

REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0201

DEADLINE FOR RECEIPT: Friday, April 9, 2021

NOTE: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

So that I'm clear – this is not the Rule being adopted to implement SL 2019-37, Section 3?

In (a), line 5, I take it you are using the term “coastal fishing waters” to mirror the statutory language in multiple statutes. But why is the term capitalized here?

In (a)(4), line 18, what are “traditional” uses?

In (c)(2), line 28, so that I'm clear – one hundred percent of 25 and 50 bushels combined? And do you need “at least” here?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 15A NCAC 03O .0201 is readopted with changes as published in 35:07 NCR 761-762 as follows:

2
3 **15A NCAC 03O .0201 STANDARDS AND REQUIREMENTS FOR SHELLFISH ~~BOTTOM~~ LEASES**
4 **AND FRANCHISES ~~AND WATER COLUMN LEASES~~**

5 (a) All areas of the public bottom underlying Coastal Fishing Waters shall meet the following standards and
6 requirements, in addition to the standards in G.S. 113-202, in order to be deemed suitable for leasing for shellfish
7 ~~cultivation-aquaculture~~ purposes:

8 (1) the proposed shellfish lease area shall not contain a "natural shellfish bed," as defined in G.S. 113-
9 201.1, or have 10 bushels or more of shellfish per acre;

10 (2) the proposed shellfish lease area shall not be closer than ~~100-250 feet to from a developed shoreline,~~
11 ~~shoreline or a water-dependent shore-based structure,~~ except no minimum setback is required when
12 the area to be leased borders the applicant's property, the property of "riparian owners" as defined
13 in G.S. 113-201.1 who have consented in a notarized statement, or is in an area bordered by
14 undeveloped ~~shoreline; and shoreline.~~ For the purposes of this Rule, a water-dependent shore-based
15 structure shall include docks, wharves, boat ramps, bridges, bulkheads, and groins;

16 (3) ~~the proposed shellfish lease area shall not be closer than 250 feet to an existing [shellfish] lease;~~

17 (4) ~~the proposed shellfish lease area, either alone or when considered cumulatively with existing~~
18 ~~[shellfish] leases in the area, shall not interfere with navigation or with existing, traditional uses of~~
19 ~~the area; and~~

20 ~~(3)(5)~~ the proposed shellfish lease area shall not be less than one-half acre and shall not exceed 10 acres.

21 (b) To be suitable for leasing for shellfish aquaculture purposes, shellfish water ~~columns-column leases~~ superjacent
22 to ~~leased-a shellfish~~ bottom ~~lease~~ shall meet the standards in G.S. 113-202.1 and shellfish water ~~columns-column~~
23 ~~leases~~ superjacent to franchises recognized pursuant to G.S. 113-206 shall meet the standards in G.S. 113-202.2.

24 (c) Franchises recognized pursuant to G.S. 113-206 and shellfish bottom leases shall be terminated unless they meet
25 the following requirements, in addition to the standards in and as allowed by G.S. 113-202:

26 (1) they produce and market 10 bushels of shellfish per acre per year; and

27 (2) they are planted with 25 bushels of seed shellfish per acre per year or 50 bushels of cultch per acre
28 per year, or a combination of cultch and seed shellfish where the percentage of required cultch
29 planted and the percentage of required seed shellfish planted totals at least 100 percent.

30 (d) Water-Shellfish water column leases shall be terminated unless they meet the following requirements, in addition
31 to the standards in and as allowed by G.S. 113-202.1 and 113-202.2:

32 (1) they produce and market 40 bushels of shellfish per acre per year; or

33 (2) the underlying bottom is planted with 100 bushels of cultch or seed shellfish per acre per year.

34 (e) The following standards shall be applied to determine compliance with Paragraphs (c) and (d) of this Rule:

35 (1) Only shellfish marketed, planted, or produced as defined in 15A NCAC 03I .0101 as the fishing
36 activities "shellfish marketing from leases and franchises," "shellfish planting effort on leases and

franchises," or "shellfish production on leases and franchises" shall be included in the shellfish lease and franchise reports required by Rule .0207 of this Section.

- (2) If more than one shellfish lease or franchise is used in the production of shellfish, one of the leases or franchises used in the production of the shellfish shall be designated as the producing lease or franchise for those shellfish. Each bushel of shellfish shall be produced by only one shellfish lease or franchise. Shellfish transplanted between shellfish leases or franchises shall be credited as planting effort on only one lease or franchise.
- (3) Production and marketing information and planting effort information shall be compiled and averaged separately to assess compliance with the requirements of this Rule. The shellfish lease or franchise shall meet both the production requirement and the planting effort requirement within the dates set forth in G.S. 113-202.1 and G.S. 202.2 to be deemed in compliance for shellfish bottom leases. The shellfish lease or franchise shall meet either the production requirement or the planting effort requirement within the dates set forth in G.S. 113-202.1 and G.S. 202.2 to be deemed in compliance for shellfish water column leases.
- (4) All bushel measurements shall be in standard U.S. bushels.
- (5) In determining production and marketing averages and planting effort averages for information not reported in bushel measurements, the following conversion factors shall be used:
 - (A) 300 oysters, 400 clams, or 400 scallops equal one bushel; and
 - (B) 40 pounds of scallop shell, 60 pounds of oyster shell, 75 pounds of clam shell, or 90 pounds of fossil stone equal one bushel.
- (6) Production and marketing rate averages shall be computed irrespective of transfer of the shellfish lease or franchise. The production and marketing rates shall be averaged for the following situations using the time periods described:
 - (A) for an initial shellfish bottom lease or franchise, over the consecutive full calendar years remaining on the bottom lease or franchise contract after December 31 following the second anniversary of the initial bottom lease or franchise;
 - (B) for a renewal shellfish bottom lease or franchise, over the consecutive full calendar years beginning January 1 of the final year of the previous bottom lease or franchise term and ending December 31 of the final year of the current bottom lease or franchise contract;
 - (C) for a shellfish water column lease, over the first five-year period for an initial water column lease and over the most recent five-year period thereafter for a renewal water column lease; or
 - (D) for a shellfish bottom lease or franchise issued an extension period under Rule .0208 of this Section, over the most recent five-year period.
- (7) In the event that a portion of an existing shellfish lease or franchise is obtained by a new owner, the production history for the portion obtained shall be a percentage of the originating lease or franchise

1 production equal to the percentage of the area of lease or franchise site obtained to the area of the
2 originating lease or franchise.

