

1 15A NCAC 18A .0140 is readopted with changes as published in 35:07 NCR 772 as follows:

2
3 **15A NCAC 18A .0140 FLOORS**

4 Floors shall be of concrete or other equally impervious material, constructed so that they may be easily cleaned are
5 easily cleanable and shall be sloped so that water drains.

6
7 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52.~~*

8 *Eff. October 1, 1992;*

9 *Readopted Eff. May 1, 2021.*

1 15A NCAC 18A .0141 is readopted with changes as published in 35:07 NCR 772 as follows:

2
3 **15A NCAC 18A .0141 WALLS AND CEILINGS**

4 (a) Walls and ceilings shall be constructed of smooth, easily cleanable, non-corrosive, impervious material.

5 (b) Insulation on cooked crustacea cooler walls shall be covered to the ceiling with a smooth, easily cleanable,
6 non-corrosive, impervious material.

7 (c) Doors and windows shall be properly tightly fitted and maintained in good repair-repair so as to keep insects and
8 weather out of the facility.

9
10 *History Note: Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52.*

11 *Eff. October 1, 1992;*

12 *Readopted Eff. May 1, 2021.*

1 15A NCAC 18A .0146 is readopted with changes as published in 35:07 NCR 772 as follows:

2
3 **15A NCAC 18A .0146 PREMISES**

4 (a) Premises under the control of the owner shall be kept clean at all times. Waste materials, rubbish, other ~~articles~~
5 articles, or litter shall not be permitted to accumulate on the premises. Other items shall be properly stored.

6 (b) Measures shall be taken to prevent the harborage and breeding of insects, ~~rodents~~ rodents, and other vermin on
7 premises.

8
9 *History Note: Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52.*

10 *Eff. October 1, 1992;*

11 *Readopted Eff. May 1, 2021.*

1 15A NCAC 18A .0150 is readopted with changes as published in 35:07 NCR 772 as follows:

2
3 **15A NCAC 18A .0150 SEWAGE DISPOSAL**

4 All sewage and other liquid wastes shall be disposed of in a public sewer system or in the absence of a public sewer
5 system, by an on-site method approved by the Division of Marine Fisheries.~~[Fisheries] or the Department of~~
6 ~~Environment, Health, and Natural Resources.~~ [Environmental Quality.]

7
8 *History Note:* Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52.~~

9 *Eff. October 1, 1992;*

10 *Readopted Eff. May 1, 2021.*

1 15A NCAC 18A .0172 is readopted with changes as published in 35:07 NCR 773 as follows:

2
3 **15A NCAC 18A .0172 COOKED CLAW SHIPPING CONDITIONS**

4 (a) Vehicles used to transport cooked claws shall be mechanically refrigerated, enclosed, tightly constructed, kept
5 ~~clean-clean~~, and equipped with an operating thermometer.

6 (b) Cooked crab claws shall be stored and transported between 33° F (0.5° C) and 40° F (4.4° C) ambient air
7 temperature.

8 (c) All vehicles shall be approved by the Division of Marine Fisheries prior to use.

9 (d) Cooked claw shipping containers shall be marked for intended use, ~~cleaned-cleaned~~, and sanitized prior to use and
10 approved by the Division shall meet the requirements in Rule .0156 of this Section.

11
12 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52.~~*

13 *Eff. October 1, 1992;*

14 *Readopted Eff. May 1, 2021.*

1 15A NCAC 18A .0189 is readopted with changes as published in 35:07 NCR 773-774 as follows:

2
3 **15A NCAC 18A .0189 HACCP PLAN**

4 Each dealer shall have and implement a written HACCP [~~Hazard Analysis and Critical Control Points (HACCP)-~~
5 ~~Plan-plan.~~ The owner or authorized designee shall sign the plan when implemented and after any modification. The
6 plan shall be reviewed ~~and updated, if necessary, at least annually.~~ at least annually and updated if necessary. The plan
7 shall, at a minimum:

- 8 (1) ~~List-list~~ the food safety hazards that are reasonably likely to occur;
- 9 (2) ~~List-list~~ the critical control points for each of the food safety hazards;
- 10 (3) ~~List-list~~ the critical limits that must be met for each of the critical control points;
- 11 (4) ~~List-list~~ the procedures, and frequency thereof, that will be used to monitor each of the critical
12 control points to ensure compliance with the critical limits;
- 13 (5) ~~List-list~~ any corrective action plans to be followed in response to deviations from critical limits at
14 critical control points;
- 15 (6) ~~Provide-provide~~ a record keeping system that documents critical control point monitoring; and
- 16 (7) ~~List-list~~ the verification procedures, and frequency thereof, that the dealer will use.

