



Fiscal Note for Proposed Wildlife Management Rule Amendment for the Wildlife Resources Commission

15A NCAC 10B .0106 Wildlife Taken For Depredations

Agency Contact: Erica Garner

NC Wildlife Resources Commission

919-707-0014

Impact:

Local Funds: No

State Funds: Minimal

Private Impact: 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 this rule change does not meet the criteria requiring a fiscal note pursuant to G.S. § 150B-21.4. An analysis of the proposed change for the rule follows.

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 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.

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

PROPOSED RULE CHANGE 15A NCAC 10B .0106

Description and Justification

Wildlife depredation refers to wildlife causing property damage. Depredating wildlife may be taken both with and without a permit under certain conditions. How one should dispose of the wildlife taken as a result of depredation depends on the species taken and whether or not a Depredation Permit was issued.

The proposed amendment to the Rule will require anyone who takes a depredating elk without a permit to report that take to the Commission within 24 hours and anyone who takes an elk with a permit to report it on a form provided with the permit.

The proposed change to this Rule is necessary to monitor the size and composition of North Carolina's elk herd. The elk population in North Carolina is very small, consequently it is important for the Commission to record each mortality to ensure the Commission has the most complete data possible to use when making management decisions. Current estimates of the elk population are 150-160 elk total in the herd. Staff continues to work at developing a more rigorous population estimation technique. At this population level, the mortality of individual elk is important to our efforts to monitor the long term viability of the population. The elk range occurs primarily in a small portion of Haywood and Madison Counties.

Fiscal Impact

State Impact

This rule amendment requires landowners to report depredating elk taken with or without a permit. As a direct result, staff will record the reports, which can be completed within several minutes per report. No additional staff action will be triggered by reports of elk taken for depredation. Approximately two depredation permits for elk were issued in the previous fiscal year. This rule amendment will have no impact on the number of depredation permits that will be issued. Due to the low number of previously issued permits and the small population of elk (150-160), WRC anticipates that the number of elk taken with or without a depredation permit will be low and staff recording time will be minimal.

Local Impact

This rule has no local government impact as elk population management, law enforcement, and human-elk conflict resolution are the responsibility of the WRC.

Private Impact

Private individuals who take a depredating elk will incur insignificant costs to report a kill by phone or mail. There are no penalties for taking a depredating elk without a permit if the take is in accordance with the law and reported as provided in the rule.

APPENDIX A: PROPOSED RULE CHANGES

15A NCAC 10B .0106 WILDLIFE TAKEN FOR DEPREDATIONS

(a) Depredation permits allow the taking 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 shall 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 .0105 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 shall be issued to a landholder or an authorized representative of a unit of local government for depredations on public property; and 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 shall 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 85 percent or better 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 Beaufort, Dare, Hyde, Tyrrell, Washington; 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 shall report to the Wildlife Resources Commission the number and disposition of animals taken, by county, annually. Records shall be available for inspection by a Wildlife Enforcement officer at any time during normal business hours. WDCA 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 shall 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 or agency approved continuing education credits.

(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 shall 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 shall 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 shall 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, G.S. 143, Article 52, the Structural Pest Control Act of 1955, G.S. 106, Article 4C, 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 Subparagraphs (e)(2) through (5) 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 shall have the depredation permit in his or her possession. Except as provided by Subparagraphs of (e)(2) through (5) of this Rule, all wildlife killed under a depredation permit shall 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 shall 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 shall 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 shall be euthanized while still in the trap in accordance with G.S. 113-291.12. For all other animals taken alive, the animal shall be euthanized or released on property with permission of the landowner. When the relocation site is public property, written permission shall be obtained from an appropriate local,

state, or federal official before any animal may be released. Animals transported or held for euthanasia shall be euthanized within 12 hours of capture. Anyone in possession of live animals being transported for relocation or euthanasia under a depredation permit shall have the depredation permit in his or her possession.

(f) Reporting Requirements. Any landholder who kills an alligator; a coyote in the counties of Beaufort, Dare, Hyde, Tyrrell, or Washington; deer; Canada goose; bear; elk; 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. Any landowner who kills a coyote in the counties of Beaufort, Dare, Hyde, Tyrrell, and Washington shall report such kill as directed on the form provided with the depredation permit. The killing and method of disposition of every ~~alligator; alligator and bear, or~~ coyote in the counties of Beaufort, Dare, Hyde, Tyrrell, or ~~Washington~~ Washington; ~~bear; or elk~~ 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. 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;
Temporary Amendment Eff. February 27, 2015;
Amended Eff. May 1, 2016.