountain creekshell (*Villosa vanuxemensis*);
 - (J) Roan supercoil (*Paravitrea varidens*);
 - (K) Roanoke slabshell (*Elliptio roanokensis*);
 - (L) Sculpted supercoil (*Paravitrea ternaria*);
 - (M) Seep mudalia (*Leptoxis dilatata*);
 - (N) Smoky Mountain covert (*Inflectarius ferrissi*);
 - (O) Squawfoot (*Strophitus undulatus*);
 - (P) Tidewater mucket (*Leptodea ochracea*);
 - (Q) Triangle floater (*Alasmidonta undulata*);
 - (R) Waccamaw ambersnail (*Catinella waccamawensis*);
 - (S) Waccamaw fatmucket (*Lampsilis fullerkati*);
 - (T) Waccamaw spike (*Elliptio waccamawensis*).
- (7) Reptiles: None Listed At This Time.

History Note: Authority G.S. 113-134; 113-291.2; 113-292; 113-333;
Eff. March 17, 1978;
Amended Eff. June 1, 2008; April 1, 2001; November 1, 1991; April 1, 1991; June 1, 1990;
September 1, 1989.

EXHIBIT C

December 9, 2014

Permanent Rule-making for Coyote Hunting, Taking Depredating Coyotes, and Listing Red Wolves

As amended, the rule regulating coyote hunting, 15A NCAC 10B .0219, would prohibit all nighttime hunting coyotes in the counties of Dare, Tyrrell, Hyde, Beaufort and Washington counties. Daytime hunting would be allowed on private property with a coyote hunting permit. Daytime hunting would be allowed on State-owned game lands with a special hunt permit. Hunters would have to report all harvests. As amended, the rule regulating taking depredating wildlife, 15A NCAC 10B .0106, would restrict issuance of depredation permits to Commission employees only.

As amended, 15A NCAC 10I .0104, would designate the red wolf (*Canis rufus*) as state-listed threatened. As amended, 15A NCAC 10I .0102 would allow red wolves to be taken or harassed pursuant to the conditions provided in 50 C.F.R. 17.84(c).

These permanent rules will fulfill the requirements of a court order, 2:13-cv-00060-BO.

Staff recommends the Commission notice the following permanent amendments to 15A NCAC 10B .0219, 15A NCAC 10B .0106, 15A NCAC 10I .0102 and 15A NCAC 10I .0104 for public comment and presentation at two public hearings:

15A NCAC 10B .0219 COYOTE

(a) This Rule applies to hunting coyotes. In all counties of the State, except those counties specified in Paragraph b, the following apply:

- (1) There is no closed season for taking coyotes.
- (2) Coyotes may be taken on private lands anytime during the day or night.
- (3) Coyotes may be taken on public lands without a permit from the hours of one-half hour before sunrise until one-half hour after sunset, and from one-half hour after sunset to one-half hour before sunrise by permit only.

(b) In the counties of Dare, Hyde, Washington, Tyrrell and Beaufort, the following apply:

- (1) Coyote hunting on public lands is prohibited, except that coyotes may be taken on State-owned game lands by the holder of a permit for a specific special hunt opportunity for coyotes authorized by G.S. 113-264(d). Any special hunt for coyotes pursuant to G.S. 113-264(d) shall only allow hunting from the hours of one-half hour before sunrise until one-half hour after sunset. Contests or competition coyote hunts on public lands are prohibited. If, within a calendar year, two or more red wolves are shot by one or more hunters with a valid special hunt permit for coyotes on State game lands within the five counties identified in this Paragraph, all special hunts for coyotes on State game lands within those five counties shall be suspended for one calendar year.
- (2) There is no closed season for taking coyotes on private lands. Coyotes may be taken on private lands from hours of one-half hour before sunrise until one-half hour after sunset only.
- (3) Coyotes may be taken on private lands by permit only, and any take shall be reported within 24 hours to the Commission.
- (4) Coyote hunting permits are in addition to hunting licenses. Individuals exempted from license requirements under the provisions specified in G.S. 113-276 must still acquire the coyote hunting permits to hunt coyotes in the counties specified in this Paragraph. Coyote hunting permits are

valid for one calendar year and subject to annual renewal. These permits are non-transferable. Permit holders must submit their harvest reports in order to be eligible for permit renewal.

~~(b)~~(c) There are no bag limit restrictions on coyotes.

~~(e)~~(d) Manner of Take. Hunters may use electronic calls and artificial lights.

History Note: Authority G.S. 113-134; 113-264; 113-291.1; 113-291.2;
Eff. July 1, 1993;
Temporary Amendment Eff. October 1, 2011;
Amended Eff. January 1, 2012;
Temporary Amendment Eff. August 1, 2012;
Amended Eff. May 1, 2015 July 26, 2013.

15A NCAC 10B .0106 WILDLIFE TAKEN FOR DEPREDACTIONS

(a) Depredation permits allow the take 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 must 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 .0103 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 must be issued to a landholder or an authorized representative of a unit of local government for depredations on public property. 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 must 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 law violations may apply to the Wildlife Resources Commission (Commission) to become a Wildlife Damage Control Agent (WDCA). Those persons who demonstrate knowledge of wildlife laws and safe, humane wildlife handling techniques by a passing score of at least 85 percent on a written examination provided by a representative of the Wildlife Resources Commission in cooperation with the training course provider shall be approved. Those persons failing to obtain a passing score shall be given one chance for re-testing without re-taking the course. Those persons approved as agents by the Commission may then issue depredation permits for depredation as defined in Subparagraph (a)(1) of this Rule to landholders and be listed as a second party to provide the control service.

WDCAs may not issue depredation permits for coyotes in the counties of Dare, Washington, Beaufort, Tyrrell, and Hyde, big game animals, bats, or species listed as endangered, threatened or special concern under 15A NCAC 10I .0103, .0104 and .0105 of this Chapter. WDCAs must report to the Wildlife Resources Commission the number and disposition of animals taken, by county, annually. Records must be available for inspection by a Wildlife Enforcement officer at any time during normal business hours. Wildlife Damage Control Agent status shall be revoked at any time by the Executive Director when there is evidence of violations of wildlife laws, failure to report, or inhumane treatment of animals by the WDCA. A WDCA may not charge for the permit, but may charge for his or her investigations and control services. In order to maintain a knowledge of current laws, rules, and techniques, each WDCA must renew his or her agent status every three years by showing proof of having attended at least one training course provided for the purpose of reviewing and updating information on wildlife laws and safe, humane wildlife handling techniques within the previous 12 months.