17
18 *History Note:* Authority G.S. 130A-230; 113-134; 113-182; 113-221.2; 143B-289.52.
19 Eff. August 1, 2000;
20 Readopted Eff. May 1, 2021.

1 15A NCAC 18A .0704 is readopted with changes as published in 35:07 NCR 774-775 as follows:

2
3 **15A NCAC 18A .0704 LABORATORY PROCEDURES**

4 (a) ~~The laboratory and the laboratory operator shall be approved by the Division. All laboratory analyses used to~~
5 ~~evaluate the effectiveness of the depuration process shall be performed by a laboratory found by a Food and Drug~~
6 ~~Administration (FDA) Shellfish Laboratory Evaluation Officer or by an FDA-certified State Shellfish Laboratory~~
7 ~~Evaluation Officer to conform or provisionally conform to the requirements established under the National Shellfish~~
8 ~~Sanitation Program (NSSP). (NSSP), as determined by a Food and Drug Administration (FDA) Shellfish Laboratory~~
9 ~~Evaluation Officer or by an FDA-certified State Shellfish Laboratory Evaluation Officer.]~~

10 (b) ~~The laboratory shall conduct routine bacterial examinations of process water and shellfish, and special~~
11 ~~examinations when necessary or required in accordance with Rule .0706 of this Subchapter.~~

12 (e)(b) ~~Bacterial examinations of shellfish and sea water shall be made in accordance with "Recommended Procedures~~
13 ~~for Examination of Sea Water and Shellfish", American Public Health Association, Inc., which is adopted by reference~~
14 ~~in accordance with G.S. 150B-14(e), or other methods approved by the Division. A copy of this publication is~~
15 ~~available for inspection at the Shellfish Sanitation Office, Marine Fisheries Building, Arendell Street, Morehead City,~~
16 ~~North Carolina 28557. All methods for the analysis of depuration process water and shellfish that are used to evaluate~~
17 ~~the effectiveness of the depuration process shall be cited in the latest [approved] edition of the NSSP Guide for the~~
18 ~~Control of Molluscan Shellfish, Section IV: Guidance Documents, subsection Approved NSSP Laboratory [Tests]~~
19 ~~Tests, which is incorporated by reference, including subsequent amendments and editions, and available at~~
20 ~~<https://www.fda.gov/food/federalstate-food-programs/national-shellfish-sanitation-program-nssp> at no cost, or~~
21 ~~validated for use by the NSSP under the Constitution, Bylaws and Procedures of the Interstate Shellfish Sanitation~~
22 ~~[Conference.] Conference, which is incorporated by reference, including subsequent amendments and editions, and~~
23 ~~available at <https://www.issc.org/constitution-bylaws-procedures>, at no cost. If there is an immediate or ongoing~~
24 ~~critical need for a method and no method approved for use within the NSSP exists, the following may be used:~~

25 (1) ~~a validated Association of Analytical Communities, Bacteriological Analysis Manual, or~~
26 ~~Environmental Protection Agency method; or~~

27 (2) ~~an Emergency Use Method as set forth in the latest approved edition of the NSSP Guide for the~~
28 ~~Control of Molluscan Shellfish.~~

29 (c) ~~The laboratory shall conduct examinations of depuration process water and shellfish and conduct special~~
30 ~~examinations if necessary or required, in accordance with Rules [-0706 -.0709].0706 through .0709 of this Section.~~

