

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Wildlife Resources Commission intends to readopt with substantive changes the rules cited as 15A NCAC 10B .0409; and 10H .1201-.1207.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.ncwildlife.org/Proposed-Regulations>

Proposed Effective Date: February 1, 2021

Public Hearing:

Date: October 29, 2020

Time: 6:00 pm

Location: Please follow this link to register for the webinar:

https://ncwildlife.zoom.us/webinar/register/WN_v9T879ApQzKDtMp2wm7XKw or join by telephone: 877 853 5247 (Toll Free) or 888 788 0099 (Toll Free) Webinar ID: 970 1200 3770

Reason for Proposed Action: *The rules in 15A NCAC 10H .1200 were part of the agency's 2016 periodic review of rules package. All rules in this Section were determined to be necessary with substantive public interest and require re-adoption. Because these rules have only been amended once since 1990, revisions were necessary to update language, clarify requirements and improve regulatory oversight.*

Because of the proposed changes to the 10H .1200 rules, 15A NCAC 10B .0409 needed to be updated to align the requirements for trappers to those for fox preserve owners.

Comments may be submitted to: Rule-making Coordinator, 1701 Mail Service Center, Raleigh, NC 27699; email regulations@ncwildlife.org

Comment period ends: November 30, 2020

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (>= \$1,000,000)
- Approved by OSBM
- No fiscal note required

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0400 - TAGGING FURS

15A NCAC 10B .0409 SALE OF LIVE FOXES AND COYOTES TO CONTROLLED FOX HUNTING PRESERVES

(a) In counties with a trapping season for foxes and coyotes that do not prohibit live sale, Licensed licensed trappers may, subject to the restrictions on taking foxes in G.S. 113-291.4, live-trap foxes and coyotes during any open trapping that season for foxes and coyotes, and sell them to licensed controlled fox hunting preserves in accordance with the following conditions: conditions set forth in this Rule.

(b) Licensed trappers are exempt from eaging, captivity permit or and captivity license requirements set forth in 15A NCAC 10H .0300 for any live-trapped foxes or coyotes trapped for the purpose of sale to controlled fox hunting preserves. This exemption shall apply during the trapping season for foxes and coyotes, and for no more than 40 30 days after the trapping season.

(c) Live-trapped foxes and coyotes shall not be held for more than 30 days after capture.

(d) Licensed trappers shall provide drinking water, food of a type and quantity appropriate for the species, and shelter that protects the foxes and coyotes from direct sunlight and precipitation.

(e) Licensed trappers are shall be exempt from tagging requirements set forth in this Section so long as the foxes are kept alive.

(f) Licensed trappers and any individual(s) transporting live foxes and coyotes shall have a current and valid transportation permit prior to taking possession of the live foxes and coyotes.

(g) Licensed trappers shall keep accurate written records, on a form provided by the Commission, for all foxes and coyotes sold or transferred to a controlled fox hunting preserve. Records shall contain the following information:

- (1) preserve operator license number, if applicable;
- (2) transportation permit number;
- (3) county of origin;
- (4) number of animals of each species;
- (5) date of capture; and
- (6) date of sale or transfer.

(h) Records required pursuant to this Rule shall meet the following requirements:

- (1) available for inspection by representatives of the Commission upon request;
- (2) submitted to and received by the Commission annually by May 1; and
- (3) retained by the trapper for 12 months following transportation permit expiration.

History Note: Authority G.S. 113-134; 113-273(g); 113-291.4;
Eff. January 1, 1992;
Amended Eff. July 10, 2010; June 1, 2004.

SUBCHAPTER 10H – REGULATED ACTIVITIES

SECTION .1200 - CONTROLLED FOX HUNTING PRESERVES

15A NCAC 10H .1201 ~~LICENSE TO OPERATE~~ DEFINITIONS AND GENERAL REQUIREMENTS

(a) The rules in this Section apply to all controlled hunting preserve operator licenses issued by the Wildlife Resources Commission (Commission) in accordance with G.S. 113-273(g) for controlled fox hunting preserves.