(c) Each depredation permit shall have an expiration date or time after which the depredation permit is no longer valid. The depredation permit authorizes possession of any wildlife resources taken under the permit and must be

retained as long as the wildlife resource is in the permittee's possession. All individuals taking wildlife resources under the authority of a depredation permit are obligated to the conditions written on the permit and the requirements specified in this Rule.

(d) Manner of Taking:

- (1) Taking Without a Permit. Wildlife taken without a permit while committing depredations to property may, during the open season on the species, be taken by the landholder by any lawful method. During the closed season such depredating wildlife may be taken without a permit only by the use of firearms or archery equipment as defined in 15A NCAC 10B .0116.
- (2) Taking With a Permit. Wildlife taken under a depredation permit may be taken only by the method or methods authorized by the permit. When trapping is authorized, in order to limit the taking to the intended purpose, the permit may specify a reasonable distance from the property sought to be protected, according to the particular circumstances, within which the traps must be set. The Executive Director or agent may also state in a permit authorizing trapping whether or not bait may be used and the type of bait, if any, that is authorized. In addition to any trapping restrictions that may be contained in the permit the method of trapping must be in accordance with the requirements and restrictions imposed by G.S. 113-291.6 and other local laws passed by the General Assembly. No depredation permit shall authorize the use of poisons or pesticides in taking wildlife except in accordance with the provisions of the North Carolina Pesticide Law of 1971, the Structural Pest Control Act of 1955, and G.S. 113, Article 22A. No depredation permit shall authorize the taking of wildlife by any method by any landholder upon the lands of another except when the individual is listed as a second party on a depredation permit.
- (3) Intentional Wounding. It is unlawful for any landholder, with or without a depredation permit, intentionally to wound a wild animal in a manner so as not to cause its immediate death as suddenly and humanely as the circumstances permit.

(e) Disposition of Wildlife Taken:

- (1) Generally. Except as provided by the succeeding Subparagraphs of this Paragraph, any wildlife killed without a permit while committing depredations shall be buried or otherwise disposed of in a safe and sanitary manner on the property. Wildlife killed under a depredation permit may be transported to an alternate disposal site if desired. Anyone in possession of carcasses of animals being transported under a depredation permit must have the depredation permit in his or her possession. Except as provided by the succeeding Subparagraphs of (d)(2) through (5) of this Rule, all wildlife killed under a depredation permit must be buried or otherwise disposed of as stated on the permit.
- (2) Deer and feral swine. The edible portions of feral swine and deer may be retained by the landholder for consumption but must not be transported from the property where the depredations took place without a valid depredation permit. The landholder may give a second party the edible portions of the feral swine and deer taken under the depredation permit. The receiver of the edible portions must hold a copy of the depredation permit. The nonedible portions of any deer carcass, including head, hide, feet, and antlers, shall be disposed of as specified in Subparagraph (1) of this Paragraph or turned over to a wildlife enforcement officer for disposition.
- (3) Fox. Any fox killed under a depredation permit may be disposed of as described in Subparagraph (1) of this Paragraph or, upon compliance with the fur tagging requirements of 15A NCAC 10B .0400, the carcass or pelt thereof may be sold to a licensed fur dealer.
- (4) Furbearing Animals. The carcass or pelt of any furbearing animal killed during the open season for taking such furbearing animal for control of depredations to property, whether with or without a permit, may be sold to a licensed fur dealer provided that the person offering such carcass or pelt for sale has a valid hunting or trapping license, provided further that, bobcats and otters may only be sold upon compliance with any required fur tagging requirement set forth in 15A NCAC 10B .0400.
- (5) Animals Taken Alive. Wild animals in the order Carnivora, armadillos, groundhogs, nutria, and beaver shall be humanely euthanized either at the site of capture or at a facility designed to humanely handle the euthanasia or released on the property where captured. Feral swine must be euthanized while still in the trap in accordance with G.S. 113-291.12. For all other animals taken alive, the animal must be euthanized or else released on property with permission of the landowner. When the relocation site is public property, written permission must be obtained from an appropriate local, state or federal official before any animal may be released. Animals

transported or held for euthanasia must be euthanized within 12 hours of capture. Anyone in possession of live animals being transported for relocation or euthanasia under a depredation permit must have the depredation permit in his or her possession.

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

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; 113-331; 113-333; 113-334(a); 113-337;

Eff. February 1, 1976;

Amended Eff. May 1, 2015; August 1, 2013; January 1, 2012; August 1 2010; July 1, 2010; May 1, 2008; August 1, 2002; July 1, 1997; July 1, 1995; January 1, 1995; January 1, 1992; August 1, 1990.

15A NCAC 10I .0102 PROTECTION OF ENDANGERED/THREATENED/SPECIAL CONCERN

(a) No Open Season. There is no open season for taking any of the species listed as endangered in Rule .0103, or threatened in Rule .0104 of this Section, except for the American alligator (*Alligator mississippiensis*) as set forth in the rules of this Chapter. Unless otherwise provided in North Carolina General Statutes or the rules of this Chapter, there is no open season for taking any of the species listed as special concern in Rule .0105 of this Section. Except as provided in Paragraphs (b), (c) and (e) of this Rule, it is unlawful to take or possess any of such species at any time.

(b) Permits. The executive director may issue permits to take or possess an endangered, threatened, or special concern species:

- (1) To an individual or institution with experience and training in handling, and caring for the wildlife and in conducting a scientific study, for the purpose of scientific investigation relevant to perpetuation or restoration of said species or as a part of a scientifically valid study or restoration effort;
- (2) To a public or private educator or exhibitor who demonstrates that he or she has lawfully obtained the specimen or specimens in his or her possession, possesses the requisite equipment and expertise to care for such specimen or specimens and abides by the caging requirements for the species set forth in 15A NCAC 10H .0302;
- (3) To a person who lawfully possessed any such species for more than 90 days immediately prior to the date that such species was listed and who abides by the caging requirements for the species set forth in 15A NCAC 10H .0302, provided however, that no permit shall be issued more than ninety days after the effective date of the initial listing for that species; or
- (4) To a person with demonstrable depredation from a Special Concern Species, or the American alligator (*Alligator mississippiensis*).