31 (d) ~~All other physical, chemical, or biological tests shall be conducted according to "Standard Methods for the~~
32 ~~Examination of Water and Waste Water", prepared and published by American Public Health Association, American~~
33 ~~Water Works Association, and Water Pollution Control Federation, which is adopted by reference in accordance with~~
34 ~~G.S. 150B-14(e), or other methods approved by the Division. A copy of this publication is available for inspection at~~
35 ~~the Shellfish Sanitation Office, Fisheries Building, Arendell Street, Morehead City, North Carolina 28557.~~

36
37 *History Note: Authority G.S. 130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;*

1 *Eff. February 1, 1987;*
2 *Amended Eff. September 1, 1991; September 1, 1990;*
3 *Readopted Eff. May 1, 2021.*

1 15A NCAC 18A .0901 is readopted with changes as published in 35:07 NCR 775-776as follows:

2
3 **15A NCAC 18A .0901 DEFINITIONS**

4 The following definitions shall apply throughout to this Section.

- 5 (1) ~~"Approved area"~~ "Approved" means ~~an area shellfish growing waters~~ determined suitable by the
6 Division for the harvesting of shellfish for direct market purposes.
- 7 (2) "Closed-system marina" means a marina constructed in canals, basins, tributaries tributaries, or any
8 other area with restricted tidal flow.
- 9 (3) "Colony forming unit" means an estimate of the number of viable bacteria cells in a sample as
10 determined by a plate count.
- 11 (3)(4) ~~"Commercial marina" means marinas a marina that offer-offers~~ one or more of the following
12 services: fuel, transient dockage, haul-out facilities, or repair services.
- 13 (4)(5) ~~"Conditionally approved area"~~ "approved" means ~~an area shellfish growing waters that are~~ subject to
14 predictable intermittent pollution but that may be used for harvesting shellfish for direct market
15 purposes when management plan criteria are met.
- 16 (5) ~~"Depuration" means mechanical purification or the removal of adulteration from live shellstock by~~
17 ~~any artificially controlled method.~~
- 18 (6) "Division" means the Division of ~~Environmental Health~~ Marine Fisheries or its authorized agent.
- 19 (7) "Estimated 90th percentile" means a statistic that measures the variability in a sample set that shall
20 be calculated by:
21 (a) calculating the arithmetic mean and standard deviation of the sample result logarithms
22 (base 10);
23 (b) multiplying the standard deviation in Sub-Item (a) of this Item by 1.28;
24 (c) adding the product from Sub-Item (b) of this Item to the arithmetic mean; and
25 (d) taking the antilog (base 10) of the results from Sub-Item (c) of this Item to determine the
26 estimated 90th percentile.
- 27 (7)(8) "Fecal coliform" means bacteria of the coliform group ~~which that~~ will produce gas from lactose in
28 a multiple tube procedure liquid medium (EC or A-1) within 24 plus or minus two hours at 44.5°C
29 plus or minus 0.2°C in a water bath.
- 30 (9) "Geometric mean" means the antilog (base 10) of the arithmetic mean of the sample result logarithm.
- 31 (8) ~~"Growing waters" means waters which support or could support shellfish life.~~
- 32 (9)(10) "Marina" means any water area with a structure (dock, (such as dock, basin, floating dock, etc.)
33 which dock) that is utilized for docking or otherwise mooring vessels and constructed to provide
34 temporary or permanent docking space for more than 10 boats.
- 35 (10)(11) ~~"Marine biotoxins" means a poisonous substance accumulated by shellfish feeding upon~~
36 ~~dinoflagellates containing toxins any poisonous compound produced by marine microorganisms and~~
37 accumulated by shellstock.