3 (f) Persons holding five or more acres under all shellfish bottom leases and franchises combined shall meet the
4 requirements established in Paragraph (c) of this Rule before submitting an application for additional shellfish lease
5 acreage to the Division of Marine Fisheries.

6
7 *History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-206;*
8 *143B-289.52;*

9 *Eff. January 1, 1991;*

10 *Amended Eff. May 1, 1997; March 1, 1995; March 1, 1994; September 1, 1991;*

11 *Temporary Amendment Eff. October 1, 2001;*

12 *Amended Eff. May 1, 2017; October 1, 2008; April 1, 2003;*

13 *Readopted Eff. (Pending legislative review of 15A NCAC 03O .0204).*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0202

DEADLINE FOR RECEIPT: Friday, April 9, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In (a), line 8, as I understand it, what you want is for the diagram or map to address the standards in G.S. 113-202(d). If so, why not delete "and shall meet the information requirements" and state "... identification pursuant to G.S. 113-202(d)" And so that I'm clear – you don't mean to cite to G.S. 113-202(d1)?

In (b)(1), line 13, typically "minimum" is not favored in rules, as rules set the minimum standards. However, I take it you need to retain it here?

In (c), line 24, what authority are you relying upon to say the fee is non-refundable?

In (d), line 28, replace "which" with "that"

And so that I'm clear – this Aquaculture Education Program is the training requirements required by G.S. 113-201(c)?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 15A NCAC 03O .0202 is readopted with changes as published in 35:07 NCR 762-763 as follows:

2
3 **15A NCAC 03O .0202 SHELLFISH ~~BOTTOM AND WATER COLUMN~~ LEASE APPLICATIONS**

4 (a) Application forms are available from the ~~Division's office headquarters at~~ Division of Marine Fisheries, 3441
5 Arendell Street, Morehead City, NC 28557 for persons desiring to apply for a shellfish ~~bottom and water column~~
6 ~~leases-lease.~~ Each application shall be accompanied by a map or diagram prepared at the applicant's expense including
7 an inset vicinity map showing the location of the proposed shellfish lease with detail sufficient to permit on-site
8 identification and ~~must shall~~ meet the information requirements pursuant to G.S. 113-202(d).

9 (b) As a part of the application, the applicant shall submit a ~~management plan~~ Shellfish Lease Management Plan for
10 the area to be leased for shellfish aquaculture purposes on a form provided by the Division ~~which meets the following~~
11 ~~standards-that shall:~~

- 12 (1) ~~States-state~~ the methods through which the applicant will cultivate and produce shellfish consistent
13 with the minimum requirements ~~set forth in 15A NCAC 03O .0201;~~ in accordance with Rule .0201
14 of this Section;
- 15 (2) ~~States-state~~ the time intervals during which various phases of ~~the~~ cultivation and production plan
16 will be achieved;
- 17 (3) ~~States-state~~ the materials and techniques that will be utilized in management of the shellfish lease;
- 18 (4) ~~Forecasts-forecast~~ the results expected to be achieved by the management-Shellfish Lease
19 Management Plan activities; ~~and~~
- 20 (5) ~~Describes-describe~~ the productivity of any other shellfish leases or franchises held by the
21 ~~applicant-applicant;~~ and
- 22 (6) state the locations of each corner defining the area to be leased with no more than eight corners.

23 (c) The completed application, map or diagram, and ~~management plan~~ Shellfish Lease Management Plan for the
24 requested shellfish lease shall be accompanied by the non-refundable filing fee set forth in G.S. 113-202(d1). An
25 incomplete application shall be returned and not considered further until re-submitted complete with all required
26 information.

27 (d) Applicants and transferees not currently holding a shellfish cultivation lease, and applicants and transferees
28 holding one or more shellfish cultivation leases which are not meeting production requirements, shall complete ~~and~~
29 ~~submit an examination, with a minimum of 70 percent correct answers, based on an educational package~~ the Shellfish
30 Aquaculture Education Program provided by the ~~Division of Marine Fisheries~~ Division. ~~The examination~~ Shellfish
31 Aquaculture Education Program shall ~~demonstrate the applicant's knowledge of;~~ provide the applicant information on
32 shellfish aquaculture including:

- 33 (1) the shellfish lease application process;
- 34 (2) shellfish lease planting and production requirements;
- 35 (3) lease marking requirements;
- 36 (4) lease fees;
- 37 (5) shellfish harvest area closures due to pollution;

- ~~(6) safe handling practices;~~
- ~~(7) lease contracts and renewals;~~
- ~~(8) lease termination criteria; and~~
- ~~(9) shellfish cultivation techniques.~~
- (1) shellfish lease application process;
- (2) shellfish lease requirements and techniques;
- (3) shellfish sanitation and National Shellfish Sanitation Program requirements;
- (4) shellfish harvest requirements;
- (5) aquaculture permits;
- (6) best management practices; and
- (7) shellfish lease user conflict avoidance.

(e) After an application is deemed to have met all requirements and is accepted by the Division, the applicant shall ~~identify-mark~~ the area for which a shellfish lease is requested with stakes at each corner in accordance with ~~15A NCAC 03O .0204(a)(1)(A)~~ Rule .0204(a)(1)(A) of this Section. The applicant shall attach to each stake a sign, provided by the Division containing the name of the applicant, the date the application was filed, and the estimated acres. The applicant shall be responsible for ensuring the sign remains in place until the shellfish lease application process is completed.

History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 143B-289.52;
Eff. January 1, 1991;
Amended Eff. April 1, 2011; September 1, 2005; May 1, 1997; September 1, 1991;
Readopted Eff. (Pending legislative review of 15A NCAC 03O .0204).

REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0204

DEADLINE FOR RECEIPT: Friday, April 9, 2021

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In reviewing this Rule, the staff recommends the following technical changes be made:

On the Submission for Permanent Rule form, Box 5, so that I'm clear – you are referring to G.S. 14-4.1 and that delayed effective date regarding Paragraph (e) of this Rule?

Throughout this Rule, I take it you need to retain language such as “no less than” and “at least,” correct?

It appears that (a)(1)(A) through (D) is a list. Consider ending (a)(1)(A) through (C) with semicolons and inserting an “and” at the end of (C).

In (a)(1)(A), line 13, what is “firmly” jetted here? Does your regulated public know?

On line 14, should “as set forth” be replaced by “identified”?