(c) Taking Without a Permit:

- (1) An individual may take an endangered, threatened, or special concern species in defense of his own life or the lives of others.
- (2) A state or federal conservation officer or employee who is designated by his agency to do so may, when acting in the course of his official duties, take, possess, and transport endangered, threatened, or special concern species if the action is necessary to:
 - (A) aid a sick, injured, diseased or orphaned specimen;
 - (B) dispose of a dead specimen;
 - (C) salvage a dead specimen that may be useful for scientific study; or
 - (D) remove specimens that constitute a demonstrable but nonimmediate threat to human safety, provided the taking is done in a humane and noninjurious manner. The taking may involve injuring or killing endangered, threatened, or special concern species only if it is not reasonably possible to eliminate the threat by live-capturing and releasing the specimen unharmed, in a habitat that is suitable for the survival of that species.

(d) Reporting. Any taking or possession of an endangered, threatened, or special concern species under Paragraphs (b) and (c) of this Rule is subject to applicable reporting requirements of federal law and regulations and the reporting requirements of the permit issued by the Executive Director or of 15A NCAC 10B .0106(e).

(e) Exceptions.

- (1) Notwithstanding any other provisions of this Rule, processed meat and other parts of American alligators, that have been lawfully taken in a state in which there is an open season for harvesting alligators, may be possessed, bought and sold when such products are marketed in packages or containers that are labeled to indicate the state in which they were taken and the identity, address, and lawful authority of the processor or distributor.
- (2) Raptors listed as special concern species in Rule .0105 of this Section may be taken from the wild for falconry purposes and for falconry propagation, provided that a valid North Carolina endangered species permit has been obtained as required in Paragraph (b) of this Rule.
- (3) Captive-bred raptors listed as special concern species may be bought, sold, bartered or traded as provided in 50 C.F.R. 21.30 when marked as required under those regulations.
- (4) Red Wolves (*Canis rufus*) listed as threatened in Rule .0104 in this Section may be taken or harassed pursuant to the conditions provided in 50 C.F.R. 17.84(c).
- ~~(4)~~ (5) Importation, possession, sales, transportation and exportation of species listed as special concern species in Rule .0105 of this Section is allowed under permit by retail and wholesale establishments whose primary function is providing scientific supplies for research provided that:

- (A) the specimens were lawfully obtained from captive or wild populations outside of North Carolina;
- (B) they are possessed in indoor facilities;
- (C) all transportation of specimens provides safeguards adequate to prevent accidental escape; and
- (D) importation, possession and sale or transfer is permitted only as listed in Parts (e)(4)(A) and (B) of this Rule.

(f) A written application to the Commission is required for a permit to authorize importation, and possession for the purpose of retail or wholesale sale. The application shall identify the source of the specimens, and provide documentation of lawful acquisition. Applications for permits shall include plans for holding, transportation, advertisement, and sale in such detail as to allow a determination of the safeguards provided against accidental escape and sales to unauthorized individuals.

(g) Purchase, importation, and possession of special concern species within North Carolina is allowed under permit to state and federal governmental agencies, corporate research entities, and research institutions provided that:

- (1) sales are permitted to out of state consumers;
- (2) the specimens will be possessed in indoor facilities and safeguards adequate to prevent accidental escape are provided during all transportation of the specimens;
- (3) the agency's or institution's Animal Use and Care Committee has approved the research protocol for this species; and
- (4) no specimens may be stocked or released in the public or private waters or lands of North Carolina and specimens may not be transferred to any private individual.

History Note: Authority G.S. 113-134; 113-291.2; 113-291.3; 113-292; 113-333;
Eff. June 11, 1977;

Amended Eff. May 1, 2015; January 1, 2013; January 1, 2012; May 1, 2009; April 1, 2003; April 1, 2001; April 1, 1997; February 1, 1994; September 1, 1989; March 1, 1981; March 17, 1978.

15A NCAC 10I .0104 THREATENED SPECIES LISTED

(a) The following species of resident wildlife are designated as federally-listed threatened species:

- (1) Amphibians: None Listed At This Time.
- (2) Birds: Piping plover (*Charadrius melodus melodus*).
- (3) Crustacea: None Listed At This Time.
- (4) Fish:
 - (A) Spotfin chub (*Cyprinella monacha*);
 - (B) Waccamaw silverside (*Menidia extensa*).
- (5) Mammals: None Listed At This Time.
- (6) Mollusks: Noonday globe (*Patera clarki nantahala*).
- (7) Reptiles:
 - (A) Bog turtle (*Glyptemys muhlenbergii*);
 - (B) American alligator (*Alligator mississippiensis*);
 - (C) Green sea turtle (*Chelonia mydas*);
 - (D) Loggerhead sea turtle (*Caretta caretta*).

(b) The following species of resident wildlife are designated as state-listed threatened species:

- (1) Amphibians:
 - (A) Carolina gopher frog (*Rana capito capito*);
 - (B) Eastern tiger salamander (*Ambystoma tigrinum tigrinum*);
 - (C) Junaluska salamander (*Eurycea junaluska*);
 - (D) Wehrle's salamander (*Plethodon wehrlei*).
- (2) Birds:
 - (A) Bald eagle (*Haliaeetus leucocephalus*)
 - (B) Gull-billed tern (*Sterna nilotica aranea*);
 - (C) Northern saw-whet owl (*Aegolius acadicus*).
- (3) Crustacea: None Listed At This Time.
- (4) Fish:
 - (A) American brook lamprey (*Lampetra appendix*);
 - (B) Banded sculpin (*Cottus carolinae*);
 - (C) Bigeye jumprock (*Scartomyzon ariommus*);
 - (D) Blackbanded darter (*Percina nigrofasciata*);
 - (E) Carolina madtom (*Noturus furiosus*);
 - (F) Carolina pygmy sunfish (*Elassoma boehlkei*);
 - (G) Carolina redhorse (*Moxostoma* sp.) (Pee Dee River and its tributaries and Cape Fear River and its tributaries);
 - (H) Least brook lamprey (*Lampetra aepyptera*);
 - (I) Logperch (*Percina caprodes*);
 - (J) Rosyface chub (*Hybopsis rubrifrons*);
 - (K) Sharphead darter (*Etheostoma acuticeps*);
 - (L) Sicklefin redhorse (*Moxostoma* sp.) (Hiwassee River and its tributaries and Little Tennessee River and its tributaries);
 - (M) Turquoise darter (*Etheostoma inscriptum*);
 - (N) Waccamaw darter (*Etheostoma perlongum*).
- (5) Mammals:
 - (A) Eastern woodrat (*Neotoma floridana floridana*);
 - (B) Rafinesque's big-eared bat (*Corynorhinus rafinesquii rafinesquii*);
 - (C) Red wolf (*Canis rufus*).
- (6) Mollusks:
 - (A) Alewife floater (*Anodonta implicata*);
 - (B) Big-tooth covert (*Fumonelix jonesiana*);
 - (C) Cape Fear threetooth (*Triodopsis soelneri*);
 - (D) Carolina fatmucket (*Lampsilis radiata conspicua*);
 - (E) Clingman covert (*Fumonelix wheatleyi clingmanicus*);
 - (F) Eastern lampmussel (*Lampsilis radiata radiata*);
 - (G) Eastern pondmussel (*Ligumia nasuta*);
 - (H) Engraved covert (*Fumonelix orestes*);