- (12) "Median" means the middle number in a given sequence of numbers, taken as the average of the two middle numbers when the sequence has an even number of numbers.
- ~~(11)~~(13) "Most probable number (MPN)" means a statistical estimate of the number of bacteria per unit volume and is determined from the number of positive results in a series of fermentation tubes.
- (14) "National Shellfish Sanitation Program (NSSP)" means the cooperative federal-state-industry program for the sanitary control of shellfish that is adequate to ensure that the shellfish produced in accordance with the NSSP Guide For The Control Of Molluscan Shellfish will be safe and sanitary.
- ~~(12)~~(15) "Open-system marina" means a marina constructed in an area where tidal currents have not been impeded by natural or man-made barriers.
- ~~(13)~~(16) "Private marina" means any marina that is not a commercial marina as defined in this Rule.
- ~~(14)~~(17) "Prohibited area" "Prohibited" means an area shellfish growing waters unsuitable for the harvesting of shellfish for direct market purposes.
- ~~(15)~~(18) "Public health emergency" means any condition that may immediately cause shellfish waters to be unsafe for the harvest of shellfish for human consumption.
- ~~(16)~~ "Relaying" means the act of removing shellfish from one growing area or shellfish grounds to another area or ground for any purpose.
- ~~(17)~~(19) "Restricted area" "Restricted" means an area shellfish growing waters from which shellfish may be harvested only by permit and are subjected to an approved depuration process or relayed to an approved area, a [suitable and effective] treatment process through relaying or [depuration.]depuration that renders the shellfish safe for human consumption.
- ~~(18)~~(20) "Sanitary survey" means the written evaluation of factors that affect the sanitary quality of a shellfish growing area including sources of pollution, the effects of wind, tides-tides, and currents in the distribution and dilution of polluting materials, and the bacteriological quality of water.
- ~~(19)~~(21) "Shellfish" means oysters, mussels, scallops and all varieties of clams. However, ["shellfish"]the term as defined in [General Statute]G.S. [113-229,-]113-129, except the term shall not include scallops when the final product is the shucked adductor muscle only.
- (22) "Shellfish growing area" means a management unit that defines the boundaries of a sanitary survey and that is used to track the location where shellfish are harvested.
- (23) "Shellfish growing waters" means marine or estuarine waters that support or could support shellfish life.
- (24) "Shellstock" means live molluscan shellfish in the shell.
- ~~(20)~~(25) "Shoreline survey" means a visual inspection of the environmental factors that affect the sanitary quality of a growing area and identifies sources of pollution when possible, an in-field inspection by the Division to identify and evaluate any potential or actual pollution sources or other environmental factors that may impact the sanitary quality of a shellfish growing area.
- (26) "Systematic random sampling strategy" means a sampling strategy designed to assess the bacteriological water quality of shellfish growing waters impacted by non-point sources of pollution

1 and scheduled sufficiently far in advance to support random collection with respect to environmental
2 conditions.

3
4 *History Note:* *Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52;*
5 *Eff. June 1, 1989;*
6 *Amended Eff. August 1, 1998; February 1, 1997; September 1, 1990;*
7 *Readopted Eff. May 1, 2021.*

1 15A NCAC 18A .0903 is readopted with changes as published in 35:07 NCR 776-777 as follows:

2
3 **15A NCAC 18A .0903 SANITARY SURVEY**

4 (a) ~~Growing Shellfish~~ growing waters shall be divided into shellfish growing areas by the ~~Division~~ Division of Marine
5 Fisheries. Maps showing the boundaries of these shellfish growing areas shall be maintained by the Division and can
6 be found at: http://portal.ncdenr.org/web/mf/shellfish_closure_maps.<https://deq.nc.gov/polluted-area-proclamations.>

7 (b) Except in shellfish growing areas where all shellfish growing waters are classified as prohibited, the Division shall
8 complete a sanitary survey report shall be conducted for each shellfish growing area at least once every three years
9 years, except growing areas that are totally prohibited, and

10 (c) A sanitary survey report shall include the following:

11 (1) ~~A a shoreline survey, survey to evaluate pollution sources that may affect the area.~~

12 (2) ~~A hydrographic survey to evaluate meteorological and hydrographic an evaluation of~~
13 meteorological, hydrodynamic, and geographic factors that may affect distribution of pollutants.