In (a)(1)(B), line 16, consider replacing “must” with “shall”

In (a)(1)(D), line 26, is the term “traditional navigational channels” known to your regulated public? Is this addressed by the citation to G.S. 76-40 in the History Note?

In (a)(2), line 31, so that I'm clear – this is what is addressed in Paragraph (e) of Rule .0202?

In Paragraph (c), Page 2, I am not sure what you are referring to regarding the Clerk of Court or the Shellfish Commission. I know that G.S. 113-205 addresses claims filed prior to 1970 – are these the bodies that would have granted those claims?

In (d), line 8, I suggest you delete “but not limited to”

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel

Date submitted to agency: March 26, 2021

1 15A NCAC 03O .0204 is readopted with changes as published in 35:07 NCR 763-764 as follows:

2
3 **15A NCAC 03O .0204 MARKING SHELLFISH LEASES AND ~~WATER COLUMN LEASES AND~~**
4 **FRANCHISES**

5 (a) All shellfish ~~bottom leases, franchises, and water column~~ leases and franchises shall be marked by the leaseholder
6 or franchise holder as follows:

7 (1) Shellfish bottom leases and franchises shall be marked by:

8 (A) ~~Stakes-stakes~~ of wood or plastic material ~~at least three inches in diameter no less than three~~
9 ~~inches in diameter and no more than 12 inches in diameter~~ at the ~~water level-mean high~~
10 ~~water mark~~ and extending at least four feet above the ~~mean high water mark-mark~~ for each
11 ~~corner, except stakes more than 12 inches in diameter approved as part of a Coastal Area~~
12 ~~Management Act Permit issued in accordance with G.S. 113A-118 and G.S. 113-229 shall~~
13 ~~be allowed.~~ The stakes shall be firmly jettied or driven into the bottom at each ~~corner-corner~~
14 ~~as set forth in Rule .0202(b)(6) of this Section.~~

15 (B) ~~Signs-signs~~ displaying the number of the shellfish lease or franchise and the name of the
16 owner printed in letters at least three inches high must be firmly attached to each corner
17 stake.

18 (C) ~~yellow light reflective tape or yellow light reflective devices on each corner stake. The~~
19 ~~yellow light reflective tape or yellow light reflective devices shall be affixed to each corner~~
20 ~~stake, shall cover a vertical distance of not less than 12 inches, and shall be visible from all~~
21 ~~directions.~~

22 (C)(D) ~~Supplementary-supplementary~~ stakes of wood or plastic ~~material, material no less than~~
23 ~~three inches in diameter and no more than four inches in diameter, not farther apart than~~
24 ~~50 yards-150 feet~~ or closer together than 50 feet and extending at least four feet above the
25 ~~mean high water mark, must shall be placed along each boundary, except when such would~~
26 ~~interfere if doing so interferes~~ with the use of traditional navigation channels.

27 (2) ~~Water-Shellfish water~~ column leases shall be marked ~~by anchoring two yellow buoys, meeting the~~
28 ~~material and minimum size requirements specified in 15A NCAC 3J .0103(b) at each corner of the~~
29 ~~area or by larger buoys, posts and by signs giving notice and providing caution in addition to the~~
30 ~~required signs as identified and approved by the Secretary in the Management Plan.~~ management
31 plan.]Shellfish Lease Management Plan as set forth in Rule .0202 of this Section.

32 (b) Stakes marking areas of management within shellfish bottom leases or franchises, as approved in the management
33 plan-Shellfish Lease Management Plan, ~~must shall~~ conform to ~~Subparagraph (a)(1)(C)-Part (a)(1)(D)~~ of this Rule and
34 may not exceed one for each 1,200 square feet. Marking at concentrations of stakes greater than one for each 1,200
35 square feet constitutes use of the water column and a shellfish water column lease is required in accordance with G.S.
36 113-202.1 or G.S. 113-202.2.

(c) All areas claimed in filings made pursuant to G.S. 113-205 as deeded bottoms through oyster grants issued by the county clerk of court or as private bottoms through perpetual franchises issued by the Shellfish Commission shall be marked in accordance with Paragraph (a) of this Rule, except the sign shall include the number of the franchise rather than the number of the shellfish lease. However, claimed areas not being managed and cultivated shall not be marked.

~~(d) It is unlawful to fail to remove all stakes, signs, and markers within 30 days of receipt of notice from the Secretary pursuant to Departmental Rule 15A NCAC 1G .0207 that a G.S. 113-205 claim to a marked area has been denied.~~

~~(e)(d)~~ It ~~is~~ shall be unlawful to exclude or attempt to exclude the public from allowable public trust use of navigable waters on shellfish leases and franchises including, but not limited to, fishing, hunting, swimming, ~~wading wading,~~ and navigation.

~~(f)(e)~~ The Division has no duty to protect any shellfish bottom lease, franchise, or water column lease or franchise not marked in accordance with Paragraph (a) of this Rule.

*History Note: Authority G.S. 76-40; 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-205; 143B-289.52;
Eff. January 1, 1991;
Amended Eff. September 1, 1997; March 1, 1994; October 1, 1992; September 1, 1991;
Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03R .0104 is amended as published in 35:07 NCR 766-768 as follows:

3 **15A NCAC 03R .0104 PERMANENT SECONDARY NURSERY AREAS**

4 The permanent secondary nursery areas referenced in 15A NCAC 03N .0105(a) are delineated in the following coastal
5 water areas:

6 (1) Roanoke Sound:

7 Inner Shallowbag Bay - west of a line beginning on the northeast shore at a point 35° 54.6729' N –
8 75° 39.8099' W; running southerly to the southeast shore to a point 35° 54.1722' N – 75°
9 39.6806' W;

10 (2) ~~In~~in the Pamlico Long Sound Area:

11 (a) Long Shoal River - north of a line beginning at the 5th Avenue Canal at a point 35° 35.2120'
12 N – 75° 53.2232' W; running easterly to the east shore on Pains Point to a point 35° 35.0666'
13 N – 75° 51.2000' W;

14 (b) Pains Bay - east of a line beginning on Pains Point at a point 35° 35.0666' N – 75° 51.2000'
15 W; running southerly to Rawls Island to a point 35° 34.4666' N – 75° 50.9666' W; running
16 easterly to the east shore to a point 35° 34.2309' N – 75° 50.2695' W;