- (I) Mountain creekshell (*Villosa vanuxemensis*);
 - (J) Roan supercoil (*Paravitrea varidens*);
 - (K) Roanoke slabshell (*Elliptio roanokensis*);
 - (L) Sculpted supercoil (*Paravitrea ternaria*);
 - (M) Seep mudalia (*Leptoxis dilatata*);
 - (N) Smoky Mountain covert (*Inflectarius ferrissi*);
 - (O) Squawfoot (*Strophitus undulatus*);
 - (P) Tidewater mucket (*Leptodea ochracea*);
 - (Q) Triangle floater (*Alasmidonta undulata*);
 - (R) Waccamaw ambersnail (*Catinella waccamawensis*);
 - (S) Waccamaw fatmucket (*Lampsilis fullerkati*);
 - (T) Waccamaw spike (*Elliptio waccamawensis*).
- (7) Reptiles: None Listed At This Time.

History Note: Authority G.S. 113-134; 113-291.2; 113-292; 113-333;
Eff. March 17, 1978;
Amended Eff. May 1, 2015; June 1, 2008; April 1, 2001; November 1, 1991; April 1, 1991; June 1, 1990; September 1, 1989.

EXHIBIT D

December 9, 2014



Review of

Proposed Wildlife Resources Commission (WRC)

Fiscal Note for Proposed Wildlife Management Rules for the Wildlife Resources Commission

15A NCAC 10B .0219
15A NCAC 10B .0106
15A NCAC 10I .0102
15A NCAC 10I .0104

This fiscal note analysis pertains to a series of proposed amendments to or adoptions of rules that the Wildlife Resources Commission (WRC) voted to take to public hearing. The purpose of each proposed rule amendment or adoption is set forth below.

For the following 4 rules the Wildlife Resources Commission intends to notice for permanent amendment, the Commission determined the following fiscal impact:

Impact: Local Funds: No

 State Funds: Minimal

 Substantial Economic Impact: Does not meet \$1,000,000 threshold

Authority: G.S. § 113 - 134

For reasons which are outlined below, WRC believes that these rule changes do not meet the criteria requiring a fiscal note pursuant to G.S. § 150B-21.4. An analysis of the proposed changes for each rule follows.

PROPOSED RULE CHANGES

Background

The wildlife resources of the State belong to the people of the State as a whole, including the enjoyment of these resources. (G.S. § 113-131(a)). WRC is tasked with the conservation of wildlife resources of the State (G.S. § 143-239). This mission responsibility includes managing as equitably as possible the various competing interests regarding these

resources, including the use and take of such resources. (G.S. § 113-131.1(a)) The statutes governing wildlife resources are found in Chapter 113, Subchapter IV of the General Statutes, and WRC has been granted rulemaking authority to implement the provisions of these statutes. (G.S. § 113-134)

As part of its mission, WRC conducts an annual review of its fish, wildlife, boating safety, and other regulations to determine whether such rules need to be adjusted in order to accomplish the objectives of: managing wildlife resources through a biologically sustainable harvest of such resources by hunters, trappers and anglers consistent with sound conservation objectives; ensuring the safety of the boating public; managing Commission-owned land for the conservation of wildlife resources and the enjoyment of the public; and implementing legislative directives. This review generally begins internally in July, and culminates with rule proposals in November. The proposals are taken to at least nine public hearings in January, and those proposals subsequently adopted or amended by the full Commission are reviewed by the Rules Review Commission in April.

A summary of the proposed rule amendments is shown below, with the full text of each included in Appendix A.

15A NCAC 10B .0219

Description and Justification

The proposed changes to this rule are necessary to implement a court order (see Appendix B). Specifically the proposed change to this rule restricts coyote hunting in five counties: Hyde, Tyrrell, Washington, Beaufort and Dare. In those counties, the proposed rule prohibits night hunting entirely, limits daytime hunting on public lands to special permit hunts, and requires hunters on private lands to obtain coyote hunting permits and report harvests.

Fiscal Impact

All permits referenced in this rule are free of charge, so the Commission concludes there will be no fiscal impact to coyote hunters in relation to the required permitting. The Commission will need to expend some staff time to develop permits (estimated at 40 hours), issue them and collect harvest data (estimated at about 5 hours per months). Based on the average total compensation of WRC staff, the value of the staff time needed would be minimal (about \$3,000 assuming average hourly total compensation of \$27.5).

The Commission expects a non-significant fiscal impact from amending this rule. The Commission does not have a mechanism to quantify the fiscal impact of lost nighttime hunting opportunity. In these five counties, coyotes are hunted mainly as a means to reduce their predation on livestock, pets and more desirable game species, such as deer. They are rarely hunted for sport in and of itself. The Commission has no mechanism to determine the extent to which the elimination of night hunting will impact the ability of landowners to reduce the overall

coyote population or target specific depredating coyotes. While there have been anecdotal reports of potential agricultural losses due to coyotes, there is no data. Hunting harvest surveys indicate the annual number of coyotes harvested in the five-county area is likely in the low dozens. The data does not differentiate between day and night hunting. The agency has issued only one depredation permit for coyotes in the past ten years in the affected counties.

15A NCAC 10B .0106

Description and Justification

The proposed changes to this rule are necessary to support proposed changes to 15A NCAC 10B .0219. Specifically, the rule will authorize only Commission employees to issue depredation permits for coyotes in the five-county area. This allows for greater control of the activity in alignment with the intention of the court order.

Fiscal Impact

The Commission does not expect any fiscal impact from amending this rule. Commission employees already issue depredation permits for other species so this is not a significant increase in workload. Landowners will continue to be able to receive depredation permits as they have in the past.

15A NCAC 10I .0102

Description and Justification

The proposed change to this rule supports to the proposed changes to 15A NCAC 10I .0104. As a federally-designated experimental, non-essential population, the U.S. Fish and Wildlife Service has guidelines for take of red wolves. The changes proposed in this rule defer state regulations to the federal rule.

Fiscal Impact

The Commission does not expect any fiscal impact from amending this rule. Circumstances of harassment and take are already codified and enforced under the federal code. Nothing in this rule changes what landowners are allowed to do.