14 (3) ~~a bacteriological-microbiological survey to assess water quality. A bacteriological-microbiological~~
15 survey shall include the collection of growing area water samples and their analysis for fecal
16 coliforms. The number and location of sampling stations shall be selected to produce the data
17 necessary to effectively evaluate all point and non-point pollution sources. sources identified during
18 the shoreline survey. A minimum of 15 six samples shall be collected annually from each designated
19 sampling station. sets of samples shall be collected from growing areas during the three year
20 evaluation period. Areas without a shoreline may be sampled less frequently.

21 (4) a determination of the appropriate classification for all shellfish growing waters within the shellfish
22 growing area in accordance with Rule .0902 of this Section.

23 (d) A written sanitary survey report shall be required to designate any portion of a shellfish growing area with a
24 classification other than prohibited, or for a reclassification from:

25 (1) prohibited to any other classification;

26 (2) restricted to conditionally approved or approved; or

27 (3) conditionally approved to approved.

28 All other reclassifications may be made without a sanitary survey.

29 (e) In each calendar year that a shellfish growing area is not evaluated with a sanitary survey, a written annual
30 evaluation report shall be completed by the Division and shall include the following:

31 (1) a microbiological survey to assess water quality as set forth in Subparagraph (c)(3) of this Rule.

32 (2) an evaluation of changes in pollution source impacts that may affect the classifications of the
33 shellfish growing area.

34 If the annual evaluation determines conditions have changed and a classification for shellfish growing waters is
35 incorrect, the Division shall initiate action to reclassify the shellfish growing waters in accordance with Rule .0902 of
36 this Section.

37 (e) ~~Sanitary survey reports shall be prepared every three years.~~

1 ~~(d)(f)~~ ~~All sanitary~~ Sanitary survey reports and annual evaluation reports shall be maintained by the Division.

2
3 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

4 *Eff. June 1, 1989;*

5 *Readopted Eff. May 1, 2021.*

1 15A NCAC 18A .0904 is readopted with changes as published in 35:07 NCR 777 as follows:

2
3 **15A NCAC 18A .0904 APPROVED AREAS WATERS**

4 ~~An area Shellfish growing waters~~ classified as approved for shellfish harvesting ~~for direct market purposes, must~~
5 ~~satisfy shall meet~~ the following criteria as indicated by a sanitary ~~survey; survey~~, as set forth in Rule .0903 of this

6 Section:

- 7 (1) the shoreline survey ~~has indicated that there is no significant point source contamination; indicates~~
8 there are no significant point sources of pollution;
9 (2) the area is not contaminated with fecal material, pathogenic microorganisms, poisonous ~~and or~~
10 deleterious substances, or marine biotoxins that may render consumption of the shellfish hazardous;
11 and
12 ~~(3) the median fecal coliform Most Probable Number (MPN) or the geometric mean MPN of water~~
13 ~~shall not exceed 14 per 100 milliliters, and not more than ten percent of the samples shall exceed a~~
14 ~~fecal coliform MPN of 43 per 100 milliliters (per five tube decimal dilution) in those portions of~~
15 ~~areas most probably exposed to fecal contamination during adverse pollution conditions.~~
16 ~~(3) the microbiological survey, as set forth in Rule [.0903 (b)(3)] .0903(c)(3) of this Section, indicates~~
17 the bacteriological water quality does not exceed the following standards based on results generated
18 using the systematic random sampling strategy:
19 (a) a median fecal coliform most probable number (MPN) or geometric mean MPN of 14 per
20 100 milliliters;
21 (b) a median fecal coliform colony-forming units (CFU) or geometric mean CFU of 14 per 100
22 milliliters;
23 (c) an estimated 90th percentile of 43 MPN per 100 milliliters for a five-tube decimal dilution
24 test; or
25 (d) an estimated 90th percentile of 31 CFU per 100 milliliters for a membrane filter membrane-
26 Thermotolerant Escherichia coli (mTEC) test.