(b) The following definitions shall apply to all rules in this Section:

- (1) "Acclimation" means an adjustment period to allow foxes and coyotes to become accustomed to the controlled fox hunting preserve;
- (2) "Controlled fox hunting preserve" means an enclosed area where foxes and coyotes are pursued with dogs;
- (3) "Escape den" means a stationary manmade structure that provides refuge for foxes and coyotes from dogs;
- (4) "Dog proof fence" means a perimeter fence designed to prevent the ingress or egress of dogs, foxes, or coyotes over, under, or through the fence; and
- (5) "Fox" means red fox and gray fox including their color morphs.

~~(c) It shall be unlawful for any individual, firm, association or corporation~~ Any individual wanting to operate a controlled fox hunting preserve without shall first obtain a controlled hunting preserve operator license from the Commission, North Carolina Wildlife Resources Commission a license for this purpose.

~~(b) A controlled fox hunting preserve license shall entitle the holder or holders and their guests, to hunt foxes and coyotes at any time within the fenced area. Controlled fox hunting preserve licenses shall not be transferable, either as to operator or as to site of operation.~~

~~(e)(d) Applicants for a controlled hunting preserve operator license shall be prepared to show proof of ownership or lease of the land contained in the proposed controlled fox hunting preserve, preserve or that they have this land under lease for the duration of the license period.~~

~~(e) Application for a controlled fox hunting preserve operator licenses shall be made on forms obtained from the Commission. online at www.ncwildlife.org or at the Commission headquarters located at 1751 Varsity Drive, Raleigh, NC 27606. Information required by the applicant shall include:~~

- (1) the applicant's name, address, telephone number, date of birth;
- (2) the preserve name, address, county, acreage, and GPS coordinates of preserve entrance; and
- (3) species within the preserve.

~~(f) Controlled hunting preserve operator licenses shall not be transferable, either by transferring the license or by relocating the site of the preserve.~~

~~(d)(g) Upon receipt of an application accompanied by the statutory license fee, the Commission shall issue a controlled fox hunting preserve operator license, provided it is determined that the location and operation of such a hunting preserve is consistent with the wildlife conservation program and in the public interest; and further provided that all regulations herein the rules in this Section regarding establishment of such areas have been complied with.~~

History Note: Authority G.S. 113-134; 113-273(g);
Eff. August 1, 1990;
Amended Eff. June 1, 2004.

15A NCAC 10H .1202 ESTABLISHMENT AND OPERATION

~~(a) Size of Preserve. Controlled fox hunting preserves operated for commercial purposes shall be an area of not less than 500 acres except that smaller areas containing terrain and topographical features which offer escape cover to the fox and coyote populations are allowed under specific approval by the Wildlife Resources Commission. Controlled fox hunting preserves shall be at least five acres in size.~~

~~(b) Boundary of Preserve. Unless otherwise approved by the Commission based upon the topography and hydrology of the preserve, A a controlled fox hunting preserve must preserve shall be enclosed with a dog-proof fence that is also designed to prevent the escape of foxes and coyotes released within the pen. This fencing must be maintained at all times. meets the following minimum requirements:~~

- (1) is at least four feet high;
- (2) has a top electrified wire at least three feet above the ground surface;

- (3) has a bottom electrified wire no more than one foot above the ground surface; and
- (4) is free from structures or vegetation purposely placed or allowed to exist that enables wild animals to enter or exit the preserve.

(c) Escape Dens. Controlled fox hunting preserves less than 106 acres shall have a minimum of three escape dens. Those preserves equal to or greater than 106 acres shall have one additional escape den per 1-35 acre interval thereafter.