15A NCAC 10I .0104

Description and Justification

The proposed changes to this rule are necessary to implement a court order (see Appendix B). As proposed, the red wolf will be designated a state threatened species.

Fiscal Impact

The Commission expects a non-substantial fiscal impact from amending this rule. The fiscal impact of listing a species comes from illegal take. Currently, as a non-listed species without an open season, take of a red wolf is a Class 3 misdemeanor, which according to § 15A-1340.23, has a maximum \$200.00 fine. As a listed species, take of a red wolf will be a Class 1 misdemeanor. The fine for a Class 1 misdemeanor is at the discretion of the court. Given that the fine for a Class 2 misdemeanor is a maximum of \$1,000, this analysis assumes that the Class 1 misdemeanor fine would be \$1,001.

15A NCAC 10B .0117 also sets forth replacement costs for taking wildlife. The replacement cost for a species with no open season is \$54.00. The replacement cost for a threatened species is \$4,313.00. From data provided by the U.S. Fish and Wildlife Service over the past 12 years, an average of six wolves per year die from gunshot. Taking the average and assuming the following: all gunshot deaths are illegal; all are prosecutable; the difference in the fine set by a judge will be at least \$801 per charge; and a judge will assess the full replacement costs, the fiscal impact of the rule change is \$30,360.

APPENDIX A

15A NCAC 10B .0219 COYOTE

(a) This Rule applies to hunting coyotes. In all counties of the State, except those counties specified in Paragraph b, the following apply:

- (1) There is no closed season for taking coyotes.
- (2) Coyotes may be taken on private lands anytime during the day or night.
- (3) Coyotes may be taken on public lands without a permit from the hours of one-half hour before sunrise until one-half hour after sunset, and from one-half hour after sunset to one-half hour before sunrise by permit only.

(b) In the counties of Dare, Hyde, Washington, Tyrrell and Beaufort, the following apply:

- (1) Coyote hunting on public lands is prohibited, except that coyotes may be taken on State-owned game lands by the holder of a permit for a specific special hunt opportunity for coyotes authorized by G.S. 113-264(d). Any special hunt for coyotes pursuant to G.S. 113-264(d) shall only allow hunting from the hours of one-half hour before sunrise until one-half hour after sunset. Contests or competition coyote hunts on public lands are prohibited. If, within a calendar year, two or more red wolves are shot by one or more hunters with a valid special hunt permit for coyotes on State game lands within the five counties identified in this Paragraph, all special hunts for coyotes on State game lands within those five counties shall be suspended for one calendar year.
- (2) There is no closed season for taking coyotes on private lands. Coyotes may be taken on private lands from hours of one-half hour before sunrise until one-half hour after sunset only.
- (3) Coyotes may be taken on private lands by permit only, and any take shall be reported within 24 hours to the Commission.
- (4) Coyote hunting permits are in addition to hunting licenses. Individuals exempted from license requirements under the provisions specified in G.S. 113-276 must still acquire the coyote hunting permits to hunt coyotes in the counties specified in this Paragraph. Coyote hunting permits are valid for one calendar year and subject to annual renewal. These permits are non-transferable. Permit holders must submit their harvest reports in order to be eligible for permit renewal.

~~(b)(c)~~ There are no bag limit restrictions on coyotes.

~~(e)(d)~~ Manner of Take. Hunters may use electronic calls and artificial lights.

*History Note: Authority G.S. 113-134; 113-264; 113-291.1; 113-291.2;
Eff. July 1, 1993;
Temporary Amendment Eff. October 1, 2011;
Amended Eff. January 1, 2012;
Temporary Amendment Eff. August 1, 2012;
Amended Eff. May 1, 2015 July 26, 2013.*

15A NCAC 10B .0106 WILDLIFE TAKEN FOR DEPREDACTIONS

(a) Depredation permits allow the take 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 must 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 .0103 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 must be issued to a landholder or an authorized representative of a unit of local government for depredations on public property. 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 must 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 law violations may apply to the Wildlife Resources Commission (Commission) to become a Wildlife Damage Control Agent (WDCA). Those persons who demonstrate knowledge of wildlife laws and safe, humane wildlife handling techniques by a passing score of at least 85 percent on a written examination provided by a representative of the Wildlife Resources Commission in cooperation with the training course provider shall be approved. Those persons failing to obtain a passing score shall be given one chance for re-testing without re-taking the course. Those persons approved as agents by the Commission may then issue depredation permits for depredation as defined in Subparagraph (a)(1) of this Rule to landholders and be listed as a second party to provide the control service.

WDCAs may not issue depredation permits for coyotes in the counties of Dare, Washington, Beaufort, Tyrrell, and Hyde counties, big game animals, bats, or species listed as endangered, threatened or special concern under 15A NCAC 10I .0103, .0104 and .0105 of this Chapter. WDCAs must report to the Wildlife Resources Commission the number and disposition of animals taken, by county, annually. Records must be available for inspection by a Wildlife Enforcement officer at any time during normal business hours. Wildlife Damage Control Agent status shall be revoked at any time by the Executive Director when there is evidence of violations of wildlife laws, failure to report, or inhumane treatment of animals by the WDCA. A WDCA may not charge for the permit, but may charge for his or her investigations and control services. In order to maintain a knowledge of current laws, rules, and techniques, each WDCA must renew his or her agent status every three years by showing proof of having attended at least one training course provided for the purpose of reviewing and updating information on wildlife laws and safe, humane wildlife handling techniques within the previous 12 months.

(c) Each depredation permit shall have an expiration date or time after which the depredation permit is no longer valid. The depredation permit authorizes possession of any wildlife resources taken under the permit and must be

retained as long as the wildlife resource is in the permittee's possession. All individuals taking wildlife resources under the authority of a depredation permit are obligated to the conditions written on the permit and the requirements specified in this Rule.