27
28 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*
29 *Eff. June 1, 1989;*
30 *Readopted Eff. May 1, 2021.*

1 15A NCAC 18A .0906 is readopted with changes as published in 35:07 NCR 777-778 as follows:

2
3 **15A NCAC 18A .0906 RESTRICTED AREAS**

4 (a) ~~An area Shellfish growing waters may be classified as restricted-restricted if: when a sanitary survey indicates a~~
5 ~~limited degree of pollution and the area is not contaminated to the extent that indicates that consumption of shellfish~~
6 ~~could be hazardous after controlled depuration or relaying.~~

7 (1) ~~a sanitary survey indicates there are no significant point sources of~~ [pollution.]pollution; and

8 (2) ~~levels of fecal pollution, human pathogens, or poisonous or deleterious substances are at such levels~~
9 ~~that shellstock can be made safe for human consumption by either relaying or depuration.~~

10 (b) Relaying of shellfish shall be conducted in accordance with all applicable rules, including 15A NCAC 03K and
11 15A NCAC 18A, 18A .0300, Rules Governing the Sanitation of Shellfish.

12 (c) Depuration of shellfish shall be conducted in accordance with all applicable rules, including 15A NCAC 03K and
13 15A NCAC 18A, 18A .0300 and .0700, Rules Governing the Sanitation of Shellfish.

14 (d) For shellfish growing waters classified as restricted and used as a source of shellstock for depuration, the
15 microbiological survey, as set forth in Rule ~~[-0903 (b)(3)-]~~ .0903(c)(3) of this Section, ~~[indicates-]~~ shall indicate the
16 bacteriological water quality does not exceed the following standards based on results generated using the systematic
17 random sampling strategy:

18 (1) a median fecal coliform most probable number (MPN) or geometric mean MPN of 88 per 100
19 milliliters;

20 (2) a median fecal coliform colony-forming units (CFU) or geometric mean CFU of 88 per 100
21 milliliters;

22 (3) an estimated 90th percentile of 260 MPN per 100 milliliters for a five-tube decimal dilution test; or

23 (4) an estimated 90th percentile of 163 CFU per 100 milliliters for a membrane filter membrane-
24 Thermotolerant Escherichia coli (mTEC) test.

25
26 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*
27 *Eff. June 1, 1989;*
28 *Readopted Eff. May 1, 2021.*

1 15A NCAC 18A .0907 is readopted with changes as published in 35:07 NCR 778 as follows:

2
3 **15A NCAC 18A .0907 PROHIBITED AREAS WATERS**

4 ~~A growing area shall be classified prohibited if there is no current sanitary survey or if the sanitary survey or other~~
5 ~~monitoring program data indicate that the area does not meet the criteria as specified in approved, conditionally~~
6 ~~approved or restricted classifications. The taking of shellfish for any human food purposes from such areas shall be~~
7 ~~prohibited.~~

8 Shellfish growing waters shall be classified as prohibited if:

9 (1) no current sanitary survey, as set forth in Rule .0903 of this Section, exists for the growing area; or

10 (2) the sanitary survey determines:

11 (a) the shellfish growing waters are adjacent to a sewage treatment plant outfall or other point
12 source outfall with public health [significance.]significance; or

13 (b) the shellfish growing waters are contaminated with fecal material, pathogenic
14 microorganisms, poisonous or deleterious substances, or marine biotoxins that render
15 consumption of shellfish from those growing waters hazardous.

16
17 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

18 *Eff. June 1, 1989;*

19 *Readopted Eff. May 1, 2021.*

1 15A NCAC 18A .0909 is readopted with changes as published in 35:07 NCR 778 as follows:

2
3 **15A NCAC 18A .0909 BUFFER ZONEZONES**

4 ~~A prohibited area shall be established as a buffer zone around each wastewater treatment plant outfall.~~

5 (a) The Division of Marine Fisheries shall establish a buffer zone around the following:

6 (1) marinas, in accordance with Rule .0911 of this ~~Section.~~Section; and

7 (2) wastewater treatment plant outfalls or other point source outfalls determined to be of public health
8 significance, in accordance with the latest approved edition of the National Shellfish Sanitation
9 Program Guide for the Control of Molluscan Shellfish, Section II: Model Ordinance, Chapter IV:
10 Shellstock Growing ~~Areas.~~Areas, which is incorporated by reference, including subsequent
11 amendments and editions, and available at <https://www.fda.gov/food/federalstate-food->
12 programs/national-shellfish-sanitation-program-nssp at no cost.