(d) Stocking Preserve ~~With~~ with Game. Game: The following shall apply to foxes and coyotes released into a preserve:

- (1) only foxes and coyotes may be released onto controlled fox hunting preserves;
- (1)(2) In addition to purchasing operators may purchase live foxes and coyotes as provided in from:
 - (A) licensed trappers in accordance with G.S. 113-273(g), 113-273(g); operators of controlled fox hunting preserves may also purchase live foxes and coyotes from
 - (B) other licensed controlled fox hunting preserves; preserves;
 - (C) licensed North Carolina fur propagators; propagators; or
 - (D) persons holding foxes or coyotes legally under a North Carolina wildlife captivity license. license.
- (2)(3) Licensed licensed controlled fox hunting preserve operators may hold legally obtained foxes and coyotes under rules that apply to a captivity license in accordance with food, sanitation, and enclosure requirements in 15A NCAC 10H .1404;
- (4) licensed controlled fox hunting preserve operators and may transport legally acquired foxes and coyotes from the place of purchase to the controlled fox hunting preserve. preserve; and
- (3)(5) Foxes foxes and coyotes may shall not be imported into North Carolina for release into controlled fox hunting preserves.
- (4) The release of exotic wildlife into the controlled fox hunting preserves is specifically prohibited.
- (5) The possession of exotic wildlife on controlled fox hunting preserves is specifically prohibited.
- (6) individuals transporting live foxes and coyotes to or from a licensed operator shall have a valid transportation permit.
- (7) individuals transporting live foxes and coyotes on behalf of a licensed operator shall have a valid transportation permit or a copy of the operator's current license.

(e) Dog Density. Each controlled fox hunting preserve shall have an upper limit for dog density rounded to the nearest dog as follows:

- (1) fox only preserve: .5 dog per 1 acre;
- (2) fox and coyote preserve: .75 dog per 1 acre; and
- (3) coyote only preserve: one dog per 1 acre

*History Note: Authority G.S. 113-134; 113-273(g);
Eff. August 1, 1990;
Amended Eff. June 1, 2004.*

15A NCAC 10H .1203 QUALITY OF FOXES AND COYOTES RELEASED

(a) All foxes and coyotes ~~purchased~~ purchased, acquired, transferred, released, sold, or raised for release on controlled fox hunting preserves shall be appear visibly healthy and free from disease, disease of any kind. An examination and inspection of the foxes and coyotes by the Wildlife Resources Commission may be conducted at any time.

(b) All dead foxes and coyotes, except those ~~killed~~ taken by lawful method(s) dogs during a hunt, or diseased foxes and coyotes found within the pen shall be reported to the Commission within 48-hours of discovery, submitted to a North Carolina Department of Agriculture diagnostic lab for diagnosis. A copy of the diagnostic report shall be mailed to the Wildlife Resources Commission. Possession of unhealthy or diseased foxes and coyotes shall be grounds for revocation or denial of a controlled fox hunting preserve license.

(c) The Commission may quarantine any controlled fox hunting preserve where contagious diseases are ~~located~~ identified, depending on the type and severity of the disease and the risk to other wildlife or humans. Quarantine may include:

- (1) temporarily prohibiting removal or introduction of foxes and coyotes except as specifically provided by written permit issued by the Commission.
- (2) notification to the county health department;
- (3) cleaning or disinfection of the facility; and
- (4) temporary license suspension.

(d) A quarantine shall not be lifted or cancelled until the Commission determines that there is no longer a threat of disease exposure to humans, foxes, coyotes, domestic dogs or other animals.

*History Note: Authority G.S. 113-134; 113-273(g);
Eff. August 1, 1990;
Amended Eff. June 1, 2004.*

15A NCAC 10H .1204 RECORDS REQUIRED

(a) License holders shall keep an accurate ~~record~~ record, on a form provided by the Commission, including bill of sale for all foxes and coyotes released into or removed from the preserve from licensed trappers, other licensed controlled fox hunting preserves, licensed fur propagators, or persons holding foxes or coyotes legally under a captivity license. released into the controlled fox hunting preserve Records shall contain the following information:

- (1) preserve operator license, propagator license, or captivity license number, if applicable;
- (2) trapper identification number or name and address, if applicable;
- (3) transportation permit number, if applicable;

- (4) species and quantity of each;
- (5) date of purchase or transfer; and
- (6) county of origin.

~~(b) Records shall be maintained and available for inspection by officials of representatives of the North Carolina Wildlife Resources Commission at all times, upon request and during normal operating hours.~~

~~(c) Records shall be submitted to the Commission prior to the reissuance of the license.~~

~~(d) Records shall be retained by the license holder for 12 months following expiration of the license.~~

History Note: Authority G.S. 113-134; 113-273(g);
Eff. August 1, 1990;
Amended Eff. June 1, 2004.