(d) Manner of Taking:

- (1) Taking Without a Permit. Wildlife taken without a permit while committing depredations to property may, during the open season on the species, be taken by the landholder by any lawful method. During the closed season such depredating wildlife may be taken without a permit only by the use of firearms or archery equipment as defined in 15A NCAC 10B .0116.
- (2) Taking With a Permit. Wildlife taken under a depredation permit may be taken only by the method or methods authorized by the permit. When trapping is authorized, in order to limit the taking to the intended purpose, the permit may specify a reasonable distance from the property sought to be protected, according to the particular circumstances, within which the traps must be set. The Executive Director or agent may also state in a permit authorizing trapping whether or not bait may be used and the type of bait, if any, that is authorized. In addition to any trapping restrictions that may be contained in the permit the method of trapping must be in accordance with the requirements and restrictions imposed by G.S. 113-291.6 and other local laws passed by the General Assembly. No depredation permit shall authorize the use of poisons or pesticides in taking wildlife except in accordance with the provisions of the North Carolina Pesticide Law of 1971, the Structural Pest Control Act of 1955, and G.S. 113, Article 22A. No depredation permit shall authorize the taking of wildlife by any method by any landholder upon the lands of another except when the individual is listed as a second party on a depredation permit.
- (3) Intentional Wounding. It is unlawful for any landholder, with or without a depredation permit, intentionally to wound a wild animal in a manner so as not to cause its immediate death as suddenly and humanely as the circumstances permit.

(e) Disposition of Wildlife Taken:

- (1) Generally. Except as provided by the succeeding Subparagraphs of this Paragraph, any wildlife killed without a permit while committing depredations shall be buried or otherwise disposed of in a safe and sanitary manner on the property. Wildlife killed under a depredation permit may be transported to an alternate disposal site if desired. Anyone in possession of carcasses of animals being transported under a depredation permit must have the depredation permit in his or her possession. Except as provided by the succeeding Subparagraphs of (d)(2) through (5) of this Rule, all wildlife killed under a depredation permit must be buried or otherwise disposed of as stated on the permit.
- (2) Deer and feral swine. The edible portions of feral swine and deer may be retained by the landholder for consumption but must not be transported from the property where the depredations took place without a valid depredation permit. The landholder may give a second party the edible portions of the feral swine and deer taken under the depredation permit. The receiver of the edible portions must hold a copy of the depredation permit. The nonedible portions of any deer carcass, including head, hide, feet, and antlers, shall be disposed of as specified in Subparagraph (1) of this Paragraph or turned over to a wildlife enforcement officer for disposition.
- (3) Fox. Any fox killed under a depredation permit may be disposed of as described in Subparagraph (1) of this Paragraph or, upon compliance with the fur tagging requirements of 15A NCAC 10B .0400, the carcass or pelt thereof may be sold to a licensed fur dealer.
- (4) Furbearing Animals. The carcass or pelt of any furbearing animal killed during the open season for taking such furbearing animal for control of depredations to property, whether with or without a permit, may be sold to a licensed fur dealer provided that the person offering such carcass or pelt for sale has a valid hunting or trapping license, provided further that, bobcats and otters may only be sold upon compliance with any required fur tagging requirement set forth in 15A NCAC 10B .0400.
- (5) Animals Taken Alive. Wild animals in the order Carnivora, armadillos, groundhogs, nutria, and beaver shall be humanely euthanized either at the site of capture or at a facility designed to humanely handle the euthanasia or released on the property where captured. Feral swine must be euthanized while still in the trap in accordance with G.S. 113-291.12. For all other animals taken alive, the animal must be euthanized or else released on property with permission of the landowner. When the relocation site is public property, written permission must be obtained from an appropriate local, state or federal official before any animal may be released. Animals

transported or held for euthanasia must be euthanized within 12 hours of capture. Anyone in possession of live animals being transported for relocation or euthanasia under a depredation permit must have the depredation permit in his or her possession.

(f) Reporting Requirements. Any landholder who kills an alligator, deer, Canada goose, bear or wild turkey under a valid depredation permit shall report such kill on the form provided with the permit and mail the form upon the expiration date to the Wildlife Resources Commission. The killing and method of disposition of every alligator and bear taken without a permit shall be reported to the Wildlife Resources Commission within 24 hours following the time of such killing.

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; 113-331; 113-333; 113-334(a); 113-337;

Eff. February 1, 1976;

Amended Eff. May 1, 2015; August 1, 2013; January 1, 2012; August 1 2010; July 1, 2010; May 1, 2008; August 1, 2002; July 1, 1997; July 1, 1995; January 1, 1995; January 1, 1992; August 1, 1990.

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

15A NCAC 10I .0102 PROTECTION OF ENDANGERED/THREATENED/SPECIAL CONCERN

(a) No Open Season. There is no open season for taking any of the species listed as endangered in Rule .0103, or threatened in Rule .0104 of this Section, except for the American alligator (*Alligator mississippiensis*) as set forth in the rules of this Chapter. Unless otherwise provided in North Carolina General Statutes or the rules of this Chapter, there is no open season for taking any of the species listed as special concern in Rule .0105 of this Section. Except as provided in Paragraphs (b), (c) and (e) of this Rule, it is unlawful to take or possess any of such species at any time.

(b) Permits. The executive director may issue permits to take or possess an endangered, threatened, or special concern species:

- (1) To an individual or institution with experience and training in handling, and caring for the wildlife and in conducting a scientific study, for the purpose of scientific investigation relevant to perpetuation or restoration of said species or as a part of a scientifically valid study or restoration effort;
- (2) To a public or private educator or exhibitor who demonstrates that he or she has lawfully obtained the specimen or specimens in his or her possession, possesses the requisite equipment and expertise to care for such specimen or specimens and abides by the caging requirements for the species set forth in 15A NCAC 10H .0302;
- (3) To a person who lawfully possessed any such species for more than 90 days immediately prior to the date that such species was listed and who abides by the caging requirements for the species set forth in 15A NCAC 10H .0302, provided however, that no permit shall be issued more than ninety days after the effective date of the initial listing for that species; or
- (4) To a person with demonstrable depredation from a Special Concern Species, or the American alligator (*Alligator mississippiensis*).

(c) Taking Without a Permit:

- (1) An individual may take an endangered, threatened, or special concern species in defense of his own life or the lives of others.
- (2) A state or federal conservation officer or employee who is designated by his agency to do so may, when acting in the course of his official duties, take, possess, and transport endangered, threatened, or special concern species if the action is necessary to:
 - (A) aid a sick, injured, diseased or orphaned specimen;
 - (B) dispose of a dead specimen;
 - (C) salvage a dead specimen that may be useful for scientific study; or
 - (D) remove specimens that constitute a demonstrable but nonimmediate threat to human safety, provided the taking is done in a humane and noninjurious manner. The taking may involve injuring or killing endangered, threatened, or special concern species only if it is not reasonably possible to eliminate the threat by live-capturing and releasing the specimen unharmed, in a habitat that is suitable for the survival of that species.

(d) Reporting. Any taking or possession of an endangered, threatened, or special concern species under Paragraphs (b) and (c) of this Rule is subject to applicable reporting requirements of federal law and regulations and the reporting requirements of the permit issued by the Executive Director or of 15A NCAC 10B .0106(e).