17 (c) Wysocking Bay - northwest of a line beginning at Benson Point at a point 35° 22.9684' N
18 – 76° 03.7129' W; running northeasterly to Long Point to a point 35° 24.6895' N – 76°
19 01.3155' W;

20 (d) Juniper Bay-Cunning Harbor - north of a line beginning on the west shore of Juniper Bay
21 at a point 35° 20.6217' N – 76° 15.5447' W; running easterly to a point 35° 20.4372' N –
22 76° 13.2697' W; running easterly to the east shore of Cunning Harbor to a point 35°
23 20.3413' N – 76° 12.3378' W;

24 (e) Swanquarter Bay - north of a line beginning at The Narrows at a point 35° 20.9500' N –
25 76° 20.6409' W; running easterly to the east shore to a point 35° 21.5959' N – 76° 18.3580'
26 W;

27 (f) Deep Cove - The Narrows - north and east of a line beginning on the west shore at a point
28 35° 20.9790' N – 76° 23.8577' W; running southeasterly to Swanquarter Island to a point
29 35° 20.5321' N – 76° 22.7869' W; and west of a line at The Narrows beginning on the north
30 shore to a point 35° 20.9500' N – 76° 20.6409' W; running southerly to Swanquarter Island
31 to a point 35° 20.7025' N – 76° 20.5620' W;

32 (g) Rose Bay - north of a line beginning on Long Point at a point 35° 23.3404' N – 76° 26.2491'
33 W; running southeasterly to Drum Point to a point 35° 22.4891' N – 76° 25.2012' W;

34 (h) Spencer Bay - northwest of a line beginning on Roos Point at a point 35° 22.3866' N – 76°
35 27.9225' W; running northeasterly to Long Point to a point 35° 23.3404' N – 76° 26.2491'
36 W;

- (i) Abel Bay - northeast of a line beginning on the west shore at a point 35° 23.6463' N – 76° 31.0003' W; running southeasterly to the east shore to a point 35° 22.9353' N – 76° 29.7215' W;
 - (j) Mouse Harbor - west of a line beginning on Persimmon Tree Point at a point 35° 18.3915' N – 76° 29.0454' W; running southerly to Yaupon Hammock Point to a point 35° 17.1825' N – 76° 28.8713' W;
 - (k) Big Porpoise Bay - northwest of a line beginning on Big Porpoise Point at a point 35° 15.6993' N – 76° 28.2041' W; running southwesterly to Middle Bay Point to a point 35° 14.9276' N – 76° 28.8658' W;
 - (l) Middle Bay - west of a line beginning on Deep Point at a point 35° 14.8003' N – 76° 29.1923' W; running southerly to Little Fishing Point to a point 35° 13.5419' N – 76° 29.6123' W;
 - (m) Jones Bay - west of a line beginning on Mink Trap Point at a point 35° 13.4968' N – 76° 31.1040' W; running southerly to Boar Point to a point 35° 12.3253' N – 76° 31.2767' W; and
 - (n) ~~In~~in the Bay River Area:
 - (i) Bonner Bay - southeast of a line beginning on the west shore at a point 35° 09.6281' N – 76° 36.2185' W; running northeasterly to Davis Island Point to a point 35° 10.0888' N – 76° 35.2587' W; and
 - (ii) Gales Creek-Bear Creek - north and west of a line beginning on Sanders Point at a point 35° 11.2833' N – 76° 35.9000' W; running northeasterly to the east shore to a point 35° 11.9000' N – 76° 34.2833' W;
 - (3) ~~In~~in the Pamlico and Pungo Rivers Area:
 - (a) Pungo River - north of a line beginning on the west shore at a point 35° 32.2000' N – 76° 29.2500' W; running east near Beacon "21" to the east shore to a point 35° 32.0833' N – 76° 28.1500' W;
 - (b) Pungo Creek - west of a line beginning on Persimmon Tree Point at a point 35° 30.7633' N – 76° 38.2831' W; running southwesterly to Windmill Point to a point 35° 31.1546' N – 76° 37.7590' W;
 - (c) Scranton Creek - south and east of a line beginning on the west shore at a point 35° 30.6810' N – 76° 28.3435' W; running easterly to the east shore to a point 35° 30.7075' N – 76° 28.6766' W;
 - (d) Slade Creek - east of a line beginning on the west shore at a point 35° 27.8879' N – 76° 32.9906' W; running southeasterly to the east shore to a point 35° 27.6510' N – 76° 32.7361' W;

- 1 ~~(b)~~(c) Fortescue Creek - east of a line beginning on Pasture Point at a point 35° 25.9213' N – 76°
2 31.9135' W; running southerly to the Lupton Point shore to a point 35° 25.6012' N – 76°
3 31.9641' W;
- 4 ~~(e)~~(f) Pamlico River - west of a line beginning on Ragged Point at a point 35° 27.5768' N – 76°
5 54.3612' W; running southwesterly to Maults Point to a point 35° 26.9176' N – 76° 55.5253'
6 W;
- 7 ~~(d)~~(g) North Creek - north of a line beginning on the west shore at a point 35° 25.3988' N – 76°
8 40.0455' W; running southeasterly to the east shore to a point 35° 25.1384' N – 76° 39.6712'
9 W;
- 10 (h) South Creek - west of a line beginning on Hickory Point at a point 35° 21.7385' N – 76°
11 41.5907' W; running southerly to Fork Point to a point 35° 20.7534' N – 76° 41.7870' W;
12 (i) Bond Creek/Muddy Creek - south of a line beginning on Fork Point at a point 35° 20.7534'
13 N – 76° 41.7870' W; running southeasterly to Gum Point to a point 35° 20.5632' N – 76°
14 41.4645' W;
- 15 ~~(e)~~(j) ~~In~~in the Goose Creek Area, Campbell Creek - west of a line beginning on the north shore
16 at a point 35° 17.3600' N – 76° 37.1096' W; running southerly to the south shore to a point
17 35° 16.9876' N – 76° 37.0965' W; and
- 18 ~~(f)~~(k) Oyster Creek-Middle Prong - southwest of a line beginning on Pine Hammock at a point
19 35° 19.5586' N – 76° 32.8830' W; running easterly to Cedar Island to a point 35° 19.5490'
20 N – 76° 32.7365' W; and southwest of a line beginning on Cedar Island at a point 35°
21 19.4921' N – 76° 32.2590' W; running southeasterly to Beard Island Point to a point 35°
22 19.1265' N – 76° 31.7226' W;
- 23 (4) ~~In~~in the Neuse River Area:
- 24 (a) Lower Broad Creek - west of a line beginning on the north shore at a point 35° 05.8314' N
25 – 76° 35.3845' W; running southwesterly to the south shore to a point 35° 05.5505' N – 76°
26 35.7249' W;
- 27 (b) Greens Creek - north of a line beginning on the west shore of Greens Creek at a point 35°
28 01.3476' N – 76° 42.1740' W; running northeasterly to the east shore to a point 35° 01.4899'
29 N – 76° 41.9961' W;
- 30 (c) Dawson Creek - north of a line beginning on the west shore at a point 34° 59.5920' N – 76°
31 45.4620' W; running southeasterly to the east shore to a point 34° 59.5800' N – 76° 45.4140'
32 W;
- 33 (d) Goose Creek - north and east of a line beginning at a point on the west shore at a point 35°
34 02.6642' N – 76° 56.4710' W; running southeasterly to a point on Cooper Point 35°
35 02.0908' N – 76° 56.0092' W;