13 (b) Buffer zones shall be classified as prohibited.

14
15 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*
16 *Eff. June 1, 1989;*
17 *Readopted Eff. May 1, 2021.*

1 15A NCAC 18A .0913 is readopted with changes as published in 35:07 NCR 778 as follows:

2
3 **15A NCAC 18A .0913 PUBLIC HEALTH EMERGENCY**

4 (a) The Division **of Marine Fisheries** shall ~~recommend to the Division of Marine Fisheries immediate closure of~~
5 immediately close any potentially impacted shellfish growing waters to the harvesting of shellfish in the event of a
6 public health emergency.

7 (b) The Division ~~shall recommend to the Division of Marine Fisheries re-opening may re-open~~ shellfish growing
8 waters ~~when-if~~ the condition causing the public health emergency no longer exists and shellfish have had **sufficient**
9 time to purify naturally from possible contamination.

10
11 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

12 *Eff. June 1, 1989;*

13 *Readopted Eff. May 1, 2021.*

1 15A NCAC 18A .0914 is readopted with changes as published in 35:07 NCR 778-779 as follows:

2
3 **15A NCAC 18A .0914 LABORATORY PROCEDURES**

4 ~~All laboratory examinations for water and shellfish used for the evaluation of growing areas shall be made in~~
5 ~~accordance with the latest approved edition by the Food and Drug Administration of "Recommended Procedures for~~
6 ~~Examination of Sea Water and Shellfish", American Public Health Association, Inc., which is adopted by reference~~
7 ~~in accordance with G.S. 150B-14(c). A copy of this publication is available for inspection at the Shellfish Sanitation~~
8 ~~Office, Marine Fisheries Building, Arendell Street, Morehead City, North Carolina 28557.~~

9 (a) All laboratory analyses used for the evaluation of shellfish growing areas shall be performed by a laboratory found
10 by a Food and Drug Administration (FDA) Shellfish Laboratory Evaluation Officer or by an FDA-certified State
11 Shellfish Laboratory Evaluation Officer to conform or provisionally conform to the requirements established under
12 the National Shellfish Sanitation Program (NSSP). ~~(NSSP), as determined by a Food and Drug Administration (FDA)~~
13 ~~Shellfish Laboratory Evaluation Officer or by an FDA certified State Shellfish Laboratory Evaluation Officer.~~

14 (b) All methods for the analysis of shellfish and shellfish growing waters that are used for the evaluation of shellfish
15 growing areas shall be cited in the latest ~~[approved]~~ edition of the NSSP Guide for the Control of Molluscan Shellfish,
16 Section IV: Guidance Documents, subsection Approved NSSP Laboratory ~~[Tests]~~ Tests, which is incorporated by
17 reference, including subsequent amendments and editions, and available at [https://www.fda.gov/food/federalstate-](https://www.fda.gov/food/federalstate-food-programs/national-shellfish-sanitation-program-nssp)
18 [food-programs/national-shellfish-sanitation-program-nssp](https://www.fda.gov/food/federalstate-food-programs/national-shellfish-sanitation-program-nssp) at no cost, or validated for use by the NSSP under the
19 Constitution, Bylaws and Procedures of the Interstate Shellfish Sanitation ~~[Conference.]~~ Conference, which is
20 incorporated by reference, including subsequent amendments and editions, and available at
21 <https://www.issc.org/constitution-bylaws-procedures>, at no cost. If there is an immediate or ongoing critical need for
22 a method and no method approved for use within the NSSP exists, the following may be used:

- 23 (1) a validated Association of Analytical Communities, Bacteriological Analysis Manual, or
24 Environmental Protection Agency method; or
25 (2) an Emergency Use Method as set forth in the latest approved edition of the NSSP Guide for the
26 Control of Molluscan Shellfish.

27
28 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*
29 *Eff. June 1, 1989;*
30 *Amended Eff. September 1, 1991; September 1, 1990;*
31 *Readopted Eff. May 1, 2021.*