(e) Exceptions.

- (1) Notwithstanding any other provisions of this Rule, processed meat and other parts of American alligators, that have been lawfully taken in a state in which there is an open season for harvesting alligators, may be possessed, bought and sold when such products are marketed in packages or containers that are labeled to indicate the state in which they were taken and the identity, address, and lawful authority of the processor or distributor.
- (2) Raptors listed as special concern species in Rule .0105 of this Section may be taken from the wild for falconry purposes and for falconry propagation, provided that a valid North Carolina endangered species permit has been obtained as required in Paragraph (b) of this Rule.
- (3) Captive-bred raptors listed as special concern species may be bought, sold, bartered or traded as provided in 50 C.F.R. 21.30 when marked as required under those regulations.
- (4) Red Wolves (*Canis rufus*) listed as threatened in Rule .0104 in this Section may be taken or harassed pursuant to the conditions provided in 50 C.F.R. 17.84(c).
- (4) (5) Importation, possession, sales, transportation and exportation of species listed as special concern species in Rule .0105 of this Section is allowed under permit by retail and wholesale establishments whose primary function is providing scientific supplies for research provided that:

- (A) the specimens were lawfully obtained from captive or wild populations outside of North Carolina;
- (B) they are possessed in indoor facilities;
- (C) all transportation of specimens provides safeguards adequate to prevent accidental escape; and
- (D) importation, possession and sale or transfer is permitted only as listed in Parts (e)(4)(A) and (B) of this Rule.

(f) A written application to the Commission is required for a permit to authorize importation, and possession for the purpose of retail or wholesale sale. The application shall identify the source of the specimens, and provide documentation of lawful acquisition. Applications for permits shall include plans for holding, transportation, advertisement, and sale in such detail as to allow a determination of the safeguards provided against accidental escape and sales to unauthorized individuals.

(g) Purchase, importation, and possession of special concern species within North Carolina is allowed under permit to state and federal governmental agencies, corporate research entities, and research institutions provided that:

- (1) sales are permitted to out of state consumers;
- (2) the specimens will be possessed in indoor facilities and safeguards adequate to prevent accidental escape are provided during all transportation of the specimens;
- (3) the agency's or institution's Animal Use and Care Committee has approved the research protocol for this species; and
- (4) no specimens may be stocked or released in the public or private waters or lands of North Carolina and specimens may not be transferred to any private individual.

History Note: Authority G.S. 113-134; 113-291.2; 113-291.3; 113-292; 113-333;

Eff. June 11, 1977;

Amended Eff. May 1, 2015; January 1, 2013; January 1, 2012; May 1, 2009; April 1, 2003; April 1, 2001; April 1, 1997; February 1, 1994; September 1, 1989; March 1, 1981; March 17, 1978.

15A NCAC 101 .0104 THREATENED SPECIES LISTED

(a) The following species of resident wildlife are designated as federally-listed threatened species:

- (1) Amphibians: None Listed At This Time.
- (2) Birds: Piping plover (*Charadrius melodus melodus*).
- (3) Crustacea: None Listed At This Time.
- (4) Fish:
 - (A) Spotfin chub (*Cyprinella monacha*);
 - (B) Waccamaw silverside (*Menidia extensa*).
- (5) Mammals: None Listed At This Time.
- (6) Mollusks: Noonday globe (*Patera clarki nantahala*).
- (7) Reptiles:
 - (A) Bog turtle (*Glyptemys muhlenbergii*);
 - (B) American alligator (*Alligator mississippiensis*);
 - (C) Green sea turtle (*Chelonia mydas*);
 - (D) Loggerhead sea turtle (*Caretta caretta*).

(b) The following species of resident wildlife are designated as state-listed threatened species:

- (1) Amphibians:
 - (A) Carolina gopher frog (*Rana capito capito*);
 - (B) Eastern tiger salamander (*Ambystoma tigrinum tigrinum*);
 - (C) Junaluska salamander (*Eurycea junaluska*);
 - (D) Wehrle's salamander (*Plethodon wehrlei*).
- (2) Birds:
 - (A) Bald eagle (*Haliaeetus leucocephalus*);
 - (B) Gull-billed tern (*Sterna nilotica aranea*);
 - (C) Northern saw-whet owl (*Aegolius acadicus*).
- (3) Crustacea: None Listed At This Time.
- (4) Fish:
 - (A) American brook lamprey (*Lampetra appendix*);
 - (B) Banded sculpin (*Cottus carolinae*);
 - (C) Bigeye jumprock (*Scartomyzon ariommus*);
 - (D) Blackbanded darter (*Percina nigrofasciata*);
 - (E) Carolina madtom (*Noturus furiosus*);
 - (F) Carolina pygmy sunfish (*Elassoma boehlkei*);
 - (G) Carolina redhorse (*Moxostoma* sp.) (Pee Dee River and its tributaries and Cape Fear River and its tributaries);
 - (H) Least brook lamprey (*Lampetra aepyptera*);
 - (I) Logperch (*Percina caprodes*);
 - (J) Rosyface chub (*Hybopsis rubrifrons*);
 - (K) Sharphead darter (*Etheostoma acuticeps*);
 - (L) Sickletfin redhorse (*Moxostoma* sp.) (Hiwassee River and its tributaries and Little Tennessee River and its tributaries);
 - (M) Turquoise darter (*Etheostoma inscriptum*);
 - (N) Waccamaw darter (*Etheostoma perlongum*).
- (5) Mammals:
 - (A) Eastern woodrat (*Neotoma floridana floridana*);
 - (B) Rafinesque's big-eared bat (*Corynorhinus rafinesquii rafinesquii*);
 - (C) Red wolf (*Canis rufus*).
- (6) Mollusks:
 - (A) Alewife floater (*Anodonta implicata*);
 - (B) Big-tooth covert (*Fumonelix jonesiana*);
 - (C) Cape Fear threetooth (*Triodopsis soelneri*);
 - (D) Carolina fatmucket (*Lampsilis radiata conspicua*);
 - (E) Clingman covert (*Fumonelix wheatleyi clingmanicus*);
 - (F) Eastern lampmussel (*Lampsilis radiata radiata*);
 - (G) Eastern pondmussel (*Ligumia nasuta*);
 - (H) Engraved covert (*Fumonelix orestes*);

- (I) Mountain creekshell (*Villosa vanuxemensis*);
 - (J) Roan supercoil (*Paravitrea varidens*);
 - (K) Roanoke slabshell (*Elliptio roanokensis*);
 - (L) Sculpted supercoil (*Paravitrea ternaria*);
 - (M) Seep mudalia (*Leptoxis dilatata*);
 - (N) Smoky Mountain covert (*Inflectarius ferrissi*);
 - (O) Squawfoot (*Strophitus undulatus*);
 - (P) Tidewater mucket (*Leptodea ochracea*);
 - (Q) Triangle floater (*Alasmidonta undulata*);
 - (R) Waccamaw ambersnail (*Catinella waccamawensis*);
 - (S) Waccamaw fatmucket (*Lampsilis fullerkati*);
 - (T) Waccamaw spike (*Elliptio waccamawensis*).
- (7) Reptiles: None Listed At This Time.