- (e) Upper Broad Creek - northeast of a line beginning at a point on Rowland Point on the north shore at a point $35^{\circ} 02.6166' \text{ N} - 76^{\circ} 56.4500' \text{ W}$; running southeasterly to the south shore to a point $35^{\circ} 02.8960' \text{ N} - 76^{\circ} 56.7865' \text{ W}$;
- (f) Clubfoot Creek - south of a line beginning on the west shore at a point $34^{\circ} 54.5424' \text{ N} - 76^{\circ} 45.7252' \text{ W}$; running easterly to the east shore to a point $34^{\circ} 54.4853' \text{ N} - 76^{\circ} 45.4022' \text{ W}$; and
- (g) ~~In~~in the Adams Creek Area, Cedar Creek - east of a line beginning on the north shore at a point $34^{\circ} 56.1203' \text{ N} - 76^{\circ} 38.7988' \text{ W}$; running southerly to the south shore to a point $34^{\circ} 55.8745' \text{ N} - 76^{\circ} 38.8153' \text{ W}$;
- (5) Newport River - west of a line beginning near Penn Point on the south shore at a point $34^{\circ} 45.6960' \text{ N} - 76^{\circ} 43.5180' \text{ W}$; running northeasterly to the north shore to a point $34^{\circ} 46.8490' \text{ N} - 76^{\circ} 43.3296' \text{ W}$;
- ~~(5)(6)~~ Virginia Creek - all waters of the natural channel northwest of the primary nursery area line;
- ~~(6)(7)~~ Old Topsail Creek - all waters of the dredged channel northwest of the primary nursery area line;
- ~~(7)(8)~~ Mill Creek - all waters west of a line beginning on the north shore at a point $34^{\circ} 20.6420' \text{ N} - 77^{\circ} 42.1220' \text{ W}$; running southwesterly to the south shore to a point $34^{\circ} 20.3360' \text{ N} - 77^{\circ} 42.2400' \text{ W}$;
- ~~(8)(9)~~ Pages Creek - all waters west of a line beginning on the north shore at a point $34^{\circ} 16.1610' \text{ N} - 77^{\circ} 45.9930' \text{ W}$; running southwesterly to the south shore to a point $34^{\circ} 15.9430' \text{ N} - 77^{\circ} 46.1670' \text{ W}$;
- ~~(9)(10)~~ Bradley Creek - all waters west of a line beginning on the north shore at a point $34^{\circ} 12.7030' \text{ N} - 77^{\circ} 49.1230' \text{ W}$; running southerly near the dredged channel to a point $34^{\circ} 12.4130' \text{ N} - 77^{\circ} 49.2110' \text{ W}$; ~~and~~
- (11) Cape Fear River - all waters bounded by a line beginning on the south side of the Spoil Island at the intersection of the Intracoastal Waterway and the Cape Fear River ship channel at a point $34^{\circ} 01.5780' \text{ N} - 77^{\circ} 56.0010' \text{ W}$; running easterly to the east shore of the Cape Fear River to a point $34^{\circ} 01.7230' \text{ N} - 77^{\circ} 55.1010' \text{ W}$; running southerly and bounded by the shoreline to the Ferry Slip at Federal Point at a point $33^{\circ} 57.8080' \text{ N} - 77^{\circ} 56.4120' \text{ W}$; running northerly to Bird Island to a point $33^{\circ} 58.3870' \text{ N} - 77^{\circ} 56.5780' \text{ W}$; running northerly along the west shoreline of Bird Island and the Cape Fear River spoil islands back to point of origin;
- (12) Lockwood Folly River - all waters north of a line beginning on Howells Point at a point $33^{\circ} 55.3680' \text{ N} - 78^{\circ} 12.7930' \text{ W}$ and running in a westerly direction along the Intracoastal Waterway near Intracoastal Waterway Marker "46" to a point $33^{\circ} 55.3650' \text{ N} - 78^{\circ} 13.8500' \text{ W}$;
- (13) Saucepan Creek - all waters north of a line beginning on the west shore at a point $33^{\circ} 54.6290' \text{ N} - 78^{\circ} 22.9170' \text{ W}$; running northeasterly to the east shore to a point $33^{\circ} 54.6550' \text{ N} - 78^{\circ} 22.8670' \text{ W}$; and
- ~~(10)(14)~~ Davis Creek - all waters east of a line beginning on Horse Island at a point $33^{\circ} 55.0160' \text{ N} - 78^{\circ} 12.7380' \text{ W}$; running southerly to Oak Island to a point $33^{\circ} 54.9190' \text{ N} - 78^{\circ} 12.7170' \text{ W}$; continuing upstream to the primary nursery line and Davis Canal, all waters southeast of a line beginning on

1 Pinner Point at a point 33° 55.2930' N – 78° 11.6390' W; running southwesterly across the mouth
2 of Davis Canal to the spoil island at the southwest intersection of the ~~IWW~~ Intracoastal Waterway
3 and Davis Canal to a point 33° 55.2690' N – 78° 11.6550' W.
4

5 *History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*
6 *Eff. January 1, 1991;*
7 *Amended Eff. March 1, 1996; March 1, 1994;*
8 *Recodified from 15A NCAC 3R .0004 Eff. December 17, 1996;*
9 *Amended Eff. April 1, 2011; August 1, 2004; May 1, 1997;*
10 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
11 *2018;*
12 *Amended Eff. May 1, 2021.*