15A NCAC 10H .1205 HUNTING LICENSE REQUIRED

~~(a) Every person hunting participating in the pursuit of wildlife on a controlled fox hunting preserve shall have in his possession a proper valid resident or nonresident hunting license or special controlled hunting preserve hunting license for the current year as required by law. in his or her possession, in accordance with 15A NCAC 10B .0114.~~

~~(b) Nonresidents participating in a Commission-sanctioned field trial trial, as defined in 15A NCAC 10B .0114, properly approved in advance by a Wildlife Enforcement Officer are exempt from North Carolina licensing requirements in Paragraph (a) of this Rule, provided providing they possess have a valid hunting license from their state of residence. residence in their possession.~~

History Note: Authority G.S. 113-134; 113-273(g);
Eff. August 1, 1990.

15A NCAC 10H .1206 MINIMUM STANDARDS FOR CARE OF FOXES AND COYOTES

~~(a) A minimum of one dog proof escape den for each 35 acres contained in the controlled fox hunting preserve must be provided and maintained.~~

~~(b)(a) Adequate food, Food and clean water water, and cover shall be provided to foxes and coyotes. provided to maintain a viable population of foxes within the controlled fox hunting preserve. as follows:~~

- ~~(1) food shall be of a type and quantity that is appropriate for the species; and~~
- ~~(2) a constant supply of drinking water shall be available or provided.~~

~~(c) Since the intent of these rules is to promote a fair chase situation involving a resident population of foxes, the~~

~~(b) operator should make provisions The following conditions shall apply to acclimate the acclimation of newly introduced foxes and coyotes: to the escape mechanisms located within the pen prior to pursuing the foxes with dogs.~~

- ~~(1) the acclimation period shall be at least seven days;~~
- ~~(2) food and water meeting the requirements in Paragraph (a) of this Rule shall be provided in the area used for acclimation; and~~
- ~~(3) chase by dogs during the acclimation period shall be prohibited.~~

History Note: Authority G.S. 113-134; 113-273(g);
Eff. August 1, 1990.

15A NCAC 10H .1207 LICENSE REVOCATION AND ENFORCEMENT OF LICENSE TO OPERATE

~~(a) Representatives of the Commission shall be permitted to enter the premises of any licensed controlled fox hunting preserve upon request to the license holder or during the preserve's operating hours for inspection, enforcement, or scientific purposes.~~

~~(b) The Executive Director of the Commission or his or her designee may warn, cite, suspend, or revoke a license holder's controlled hunting preserve operator license if the license holder violates applicable provisions of Subchapter IV of Chapter 113 of the North Carolina General Statutes, certain provisions of G.S. 14-360, the rules of this Section, or any condition of the license. The determination whether to warn, cite, suspend, or revoke a license shall be based upon the seriousness of the violation, which may include:~~

- ~~(1) felony animal abuse as specified in G.S. 14-360(a1) and (b) of the North Carolina General Statutes;~~
- ~~(2) purposefully releasing foxes and coyotes into the wild;~~
- ~~(3) falsifying records; or~~
- ~~(4) failing to notify the appropriate agencies after a potential disease exposure or outbreak.~~

~~In accordance with provisions of G.S. 113-273(g) the Wildlife Resources Commission may revoke or suspend the license of any controlled fox hunting preserve operator upon violation of these rules.~~

~~(c) Where there is evidence of such a violation, the Executive Director or his designee The Commission shall give the operator license holder written notice in accordance with G.S. 113-276.2(e) before revoking a license. 20 days notice in writing to show cause to the Executive Director or his designee why his license should not be suspended or revoked.~~

~~(d) If a fox or coyote is unlawfully possessed, the Commission may determine disposition of the unlawfully possessed animal(s), which may include seizure, release, relocation, or euthanasia.~~

~~(e) If the Commission revokes a controlled hunting preserve operator license, the Commission may determine disposition of the animals, which may include seizure, release, relocation, or euthanasia.~~

History Note: Authority G.S. 113-134; 113-273(g);
Eff. August 1, 1990.