History Note: Authority G.S. 113-134; 113-291.2; 113-292; 113-333;
Eff. March 17, 1978;
Amended Eff. May 1, 2015; June 1, 2008; April 1, 2001; November 1, 1991; April 1, 1991; June 1, 1990; September 1, 1989.

EXHIBIT E

December 9, 2014

AMENDMENT TO MEMORANDUM OF AGREEMENT BETWEEN

North Carolina Wildlife Resources Commission

AND

Cleveland County

AMENDMENT 1

This amendment is made and entered into as of the date executed by and between the North Carolina Wildlife Resources Commission, acting by and through its Executive Director, hereinafter called the COMMISSION, and Cleveland County, acting by and through the County Commission, hereinafter called the COUNTY.

BACKGROUND AND PURPOSE OF AMENDMENT

The COMMISSION and the COUNTY are parties to a MEMORANDUM OF AGREEMENT assigning responsibility for the construction, maintenance and operation of a public shooting range as described in the agreement fully executed on 7th day of November, 2013 and,

WHEREAS, the County has previously agreed to assume daily management and maintenance of the entire facility and further agreed to invest in this project the following items and services:

Land Value	\$492,000.00
Engineering and Architectural	\$75,000.00
Initial Erosion Control and Clearing of the Site	\$100,000.00
Water, Sewer, and Electric to Site	\$120,000.00
Concession Building	\$320,000.00
Renovations to Existing House	\$85,000.00
Alt. 2 Pistol Range	\$116,906.00
Alt. 3 Pistol Range	\$96,059.00
Alt. 4 Pistol Range	\$99,643.00
Alt. 5 Pistol Range	\$99,686.00
Alt. 6 Shooting Tubes	\$126,068.00
Total	\$1,730,362.00

WHEREAS, the Commission has previously approved and allocated \$1,000,000.00 towards Phase 1(base bid) of the project including the design, permitting, grading work, site

EXHIBIT E

December 9, 2014

preparation and gravel driveways for one 250-yard rifle range, one 50-yard pistol range, two skeet/trap ranges, and one 3-dimensional archery range described in Exhibit A and,

WHEREAS, the lowest bid received for Phase 1 (base bid) is \$1,668,063.00 and,

NOW, THEREFORE, in consideration of the mutual promises contained herein, the sufficiency of which are acknowledged, the parties also agree as follows:

I. COMMISSION AGREES:

1. To provide additional funding in the amount of \$668,063.00 in Commission-designated funds to be used towards the Phase 1 (base bid) construction costs. Payment to the County for Phase 1 (base bid) funds will occur upon completion of the project and receipt of a request for reimbursement from the County.
2. To provide responses to any design related requests for information, change order requests, specifications and provide as built drawings.
3. To provide engineering services throughout construction phase of the project to include attending the pre-bid meeting, attending preconstruction meetings, attending weekly and monthly site meetings during construction, reviewing shop drawings for materials, responding to requests for information from the Project Manager, and evaluating requests for proposals. Staff will document weekly progress by filling out observation reports and taking pictures.
4. Commission shall not be responsible for any additional design, permitting or funding outside of the agreed upon scope as listed in this Agreement.

II. COUNTY AGREES:

1. To provide any additional funding necessary to complete construction costs if necessary.
2. To install all utilities to the site including: water, sewer, electric and communications infrastructure.
3. To manage all aspects of construction including preparation of bid documents, notices to bid to prospective contractors, pre-bid meetings, bid opening, preconstruction conferences, preparation of construction contracts, weekly and monthly progress meetings, final acceptance of the project and contract closeout procedures in accordance with County purchasing and construction contract guidelines and procedures.
4. To appoint a Project Manager who will be the single point of contact for requests for information from prospective bidders, contractors, and the public. The Project Manager will also be responsible for coordinating any proposed change orders and consulting with the Commission.

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5. To keep the shooting range open and available to the public at a reasonable cost for a minimum of 40 hours per week each week except for weeks where a holiday occurs or maintenance activities must occur. User fees for the facility will be set by the shooting range advisory board and agreeable to the Commission.
6. To provide NCWRC use of facilities upon request to the extent that such use does not displace any other primary uses.

III. IT IS MUTUALLY AGREED:

1. The facility will be named “The Foothills Shooting Complex” and logos of both government agencies will be clearly listed and identifiable on any literature, site signage, educational and promotional items for the range.
2. If construction costs, change orders or cost overruns exceed the funding amounts listed in this document, the County will provide the additional funding necessary to complete base bid and any alternates selected during bid phase of the project.
3. All requests for information and change orders must be reviewed and approved by both parties prior to the Project Manager issuing response to the contractor.
4. Fees and funds derived from usage of the site will be solely and exclusively used towards maintenance, repair and operations of the shooting range facility. Annual financial reports will be provided to the Commission upon request as required for expenditures of federal Pittman Robertson funds.
4. That this agreement may be amended at any time before the date of expiration or earlier termination of the Term by mutual consent of both parties.
5. Except as specifically amended herein, all of the other terms and conditions of the MEMORANDUM OF AGREEMENT remain the same.
6. Exhibit A represents the site plan for the project including base bid work and alternates.
7. Prior to fully executing this agreement, the Commission will receive a resolution from the County Board of Commissioners supporting and approving the Memorandum of Agreement, Amendment and Exhibit A in their entirety.

EXHIBIT E

December 9, 2014

IN WITNESS WHEREOF, the parties have executed this Amendment as of the last written date below:

North Carolina Wildlife Resources Commission

By: _____ Date _____

Jim Cogdell
Chairman Wildlife Resources Commission

Attest: _____ Date _____

Gordon S. Myers
Executive Director

Cleveland County

By: _____ Date _____

Johnny Hutchins, County Commission
Cleveland County Board of Commissioners

Attest: _____ Date _____

Jeff Richardson
County Manager