1 15A NCAC 03R .0105 is readopted as published in 35:07 NCR 768-770 as follows:

2
3 **15A NCAC 03R .0105 SPECIAL SECONDARY NURSERY AREAS**

4 The special secondary nursery areas referenced in 15A NCAC 03N .0105(b) are designated in the following coastal
5 water areas:

6 (1) Roanoke Sound:

- 7 (a) Outer Shallowbag Bay - west of a line beginning on Baum Point at a point 35° 55.1461' N
8 – 75° 39.5618' W; running southeasterly to Ballast Point to a point 35° 54.6250' N – 75°
9 38.8656' W; including the canal on the southeast shore of Shallowbag Bay; and
10 (b) Kitty Hawk Bay/Buzzard Bay - within the area designated by a line beginning at a point
11 on the east shore of ~~Collington~~-Colington Creek at a point 36° 02.4360' N – 75° 42.3189'
12 W; running westerly to a point 36° 02.6630' N – 75° 41.4102' W; running along the
13 shoreline to a point 36° 02.3264' N – 75° 42.3889' W; running southwesterly to a point 36°
14 02.1483' N – 75° 42.4329' W; running along the shoreline to a point 36° 01.6736' N – 75°
15 42.5313' W; running southwesterly to a point 36° 01.5704' N – 75° 42.5899' W; running
16 along the shoreline to a point 36° 00.9162' N – 75° 42.2035' W; running southeasterly to a
17 point 36° 00.8253' N – 75° 42.0886' W; running along the shoreline to a point 35° 59.9886'
18 N – 75° 41.7284' W; running southwesterly to a point 35° 59.9597' N – 75° 41.7682' W;
19 running along the shoreline to the mouth of Buzzard Bay to a point 35° 59.6480' N – 75°
20 32.9906' W; running easterly to Mann Point to a point 35° 59.4171' N – 75° 32.7361' W;
21 running northerly along the shoreline to the point of beginning;

22 ~~(2) In the Pamlico and Pungo rivers Area:~~

- 23 ~~(a) Pungo Creek west of a line beginning on Persimmon Tree Point at a point 35° 30.7633'~~
24 ~~N – 76° 38.2831' W; running southwesterly to Windmill Point to a point 35° 31.1546' N –~~
25 ~~76° 37.7590' W;~~
26 ~~(b) Scranton Creek south and east of a line beginning on the west shore at a point 35° 30.6810'~~
27 ~~N – 76° 28.3435' W; running easterly to the east shore to a point 35° 30.7075' N – 76°~~
28 ~~28.6766' W;~~
29 ~~(c) Slade Creek east of a line beginning on the west shore at a point 35° 27.8879' N – 76°~~
30 ~~32.9906' W; running southeasterly to the east shore to a point 35° 27.6510' N – 76° 32.7361'~~
31 ~~W;~~
32 ~~(d) South Creek west of a line beginning on Hickory Point at a point 35° 21.7385' N – 76°~~
33 ~~41.5907' W; running southerly to Fork Point to a point 35° 20.7534' N – 76° 41.7870' W;~~
34 ~~and~~
35 ~~(e) Bond Creek/Muddy Creek south of a line beginning on Fork Point 35° 20.7534' N – 76°~~
36 ~~41.7870' W; running southeasterly to Gum Point to a point 35° 20.5632' N – 76° 41.4645'~~
37 ~~W;~~

1 ~~(3)~~(2) ~~In~~ in the West Bay Area:

- 2 (a) West Thorofare Bay - south of a line beginning on the west shore at a point 34° 57.2199'
- 3 N – 76° 24.0947' W; running easterly to the east shore to a point 34° 57.4871' N – 76°
- 4 23.0737' W;
- 5 (b) Long Bay-Ditch Bay - west of a line beginning on the north shore of Ditch Bay at a point
- 6 34° 57.9388' N – 76° 27.0781' W; running southwesterly to the south shore of Ditch Bay
- 7 to a point 34° 57.2120' N – 76° 27.2185' W; then south of a line running southeasterly to
- 8 the east shore of Long Bay to a point 34° 56.7633' N – 76° 26.3927' W; and
- 9 (c) Turnagain Bay - south of a line beginning on the west shore at a point 34° 59.4065' N –
- 10 76° 30.1906' W; running easterly to the east shore to a point 34° 59.5668' N – 76° 29.3557'
- 11 W;

12 ~~(4)~~(3) ~~In~~ in the Core Sound Area:

- 13 (a) Cedar Island Bay - northwest of a line beginning near the gun club dock at a point 34°
- 14 58.7203' N – 76° 15.9645' W; running northeasterly to the south shore to a point 34°
- 15 57.7690' N – 76° 16.8781' W;
- 16 (b) Thorofare Bay-Barry Bay - northwest of a line beginning on Rumley Hammock at a point
- 17 34° 55.4853' N – 76° 18.2487' W; running northeasterly to Hall Point to a point 34°
- 18 54.4227' N – 76° 19.1908' W;
- 19 (c) Nelson Bay - northwest of a line beginning on the west shore of Nelson Bay at a point 34°
- 20 51.1353' N – 76° 24.5866' W; running northeasterly to Drum Point to a point 34° 51.6417'
- 21 N – 76° 23.7620' W;
- 22 (d) Brett Bay - north of a line beginning on the west shore at a point 34° 49.4019' N – 76°
- 23 26.0227' W; running easterly to Piney Point to a point 34° 49.5799' N – 76° 25.0534' W;
- 24 and
- 25 (e) Jarrett Bay - north of a line beginning on the west shore near Old Chimney at a point 34°
- 26 45.5743' N – 76° 30.0076' W; running easterly to a point east of Davis Island 34° 45.8325'
- 27 N – 76° 28.7955' W;

28 ~~(5)~~(4) ~~In~~ in the North River Area:

- 29 (a) North River - north of a line beginning on the west shore at a point 34° 46.0383' N – 76°
- 30 37.0633' W; running easterly to a point on the east shore 34° 46.2667' N – 76° 35.4933' W;
- 31 and
- 32 (b) Ward Creek - east of a line beginning on the north shore at a point 34° 46.2667' N – 76°
- 33 35.4933' W; running southerly to the south shore to a point 34° 45.4517' N – 76° 35.1767'
- 34 W;

35 ~~(6) — Newport River — west of a line beginning near Penn Point on the south shore at a point 34° 45.6960'~~

36 ~~N — 76° 43.5180' W; running northeasterly to the north shore to a point 34° 46.8490' N — 76°~~

37 ~~43.3296' W;~~

- (7)(5) New River - all waters upstream of a line beginning on the north side of the N.C. Highway 172 Bridge at a point 34° 34.7680' N – 77° 23.9940' W; running southerly to the south side of the bridge at a point 34° 34.6000' N – 77° 23.9710' W;
- (8)(6) Chadwick Bay - all waters west of a line beginning on the northeast side of Chadwick Bay at a point 34° 32.5630' N – 77° 21.6280' W; running southeasterly to a point near Marker "6" at 34° 32.4180' N – 77° 21.6080' W; running westerly to Roses Point at a point 34° 32.2240' N – 77° 22.2880' W; following the shoreline in Fullard Creek to a point 34° 32.0340' N – 77° 22.7160' W; running northwesterly to a point 34° 32.2210' N – 77° 22.8080' W; following the shoreline to the west point of Bump's Creek at a point 34° 32.3430' N – 77° 22.4570' W; running northeasterly to the east shore to a point 34° 32.4400' N – 77° 22.3830' W; following the shoreline of Chadwick Bay back to the point of origin; and
- (9)(7) Intracoastal Waterway - all waters in the ~~IWW~~ Intracoastal Waterway maintained channel from a point near Marker "17" north of Alligator Bay 34° 30.7930' N – 77° 23.1290' W; to a point near Marker "49" at Morris Landing at a point 34° 28.0820' N – 77° 30.4710' W; and all waters in the ~~IWW~~ Intracoastal Waterway maintained channel and 100 feet on either side from Marker "49" to the N.C. Highway 50-210 Bridge at Surf City; City.
- ~~(10) Cape Fear River - all waters bounded by a line beginning on the south side of the Spoil Island at the intersection of the IWW and the Cape Fear River ship channel at a point 34° 01.5780' N – 77° 56.0010' W; running easterly to the east shore of the Cape Fear River to a point 34° 01.7230' N – 77° 55.1010' W; running southerly and bounded by the shoreline to the Ferry Slip at Federal Point at a point 33° 57.8080' N – 77° 56.4120' W; running northerly to Bird Island to a point 33° 58.3870' N – 77° 56.5780' W; running northerly along the west shoreline of Bird Island and the Cape Fear River spoil islands back to point of origin;~~
- ~~(11) Lockwood Folly River - all waters north of a line beginning on Howells Point at a point 33° 55.3680' N – 78° 12.7930' W and running in a westerly direction along the IWW near IWW Marker "46" to a point 33° 55.3650' N – 78° 13.8500' W; and~~
- ~~(12) Saucepan Creek - all waters north of a line beginning on the west shore at a point 33° 54.6290' N – 78° 22.9170' W; running northeasterly to the east shore to a point 33° 54.6550' N – 78° 22.8670' W.~~

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;
Eff. January 1, 1991;
Amended Eff. March 1, 1996; March 1, 1994;
Recodified from 15A NCAC 3R .0005 Eff. December 17, 1996;
Amended Eff. April 1, 2011; August 1, 2004; May 1, 1997;
Readopted Eff. May 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03R .0117

DEADLINE FOR RECEIPT: Friday, April 9, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On the Submission for Permanent Rule form, Box 8, should "This Rule was part of a combined analysis" be checked? If so, I am happy to check it for you.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 15A NCAC 03R .0117 is amended as published in 35:07 NCR 770-772 as follows:

2
3 **15A NCAC 03R .0117 OYSTER SANCTUARIES**

4 The Oyster Sanctuaries referenced in 15A NCAC 03K .0209 are delineated in the following coastal water areas:

5 ~~(1) Croatan Sound area: within the area described by a line beginning at a point 35° 48.2842' N - 75°~~
6 ~~38.3360' W; running southerly to a point 35° 48.1918' N - 75° 38.3360' W; running westerly to a~~
7 ~~point 35° 48.1918' N - 75° 38.4575' W; running northerly to a point 35° 48.2842' N - 75° 38.4575'~~
8 ~~W; running easterly to the point of beginning.~~

9 ~~(2)~~(1) Pamlico Sound area:

10 (a) Croatan Sound: within the area described by a line beginning at a point 35° 48.2842' N -
11 75° 38.3360' W; running southerly to a point 35° 48.1918' N - 75° 38.3360' W; running
12 westerly to a point 35° 48.1918' N - 75° 38.4575' W; running northerly to a point 35°
13 48.2842' N - 75° 38.4575' W; running easterly to the point of beginning.

14 ~~(a)~~(b) Crab Hole: within the area described by a line beginning at a point 35° 43.6833' N - 75°
15 40.5083' W; running southerly to a point 35° 43.5000' N - 75° 40.5083' W; running
16 westerly to a point 35° 43.5000' N - 75° 40.7500' W; running northerly to a point 35°
17 43.6833' N - 75° 40.7500' W; running easterly to the point of beginning.

18 (c) Pea Island: within the area described by a line beginning at a point 35° 05.4760' N - 76°
19 23.5370' W; running southerly to a point 35° 05.4760' N - 76° 23.4040' W; running
20 westerly to a point 35° 05.3680' N - 76° 23.4040' W; running northerly to a point 35°
21 05.3680' N - 76° 23.5370' W; running easterly to the point of beginning.

22 (d) Long Shoal: within the area described by a line beginning at a point 35° 33.8600' N - 75°
23 49.9000' W; running southerly to a point 35° 33.8600' N - 75° 49.7670' W; running
24 westerly to a point 35° 33.7510' N - 75° 49.7670' W; running northerly to a point 35°
25 33.7510' N - 75° 49.9000' W; running easterly to the point of beginning.

26 ~~(b)~~(e) Gibbs Shoal: within the area described by a line beginning at a point ~~35° 27.3557' N - 75°~~
27 ~~55.8434' W; 35° 27.3550' N - 75° 55.9190' W; running southerly to a point 35° 27.1732' N~~
28 ~~- 75° 55.8434' W; 35° 27.1010' N - 75° 55.9190' W; running westerly to a point 35°~~
29 ~~27.1732' N - 75° 56.0735' W; 35° 27.1010' N - 75° 56.2300' W; running northerly to a point~~
30 ~~35° 27.3557' N - 75° 56.0735' W; 35° 27.3550' N - 75° 56.2300' W; running easterly to the~~
31 ~~point of beginning.~~

32 ~~(e)~~(f) Deep Bay: within the area described by a line beginning at a point 35° 22.9126' N - 76°
33 22.1612' W; running southerly to a point 35° 22.7717' N - 76° 22.1612' W; running
34 westerly to a point 35° 22.7717' N - 76° 22.3377' W; running northerly to a point 35°
35 22.9126' N - 76° 22.3377' W; running easterly to the point of beginning.

- (d)(g) West Bluff: within the area described by a line beginning at a point $35^{\circ} 18.3000' \text{ N} - 76^{\circ} 10.0890' \text{ W}$; $35^{\circ} 18.3160' \text{ N} - 76^{\circ} 10.2960' \text{ W}$; running southerly to a point $35^{\circ} 18.1460' \text{ N} - 76^{\circ} 10.0890' \text{ W}$; $35^{\circ} 18.3160' \text{ N} - 76^{\circ} 10.0690' \text{ W}$; running westerly to a point $35^{\circ} 18.1460' \text{ N} - 76^{\circ} 10.2760' \text{ W}$; $35^{\circ} 18.1290' \text{ N} - 76^{\circ} 10.0690' \text{ W}$; running northerly to a point $35^{\circ} 18.3000' \text{ N} - 76^{\circ} 10.2760' \text{ W}$; $35^{\circ} 18.1290' \text{ N} - 76^{\circ} 10.2960' \text{ W}$; running easterly to the point of beginning.
- ~~(e)~~ Clam Shoal: within the area described by a line beginning at a point $35^{\circ} 17.4800' \text{ N} - 75^{\circ} 37.1800' \text{ W}$; running southerly to a point $35^{\circ} 17.1873' \text{ N} - 75^{\circ} 37.1800' \text{ W}$; running westerly to a point $35^{\circ} 17.1873' \text{ N} - 75^{\circ} 37.4680' \text{ W}$; running northerly to a point $35^{\circ} 17.4800' \text{ N} - 75^{\circ} 37.4680' \text{ W}$; running easterly to the point of beginning.
- ~~(f)~~(h) Middle Bay: within the area described by a line beginning at a point $35^{\circ} 14.1580' \text{ N} - 76^{\circ} 30.1780' \text{ W}$; running southerly to a point $35^{\circ} 14.1150' \text{ N} - 76^{\circ} 30.1780' \text{ W}$; running westerly to a point $35^{\circ} 14.1150' \text{ N} - 76^{\circ} 30.3320' \text{ W}$; running northerly to a point $35^{\circ} 14.1580' \text{ N} - 76^{\circ} 30.3320' \text{ W}$; running easterly to the point of beginning.
- ~~(i)~~ Swan Island: within the area described by a line beginning at a point $35^{\circ} 05.6170' \text{ N} - 76^{\circ} 27.5040' \text{ W}$; running southerly to a point $35^{\circ} 05.6020' \text{ N} - 76^{\circ} 26.7650' \text{ W}$; running westerly to a point $35^{\circ} 05.4850' \text{ N} - 76^{\circ} 26.7640' \text{ W}$; running northerly to a point $35^{\circ} 05.4990' \text{ N} - 76^{\circ} 27.5030' \text{ W}$; running easterly to the point of beginning.
- ~~(g)~~ Ocracoke area: within the area described by a line beginning at a point $35^{\circ} 10.8150' \text{ N} - 75^{\circ} 59.6320' \text{ W}$; running southerly to a point $35^{\circ} 10.6320' \text{ N} - 75^{\circ} 59.6320' \text{ W}$; running westerly to a point $35^{\circ} 10.6320' \text{ N} - 75^{\circ} 59.8530' \text{ W}$; running northerly to a point $35^{\circ} 10.8150' \text{ N} - 75^{\circ} 59.8530' \text{ W}$; running easterly to the point of beginning.
- ~~(j)~~ Raccoon Island: within the area described by a line beginning at a point $35^{\circ} 05.4760' \text{ N} - 76^{\circ} 23.5370' \text{ W}$; running southerly to a point $35^{\circ} 05.4760' \text{ N} - 76^{\circ} 23.4040' \text{ W}$; running westerly to a point $35^{\circ} 05.3860' \text{ N} - 76^{\circ} 23.4040' \text{ W}$; running northerly to a point $35^{\circ} 05.3680' \text{ N} - 76^{\circ} 23.5370' \text{ W}$; running easterly to the point of beginning.
- ~~(h)~~(k) West Bay: within the area described by a line beginning at a point $34^{\circ} 58.8517' \text{ N} - 76^{\circ} 21.3632' \text{ W}$; running southerly to a point $34^{\circ} 58.7661' \text{ N} - 76^{\circ} 21.3632' \text{ W}$; running westerly to a point $34^{\circ} 58.7661' \text{ N} - 76^{\circ} 21.4735' \text{ W}$; running northerly to a point $34^{\circ} 58.8517' \text{ N} - 76^{\circ} 21.4735' \text{ W}$; running easterly to the point of beginning.
- ~~(3)~~(2) Neuse River: River area:
- (a) Little Creek: within the area described by a line beginning at a point $35^{\circ} 02.6940' \text{ N} - 76^{\circ} 30.9840' \text{ W}$; running southerly to a point $35^{\circ} 02.6940' \text{ N} - 76^{\circ} 30.7940' \text{ W}$; running westerly to a point $35^{\circ} 02.5380' \text{ N} - 76^{\circ} 30.7940' \text{ W}$; running northerly to a point $35^{\circ} 02.5380' \text{ N} - 76^{\circ} 30.9840' \text{ W}$; running easterly to the point of beginning.

(b) Neuse River: within the area described by a line beginning at a point ~~35° 00.4742' N - 76° 31.9550' W~~; 35° 00.4910' N - 76° 31.9350' W; running southerly to a point ~~35° 00.3920' N - 76° 31.9550' W~~; 35° 00.3750' N - 76° 31.9350' W; running westerly to a point ~~35° 00.3920' N - 76° 32.0550' W~~; 35° 00.3750' N - 76° 32.0750' W; running northerly to a point ~~35° 00.4742' N - 76° 32.0550' W~~; 35° 00.4910' N - 76° 32.0750' W; running easterly to the point of beginning.

History Note: Authority G.S. 113-134; 113-182; 113-201; 113-204; 143B-289.52;
Eff. October 1, 2008;
Amended Eff. April 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. May 1, 2021.